CS/SB 34 by **JU, Diaz de la Portilla**; (Similar to CS/H 3527) Relief of Asia Rollins by the Public Health Trust of Miami-Dade County

752856	PCS	S		RCS	AP, AHS		04/22 03:04 PM

CS/SB 60 by **JU, Simpson**; (Identical to CS/H 3543) Relief of Roy Wright and Ashley Wright by the North Brevard County Hospital District

CS/SB 68 by **JU, Legg**; (Identical to CS/H 3511) Relief of Carl Abbott by the Palm Beach County School Board

CS/SB 80 by **JU, Flores**; (Similar to CS/H 3555) Relief of Michael and Patricia Rardin by the North Broward Hospital District

CS/SB 84 by **JU, Soto**; (Similar to CS/H 3531) Relief of Sharon Robinson by the Central Florida Regional Transportation Authority

CS/SB 284 by **EP, Diaz de la Portilla**; (Similar to CS/CS/CS/1ST ENG/H 0383) Private Property Rights

318734	PCS	S		RCS	AP, AGG		04/22 11:15 AM
412730	PCS:A	S	L	UNFAV	AP, Smith	Delete L.182 - 202:	04/22 11:15 AM

CS/SB 318 by **JU, Diaz de la Portilla (CO-INTRODUCERS) Detert**; (Similar to CS/CS/CS/1ST ENG/H 0005) Guardianship Proceedings

769056	PCS	S		RCS	AP, ACJ		04/22 11:17 AM
142820	PCS:A	S	L	RCS	AP, Lee	Before L.87:	04/22 11:17 AM
313730	D	S		WD	AP, Latvala	Delete everything after	04/20 10:53 AM
574158	A	S	L	WD	AP, Lee	Before L.103:	04/21 07:44 AM

CS/CS/SB 532 by **FT, HP, Grimsley**; (Compare to CS/CS/H 0281) Ordering of Medication

213236	A	S	L	RCS	AP, Grimsley	btw L.232 - 233:	04/23 11:05 AM

CS/SB 714 by **EP, Grimsley (CO-INTRODUCERS) Gaetz**; (Compare to CS/CS/CS/H 0653) Environmental Control

183530	PCS	S		RCS	AP, AGG		04/22 11:21 AM
722682	PCS:A	S		RCS	AP, Grimsley	btw L.39 - 40:	04/22 11:21 AM

SB 718 by **Lee**; (Similar to CS/CS/CS/1ST ENG/H 0435) Administrative Procedures

187540	D	S		RCS	AP, Lee	Delete everything after	04/23 07:52 PM

CS/CS/SB 896 by **TR, CA, Brandes**; (Similar to CS/CS/CS/H 0391) Location of Utilities

774714	D	S			AP, Hays	Delete everything after	04/20 09:38 AM

CS/SB 914 by **BI, Richter**; (Similar to CS/CS/CS/H 0275) Intrastate Crowdfunding

706156	PCS	S		RCS	AP, AGG		04/23 11:06 AM

CS/SB 918 by **EP, Dean (CO-INTRODUCERS) Margolis**; (Compare to CS/CS/CS/H 0653) Environmental Resources

279658	PCS	S		RCS	AP, AGG		04/22 11:30 AM
127412	PCS:A	S		RCS	AP, Hays	Delete L.725 - 903:	04/22 11:30 AM
841792	PCS:A	S		RCS	AP, Hays	Delete L.928 - 1414:	04/22 11:30 AM
346008	PCS:AA	S	L	WD	AP, Joyner	Delete L.422 - 428:	04/22 11:30 AM
938604	PCS:A	S		WD	AP, Joyner	Delete L.1344 - 1349:	04/22 11:30 AM
534254	PCS:A	S		RCS	AP, Hays	Delete L.1615 - 2591:	04/22 11:30 AM
939310	PCS:A	S		RCS	AP, Hays	Delete L.3002 - 3187:	04/22 11:30 AM
881880	PCS:A	S		RCS	AP, Hays	Delete L.3321 - 3609:	04/22 11:30 AM
714538	PCS:A	S		RCS	AP, Hays	Delete L.3741 - 3944:	04/22 11:30 AM
312606	PCS:A	S		RCS	AP, Hays	Delete L.4304 - 4323:	04/22 11:30 AM
442270	PCS:A	S	L	WD	AP, Hays	btw L.343 - 344:	04/22 11:30 AM

CS/SB 948 by **HE, Gaetz**; (Compare to CS/CS/1ST ENG/H 0587) Education

689974	PCS	S		RCS	AP, AED		04/22 03:04 PM
149946	PCS:D	S		RCS	AP, Gaetz	Delete everything after	04/22 03:04 PM
905728	PCS:AA	S		RCS	AP, Ring	Delete L.31:	04/22 03:04 PM
554426	PCS:AA	S		WD	AP, Montford	Delete L.526 - 556:	04/21 09:26 AM
688124	PCS:AA	S		RCS	AP, Simmons	Delete L.2291 - 2590:	04/22 03:04 PM
669280	PCS:AA	S		RCS	AP, Montford	Delete L.2958 - 2959:	04/22 03:04 PM
747098	PCS:AA	S	L	RCS	AP, Gaetz	Delete L.2908 - 3156:	04/22 03:04 PM
580334	PCS:AA	S	L	RCS	AP, Montford	btw L.132 - 133:	04/22 03:04 PM
153526	PCS:AA	S	L	RCS	AP, Negron	btw L.3284 - 3285:	04/22 03:04 PM
911584	PCS:AA	S	L	RCS	AP, Flores	btw L.3255 - 3256:	04/22 03:04 PM
817392	PCS:AA	S	L	WD	AP, Montford	Delete L.526 - 530:	04/22 03:04 PM

CS/SB 1102 by **CU, Legg**; (Similar to CS/CS/H 0617) Utility Projects

866616	A	S		RCS	AP, Montford	Delete L.320 - 327:	04/22 01:55 PM

SB 1116 by **Abruzzo**; (Similar to CS/H 0153) Literacy Jump Start Pilot Project

277288	A	S		RCS	AP, Hays	Delete L.44 - 45:	04/22 01:56 PM

SB 1214 by **Latvala (CO-INTRODUCERS) Detert**; (Compare to H 5401) Economic Development

123970	PCS	S		RCS	AP, ATD		04/22 03:04 PM
160810	PCS:D	S		RCS	AP, Latvala	Delete everything after	04/22 03:04 PM
473484	PCS:AA	S		RCS	AP, Latvala	Delete L.199 - 236:	04/22 03:04 PM
302034	PCS:AA	S		RCS	AP, Latvala	Delete L.466 - 558:	04/22 03:04 PM
890582	PCS:AA	S		RCS	AP, Latvala	btw L.1063 - 1064:	04/22 03:04 PM
323572	PCS:AA	S	L	RS	AP, Smith	Delete L.752:	04/22 03:04 PM
876012	PCS:SA	S	L	RCS	AP, Smith	Delete L.1001:	04/22 03:04 PM
905332	PCS:AA	S	L	WD	AP, Richter	Delete L.1454 - 1461.	04/22 03:04 PM
472320	PCS:AA	S	L	WD	AP, Lee	Delete L.4044 - 4051.	04/22 03:04 PM
811924	PCS:AA	S	L	WD	AP, Lee	Delete L.79 - 104.	04/22 03:04 PM

CS/SB 1248 by **JU, Stargel**; (Compare to CS/CS/1ST ENG/H 0943) Family Law

797912	A	S		UNFAV	AP, Joyner	Delete L.672 - 676:	04/22 02:39 PM
781886	A	S		UNFAV	AP, Joyner	Delete L.747 - 754:	04/22 02:39 PM
937376	A	S		UNFAV	AP, Joyner	Delete L.757 - 760.	04/22 02:39 PM

CS/SB 1264 by **ED, Legg**; Digital Classrooms

368432	PCS	S		FAV	AP, AED		04/22 02:43 PM
738072	PCS:A	S		RCS	AP, Ring	Delete L.97:	04/22 02:43 PM
970550	PCS:A	S		RCS	AP, Ring	Delete L.297 - 304:	04/22 02:43 PM
101248	PCS:A	S		RCS	AP, Gaetz	Delete L.431 - 435.	04/22 02:43 PM
659380	PCS:A	S	L	RCS	AP, Montford	btw L.267 - 268:	04/22 02:43 PM

CS/SB 1302 by **EP, Evers**; (Compare to CS/CS/H 0841) Contaminated Sites

SB 1468 by **Richter**; (Compare to CS/CS/CS/H 1205) Regulation of Oil and Gas Resources

232520	PCS	S		RCS	AP, AGG		04/22 03:05 PM
527918	PCS:A	S		RCS	AP, Richter	Delete L.57 - 58:	04/22 03:05 PM
747558	PCS:A	S		RCS	AP, Richter	btw L.205 - 206:	04/22 03:05 PM
808418	PCS:A	S		RCS	AP, Richter	Delete L.304:	04/22 03:05 PM
800356	PCS:A	S		RCS	AP, Richter	Delete L.398 - 425:	04/22 03:05 PM
670082	PCS:AA	S	L	WD	AP, Joyner	btw L.16 - 17:	04/22 03:05 PM
862490	PCS:A	S		WD	AP, Joyner	Delete L.423 - 424:	04/22 03:05 PM
571668	PCS:A	S		WD	AP, Joyner	Delete L.498 - 502:	04/22 03:05 PM
340874	PCS:A	S		RCS	AP, Richter	btw L.502 - 503:	04/22 03:05 PM
936016	PCS:A	S	L	WD	AP, Margolis	Delete L.220:	04/22 03:05 PM

SB 1522 by **Detert**; (Compare to CS/H 7125) Workforce Training

309968	PCS	S		RCS	AP, AED		04/22 02:55 PM

CS/SB 1538 by **CU, Simpson**; (Compare to CS/CS/CS/1ST ENG/H 1141) Natural Gas Rebate Program

135364	PCS	S		RCS	AP, AGG		04/22 02:56 PM
543050	PCS:A	S		RCS	AP, Grimsley	Delete L.54 - 174.	04/22 02:56 PM

CS/SB 1552 by **ED, Benacquisto**; (Compare to CS/H 0357) Student Choice

137566	PCS	S		RCS	AP		04/22 03:07 PM
798694	PCS:D	S	L	RCS	AP, Benacquisto	Delete everything after	04/22 03:07 PM
768690	PCS:AA	S	L	WD	AP, Montford	btw L.1137 - 1138:	04/22 03:07 PM
288682	PCS:A	S		WD	AP, Montford	Delete L.264 - 277:	04/21 09:10 AM
905356	PCS:A	S		WD	AP, Montford	Delete L.1297 - 1429:	04/21 09:10 AM

CS/SB 1554 by **TR, Brandes**; (Compare to CS/1ST ENG/H 7039) Transportation

511078	PCS	S			AP, ATD		04/16 06:14 PM
777084	PCS:A	S		WD	AP, Hays	btw L.617 - 618:	04/22 01:22 PM
461634	PCS:AA	S		WD	AP, Hays	Delete L.20 - 22:	04/22 01:23 PM
850140	PCS:A	S		WD	AP, Hays	btw L.617 - 618:	04/22 11:01 AM
327768	PCS:A	S			AP, Hays	btw L.661 - 662:	04/20 12:28 PM
866326	PCS:A	S			AP, Hays	btw L.818 - 819:	04/20 12:27 PM
317554	PCS:A	S			AP, Hays	btw L.1786 - 1787:	04/20 03:35 PM
487104	PCS:A	S			AP, Garcia	Delete L.1859 - 1905:	04/20 09:33 AM

SB 1582 by **Richter**; (Similar to CS/CS/H 1209) Public Records/High-pressure Well Stimulation Chemical Disclosure Registry

859002	D	S		WD	AP, Joyner	Delete everything after	04/21 09:20 AM

CS/SB 7006 by **CA, ED (CO-INTRODUCERS) Legg**; (Compare to CS/1ST ENG/H 7017) Early Learning

462756	PCS	S	RCS	AP, AHS	04/22 03:08 PM

SB 7056 by **GO**; (Similar to 1ST ENG/H 7023) Administrative Procedures

755960	PCS	S	RCS	AP, AGG	04/23 07:51 PM

The Florida Senate

COMMITTEE MEETING EXPANDED AGENDA

APPROPRIATIONS
Senator Lee, Chair
Senator Benacquisto, Vice Chair

MEETING DATE: Tuesday, April 21, 2015
TIME: 10:00 a.m.—6:00 p.m.
PLACE: *Pat Thomas Committee Room,* 412 Knott Building

MEMBERS: Senator Lee, Chair; Senator Benacquisto, Vice Chair; Senators Altman, Flores, Gaetz, Galvano, Garcia, Grimsley, Hays, Hukill, Joyner, Latvala, Margolis, Montford, Negron, Richter, Ring, Simmons, and Smith

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
	Workshop on Senate Plan for Medicaid Sustainability		Discussed
	A proposed committee substitute for the following bill (CS/SB 34) is available:		
1	**CS/SB 34** Judiciary / Diaz de la Portilla (Similar CS/H 3527)	Relief of Asia Rollins by the Public Health Trust of Miami-Dade County; Providing an appropriation to compensate her for injuries and damages sustained as a result of the negligence of the Public Health Trust of Miami-Dade County; providing a limitation on the payment of fees and costs, etc. SM 01/27/2015 Recommendation: Fav/1 Amendment JU 02/03/2015 Fav/CS AHS 03/04/2015 Fav/CS AP 04/21/2015 Fav/CS	Fav/CS Yeas 17 Nays 1
	With subcommittee recommendation - Health and Human Services		
2	**CS/SB 60** Judiciary / Simpson (Identical CS/H 3543)	Relief of Roy Wright and Ashley Wright by the North Brevard County Hospital District; Providing for an appropriation to compensate Roy Wright and Ashley Wright, individually and as guardians of Tucker Wright, for injuries and damages sustained by Tucker Wright as a result of the negligence of Parrish Medical Center; providing a limitation on the payment of fees and costs; providing that certain payments and the appropriation satisfy all present and future claims related to the negligent act, etc. SM 02/09/2015 Recommendation: Fav/1 Amendment JU 02/17/2015 Fav/CS CA 03/04/2015 Favorable AP 04/21/2015 Favorable	Favorable Yeas 16 Nays 1

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
3	**CS/SB 68** Judiciary / Legg (Identical CS/H 3511)	Relief of Carl Abbott by the Palm Beach County School Board; Providing for the relief of Carl Abbott by the Palm Beach County School Board; providing for an appropriation to compensate Carl Abbott for injuries sustained as a result of the negligence of an employee of the Palm Beach County School District; providing a limitation on the payment of fees and costs, etc. SM 01/26/2015 Recommendation: Favorable JU 02/03/2015 Fav/CS AED 04/08/2015 Favorable AP 04/21/2015 Favorable	Favorable Yeas 16 Nays 1
	With subcommittee recommendation - Education		
4	**CS/SB 80** Judiciary / Flores (Similar CS/H 3555)	Relief of Michael and Patricia Rardin by the North Broward Hospital District; Providing for the relief of Michael and Patricia Rardin by the North Broward Hospital District; providing for an appropriation to compensate Michael and Patricia Rardin for injuries sustained as a result of the negligence of the North Broward Hospital District; providing a limitation on the payment of fees and costs, etc. SM 03/19/2015 Recommendation: Fav/1 Amendment JU 03/24/2015 Fav/CS AHS 04/08/2015 Favorable AP 04/21/2015 Favorable	Favorable Yeas 18 Nays 1
	With subcommittee recommendation - Health and Human Services		
5	**CS/SB 84** Judiciary / Soto (Similar CS/H 3531)	Relief of Sharon Robinson by the Central Florida Regional Transportation Authority; Providing for the relief of Sharon Robinson, individually, as guardian of Mark Robinson, and as personal representative of the Estate of Matthew Robinson; authorizing the Central Florida Regional Transportation Authority to make an appropriation from funds of the authority not otherwise appropriated to compensate her and her son for the death of Matthew Robinson and for injuries and damages they sustained as a result of the negligence of the Central Florida Regional Transportation Authority as operator of Lynx buses, etc. SM 03/12/2015 Recommendation: Favorable JU 03/17/2015 JU 03/24/2015 Fav/CS ATD 04/08/2015 Favorable AP 04/21/2015 Favorable	Favorable Yeas 18 Nays 1

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
	With subcommittee recommendation - Transportation, Tourism, and Economic Development		
	A proposed committee substitute for the following bill (CS/SB 284) is available:		
6	**CS/SB 284** Environmental Preservation and Conservation / Diaz de la Portilla (Similar CS/CS/CS/H 383)	Private Property Rights; Authorizing a governmental entity to treat a written claim as pending litigation for purposes of holding certain meetings privately; providing that any settlement agreement reached between an owner and a governmental entity applies so long as the agreement resolves all issues; authorizing a property owner to bring an action for injunctive relief or the recovery of damages caused by a prohibited exaction; specifying that an action for a prohibited exaction is not to be construed in pari materia with certain other actions, etc. EP 03/24/2015 Fav/CS AGG 04/14/2015 Fav/CS AP 04/21/2015 Fav/CS	Fav/CS Yeas 17 Nays 2
	With subcommittee recommendation - General Government		
	A proposed committee substitute for the following bill (CS/SB 318) is available:		
7	**CS/SB 318** Judiciary / Diaz de la Portilla (Similar CS/CS/CS/H 5, Compare CS/H 7, S 366, Link CS/CS/S 360)	Guardianship Proceedings; Authorizing a court to refer guardianship matters to mediation or alternative dispute resolution under certain circumstances; providing that a settlement of a minor's claim is subject to certain confidentiality provisions; requiring the court to specify authority for health care decisions with respect to a ward's advance directive; prohibiting abuse, neglect, or exploitation of a ward by a guardian, etc. JU 03/10/2015 Fav/CS ACJ 04/02/2015 Fav/CS AP 04/21/2015 Fav/CS	Fav/CS Yeas 17 Nays 0
	With subcommittee recommendation - Criminal and Civil Justice		

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
8	**CS/CS/SB 532** Finance and Tax / Health Policy / Grimsley (Compare CS/CS/H 281, CS/CS/S 614)	Ordering of Medication; Revising the term "prescription" to exclude an order for drugs or medicinal supplies by a licensed practitioner that is dispensed for certain administration; revising the term "administer" to include the term "administration"; authorizing a licensed practitioner to authorize a licensed physician assistant or advanced registered nurse practitioner to order controlled substances for a specified patient under certain circumstances, etc. HP 03/31/2015 Fav/CS FT 04/13/2015 Fav/CS AP 04/21/2015 Not Considered	Not Considered

A proposed committee substitute for the following bill (CS/SB 714) is available:

9	**CS/SB 714** Environmental Preservation and Conservation / Grimsley (Compare CS/CS/CS/H 653)	Environmental Control; Revising the qualifications for membership on the Harris Chain of Lakes Restoration Council; authorizing land set-asides and land-use modifications that reduce nutrient loads into nutrient-impaired surface waters to be used under the water quality credit trading program; establishing a solid waste landfill closure account within the Solid Waste Management Trust Fund to be used for specified purposes, etc. EP 04/08/2015 Fav/CS AGG 04/14/2015 Fav/CS AP 04/21/2015 Fav/CS With subcommittee recommendation - General Government	Fav/CS Yeas 17 Nays 0
10	**SB 718** Lee (Similar CS/CS/CS/H 435)	Administrative Procedures; Providing conditions under which a proceeding is not substantially justified for purposes of attorney fees and costs; requiring agencies to set a time for workshops for certain unadopted rules; conforming proceedings based on invalid or unadopted rules to proceedings used for challenging existing rules; providing criteria for establishing whether a nonprevailing party participated in a proceeding for an improper purpose; revising provisions providing for the award of attorney fees and costs by the appellate court or administrative law judge, etc. JU 03/17/2015 JU 03/24/2015 Favorable AGG 04/02/2015 Not Considered AGG 04/08/2015 Favorable AP 04/21/2015 Not Considered With subcommittee recommendation - General Government	Not Considered

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
11	**CS/CS/SB 896** Transportation / Community Affairs / Brandes (Similar CS/CS/CS/H 391)	Location of Utilities; Authorizing the board of county commissioners to grant a license to work on or operate specified communications services within the right-of-way limits of certain county or public highways or roads; authorizing the Department of Transportation and certain local governmental entities to prescribe and enforce rules or regulations regarding placing and maintaining specified structures within the right-of-way limits of roads or publicly owned rail corridors under their respective jurisdictions; prohibiting a municipality or county from requiring a utility to provide proprietary maps of facilities under certain circumstances, etc. CA 03/23/2015 Fav/CS TR 04/02/2015 Fav/CS AP 04/21/2015 Not Considered	Not Considered

A proposed committee substitute for the following bill (CS/SB 914) is available:

12	**CS/SB 914** Banking and Insurance / Richter (Similar CS/CS/CS/H 275)	Intrastate Crowdfunding; Defining the term "intermediary" for purposes of the Florida Securities and Investor Protection Act; exempting offers or sales of securities by certain issuers from registration requirements; exempting the intrastate offering and sale of certain securities from certain regulatory requirements; providing registration requirements for an intermediary; requiring an intermediary to comply with specified recordkeeping requirements; including an intermediary in the disciplinary provisions, etc. BI 03/31/2015 Fav/CS AGG 04/14/2015 Fav/CS AP 04/21/2015 Not Considered	Not Considered

With subcommittee recommendation - General Government

A proposed committee substitute for the following bill (CS/SB 918) is available:

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
13	**CS/SB 918** Environmental Preservation and Conservation / Dean (Compare CS/CS/CS/H 653, H 5003, CS/H 7003, CS/S 1186, S 1408, CS/S 1554, S 7054)	Environmental Resources; Requiring the Department of Environmental Protection to publish, update, and maintain a database of conservation lands; creating the Florida Shared-Use Nonmotorized Trail Network; requiring the Department of Environmental Protection or the governing board of a water management district to establish a minimum flow or minimum water level for an Outstanding Florida Spring; specifying authority of the South Florida Water Management District to allocate quantities of, and assign priorities for the use of, water within its jurisdiction; prohibiting water management districts from modifying permitted allocation amounts under certain circumstances, etc. EP 03/04/2015 Workshop-Discussed EP 03/24/2015 Fav/CS AGG 04/08/2015 Fav/CS AP 04/21/2015 Fav/CS	Fav/CS Yeas 16 Nays 2
	With subcommittee recommendation - General Government		

A proposed committee substitute for the following bill (CS/SB 948) is available:

14	**CS/SB 948** Higher Education / Gaetz (Compare CS/CS/H 587, H 993, H 5011, CS/H 7125, CS/H 7127, S 942, CS/S 1252, S 1522, S 2502, S 2508, S 7046)	Education; Revising characteristics of an apprenticeable occupation; requiring a low-performing elementary school to administer the required additional hours of instruction in a summer program during specified fiscal years; establishing the Rapid Response Education and Training Program within the Complete Florida Plus Program; requiring a state research university to enter into and maintain a formal agreement with a specified organization to offer college-sponsored merit scholarship awards as a condition of designation as a preeminent state research university, etc. HE 03/23/2015 Fav/CS AED 04/08/2015 Fav/CS AP 04/21/2015 Fav/CS	Fav/CS Yeas 17 Nays 2
	With subcommittee recommendation - Education		

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
15	**CS/SB 1102** Communications, Energy, and Public Utilities / Legg (Similar CS/CS/H 617)	Utility Projects; Creating the "Utility Cost Containment Bond Act"; authorizing certain local government entities to finance the costs of a utility project by issuing utility cost containment bonds upon application by a local agency; authorizing an authority to issue utility cost containment bonds for specified purposes related to utility projects; requiring the local agency or its publicly owned utility to collect the utility project charge, etc. CU 03/24/2015 Fav/CS FT 04/13/2015 Favorable AP 04/21/2015 Fav/CS	Fav/CS Yeas 17 Nays 0
16	**SB 1116** Abruzzo (Similar CS/H 153)	Literacy Jump Start Pilot Project; Requiring the Office of Early Learning to establish the pilot project in St. Lucie County to assist low-income, at-risk children in developing emergent literacy skills; requiring the office to select an organization to implement the pilot project; encouraging the coordination of basic health screening and immunization services in conjunction with emergent literacy instruction, etc. ED 03/11/2015 Favorable AED 04/02/2015 Favorable AP 04/21/2015 Fav/CS	Fav/CS Yeas 17 Nays 0
	With subcommittee recommendation - Education		

A proposed committee substitute for the following bill (SB 1214) is available:

17	**SB 1214** Latvala (Compare H 5401, CS/H 7067)	Economic Development; Requiring the Office of Economic and Demographic Research and the Office of Program Policy Analysis and Government Accountability to provide a detailed analysis of the retention of Major League Baseball spring training baseball franchises; requiring a project that requires funding that falls into a specified range to be approved by the Legislative Budget Commission before final approval by the Governor; revising the requirements for projects eligible for receipt of funds from the Quick Action Closing Fund, etc. CM 03/10/2015 Favorable ATD 03/19/2015 Fav/CS AP 04/21/2015 Fav/CS	Fav/CS Yeas 17 Nays 2
	With subcommittee recommendation - Transportation, Tourism, and Economic Development		

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
18	**CS/SB 1248** Judiciary / Stargel (Similar CS/CS/H 943)	Family Law; Prohibiting a court from using certain presumptive alimony guidelines in calculating alimony pendente lite; providing presumptions concerning alimony awards depending on the duration of marriages; prohibiting a combined award of alimony and child support from constituting more than a specified percentage of a payor's net income; creating a presumption that approximately equal time-sharing by both parents is in the best interests of the child; providing that a party may pursue an immediate modification of alimony in certain circumstances, etc. JU 03/24/2015 Fav/CS ACJ 04/08/2015 Favorable AP 04/21/2015 Favorable	Favorable Yeas 12 Nays 6

With subcommittee recommendation - Criminal and Civil Justice

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A proposed committee substitute for the following bill (CS/SB 1264) is available:

19	**CS/SB 1264** Education Pre-K - 12 / Legg (Compare S 7050)	Digital Classrooms; Establishing requirements for digital classrooms technology infrastructure planning by the Agency for State Technology or a contracted organization; requiring the Office of Technology and Information Services of the Department of Education to consult with the Agency for State Technology in developing the 5-year strategic plan for Florida digital classrooms; specifying conditions for a school district to maintain eligibility for Florida digital classrooms allocation funds, etc. ED 03/11/2015 Temporarily Postponed ED 03/18/2015 Fav/CS AED 04/02/2015 Temporarily Postponed AED 04/08/2015 Fav/CS AP 04/21/2015 Fav/CS	Fav/CS Yeas 19 Nays 0

With subcommittee recommendation - Education

20	**CS/SB 1302** Environmental Preservation and Conservation / Evers (Compare CS/CS/H 841)	Contaminated Sites; Requiring the Department of Environmental Protection to include protocols for the use of long-term natural attenuation where site conditions warrant; revising how cleanup target levels are applied where surface waters are exposed to contaminated groundwater; adding further criteria to brownfield site and brownfield areas contamination cleanup criteria, etc. EP 03/31/2015 Fav/CS AGG 04/14/2015 Favorable AP 04/21/2015 Favorable	Favorable Yeas 15 Nays 0

With subcommittee recommendation - General Government

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
	A proposed committee substitute for the following bill (SB 1468) is available:		
21	**SB 1468** Richter (Compare CS/CS/CS/H 1205, CS/CS/H 1209, CS/CS/S 314, Link S 1582)	Regulation of Oil and Gas Resources; Revising the rulemaking authority of the Department of Environmental Protection; providing that certain information may be considered proprietary business information; requiring that a permit be obtained before the performance of any high pressure well stimulation; requiring the Division of Resource Management to give consideration to and be guided by certain additional criteria when issuing permits, etc. EP 03/31/2015 Favorable AGG 04/14/2015 Fav/CS AP 04/21/2015 Fav/CS	Fav/CS Yeas 13 Nays 6
	With subcommittee recommendation - General Government		
	A proposed committee substitute for the following bill (SB 1522) is available:		
22	**SB 1522** Detert (Compare CS/H 7125, CS/H 7127, CS/S 948)	Workforce Training; Requiring the Department of Education, in collaboration with the Department of Economic Opportunity, to identify and recommend specified apprenticeship programs; requiring the Department of Education, in collaboration with the Department of Economic Opportunity, to identify and recommend specified preapprenticeship programs, etc. HE 03/23/2015 Favorable AED 04/08/2015 Fav/CS AP 04/21/2015 Fav/CS	Fav/CS Yeas 17 Nays 0
	With subcommittee recommendation - Education		
	A proposed committee substitute for the following bill (CS/SB 1538) is available:		
23	**CS/SB 1538** Communications, Energy, and Public Utilities / Simpson (Compare CS/CS/CS/H 1141)	Natural Gas Rebate Program; Authorizing the Department of Agriculture and Consumer Services to award additional rebates for certain applicants using unencumbered funds; creating the heavy transportation industry natural gas rebate program within the department; authorizing an appropriation, etc. CU 03/24/2015 Fav/CS AGG 04/14/2015 Fav/CS AP 04/21/2015 Fav/CS	Fav/CS Yeas 19 Nays 0
	With subcommittee recommendation - General Government		

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
	A proposed committee substitute for the following bill (CS/SB 1552) is available:		
24	**CS/SB 1552** Education Pre-K - 12 / Benacquisto (Compare CS/H 357, CS/CS/CS/H 1145, CS/CS/H 7037, S 638, S 692, S 720, S 906, S 952, S 1036, S 1448, S 2508)	Student Choice; Providing the right of a parent to know the average amount of money expended for the education of his or her child; authorizing a parent to enroll his or her child in any public school that has not reached capacity in the state; providing that certain students who are deemed eligible for hospitalized program services are considered students with a disability; establishing the Florida Institute for Charter School Innovation; creating the Charter School District Pilot Program, etc. ED 03/11/2015 Workshop-Discussed ED 03/18/2015 Fav/CS AED 04/02/2015 Fav/CS AP 04/21/2015 Fav/CS	Fav/CS Yeas 14 Nays 4
	With subcommittee recommendation - Education		
	A proposed committee substitute for the following bill (CS/SB 1554) is available:		
25	**CS/SB 1554** Transportation / Brandes (Compare CS/H 7039, CS/H 7055, CS/CS/H 7075, CS/S 918, CS/S 1186, S 1456, S 7054)	Transportation; Deleting the requirement that the Secretary of Transportation appoint an inspector general pursuant to s. 20.055, F.S.; increasing the minimum amount that shall be made available annually from the State Transportation Fund to fund the Florida Seaport Transportation and Economic Development Program; providing that provisions prohibiting a driver from following certain vehicles within a certain distance do not apply to truck tractor-semitrailer combinations under certain conditions; authorizing certain counties to form the Northwest Florida Regional Transportation Finance Authority to construct, maintain, or operate transportation projects in a given region of the state, etc. TR 03/19/2015 Fav/CS ATD 04/02/2015 Not Considered ATD 04/08/2015 Temporarily Postponed ATD 04/14/2015 Fav/CS AP 04/21/2015 Not Considered	Not Considered
	With subcommittee recommendation - Transportation, Tourism, and Economic Development		

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
26	**SB 1582** Richter (Similar CS/CS/H 1209, Compare CS/CS/CS/H 1205, Link S 1468)	Public Records/High-pressure Well Stimulation Chemical Disclosure Registry; Providing an exemption from public records requirements for proprietary business information relating to high pressure well stimulations obtained by the Department of Environmental Protection in connection with the department's online high pressure well stimulation chemical disclosure registry; providing for future legislative review and repeal of the exemption under the Open Government Sunset Review Act; providing a statement of public necessity, etc. EP 03/31/2015 Favorable GO 04/07/2015 Favorable AP 04/21/2015 Not Considered	Not Considered

A proposed committee substitute for the following bill (CS/SB 7006) is available:

27	**CS/SB 7006** Community Affairs / Education Pre-K - 12 (Compare CS/H 7017)	Early Learning; Including large family child care homes in local zoning regulation requirements; revising certain minimum standards for child care facilities; providing for the inspection of programs regulated by the department; providing exemptions from child care facility licensing standards; revising restrictions on residential property insurance coverage to include coverage for large family child care homes; authorizing a district school board or charter school governing board to adopt a policy to allow a child to be admitted to a public kindergarten if the child meets certain requirements, etc. CA 02/17/2015 Fav/CS AHS 04/14/2015 Fav/CS AP 04/21/2015 Fav/CS	Fav/CS Yeas 19 Nays 0

With subcommittee recommendation - Health and Human Services

A proposed committee substitute for the following bill (SB 7056) is available:

28	**SB 7056** Governmental Oversight and Accountability (Similar H 7023)	Administrative Procedures; Revising requirements for the annual review of agency rules; specifying requirements for such plans; requiring publication by specified dates of notices of rule development and of proposed rules necessary to implement new laws, etc. AGG 04/14/2015 Fav/CS AP 04/21/2015 Not Considered	Not Considered

With subcommittee recommendation - General Government

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
	Other Related Meeting Documents		

Tuesday, April 21, 2015

WORKSHOP ON SENATE PLAN FOR MEDICAID SUSTAINABILITY

THE FLORIDA SENATE

SENATOR ANDY GARDINER
President

TO: All Senators
FROM: Andy Gardiner, President
SUBJECT: Workshop on Senate Plan for Medicaid Sustainability
DATE: April 17, 2015

As you are aware, the Senate proposed and passed a new LIP model based on the coverage expansion outlined in the FHIX program. Earlier this week in her testimony before our Committee on Ethics and Elections, AHCA Secretary Liz Dudek indicated our Senate plan would be the model the agency submits to CMS on behalf of the State of Florida.

Unfortunately, at this juncture, we do not know when the plan will be formally submitted as a waiver application. Additionally, CMS is under no obligation to respond to Florida's application by any particular deadline.

Considering this uncertainty surrounding critical health care issues, I have asked Chair Lee to utilize the first portion of the final meeting of our Committee on Appropriations, scheduled for Tuesday, April 21, at 10:00 a.m. to host a workshop during which all Senators will have the opportunity to hear from our Senate professional staff about potential funding scenarios and implications for their constituents.

The workshop will also include a brief history and summary of the issues surrounding the discussion on LIP and Medicaid, as well as background on the Senate's comprehensive plan for Medicaid Sustainability. We will include time for public testimony to enable Senators to hear from the people who will be impacted by our decisions on these issues.

I encourage all Senators to make this workshop a priority and look forward to seeing you there.

SUITE 409, THE CAPITOL, 404 SOUTH MONROE STREET ▪ TALLAHASSEE, FLORIDA 32399-1100 ▪ TELEPHONE (850) 487-5229
Senate's Website: *www.flsenate.gov*

Agenda

1. Opening Remarks, *President Andy Gardiner*

2. Panel Presentation

    - Low Income Pool Methods of Payment and History
      Carol Gormley, Senior Policy Advisor, Office of the President

    - Current Payment Levels
      Malcolm Ferguson, Navigant

    - Senate LIP Model
      Allen Brown, Chief Analyst, Senate Committee on Appropriations

    - Economic Impacts
      Amy Baker, EDR

3. Senator Questions

4. Public Testimony

5. Closing Remarks: *Senator Tom Lee, Chair, Senate Committee on Appropriations*

Table of Contents

1. **Basics: Medicaid, LIP and IGTs**

    - Problem and Solution Matrix
    - History of Low Income Pool (LIP) and Intergovernmental Transfer (IGT) Funding
    - LIP and IGT Basics
    - Parameters for LIP and IGTs
    - Florida Health Insurance Affordability Exchange (FHIX) Overview

2. **Waiver Requirements and Process**
    - Federal Requirements for a 1115 Waiver
    - History of Medicaid Reform Waivers
    - Agency for Health Care Administration (AHCA) Timeline for 2015 Waiver

3. **Navigant Report Executive Summary**

4. **Senate 2015 LIP Model**

5. **Impact Scenarios**

6. **Economic Impacts: FHIX, LIP and IGTs**

7. **Communications from the President's Office**

    - March 5, 2015: Memo Re: FHIX Program
    - March 19, 2015: Memo Re: Senate Plan for Medicaid Sustainability
    - April 14, 2015: Memo Re: Information on Senate Plan for Medicaid Sustainability

8. **Communications from the Centers for Medicare and Medicaid Services (CMS)**

    - April 11, 2014 Letter from Cindy Mann (CMS) to Justin Senior (AHCA)
    - July 31, 2014 Letter from Cindy Mann to Justin Senior
    - April 15, 2015 Letter from Victoria Wachino (CMS) to Justin Senior

9. **Communications from the Executive Branch**

    - March 4, 2015: Letter from Governor Scott to President Obama
    - April 14, 2015: Letter from Members of Florida's Congressional Delegation to CMS Released by Governor's Office
    - April 15, 2015: Letter from Justin Senior to Victoria Wachino
    - April 16, 2015: Press Release from Governor's Office Announcing Lawsuit

10. **Recent Media Articles and Editorials**

Problem and Solution Matrix

	Funding	Coverage
LIP[1]	➢ $2.1 billion total funding ➢ $1.5 billion in net payments to hospitals ➢ Targeted support for critical facilities and services ➢ Statewide benefit from local partnerships	➢ Supports access for Medicaid enrollees by compensating for reimbursement shortfalls ➢ Supports specialized services such at trauma care, rural hospitals, hospital-based primary care systems ➢ Supports services provided to uninsured patients, i.e. uncompensated care
Expansion[2]	➢ 100% federal funding through CY 2016 ➢ Estimated $3 billion federal funding in FY 2015-16 ➢ Savings available from phase out of Medically Needy (estimated $400 m)	➢ 951,826 estimated eligible ➢ 834,674 estimated enrollees

[1] Navigant, *Study of Hospital Funding and Payment Methodologies for Florida Medicaid* (January 2015)., p.26: "We do not believe that a decision to expand Medicaid in Florida would be sufficient as a full replacement of the LIP program."
[2] *Ibid., p. 201:* "However, expansion would not replace the portion of the LIP program funding the difference between Medicaid payments and hospitals' costs to treat Medicaid recipients."

History of LIP and IGT Funding

- Initiated in 2006 as part of the Medicaid reform pilot launched by Governor Jeb Bush;
  - LIP modified and expanded a previous supplemental hospital payment system known as UPL (upper payment limit); UPL accounted for approximately $631 m in annual hospital payments prior to Medicaid reform.
  - UPL refers to the maximum amount Medicaid can pay a provider, which is the Medicare payment level; since Medicaid pays less than Medicare, the federal government allows *supplemental payments* to providers up to the UPL.
  - Supplemental payments are only allowed in fee-for-service systems;
  - Florida's expansion of managed care means that special permission (waiver) is needed to continue supplemental payments.
- CMS initially authorized up to **$1 B in annual supplemental payments** to providers:
  - Supplemental payments are made in quarterly lump sum distributions to qualified providers;
  - LIP supplemental payments are not linked to specific services or specific patients like claims-based reimbursement; providers qualify for LIP based on special criteria or policies.
  - Florida's LIP program uses several policy criteria used to allocate payments in various silos;
- IGT funding is used not only for LIP, but also to increase hospital rates for 130 of the state's 225 hospitals
  - IGTs are repaid through LIP, but some are used to fund automatic (or policy-based) rate enhancements
  - Between 2008-2014, Florida allowed self-funded rate enhancements
    - During this period, these payments grew from about $30 m in payments for less than a dozen hospitals to almost $1b for 80 hospitals
    - Self-funded rate enhancements are not compatible with managed care because the donor cannot be certain of earning back the donation and the price differential discourages use of hospitals with higher rates.
- In 2014-15, CMS gave Florida 1 year for an increase in LIP to give transitional support to hospitals
  - The 1-year authority allowed LIP to increase from $1 billion to $2.1 billion;
  - Approximately $967 m of this increase replaced previously "self-funded" rate increases.
  - Funding for physicians affiliated with medical schools ($204 M) constituted the remaining amount of the one-year increase
- Though primarily used as a way to fund hospitals, LIP payments are also made to other providers
  - LIP funds FQHCs and health departments, primary care initiatives, premium assistance programs in two counties, emergency room diversion, and poison control centers;
  - LIP payments to non-hospital providers totaled $321 m in FY 2014-15

LIP and IGT Basics

Low Income Pool (LIP) *Payment Method*	**Intergovernmental Transfers (IGTs)** *Financing Method*
Waiver required: • To make provider payments outside of capitation; • Waivers are not subject to specific federal rules; • Federal policies have been inconsistent over time and for different states; • No time limits on negotiations.	Federal requirements: • Must come from public sources; • Payments can't exceed costs; • No hold harmless provisions or practices.

Florida LIP structure:
• Used primarily to repay IGT donors;
• Policy silos:
  o Special LIP (six categories including rural, trauma, primary care, etc)
  o LIP 4 = financing silo (8.5% ROI)
  o LIP 6 = replacement for self-funded rates ($964 m)
  o LIP 7 = new silo in 2015 Senate plan
  o Provider Access Systems (PAS) = funding for health departments, FQHCs, etc. ($117 m)
  o Physician UPL = supplemental payments for medical schools ($204 m)
• Because LIP repays IGTs, these sources are also available to fund Disproportionate Share Hospital (DSH) and enhanced rates:
  o DSH funding = $239 m in hospital payments;
  o IGT funded rate enhancements = $797 m
	Local requirements:
	• Sources must be local taxes or other public revenue.
	• Fiduciary responsibilities to local taxpayers prohibit donations that do not yield a net benefit.

Without LIP supplemental payments
• Net benefits cannot be guaranteed to donors and without these guarantees, donations may not continue.
• Payments can only be made through rates;
  o Base rate increases benefit all hospitals;
  o Facility adjusters can be used to benefit selected hospitals.
• Differential rates drive patients to lower cost hospitals in a managed care environment.
	Without IGTs
	• Hospital payments are reduced by $1.3 b or 15% below current levels; hospital payments currently average 49% of costs.
	• Federal approval of hospital rates may be withheld if the rates are not "adequate".
	• Lower hospital rates reduce managed care capitation rates.
	• Below-market funding of hospital rates may cause capitation rates to fall below actuarially sound levels.
	• Continuation of statewide managed care depends on actuarially sound rates.

Spending Alternatives • Allow hospital payments to be reduced. • Maintain current levels with other funds. • Mitigate reductions with other funds.	Funding Alternatives • GR, through allocations and reprioritizations • Provider assessments

Parameters for LIP and IGTs

Problem Statement
Without federal approval for LIP payments, Medicaid payments to Florida hospitals will be reduced by $1.3 b or 15% of current levels.

- Hospital payments
  - Federal regulations require provider payment rates to be "adequate".
  - State capitation rates must be "actuarially sound" enabling the managed care organization to pay providers at market-based rates.
  - Based on the Navigant study, Florida Medicaid payments to hospitals currently constitute, on average, just 49% of the costs for Medicaid and uncompensated care.
  - The pay to cost ratios range from a high of 55% (for 104 hospitals that contribute IGTs and receive related payments) to 22% of costs for 88 non-IGT hospitals.
  - The 104 IGT-hospitals account for 70% of Medicaid hospital claims.
- Net payments
  - 139 hospitals receive $1.6 B in net benefit from LIP/IGT related payments.
  - Nets range from $115,634 (Sacred Heart, Gulf Coast) to $270 M for Jackson Memorial
  - $679 m in state funds are needed to sustain these nets without IGTs.
  - If only 60% of the net benefits are preserved, $407 M in state funds are required.
  - 23 hospitals receive more than $15 M in net benefits; $497 M in state funds are required to sustain nets for these 23 hospitals.
- Payment methods
  - Claims-based payments are made either directly as fees for services (FFS) or through managed care organizations
  - Supplemental payments require a waiver; supplemental payments are the only way to ensure net benefits remain proportionate to prior payments.
  - Payments to providers made as part of an approved rate structure do not require a waiver.
  - States have considerable flexibility in setting provider rates; rates can be enhanced for all hospitals when the base is increased or for certain hospitals when facility adjusters are used.
  - Facility adjusters that increase the difference in payment levels for some hospitals can negatively affect use of that hospital in a managed care environment.
- Funding sources
  - Since 1986, a variety of policies have replaced state GR in hospital payments with funds from other sources; currently, state GR constitutes only 37% of the state share of Medicaid payments to hospitals.
  - IGTs are voluntary donations and their availability depends on incentives to the donors.
  - GR is only available depending on other state spending priorities.
  - Provider assessments (PMATF): could be used to replace IGTs or as a transition to more GR.
- Beneficiaries
  - Old LIP/IGT primarily benefits public hospitals
  - Senate LIP plan extends benefits (through increases in base DRG rates) to almost all hospitals
  - Amount of GR required to replace IGTs is lowered marginally by limiting number of beneficiaries or limiting degree of benefit

Florida Health Insurance Affordability Exchange (FHIX) Program

Florida Medicaid Background	o The Medicaid program is a partnership between the federal and state governments to provide medical care to low income children and disabled persons. o Florida Medicaid is administered by the Agency for Health Care Administration (AHCA) and is financed with federal and state funds. The Department of Children and Families (DCF) determines eligibility for the Medicaid program and transmits that information to the AHCA. The AHCA is designated as the single state Medicaid agency and has the lead responsibility for the overall program. o Over 3.7 million Floridians are currently enrolled in Medicaid and the program's estimated expenditures for the 2014-2015 fiscal year are $23.4 billion. The federal government currently pays 59.56% of the costs of Medicaid services with the state paying 40.44%. Florida has the fourth largest Medicaid program in the country. o Medicaid currently covers: ▪ 20% of Florida's population; ▪ 27% of Florida's children; ▪ 62.2% of Florida's births; ▪ 69% of Florida's nursing homes days.
FHIX Program Principals	The FHIX program is a consumer-driven approach to providing high-quality, affordable health care coverage while promoting personal responsibility. FHIX participants will have access to a state-operated marketplace to shop and select coverage, services and products. The FHIX Program is based on the following principals: • Fair Value; • Consumer Choice; • Simplicity; • Portability; • Promotes Employment; • Consumer Empowerment; and • Risk adjustment.
Coverage Population & Eligibility Requirements	o The FHIX program will extend coverage to an estimated 800,000 low-income Floridians. o Applicant must be a Florida resident between ages of 19-64. o The expanded population will include individuals whose income is at or below 133% of the Federal Poverty Level (FPL). ▪ Individuals who earn an annual income up to $16,000; or ▪ Parents who earn up to an annual income of $33,000 for a family of four.
Products & Services	o All Florida Health Choices Program products and services; o All Medicaid Managed Care plans; o All products offered by Florida Healthy Kids Corporation; and o Employer sponsored plans.
Responsibilities of Participants	o Cost-Sharing Principles: ▪ Participants must make mandatory monthly premium payments ranging from $3-$25 based on their income to maintain health benefits coverage on the FHIX marketplace. ▪ Participants may be charged for inappropriate use of emergency room visits up to $25. o Employment Requirements: ▪ Participants are required to complete an initial application for coverage which includes proof of employment, on-the-job training or placement activities, or pursuit of educational opportunities and will submit a renewal annually.

Florida Health Insurance Affordability Exchange (FHIX) Program

Application for Benefits

- To enroll in the FHIX program, applicants will apply using the same process used today for Medicaid eligibility through the Department of Children and Families (DCF). The DCF is responsible for processing applications, determining eligibility and transmitting information to the AHCA or the corporation, depending on the phase on each applicant's eligibility status. An application is only deemed complete when it has met all of the requirements under participant responsibilities.

Implementation

Implementation Activities		
Phase	**Start Date**	**Activities**
Readiness	Effective Date - Ongoing Based on Phase/Region	• Implementation Activities. • AHCA will conduct a readiness review in consultation with the FHIX Workgroup.
One	July 1, 2015	• Enroll newly eligible, low-income, uninsured into Medicaid managed care plans. • Corporation readies for implementation of FHIX marketplace for Phase Two. • Healthy Kids prepares for customer service, financial support and choice counseling in Phase Two and Three.
Two	January 1, 2016*	• Enroll newly eligible, low income, uninsured into FHIX. • Transition Phase One enrollees from MMA plans to FHIX by April 1, 2016. • Renew existing enrollees at annual enrollment date. • Healthy Kids prepares to transition enrollees to FHIX under Phase Three.
Three	July 1, 2016*	• Enroll newly eligible, low income, uninsured into FHIX. • Renew existing enrollees at annual enrollment date. • Healthy Kids transitions enrollees to FHIX under Phase Three .

*Phase Two implementation is contingent upon federal approval

Estimated Fiscal

- The expansion is fully funded by the federal government for calendar years 2015 and 2016.
- States must begin covering a portion of the adult expansion costs in 2017.
- States are required to contribute 10% of the adult expansion costs beginning in 2020.

- Estimated FHIX program costs:
  - Year 1: $2.8 billion from the federal government to cover 100% of costs for coverage of expanded adult population; $9.6 million from state
  - Year 2: $3.7 billion from the federal government to cover 95% of costs for coverage of expanded adult population; $118.5 million from state

Federal Requirements for 1115 Waiver Application	
Public Document Notice	• AHCA must publish a Public Document Notice and include a comprehensive description of the 1115 Waiver • Application to notify and solicit public input must be available for a 30-day period before submission.
Notify Indian Tribes	• AHCA must notify the Seminole Indian Tribe and the Miccosukee Tribe through written correspondence to request input on the amendment request.
Public Meetings	• AHCA must publish public notices for at least two public meetings in the Florida Administrative Register (FAR). • AHCA must post the public meeting schedule including dates, times and locations as well as the public notice document for the 1115 Waiver Application on the agency's home webpage.
Submission of 1115 Waiver Application	• After 30 days of public input, AHCA may formally submit the 1115 Waiver Application to CMS for consideration. • **There are no requirements or deadlines for CMS to respond to Florida's 1115 Waiver Application once it is submitted.**

History of Medicaid Reform Waivers

Florida Action	Key Dates	CMS Action and Date
Medicaid Reform waiver	1. Discussions/meetings: **November, 2004** 2. Concept paper: **January, 2005** 3. Formal application: **August 30, 2005**	Approval: **October 19, 2005**
First Renewal for Medicaid Reform Pilot	1. SB 1484 directs AHCA to seek extension: **April 30, 2010** 2. Formal application: **June 30, 2010** 3. Respond to questions **January 11, 2011** 4. Gov. Scott letter requesting approval **January 31, 2011** 5. Letters requesting temporary extension **June 20, 2011** **July 29, 2011** **August 12, 2011** **August 31, 2011** **September 13, 2011** **September 29, 2011** **October 12, 2011** **October 26, 2011** **November 10, 2011** **November 22, 2011**	Letter advising state of change in review authority: **August 17, 2010** Written questions: **December 16, 2010** Letters approving temporary extensions: **June 28, 2011** **July 29, 2011** **August 31, 2011** **September 15, 2011** **September 30, 2011** **October 14, 2011** **October 31, 2011** **November 14, 2011** **November 29, 2011** Approval: **December 15, 2011**
Amendment to allow statewide expansion	1. Letter advising of intent to expand: **March 29, 2011** 2. Formal application: **August 1, 2011** 3. Written responses to questions **April 13, 2012** 4. Quality improvement strategies and implementation plan submitted: **September/October, 2012**	Letter requesting more information: **April 28, 2011** Informal questions: **January 3, 2012** Letter of agreement in principle: **February 20, 2013** Approval: **June 14, 2013**
Application for second 3-Year Extension	1. Formal application: **November 27, 2013**	Letter memorializing agreements: **April, 2014** Approval: **August 1, 2014**
Request for LIP authority	1. Navigant report submitted: **January 15, 2015** 2. In-person meetings and phone calls: **January 20, 2015** 3. Gov. Scott letter saying no state funds for backfill: **March 4, 2015** 4. Senate plan informally presented by AHCA: **March 26, 2015** 5. Email indicating Senate plan is formal proposal: **April 13, 2015** 6. Formal application: **April 20, 2015 (subject to 30 day public notice)**	Letter with guidance for LIP proposal **April 14, 2015**

RICK SCOTT
GOVERNOR

ELIZABETH DUDEK
SECRETARY

FOR IMMEDIATE RELEASE
April 20, 2015

Contact: AHCA Communications Office
AHCACommunications@ahca.myflorida.com
(850) 412-3623

AHCA Submits Senate's LIP Model to Amend 1115 Medicaid Waiver

- Amendment would request $2.167 billion for a redesigned Low Income Pool program -

Tallahassee, FL – Today the Agency for Health Care Administration (Agency) sent the Senate Low Income Pool (LIP) proposal as an amendment to the 1115 Managed Medical Assistance Waiver which would extend the LIP program through June 30, 2017. Additional information from the public comment period will be submitted upon the conclusion of the public meetings scheduled for April 29th in Orlando, April 30th in Miami and May 1st in Tallahassee.

Secretary Liz Dudek said, "We are submitting the Florida Senate's LIP model to CMS today in hopes that they will quickly grant us approval or give us any feedback to continue supporting uncompensated care for low income Floridians. We are expediting our submission of this LIP model in order to help CMS speed up their decision. CMS knows that our budget depends on their rapid response to this model. After the federally required public comment period has concluded, the agency will compile the public comments, along with any needed adjustments and send them to CMS."

The LIP proposal shares some characteristics with the existing program but has been redesigned in key areas to support federal and state goals. The redesigned program built off of the Florida Senate's LIP model:

- Has a total funding level of $2.167 billion (including state, local and federal funds)
- Includes restructured hospital distributions to more broadly distribute funding and encourage access for vulnerable populations
- Maintains funding for Florida medical schools
- Maintains funding to Florida's County Health Departments (CHD) and Federally Qualified Health Centers (FQHCs) to encourage primary care
- Includes enhanced reporting of LIP activities and fund flows to improve transparency

Below is the process to submit a formal request for 1115 waiver amendment to the Centers for Medicare and Medicaid Services (CMS):

Notify Tribes: The Agency has sent correspondence to the Seminole Tribe and the Miccosukee Tribe on April 20, 2015 requesting input on the amendment request.

Public Meetings: The Agency published public notices for three public meetings in the Florida Administrative Register (FAR).

- April 29, 2015 in Orlando,
  - As required, during the April 29, 2015 meeting in Orlando, the Agency will be asking for input on this amendment request from the members of the Medical Care Advisory Committee, and the public at large
- April 30, 2015 in Miami, and
- May 1, 2015 in Tallahassee

Public Comment Period:

- Posted the Public Notice Document Amendment Request, today, April 20, 2015, on the Agency's website (LINK)
- The Public comment period will run for thirty days, beginning on April 21, 2015 through May 22, 2015.

The Agency for Health Care Administration is committed to better health care for all Floridians. The Agency administers Florida's Medicaid program, licenses and regulates more than 45,000 health care facilities and 34 health maintenance organizations, and publishes health care data and statistics at FloridaHealthFinder.gov. For more information about the health information exchange, please visit http://www.fhin.net/ or https://www.florida-hie.net.

# # #

NAVIGANT

HEALTHCARE

SEE HOW FAR IMPACT CAN REACH.

SOLUTIONS THAT CREATE HIGH-PERFORMING HEALTHCARE ORGANIZATIONS

Hospital Reimbursement Levels from Florida Medicaid

April 21, 2015

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Presenter

Malcolm Ferguson

Associate Director

Navigant Consulting

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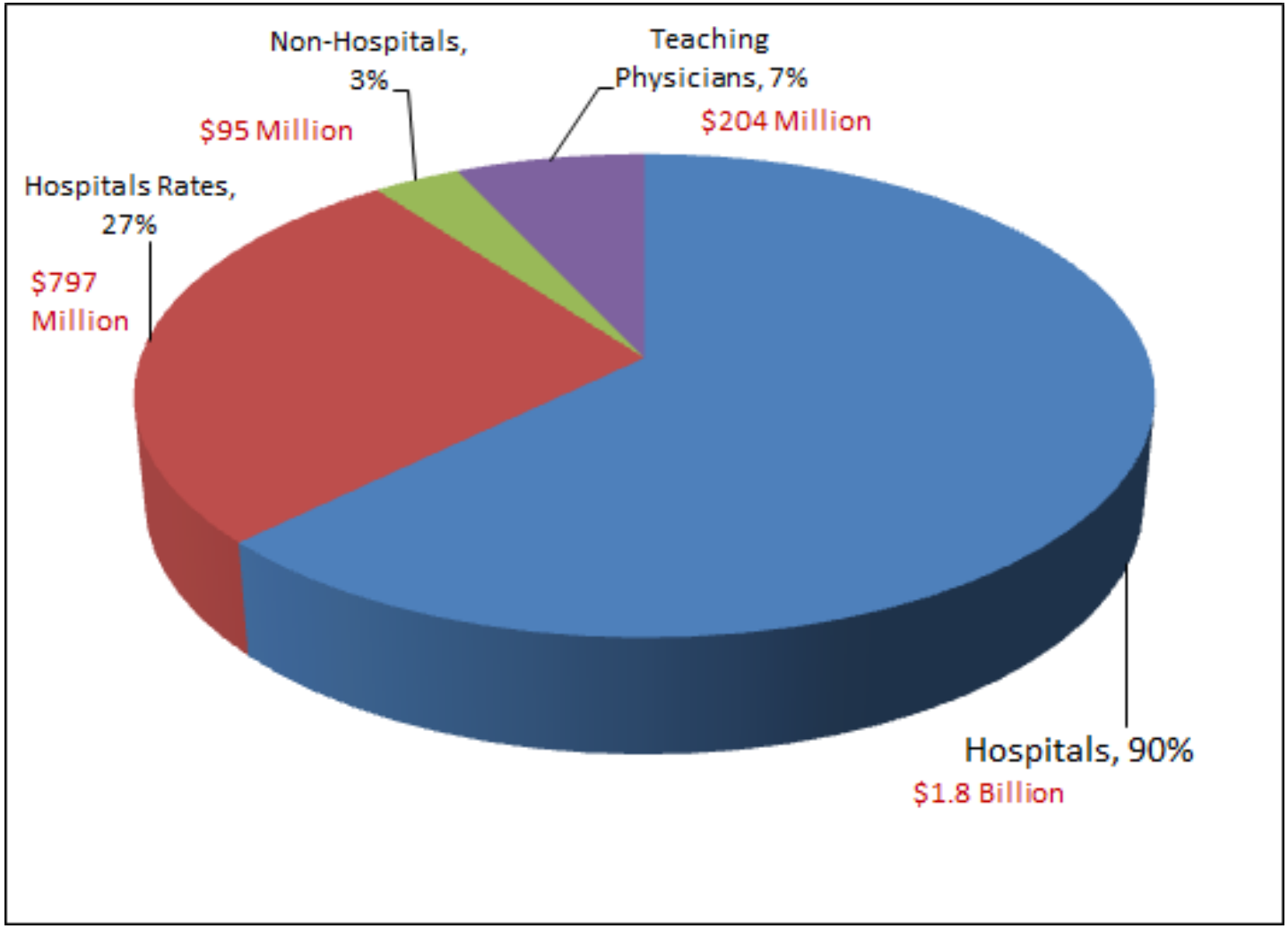
Distribution of LIP Payments – 2014/15



Hospital rates are outside of the LIP program, but the LIP program provides a 108.5% guaranteed return on IGTs contributed to fund rate enhancements.

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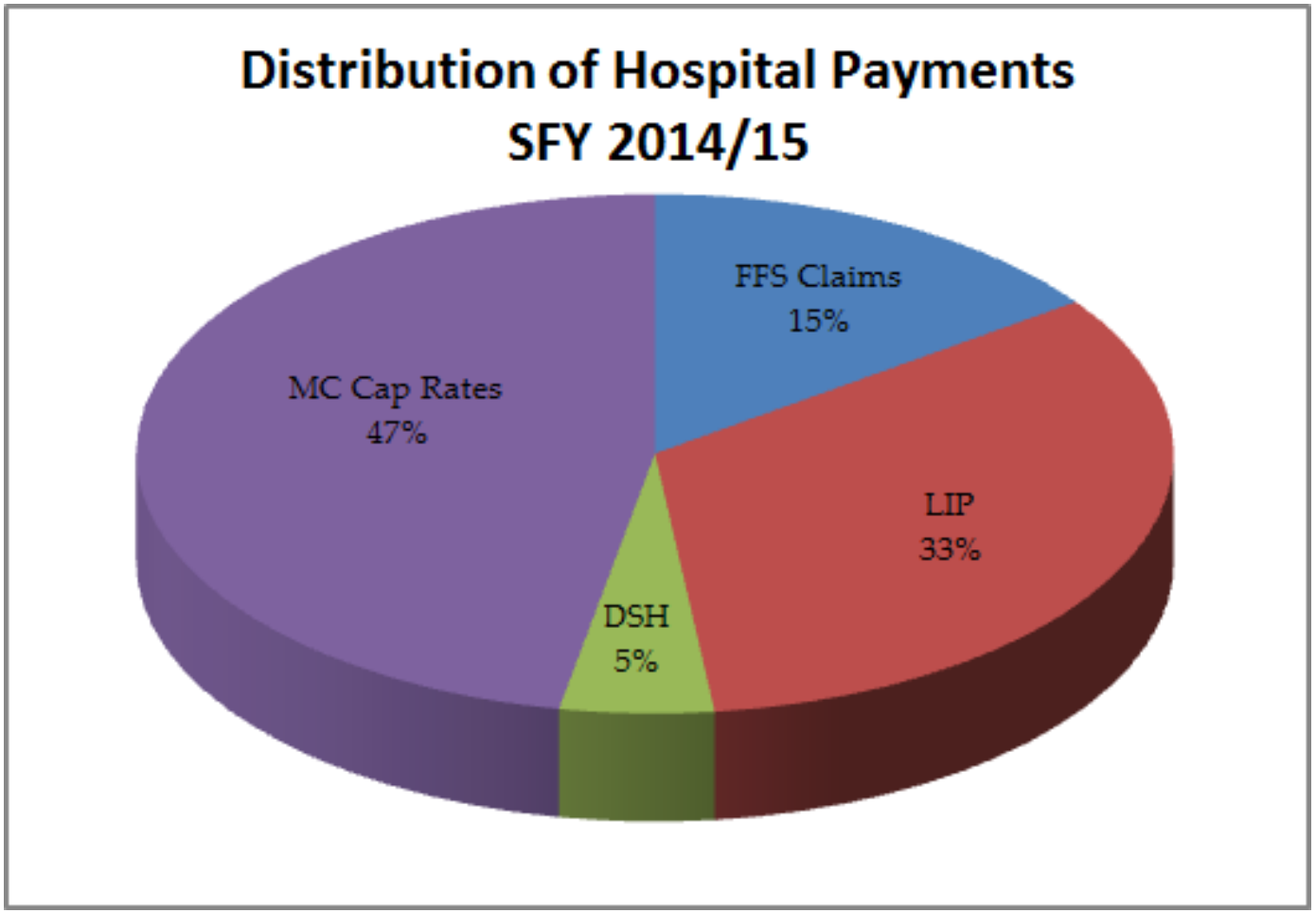
NAVIGANT HEALTHCARE

Distribution of Florida Medicaid Hospital Payments – 2014/15



For hospitals, payments through the LIP program constitute a significant portion of overall reimbursement.

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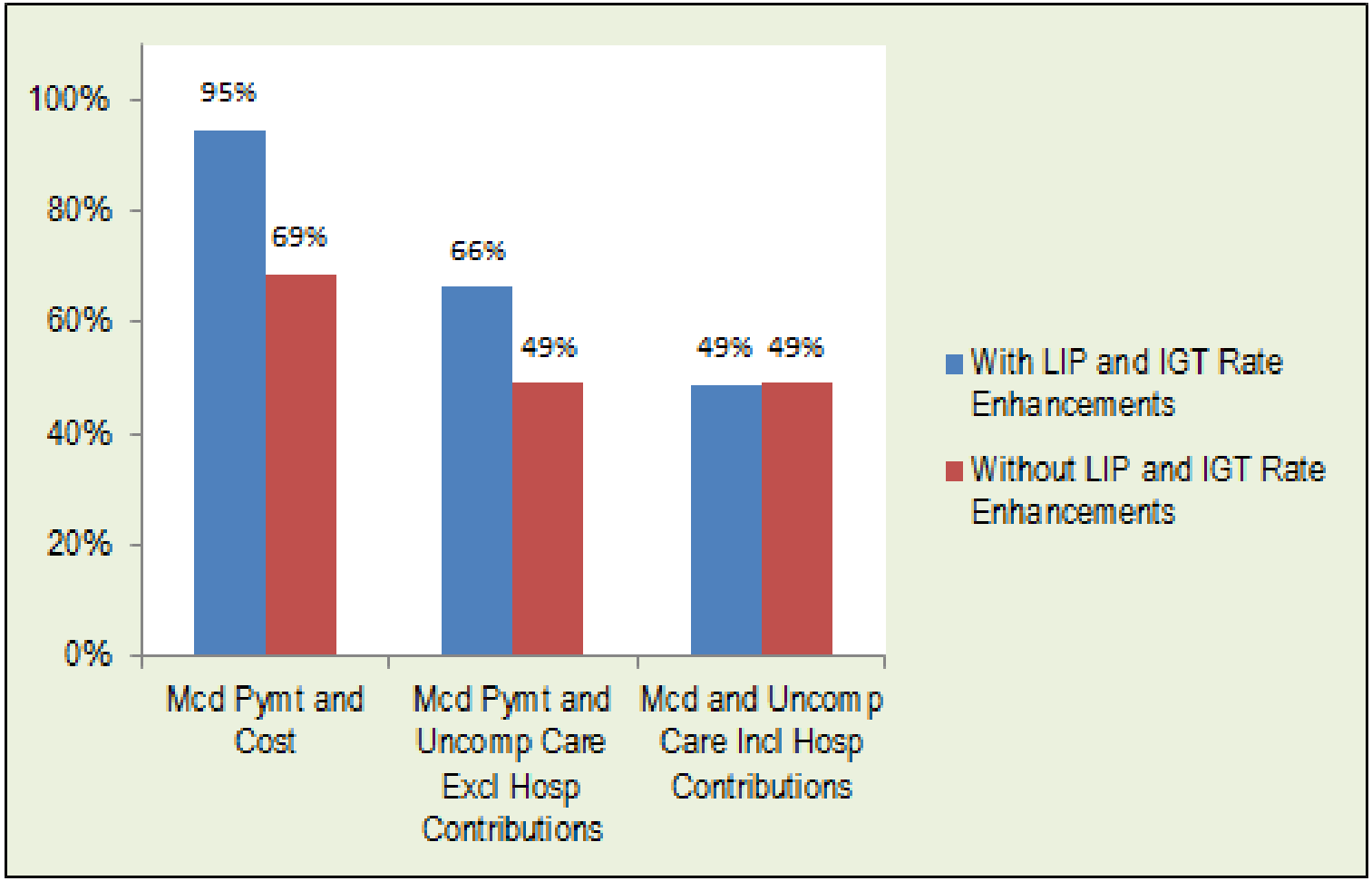
Pay-to-Cost Ratios with and without LIP – 2012/13



The "Without LIP and Rate Enhancement" values assume IGT funds previously contributed to Medicaid would be paid to the hospitals by the county governments.

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Current Medicaid Hospital Reimbursement Levels

Pay-to-Cost Ratios with and without LIP – 2012/13

	Payment	Cost	Pay-to-Cost Ratio
With LIP and IGT Rate Enhancements			
Mcd Pymt and Cost	$5.5	$5.8	95%
Mcd Pymt and Uncomp Care Excl Hosp Contributions	$5.7	$8.6	66%
Mcd and Uncomp Care Incl Hosp Contributions	$4.2	$8.6	49%
Without LIP and IGT Rate Enhancements			
Mcd Pymt and Cost	$4.0	$5.8	69%
Mcd Pymt and Uncomp Care Excl Hosp Contributions	$4.2	$8.6	49%
Mcd and Uncomp Care Incl Hosp Contributions	$4.2	$8.6	49%

The "Without LIP and Rate Enhancement" values assume IGT funds previously contributed to Medicaid would be paid to the hospitals by the county governments.

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Questions

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Study of Hospital Funding and Payment Methodologies for Florida Medicaid

Prepared for:

Florida Agency for Health Care Administration

January 15, 2015

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1 Executive Summary

1.1 Background

Since the approval of its Medicaid Reform 1115 Waiver in 2005, the State of Florida has significantly expanded its Medicaid managed care program, representing a major transition from traditional Medicaid fee-for-service payment. During 2014, this Medicaid managed care transition was accelerated and included rollout of mandatory managed care enrollment for nearly all Medicaid recipients throughout the state. In contrast to state fiscal year (SFY) 2005/06, when managed care payments comprised approximately 13 percent of Medicaid payments, the Florida Agency for Health Care Administration (AHCA) estimates that by SFY 2015/16, 85 percent of all Florida Medicaid recipients will be enrolled in managed care plans and 65 percent of Medicaid payments will be made for services provided to recipients enrolled in Medicaid managed care.

Prior to the Medicaid Reform waiver, Florida Medicaid distributed payments annually (approximately $660 million in SFY 2005/06) to hospitals in the form of supplemental payments. These payments were made through the Upper Payment Limit (UPL) program which allows supplemental payments to be made to a Medicaid provider based on the difference between the amount paid in standard payment rates and a maximum amount referred to as the "Upper Payment Limit." However, federal regulations specify that standard UPL payments are allowed only for services provided through a traditional Medicaid fee-for-service program, and not through managed care. As such, the transition from fee-for-service to managed care had the potential to significantly reduce the amount of funds Florida Medicaid could pay to providers through supplemental payments because of standard (non-waiver) federal regulations related to Medicaid supplemental payments. In other words, the transition from fee-for-service to managed care made it necessary for Florida Medicaid to find another way to continue making these supplemental payments.

To enable continued supplemental payments with the transition to Medicaid managed care, a new program was defined within the 2005 1115 demonstration waiver called the Low Income Pool (LIP) program. The LIP program was "established to ensure continued government support for the provision of health care services to Medicaid, underinsured and uninsured populations."[1] As originally defined, the LIP program was limited to $1 billion in total payments each year. In addition to replacing the UPL supplemental payment program, the LIP program increased total annually dispersed funds by approximately $300 million and increased the list of providers available to receive supplemental payments. Under the former UPL program, supplemental payments were only made to acute care hospitals. In contrast under the LIP program, supplemental payments could be made to a variety of provider types and in practice have been made to acute care hospitals, Federally Qualified Health Centers (FQHCs) and Community Health Departments (CHDs).

[1] Centers for Medicare and Medicaid Services, *Special Terms and Conditions for Florida Medicaid Reform Section 1115 Demonstration*, Document number 11-W-00206/4, (2005).

The LIP program has been an approved component of the State's 1115 demonstration waiver through June 30, 2014. In 2014, when the mandatory Medicaid managed care portion of the waiver was renewed for an additional three years, the LIP program was only renewed for one more year. Included in this one-year renewal was a shift of self-funded IGT rate enhancements (totaling $963 million annually) and the teaching physician supplement payment program (totaling $204 million annually) into the LIP program. These funds transitioning into the LIP program were in addition to the traditional $1 billion cap previously available through LIP. Thus in this renewal year, SFY 2014/15, a total of nearly $2.2 billion will be distributed as supplemental payments through LIP.

Also included in CMS's Special Terms and Conditions (STCs) for the 2014 waiver renewal was a requirement for AHCA to contract with an independent consultant to conduct a review of the state's funding and payment mechanisms. The intent of this study is to suggest "sustainable, transparent, equitable, appropriate, accountable, and actuarially sound Medicaid payment systems and funding mechanisms that will ensure quality health care services to Florida's Medicaid beneficiaries throughout the state ***without the need for Low Income Pool (LIP) funding***."[2] (emphasis added by Navigant) To do this, the STC's outlined several key requirements. The report must:

- Include detailed information on the historical methods of funding hospital payments, the interaction between state funded payments and provider funded payments, and describe the composition of payments, including base and supplemental payments.

- Analyze the adequacy of current payment levels for Medicaid providers, and the adequacy, equity, accountability and sustainability of the state's funding mechanisms for these payments. The report must primarily focus on the types of providers supported by IGT or LIP funds.

- Include an analysis of how future changes in Medicaid, including possible Medicaid expansion would affect Medicaid payment amounts and structure, including fee-for-service payments, managed care, and LIP.

- Recommend reforms to the Florida Medicaid financing system that can allow the state, beginning in state fiscal year 2015-2016, to move toward Medicaid fee-for-service and managed care payments to providers that ensure access and quality of care for Medicaid beneficiaries without the need for LIP funds. These payments should be based on a rationalized, non-facility specific payment mechanism, which can be applicable to future changes in Medicaid including Medicaid expansion. This type of rationalized payment

[2] Centers for Medicare and Medicaid Services, *Special Terms and Conditions for Florida Medicaid Reform Section 1115 Demonstration*, Document number 11-W-00206/4, (2014).

mechanism would not include payment based on facility specific costs or local tax revenue and would discontinue incentive payments through the LIP.

In addition, the 2014 Legislature included proviso language in the 2014/15 General Appropriations Act stating additional requirements of the report including:

- Identify federal regulations on the following: inter-governmental transfers (IGTs), including their sources, uses, and allowable repayment arrangements; supplemental hospital payments, including allowable types, purposes, and payees; and direct provider payments that are allowed within Medicaid programs that are based primarily on risk-bearing managed care plans.

- Identify other states' uses of IGTs and supplemental hospital payments, including: arrangements for incenting or requiring IGTs; methods of payment, particularly in states with high managed care penetration; and specific federal waiver terms and conditions that apply to IGTs and supplemental hospital payments.

AHCA engaged Navigant Consulting, Inc. (Navigant) to perform this study. A draft of the resulting report is due to CMS no later than January 15, 2015 with the final report due March 1, 2015.

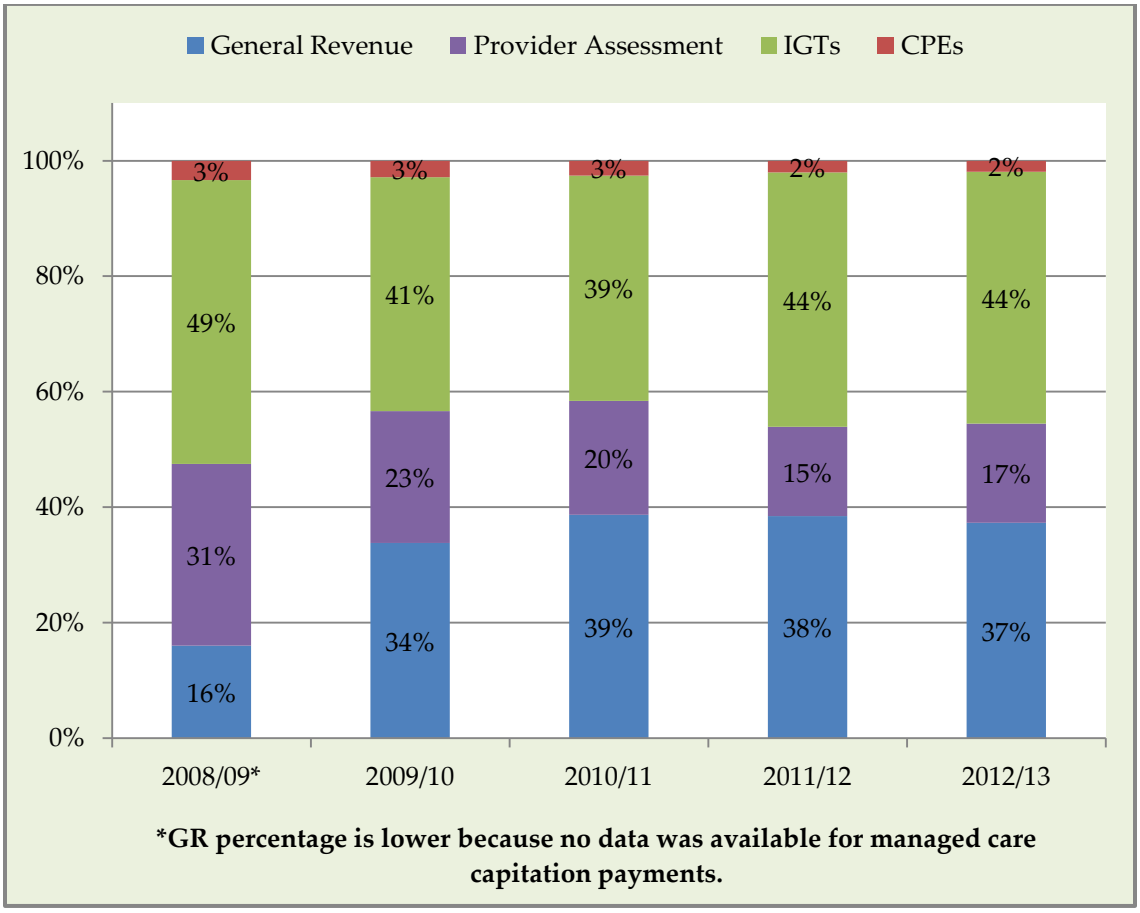
This study deals primarily with funding and payment made through the LIP program. The vast majority of funds for the LIP program come from inter-governmental transfers (IGTs) made in the names of specific hospitals. In addition, the vast majority of payments made through the LIP program are made to acute care hospitals. As a result, the study has a very strong focus on Florida Medicaid hospital reimbursements and the funds gathered to enable those reimbursements. In addition, the study considers hospital costs for care of uninsured and under-insured as well as Medicaid reimbursements for these patients which come from Disproportionate Share Hospital (DSH) payments and from a portion of payments made through the LIP program.

1.2 Hospital Funding

At a high level, funds that pass through a Medicaid program for payment for health care services for Medicaid recipients, the uninsured, and the underinsured, can be categorized as either "state share" or "federal share." For every dollar spent, a certain percentage of that dollar comes from the state share and the rest from the federal share. For the State of Florida, the blended state share percentage has been in the low forties or high thirties over the last few years. The federal share has been in the high fifties or low sixties over that same time period. In state fiscal year 2014/15, for example, the state share percentage is 40.44 percent and the federal share percentage is 59.56 percent. This means for every dollar spent by the Medicaid Agency in SFY 2014/15, 40.44 cents come from state resources and 59.56 cents come from federal resources. Another way to think of this is that $1.00 in state funds in SFY 2014/15 yields $2.47 in total funds for the Medicaid program (1 / 0.4044 = $2.47).

Prior to 1986, the entire state share of funds used for payments to hospitals under the Medicaid program came from state general revenue. Starting in 1986 and continuing in subsequent years, a variety of legislation has been passed which has slowly reduced the percentage of the state share of hospital funding coming from general revenue and replaced that money with funds from other sources. Those other sources are generated through a provider assessment and IGTs. To a small degree, Florida Medicaid also utilizes certified public expenditures (CPEs). For a recent five year period, the percentages of funding for Florida Medicaid hospital reimbursement from each of the various sources are shown in Figure 1 below.

Figure 1. Distribution of funding sources for state share of Medicaid hospital payments over the previous five years.



Notes for Figure 1:

1) The figure above includes funding for hospital fee-for-service rates, hospital managed care capitation rates, LIP supplemental payments and DSH supplemental payments. Medicare crossover claims, in which Medicare is the primary payer, are excluded.
2) During these timeframes, the state portion of all funding for managed care capitation came from state general revenue.

3) Expenditures in SFY 2008/09 are understated because hospital managed care expenditures were not available for this year.

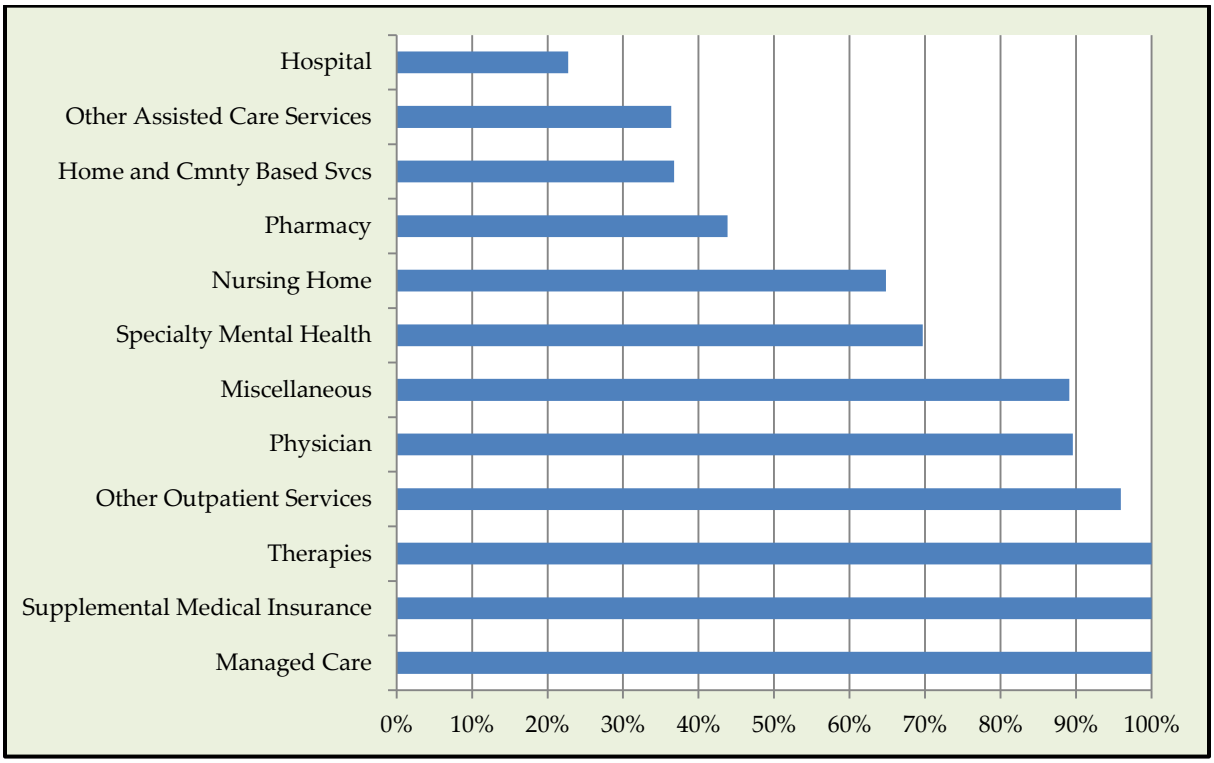
1.2.1 General Revenue

Funds coming from state general revenue offer Medicaid agencies significant flexibility in how provider reimbursements can be designed. In addition, federal regulations require at least 40 percent of funding for Medicaid programs come from state general revenue. In the State of Florida, general revenue constitutes 61 percent, more than half, of the total state share when looking at the overall Medicaid program, including payment for all health care services, such as hospital, nursing home, physician, pharmacy, school programs, etc. However specifically for hospital reimbursement, funds from general revenue constitute 37 percent, less than half, of the total state share. In SFY 2012/13, general revenue contributed just over $1 billion towards funding Medicaid hospital reimbursements and $4.9 billion towards funding the entire Medicaid program, overall.[3]

The state general revenue used to fund the Medicaid program is not spread evenly across the various types of providers and types of services offered to Medicaid recipients. General revenue as a percentage of total state share varies by type of service anywhere from 100 percent of the funding at the high end of the range down to 23 percent at the low end of the range. General revenue funding for hospital services is at the low end of the range. This can be seen in Figure 2 below.

[3] Numbers generated from Florida Social Services Estimating Conference, August 2014, "*Long-Term Medicaid Services and Expenditures Forecast,*" plus AHCA reports of payments for hospital services provided to Medicaid recipients in managed care plans.

Figure 2. Percentage of state share from general revenue by type of service in SFY 2012/13.



Specifically for hospital reimbursements, state general revenue is used primarily to fund inpatient and outpatient rates, distributed through fee-for-service claim payments, and to fund managed care capitation payments. General revenue also funds very small portions of supplemental payments made within the LIP and DSH programs.

1.2.2 Provider Assessment

The provider assessment in Florida is referred to as the Public Medical Assistance Trust Fund (PMATF), and includes a 1.0 percent assessment of hospital outpatient net operating revenue and a 1.5 percent assessment of hospital inpatient net operating revenue. This is a mandatory program, as defined in Florida statute. In SFY 2012/13, nearly $470 million was collected through the PMATF program, which drew down over $641 million in federal matching funds, resulting in a total of $1.1 billion in funds available for Medicaid reimbursements. These funds are combined with general revenue funds and used to reimburse hospitals through fee-for-service claim rates and managed care capitation rates.

In a majority of cases, the cost of the assessment is paid back to providers through an increase in the Medicaid reimbursement rate, but consistent with the federal redistributive and hold harmless provisions of health care-related tax programs, not all hospitals get back all that they were assessed. Hospitals with very low Medicaid volume may not receive as much in increased rates as they paid out through the assessment.

1.2.3 Inter-Governmental Transfers

Inter-governmental transfers (IGTs) are transfers of funds from a non-Medicaid governmental entity (e.g., counties, hospital taxing districts, providers operated by state or local government) to the Medicaid agency. As long as the funds collected through IGTs are used in ways that comply with federal regulations, they may be used to draw down federal matching funds. "Federal policy regarding both the permissible sources of non-federal Medicaid expenditures and federal contributions toward those expenditures dates to Medicaid's 1965 enactment. Prior to 1965, health care services for low-income individuals were provided primarily through a patchwork of programs sponsored by state and local governments, charities, and community hospitals. … While the administration of each state's Medicaid program was required to be centralized at the state level, federal provisions allowed the pre-existing patchwork of programs to maintain primary responsibility for service delivery and non-federal financing of services that now qualified for federal payments."[4]

In Florida, IGTs are used to help fund hospital rate payments (inpatient and outpatient), the LIP program, the DSH program, and the physician supplemental payment program. In SFY 2014/15, for example, AHCA anticipates receiving a little over $1.3 billion[5] in IGTs resulting in nearly $3.3 billion in reimbursements when combined with federal matching funds. 43 non-Medicaid governmental entities are expected to contribute IGTs, and the State plans to spread these funds (along with related federal matching funds) across approximately 140 hospitals, 7 medical schools, and 60 non-hospital facilities (primarily FQHCs and CHDs).

Despite the significant sums of money and numbers of health care facilities benefiting from IGT funds, IGTs are optional contributions. Generally, governmental agencies cannot be legally obligated to contribute IGTs towards the state Medicaid program. To ensure continued contribution of IGT funds, payment methods are devised in ways that ensure a return on investment for funds contributed. IGT contributors, most of which are county governments and hospital taxing districts, contribute money in the names of hospitals within their jurisdiction. Medicaid payment methods ensure payments to these named hospitals offer more value than would be afforded through keeping the funds within their local districts. This is possible because of the fact that the IGT funds draw down federal matching funds resulting in enough total dollars to offer a return on investment to the named hospitals and still have additional funds available to distribute amongst other hospitals and some non-hospital providers.

In previous years and in the current year (SFY 2014/15), IGTs fund nearly the entire state share of the traditional $1 billion LIP program and over 60 percent of the state share of the DSH program. Prior to SFY 2014/15, IGTs also funded approximately 40 percent of fee-for-service claim payments and did not fund any managed care capitation payments. Beginning in SFY

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[4] Medicaid and CHIP Payment and Access Commission (MACPAC), "*Report to the Congress on Medicaid and CHIP*," (March 2012).

[5] The Florida Legislature, *"Medicaid Hospital Funding Programs Fiscal Year 2014-2015 – Final Conference Report for House Bill 5001*," (April 29, 2014).

2014/15, these percentages changed. Self-funded IGTs were moved from claim payments into the LIP program. In addition, funds collected through IGTs for automatic rate enhancements now fund both fee-for-service rates and managed care capitation rates. As a result of these changes, in SFY 2014/15 IGTs fund approximately 27 percent of hospital fee-for-service rates, and approximately 27 percent of the hospital portion of managed care capitation rates. In addition, IGTs fund 100 percent of the state share of LIP-6, which was formerly known as self-funded IGTs. Also, beginning on January 1, 2014, IGTs fund the state share for the teaching physician supplemental payment program.

The payment methods designed to incent contribution of IGTs have evolved over time to be relatively complicated within the State of Florida. The payment methods are discussed in section 1.3 – Hospital Payments of the Executive Summary and discussed in greater detail in section 4.4 – Claim and Supplemental Payments. It should be noted that, although the distribution of IGT funds benefits many health care facilities whose local governments do not contribute any IGTs, by far, greater financial benefit is provided to hospitals located in regions in which local government agencies are contributing IGTs.

Not all IGTs are contributed by hospitals. Many are contributed by local governmental agencies. However, the IGTs contributed for the LIP program, automatic rate enhancements, and self-funded rate enhancements are all donated in the names of specific hospitals. In this study, those IGTs are treated as donations from the named hospitals under the assumption that the local governments would find ways to contribute those funds directly to the named hospitals if they were not contributed as IGTs to the Medicaid agency.

1.2.4 Certified Public Expenditures

Certified public expenditures (CPEs) are expenditures made by a governmental entity, including a provider operated by state or local government, under the state's approved Medicaid state plan, for health care services provided to Medicaid recipients. The public provider of service certifies the uncompensated cost of services rendered to eligible individuals. The Medicaid agency records the certified expenditures and draws the Federal share of the expenditure from CMS.

Florida Medicaid utilizes CPEs to help fund Medicaid payments for school-based services, hospital disproportionate share payments, and historically for physician supplemental payments. In SFY 2012/13, CPEs comprised 100 percent of the state share of funding for school-based Medicaid services, 34 percent of the state share for DSH payments and 100 percent of the state share for physician supplemental payments. In terms of hospital reimbursements overall, CPEs comprised two percent of total state funding. Beginning January 1, 2014, this percentage has dropped slightly as funding for the physician supplemental payment program has shifted from CPEs to IGTs.

1.3 Hospital Payments

Payments to hospitals are generally made by the Florida Medicaid Agency in four forms, 1) claim payments for health care services provided to Medicaid fee-for-service recipients; 2) capitation payments to Medicaid managed care organizations, which in turn, pay hospitals for services provided to Medicaid managed care recipients; 3) quarterly supplemental payments determined through the LIP program; and 4) quarterly DSH payments determined through the DSH program. Fee-for-service claim payments and Medicaid managed care capitation payments are both intended to compensate providers for services offered to recipients eligible for Medicaid health benefits. In contrast, DSH payments are intended to compensate providers for costs associated with caring for a high proportion of uninsured or underinsured recipients (often referred to as "uncompensated care"). Payments made through the LIP program are intended to compensate providers for both services offered to uninsured and underinsured recipients as well as help cover shortfalls between Medicaid payments and provider costs incurred from caring for Medicaid eligible recipients.

Fee-for-service hospital claim payments and managed care capitation rates are funded through a combination of general revenue, provider assessment revenue, and automatic rate enhancement IGTs. Payments made through the LIP program are funded almost entirely through IGTs. Funding for the DSH program is a combination of IGTs and CPEs.

As mentioned previously, Florida Medicaid has developed payment methods which ensure return on investment for contributors of IGTs. This is done primarily in two ways. First, all IGT funds collected for the traditional $1 billion LIP program and for automatic rate enhancements are summed together. Hospitals in whose names these funds are contributed receive supplemental payments through the traditional $1 billion LIP program that equal 108.5 percent of the contribution amounts (8.5 percent return on investment). This return on investment is documented within the LIP program as the "LIP Allocation Distribution," and comprises a majority of the funds distributed through the traditional $1 billion LIP program. For example in SFY 2012/13, $772 million was paid through the LIP Allocation Distribution, which meant only $228 million was available through the waiver program to fund safety net hospitals, uncompensated care, and various initiatives intended to improve the delivery of health care to Florida Medicaid recipients. Thus, despite being a $1 billion program, only 23 percent of that money was made available for discretionary distribution.

The second guaranteed return on investment occurs for LIP-6 funds, which were referred to as self-funded IGTs prior to SFY 2014/15. IGT contributors have the option to designate their funds to be applied to traditional LIP and automatic IGT rate enhancements or to LIP-6[6]. Funds designated to LIP-6 provide contributors approximately 147 percent return on investment as the

[6] IGT contributors also have the option to designate their funds be applied to the DSH program, the teaching physician supplemental payment program, or two other smaller sub-programs within the traditional $1 billion LIP program.

hospitals named for these contributions receive back the IGT contribution (the state share) plus all of the associated federal matching funds.

The total amount of money Florida Medicaid may spend within each of these programs is finite. Each is controlled through federal regulation or state regulation, or both. The total funds payable, distribution determination, and funding limitation for each program are depicted in Figure 3 below.

Figure 3. Distribution of IGT funds by Florida Medicaid.

Traditional $1 Billion LIP Program		**Automatic IGT Rate Enhancements**	
Total Funds in SFY 2014/15:	$1 billion	Total Funds in SFY 2014/15:	$666 million
Funding Limitation(s):	1115 demonstration waiver	Distribution Determination:	LIP Council and Florida Legislature
The $1 billion is distributed as follows:		Funding Limitation(s):	UPL regulations and Florida Legislative authority
LIP Allocation Distribution:	$772 million		
Distribution Determination:	108.5 percent of IGT contributions		
Discretionary Distribution:	$228 million		
Distribution Determination:	LIP Council and Florida Legislature		
LIP-6 (Formerly Self-Funded IGTs)		**DSH Program**	
Total Funds in SFY 2014/15:	$963 million	Total Funds in SFY 2014/15:	$315 million
Distribution Determination:	All IGT and federal matching funds paid to named hospital	Distribution Determination:	Formula defined in State Plan
Funding Limitation(s):	1115 demonstration waiver and Florida Legislative authority	Funding Limitation(s):	Federal Medicaid DSH cap for State of Florida and individual hospital DSH limits
Teaching Physician Supplemental Program		**Legend:**	
Total Funds in SFY 2014/15:	$204 million	- state share affecting LIP Allocation Distribution	
Distribution Determination:	Based on historical number of Medicaid encounters	- funds distributed through the 1115 waiver	
Funding Limitation(s):	1115 demonstration waiver		

In addition to the guaranteed returns mentioned above, some hospitals and, to a smaller extent, FQHCs and CHDs receive additional benefit from funds contributed to the traditional $1 billion LIP program and to automatic rate enhancements. Funds that are not paid out through the LIP Allocation Distribution are distributed to these health care facilities a through complex set of policies and regulations designed to provide benefit for facilities considered to be most critical to the Medicaid program. In recent years, just under $900 million has been available annually for more discretionary distribution designed to promote Medicaid program goals.

In SFY 2014/15, fee-for-service and managed care claim payments, which are utilization based, constitute roughly two-thirds of the Medicaid payments made to hospitals. The other third of hospital reimbursements come from supplemental payments, primarily through the LIP program (a total of nearly $2.2 billion in SFY 2014/15). In addition, the distribution of funds originating from IGTs is designed in such a way that those hospitals with access to an IGT contributor are clearly reimbursed at higher levels than those who do not have access to IGTs.

1.4 Evaluation of Florida Medicaid Hospital Funding and Payment

1.4.1 Introduction

One of the most fundamental and commonly quoted regulations within the Social Security Act is section 1902(a)(30)(A) which says,

> "A state plan for medical assistance must provide such methods and procedures relating to the utilization of, and the payment for, care and services available under the plan … as may be necessary to safeguard against unnecessary utilization of such care and services and to assure that payments are consistent with efficiency, economy, and quality of care and are sufficient to enlist enough providers so that care and services are available under the plan at least to the extent that such care and services are available to the general population in the geographic area."[7]

This regulation indicates Medicaid agencies must define policies and payment levels in a way that balances competing goals of access to care along with efficiency and economy with safeguards against unnecessary utilization.

One seemingly reasonable measure of adequate payment would be a comparison of payments to the cost to render care to a Medicaid recipient. In order to remain in operation, hospitals, like any other businesses, must receive enough income to cover all expenses including items such as labor, facilities, and equipment. In addition, it is critical for all hospitals to be able to generate some margin over the cost of operations – for-profit hospitals need to satisfy investors and stock holders, and both for-profit and not-for-profit hospitals need to fund the replenishment of operating infrastructure and capital. Thus, paying hospitals an amount equal to their costs or at least equal to reasonable market value for services provided, if such a number can be defined,

[7] The Social Security Act, section 1902(a)(30)(A).

would be one way to measure payments. In fact, in Medicaid Upper Payment Limit analyses, for example, hospital cost is accepted as a proxy for Medicare payment and can be used as the Upper Payment Limit or maximum allowable reimbursement amount. Note however, that CMS does not consider operating margin to be a reasonable and necessary cost of providing services. In addition, payment levels simply based on cost offer no incentive for hospitals to control costs. Thus, purely cost-based payments do not promote efficiency and economy.

In truth, defining adequate payment levels is not a precise science. Medicaid agencies commonly pay less than full hospital cost and, yet, hospitals remain open and continue to accept Medicaid patients. Traditionally, the assumption has been that hospitals are able to achieve or maintain sufficient operating margin by balancing relatively low revenues received from Medicaid with higher revenues received from commercial insurance companies. This phenomenon is referred to as "cost-shifting," and is more of a theoretical exercise than an actual function performed by hospital accountants. Cost shifting is relatively easy to do for hospitals with a small amount of their business coming from Medicaid and uninsured patients. On the opposite side, cost shifting is more difficult for hospitals with a relatively high percentage of their business coming from Medicaid and uninsured patients. Note also that while it is CMS' intent that the Medicare program pay for the reasonable and necessary costs of providing services to the Medicare population, critics of the Medicare program argue that such is not the case. As such, the Medicare program also contributes to the need for hospitals to "cost-shift."

1.4.2 Florida Medicaid Aggregate Hospital Pay-to-Cost

Overall pay-to-cost ratios for hospital services provided to Medicaid and uninsured recipients in Florida in SFY 2012/13 are shown in Table 1 below. As shown in this table, we compare payments to costs in two ways for the Medicaid program by itself, and in two ways for a combination of the Medicaid program combined with care for uninsured and underinsured patients (referred to in the table as "uncompensated care"). For the Medicaid program alone, aggregate pay-to-cost ratios were calculated with and without inclusion of LIP payments. For the combination of Medicaid recipients and the uninsured, pay-to-cost ratios were calculated with and without inclusion of provider assessment fees and IGTs subtracted for hospital payments to estimate net hospital revenue. Under guidelines defining upper payment limit and DSH limit calculations, provider assessment fees and IGT contributions are not considered to be valid hospital costs. At the same time, provider assessment fees and IGTs coming from hospitals are included in Medicaid payments back to hospitals. Thus, true net revenue to hospitals should take these hospital outlays into consideration.

Table 1. Pay-to-cost values for Medicaid program overall – SFY 2012/13.

Description	Payment	Estimated Hospital Cost	Pay-to-Cost Ratio
Pay-to-cost - Medicaid recipients - w/o LIP	$4,544	$5,770	79%
Pay-to-cost - Medicaid recipients - w LIP payments	$5,459	$5,770	95%
Pay-to-cost - Overall including claim, LIP, and DSH payments as well as claim (Medicaid) and uncompensated care costs	$5,699	$8,587	66%
Pay-to-cost - Overall including claim, LIP, and DSH payments minus PMATF and IGT hospital contributions as well as claim (Medicaid) and uncompensated care costs	$4,186	$8,587	49%

Note(s):
1) Dollar amounts are in millions.
2) Payments include hospital inpatient and outpatient claim data from both FFS and managed care encounter claims.
3) Data is from SFY 2012/13.

The table above shows that aggregate pay-to-cost for hospitals when excluding supplemental payments was 79 percent in SFY 2012/13. In that year, self-funded IGTs were included in claim payments, not in LIP. In SFY 2014/15, self-funded IGTs, which total $963 million, have been moved out of claim payments and into the LIP program. Thus, the aggregate pay-to-cost ratio for hospitals excluding supplemental payments in SFY 2014/15 will be approximately 62 percent.

The table above also shows the aggregate hospital pay-to-cost ratio is relatively high for a Medicaid program at 95 percent when including LIP payments. However, this ratio does not take into consideration that LIP is intended to help offset both the cost of uncompensated care and the gap between Medicaid payments and hospital cost to care for Medicaid recipients. The next pay-to-cost ratio shown in the table includes LIP and DSH payments as well as the cost of uncompensated care. When all these values are included, the aggregate hospital pay-to-cost ratio drops to 66 percent.

1.4.3 Florida Medicaid Hospital Pay-to-Cost Based on IGT Status

Because IGTs play a significant role in funding and payment, we also compared pay-to-cost ratios across three categories of hospitals, 1) hospitals that contribute and receive IGTs; 2) hospitals that do not contribute IGTs, but do receive payments from IGT funds; and 3) hospitals that neither contribute nor receive IGT funds. In truth, not all IGTs are contributed by hospitals; many are contributed by local governmental agencies. However, the IGTs contributed for the LIP program, automatic rate enhancements, and self-funded rate enhancements (now part of the LIP program) are all donated in the names of specific hospitals. We treat those IGTs as donated by the named hospitals under the assumption that the local governments would find

ways to contribute those funds directly to the named hospitals if they were not contributed as IGTs to the Medicaid agency.

Pay-to-cost ratios are shown in Figure 4 for the four different methods we used to calculate the ratios. With each method, hospitals that contribute IGTs and receive payments from IGT funds are paid the highest relative to cost. Hospitals that neither contribute IGTs nor receive payments from IGT funds are paid lowest relative to cost.

Figure 4. Hospital pay-to-cost ratios based on IGT status.

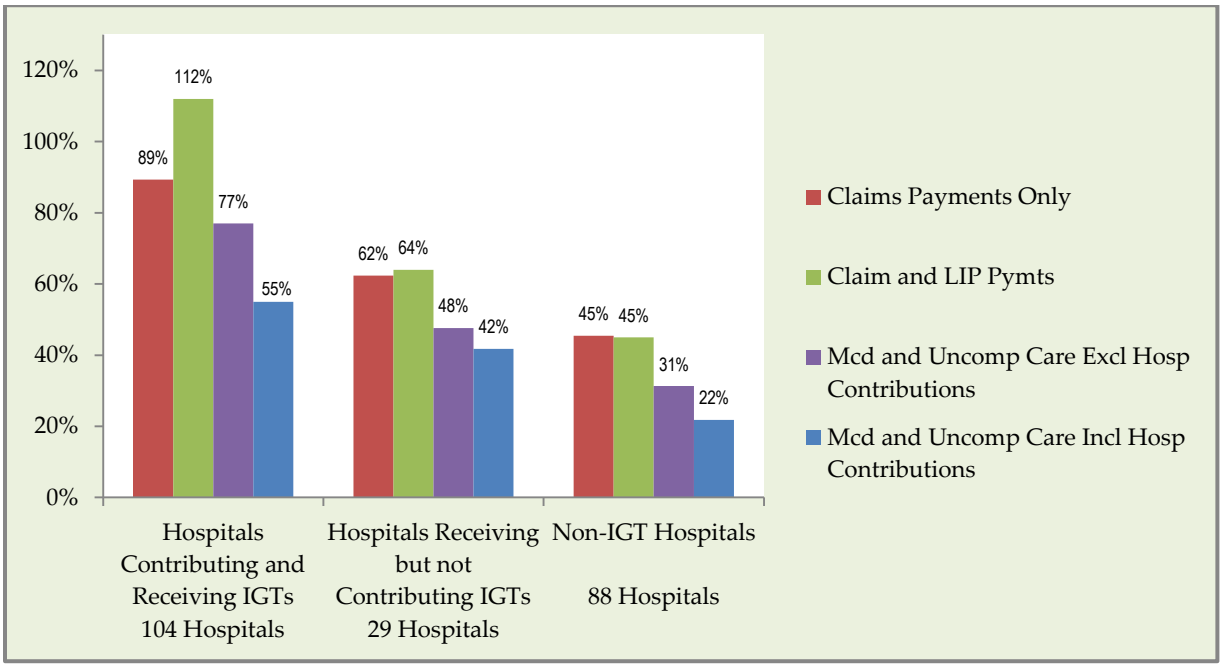
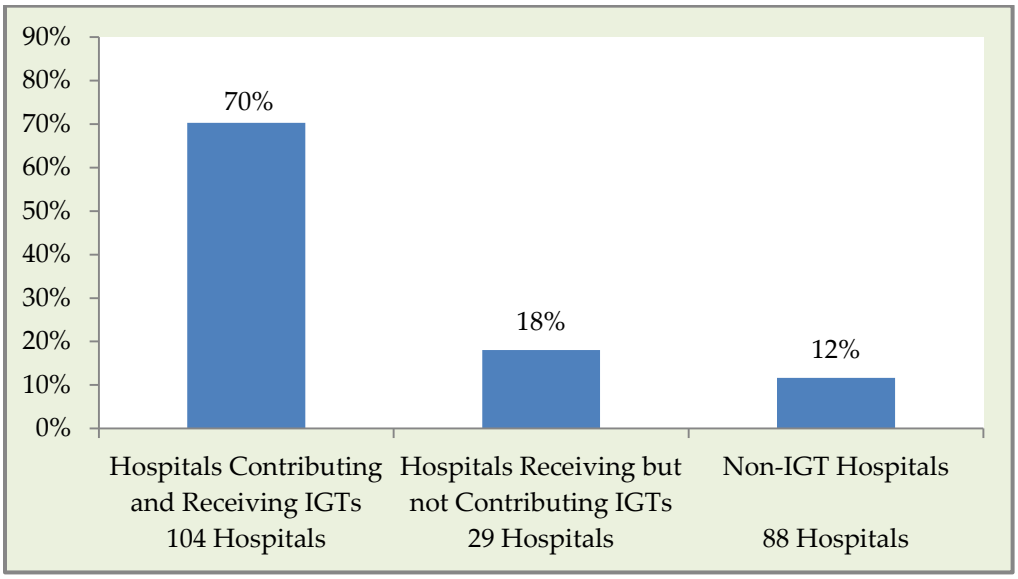


Figure 4 above shows that payments within the Florida Medicaid program are not the same relative to cost when compared across hospitals. However the hospitals that receive relatively higher payments are those that treat the majority of Medicaid patients. This is shown in Figure 5 below and is consistent with the state's goal stated in the SFY 2005 1115 demonstration waiver, "The state will continue to foster and protect its safety net providers."[8]

[8] Florida Agency for Health Care Administration, *Application for 1115 Research and Demonstration Waiver*, (August 2005).

Figure 5. Percentage of Medicaid business based on IGT status.



Notes for Figure 5 :

1) Data is based on claim payments and cost from SFY 2012/13. Both fee-for-service and managed care program claims for hospital inpatient and outpatient services are included. In addition, LIP payments, DSH payments, and the cost of uncompensated care are included.
2) Data is limited to in-state hospitals with at least one submitted claim in SFY 2012/13.

1.5 Options for Future Hospital Funding and Payment

1.5.1 Interaction between Funding and Payment

In general, we categorized the funding options available to Florida Medicaid as either broad-based or qualified. The broad-based funding options include increasing the provider assessment (PMATF), creating a managed care assessment, and increasing general revenue for the Medicaid program. The more qualified funding options include continued use of IGTs and, potentially, expansion of CPEs. These categorizations have as much to do with how the funds are allocated across hospitals in Florida as they are related to who is contributing the funding. With the broad-based funding methods, Florida Medicaid would have significantly more flexibility with how the funds are ultimately distributed to providers. IGTs tend to restrict how payers distribute the federal funds they are used to generate – generally obligating payers to return more than the IGT contribution, in amounts that provide enough financial return for the entity to make the contribution in the first place. Without the dependence on providers to make IGT contributions to replace the State's share of funding, there could be less of an obligation to tie payments to the funding sources. Payment allocations could be focused on achieving Florida Medicaid's overall policy priorities, such as rewarding those providers who make a

commitment to serving Medicaid and uninsured patients, or improving the health of Medicaid patients.

In contrast, we made the assumption that any payment allocation for IGTs must ensure a return on investment for those public hospitals and local governments contributing the State's share of funding. Thus, payment methods that rely on this type of funding must be designed in a way that takes into consideration who contributed money to fund the Medicaid program, as is the case today in Florida. In addition, CPEs are limited to public institutions and the federal matching funds generated through CPEs generally must be paid to the entity that incurred the health care costs. This tie between funding mechanism and payment flexibility is summarized in the following table:

Table 2. Tie between funding source and payment flexibility.

		Funding Sources				
		Health Care-related Tax (New or Expand Existing	Managed Care Assessment	IGTs	CPEs	General Revenue Funds
Payment Distribution Models	Delivery System Reform Incentive Payment (DSRIP) Program	XX	XX	X	X	XX
	Broad Based Rate Increases (FFS and PMPM)	XX	XX			XX
	UPL/Targeted Supplemental	XX	XX	X	X	XX
	GME Payments (limited to qualified providers)	X	X	X	X	X
	DSH Payments (limited to qualified providers)	XX	XX	X	X	XX
	Uncompensated Care Pool Distributions	XX	XX	X	X	XX
	Physician Supplemental Payment Program	XX	XX	X	X	XX

Legend:
XX = generally would work for all provider types.
X = would generally work only for hospitals that actually fund the state dollars.

1.5.2 Combination Funding and Payment Options Offered in this Study

In this study, we define three very broad options that combine type of funding and payment distribution approaches. These options all assume the LIP program, in its current form, has been discontinued, as that is a supposition defined in the requirements of this study. The options are:

1) Fully replace the funds currently used for the LIP program with a broad-based funding source and an increase in fee-for-service and capitation rates;
2) Continue current level of IGTs, design, and implement a large Delivery System Reform Incentive Payment (DSRIP) program;
3) Expand the Florida Medicaid program through the ACA combined with either a broad-based funding source or IGTs for funding for the existing Medicaid population.

For illustrative purposes, these non-LIP options describe all-encompassing funding methods for the funds currently used within the LIP program. One option replaces all of the LIP funds, which are almost entirely IGTs, with a broad-based funding method. Another option continues to use IGTs as the source for all of the funds. In reality, there are a multitude of variations that could be applied related to these combinations of funding and payment. Of course, if both types of funding are implemented the benefits and limitations of each method will apply. For example, a hybrid option that moves a portion of LIP-6 into fee-for-service and capitation rates might need to reserve some amount, such as 110 or 120 percent of IGT contributions, for supplemental payments back to the hospitals named by the IGT contributors. The supplemental payments would be needed to guarantee some return on investment for the IGT contributors.

1.5.3 Modifying the Low Income Pool Program

In addition to the options above which replace LIP, we believe continuation of a modified version of LIP should be a consideration. Like the DSH program, the LIP program, to a degree, helps offset Florida's relatively low federal DSH allotment by providing other funding that helps offset hospital costs for care to the uninsured. However, the LIP program does not go through the same level of program oversight as the DSH program. Both the LIP and DSH programs have a requirement that total reimbursement to hospitals should not exceed hospital cost to treat Medicaid and uninsured recipients. Under the DSH program, states are required to prepare annual DSH reports comparing total payments to costs, and annual independent audits of those reports are performed to ensure this requirement is met. Audits are not performed for the LIP program. Instead, costs self-reported by hospitals are used to ensure total reimbursement is within applicable hospital costs. If more program oversight and control is added to the LIP program, and greater transparency is provided related to the levels of funding and payment occurring through the LIP program and IGT-funded rate enhancements, perhaps continuation of the LIP program would be considered a viable option by CMS.

In addition program oversight and transparency could be increased by developing reports which document a combination of claim payments and supplemental payments. Separately,

AHCA monitors claim payments and supplemental payments in detail. However, few, if any standard reports show the combination of both at the individual hospital level. Creating such reports would be relatively easy for AHCA as they already monitor both types of payments. Combining more comprehensive payment reports with data on the source of funding at the hospital level, would significantly increase transparency within the program.

Any change in funding and/or payment method will likely result in shifting Medicaid reimbursement levels between providers – particularly with a change as large as a replacement for the LIP program. If a modified version of the LIP program would be acceptable to CMS, then this would likely generate the least amount of changes to the Florida Medicaid program. In addition, given the lead time required to design and implement many of the other options described in this report, being able to preserve much of what already is in place with the current LIP program makes it an attractive option.

1.5.4 Delivery System Reform Incentive Payment Program

A Delivery System Reform Incentive Payment (DSRIP) program is offered as an option for Florida Medicaid because DSRIP projects could, in theory, be developed in ways that allow contributors of IGTs to experience a return on investment. DSRIP programs allow states to make incentive payments that are linked to performance-based incentive initiatives, or "projects," aimed at improving health care processes, clinical outcomes, and otherwise positively transform health service delivery. Generally, progress on these projects is tracked and payments are adjusted based on providers' successes in meeting agreed-upon milestones. DSRIP programs are designed to advance CMS's "Triple Aim" of improving the health of the population, enhancing the experience and outcomes of the patient and reducing the per capita cost of care. The overarching goal is transformation of the Medicaid payment and delivery system in an effort to achieve measureable improvements in quality of care and overall population health.

If a DSRIP program was implemented in place of LIP, payments would not be guaranteed as they are under LIP. Hospitals would be required to document successes against predetermined measurable objectives specifically related to improving quality of care and overall population health. Those that meet the objectives would receive incentive payments. In addition, recently approved DSRIP programs have included initiatives that include multiple types of providers in addition to hospitals. Thus, it is safe to assume reimbursements to individual hospitals would be different from those currently provided under the LIP program.

In addition, it should be noted that the DSRIP landscape is rapidly changing. Program design and related terms and conditions developed for states with currently approved DSRIP programs should not necessarily be indicative of CMS' willingness to approve similar terms and conditions in other states considering DSRIP. Consistent with the intent of 1115 Demonstration Waivers, CMS is looking for innovative models intended to transform health care delivery. Simply replicating another state's model may not be consistent with CMS' overall objectives in this regard.

1.5.5 Medicaid Expansion

To a degree, the LIP program helps compensate hospitals for cost of care to the uninsured and under-insured (often referred to as uncompensated care). This is particularly important in Florida because the State was not a heavy user of DSH funds at the time DSH funding became capped based on historical usage. As a result, Florida's program-wide Medicaid DSH limit is relatively low in comparison to the size of its uninsured population. Expiration of the LIP program without any type of replacement would be detrimental to Florida hospitals for many reasons, one of which would be loss of compensation helping to cover the costs of uncompensated care.

The decision whether or not to expand Medicaid is of particular concern to hospitals because the ACA can affect both payment increases and reductions for hospitals. The ACA offers increases in hospital revenue through expanded Medicaid eligibility and new subsidies to help low and moderate income households buy coverage through health insurance exchanges. Accompanying this are planned reductions in Medicaid and Medicare DSH funding as well as a reduction on Medicare hospital fee-for-service payments through reductions or removals of planned future increases.[9]

States that do not expand Medicaid receive their regular FMAP (around 59 percent for Florida) for new enrollment of recipients eligible for Medicaid. In addition, federal subsidies are offered to families with incomes between 100 percent and 400 percent of the federal poverty level (FPL) to help them purchase commercial insurance coverage through a Health Information Exchange (which is now referred to as the "Marketplace"). In contrast, for states that do expand their Medicaid program, federal subsidies are offered to families with incomes between 138 percent and 400 percent of the FPL to help them purchase commercial insurance coverage through the Marketplace. Also in expanding states, Medicaid coverage is offered to all families up to 138 percent of the FPL. For recipients receiving Medicaid coverage under the expanded eligibility rules, states will receive 100 percent federal matching for costs in 2014 through 2016. Between 2017 and 2020, the federal matching percentage gradually decreases down to 90 percent and continues at 90 percent thereafter.[10] There are two exceptions where states who had waiver programs covering childless adults for FPL percentages up to or over 100 percent prior to enactment of the ACA may receive the new, higher FMAP for these recipients. However, we do not believe these exceptions apply to any existing programs within Florida Medicaid.

Expansion would increase the number of Florida residents with medical insurance, bring a significant amount of federal funds into the state, and help offset planned reductions in DSH payments and Medicare fee-for-service payments to hospitals. Of course, all of these benefits would only be achieved with some additional cost to the State. After 2016, Florida would need to find a way to increase its state share of funding for the Medicaid program.

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[9] Urban Institute, *The Financial Benefit to Hospitals from State Expansion of Medicaid.* (March, 2013)

[10] Kaiser Family Foundation, *A Guide to the Supreme Court's Decision on the ACA's Medicaid Expansion,* (August, 2012).

Estimating the impact of Medicaid expansion in any state is not an exact science; a variety of assumptions must be made. With that said, estimates adopted by the Florida Social Services Estimating Conference (SSEC) in March 2013 indicate Medicaid expansion would have a steady-state cost of just under $1 billion per year in additional non-federal funds when the FMAP drops to 90 percent. For that additional cost, Florida would receive approximately $7.8 billion in additional federal funds annually.[11] Of course, if the federal government drops the FMAP percentage below 90 percent, the costs of Medicaid expansion to the state of Florida would increase above this estimate.

If Medicaid expansion is to be implemented, there may be options as to how it can be implemented. A standard implementation enrolls the uninsured below 138 percent of the FPL into Medicaid. In addition, CMS has approved a few other implementations, some of which include offering premium assistance to help low income individuals and families buy commercial insurance through Marketplace Qualified Health Plans (QHPs). These premium assistance programs may include other stipulations such as healthy behavior incentives, flexible spending accounts, and other tools designed to increase recipient impact in the costs of health care.

There are four states with approved 1115 waivers related to Medicaid expansion – Arkansas, Iowa, Michigan and Pennsylvania. In addition, CMS is currently reviewing Indiana's waiver, while Utah and Tennessee are working toward alternative proposals. CMS approved Arkansas and Iowa utilizing premium assistance programs. Following Arkansas' and Iowa's approval, other states began developing similar approaches. Common themes among the alternatives include:

- Reliance on the private insurance market
- Exemptions from current Medicaid rules on cost-sharing, benefits, time limits and work requirements
- An emphasis on healthy behaviors and personal responsibility — in all states mandating premiums, the premiums will be eliminated or reduced for compliance with health behaviors[12]
- Limits or contingencies on the expansion, including ending the expansion program if the federal government reduces its enhanced matching rate[13]

We do not believe that a decision to expand Medicaid in Florida would be sufficient as a full replacement of the LIP program. The LIP program funds some of the gap between Medicaid payments and the Medicare Upper Payment Limit (UPL). This has been true throughout the

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[11] Retrieved from a presentation from the Florida Agency for Healthcare Administration (AHCA), available at http://edr.state.fl.us/Content/conferences/medicaid/FederalAffordableHealthCareActEstimates.pdf, (March, 2013).
[12] Kaiser Commission on Medicaid and the Uninsured, *The ACA and Recent Section 1115 Medicaid Demonstration Waivers*, November, 2014.
[13] Center for Health Care Strategies, Inc., *Alternative Medicaid Expansion Models: Exploring State Options,* February, 2014.

life of the LIP program, and is particularly true in SFY 2014/15 in which self-funded IGTs have been moved into LIP. In addition in SFY 2014/15 the LIP program contains supplemental payments to teaching physicians that would not get replaced by expanding Medicaid. In the SFY 2014/15 LIP program, self-funded IGTs were estimated to equal $963 million (total computable) and supplemental payments to teaching physicians were estimated to equal $204 million (total computable). Also, increasing the number of recipients enrolled in Medicaid will increase the volume of patients for which hospitals receive payments below cost. Thus, even with Medicaid expansion, we believe continuation of the LIP program, or some form of replacement for the LIP program will still be needed.

1.5.6 Constraints for the Various Options

In the discussion of various options, we consider current federal and state regulations as well as precedent related to what CMS has approved recently in 1115 demonstration waivers. We also consider the ability of each option to maintain current program-wide payment levels to hospitals and teaching physicians. In addition, we consider the potential to maintain payment levels for individual hospitals and teaching physicians similar to what is provided today. (For teaching physicians, discussion in this study relates only to the supplemental payments made through the LIP program. There is no consideration of physician fee-for-service rates.) With the exception of uncompensated care pools, all payment methods have constraints that will likely result in placing limits on how funds are distributed at the individual hospital level. Even so, there are ways in which each option could be implemented to help mitigate changes in reimbursement for individual facilities.

All options discussed could, in theory, maintain an overall Medicaid funding level at or above what exists today. However, to do so, a federal waiver will be needed for distribution of some of the funds. The current level of payments exceeds the Medicare upper payment limit and is helping reimburse costs not only for care of Medicaid recipients, but also for care of uninsured patients. Maintaining a payment level above the UPL and/or reimbursing some costs for the uninsured outside of DSH would require a federal waiver. Although the UPL only applies to the fee-for-service program, we assume payments reaching the upper payment limit are also the maximum that would be considered actuarially sound within the Medicaid managed care program.

1.6 Conclusion

As defined in CMS's STCs for the 2014 renewal of Florida's 1115 demonstration waiver, the intent of this study is to suggest "sustainable, transparent, equitable, appropriate, accountable, and actuarially sound Medicaid payment systems and funding mechanisms that will ensure quality health care services to Florida's Medicaid beneficiaries throughout the state ***without the need for Low Income Pool (LIP) funding***."[14] (emphasis added by Navigant)

[14] Centers for Medicare and Medicaid Services, *Special Terms and Conditions for Florida Medicaid Reform Section 1115 Demonstration*, Document number 11-W-00206/4, STC number 69, (2014).

In SFY 2014/15, the LIP program will distribute just under $2.2 billion, approximately $1.3 billion[15] of which is federal funds. Thus, expiration of the LIP program without any sort of replacement would take $1.3 billion out of Medicaid payments to Florida hospitals, which is over 15 percent of their total Medicaid reimbursement. This would be enough to create financial hardship for hospitals, particularly those with a high utilization from Medicaid and uninsured patients.

We believe that funding and payment options do exist that can preserve the aggregate funding levels that have historically been achieved through the LIP program. However, in the absence of a federal waiver, the UPL limitations in payments simply restrict how much funding can be federally matched. This appears to be one of the unintended, but common consequences associated with a transition to a capitated managed care model. Shifting the financial risk from the State to the Medicaid managed care plans also means that the State is passing substantial control of how payments are made over to the plans. None of the options included in this study will likely afford the State the same flexibility to maintain the payment levels currently made to individual hospital providers.

This study provides context in which decisions can be made about the future of hospital funding and payment within the Florida Medicaid program. In this study, we provide background on the Florida Medicaid program, description of applicable federal and state regulations, and description of trade-offs for various individual funding and payment options. The study also describes combinations of funding and payment that will likely work well together. Unfortunately, given the size, complexity, and variety of stakeholders involved with the Florida Medicaid program, no single option or combination thereof is void of drawbacks. Thus, there are no clear and obvious answers. Ultimately, final decisions will come down to matching available options with the priorities of the Florida Medicaid program and of CMS.

For example, implementation of Medicaid expansion would significantly reduce the amount of uncompensated care in the state. However, the State may not want to absorb the additional costs of Medicaid expansion, including the risk that the FMAP gets reduced below 90 percent at some point in the future. Similarly, the State may prefer an option that continues current levels of IGT funding. However, if current IGT funding is maintained, payment methods will need to be developed that meet CMS requirements while still allowing sufficient incentives for IGT contributors. CMS would likely prefer a shift to more broad-based funding, however, this may not be the preference of the State of Florida or the entities that contribute a portion of the State's share of funding. In addition, an option including IGT funding for a DSRIP program will need to balance meeting CMS's goals for health care delivery transformation with the need to provide return on investment to IGT contributors.

[15] The $1.3 billion estimate is based on the federal share of the total estimated LIP-based payments of approximately $2.168 billion. The assumed FMAP for this calculation is 59.56 percent.

Whatever the course of action selected by the State of Florida, we strongly recommend that Florida maintain an open dialogue with CMS in determining how to best move forward, and use CMS as a partner in determining the best solutions.

Senate 2015-16 Low-Income Pool Proposal

Compared to 2014-15 LIP

Including LIP and Hospital Rate Enhancements

Comparison of 2014-15 Hospital Funding Programs to 2015-16 Senate Proposal

		2014-2015 (Current LIP)			2015-2016 (Senate Proposal)			
		Total Dollars	IGT Portion	Federal Match drawn by IGTs	Total Dollars	IGT Portion	Federal Match drawn by IGTs	
1	LIP-4	$764,004,489	$308,963,415	$455,041,074	$1,249,597,303	$494,465,653	$755,131,650	1
2	Other Hospital Components	$118,911,922	$47,387,981	$69,792,981	$118,411,922	$46,155,598	$70,487,308	2
3	Critical-Needs Hospital Component				$233,719,378	$92,482,758	$141,236,620	3
4	LIP-6 / Residual LIP-6	$963,184,508	$389,511,815	$573,672,693	$244,372,316	$96,698,125	$147,674,191	4
5	Other Provider Access Sytems	$117,333,588	$39,029,977	$57,483,319	$117,333,588	$38,009,174	$58,046,359	5
6	Medical Schools	$204,533,833	$82,713,482	$121,820,351	$204,533,833	$80,934,038	$123,599,795	6
7	**Total LIP**	**$2,167,968,340**	**$867,606,670**	**$1,277,810,417**	**$2,167,968,340**	**$848,745,346**	**$1,296,175,922**	7
8	**Hospital IP and OP Rate Enhancements**	$797,054,938	$312,273,017	$459,915,452	$1,000,000,000	$385,644,000	$588,942,808	8
9	**Total for Hospitals (rows 1, 2, 3, 4, 8)**	$2,643,155,856	$1,058,136,228	$1,558,422,200	$2,846,100,919	$1,115,446,133	$1,703,472,576	9

IGT: Intergovernmental Transfer of funds to state government from a public hospital or local governmental authority.

Dollar figures for 2014-15 reflect spending authority appropriated in the 2014-15 General Appropriations Act.

LIP contains $9.1 million GR. Rate enhancements contain $10 million GR. The GR and federal match it draws are not included in these figures.

Redesigned LIP-6 Component

Senate LIP Proposal for 2015-16

	Current LIP	Senate's 2015-2016 LIP Proposal: Distribution of Former LIP-6 Dollars				
	LIP-6 Dollars (2014-15 FMAP)	**Additional Rate Enhancements**	**Additional LIP-4 Dollars**	**Critical-Needs Hospital Component**	**Residual LIP-6**	**Totals (2015-16 FMAP)**
IGTs	$389,511,815	$80,305,361	$111,645,863	$92,482,758	$96,698,125	$381,132,107
Federal match	$573,672,693	$122,639,702	$170,501,882	$141,236,620	$147,674,191	$582,052,395
Total	**$963,184,502**	$202,945,063	$282,147,745	$233,719,378	$244,372,316	**$963,184,502**
Distributed by		Inpatient rates for hospitals via SMMC or FFS	Current LIP-4 methodology	Separate methodology for Critical-Needs Component	Current LIP-6 methodology, prorated	

Critical-Needs Hospital Component

Distribution based on Medicaid utilization and on how many of the following critical-needs designations are met:

Essential Community Providers:
Hospitals that meet a number of federal criteria for serving predominantly low-income, medically underserved individuals

Regional Perinatal Intensive Care Centers (RPICC):
Hospitals specially designed and equipped to provide obstetrical services to women who have a high-risk pregnancy and to care for newborns with special health needs, such as critical illness or low birth-weight

Statutory Teaching Hospitals:
Hospitals meeting the definition of "teaching hospital" under s. 408.07(45), Fla. Stat.

Trauma Centers:
Hospitals meeting the criteria for trauma centers under s. 395.4025, Fla. Stat.

FMAP: Federal Medical Assistance Percentage. This is the percentage of Medicaid costs paid by the federal government. For SFY 2014-15, the federal government pays 59.56%. For SFY 2015-16, that percentage will move to 60.43% for the purposes of LIP.

Exhibit 1

Senate LIP Proposal for 2015-16

Net Dollars Compared to 2014-15, by Hospital

The 2014-15 figures in this document reflect letters of agreement with IGT donors and the corresponding allocations made effective after publication of spending authority appropriated in the 2014-15 GAA.

Senate LIP Proposal for 2015-16

Net Dollars Compared to 2014-15, by Hospital

		Net LIP Dollars, Including LIP and Rate Enhancements (does not include DSH)		
Row	**Hospital**	**2014-15 Net**	**2015-16 Net (projected)**	**Gain (Loss)**
1	ALL CHILDREN'S HOSPITAL	$55,562,140	$56,659,380	$1,097,240
2	ANN BATES LEACH EYE HOSPITAL	$3,009,237	$1,886,937	($1,122,300)
3	AVENTURA HOSPITAL & MEDICAL CENTER	$0	$1,304,094	$1,304,094
4	BAPTIST HOSPITAL OF MIAMI	$18,723,363	$23,487,634	$4,764,271
5	BAPTIST HOSPITAL OF PENSACOLA	$7,662,147	$10,792,281	$3,130,134
6	BAPTIST MEDICAL CENTER	$12,166,017	$17,997,589	$5,831,572
7	BAPTIST MEDICAL CENTER - BEACHES	$0	$298,537	$298,537
8	BAPTIST MEDICAL CENTER - NASSAU	$718,410	$825,283	$106,874
9	BARTOW REGIONAL MEDICAL CENTER	$1,325,137	$1,184,880	($140,257)
10	BAY MEDICAL CENTER	$8,269,880	$7,183,479	($1,086,401)
11	BAYCARE ALLIANT HOSPITAL	$0	$239,479	$239,479
12	BAYFRONT MEDICAL CENTER	$12,214,884	$13,257,310	$1,042,427
13	BERT FISH MEDICAL CENTER	$2,062,037	$1,334,790	($727,247)
14	BETHESDA HEALTHCARE SYSTEM	$7,195,872	$8,599,595	$1,403,723
15	BLAKE MEDICAL CENTER	$1,233,603	$1,121,896	($111,707)
16	BOCA RATON COMMUNITY HOSPITAL	$935,935	$840,928	($95,008)
17	BRANDON REGIONAL HOSPITAL	$6,398,746	$7,408,775	$1,010,029
18	BROOKS HEALTH SYSTEM	$0	$244,603	$244,603
19	BROOKSVILLE REGIONAL HOSPITAL	$4,429,110	$4,304,061	($125,049)
20	BROWARD HEALTH - BROWARD GEN MED CENTER	$62,749,667	$77,792,917	$15,043,249
21	BROWARD HEALTH - CORAL SPRINGS MED CENTER	$9,890,446	$8,910,375	($980,070)
22	BROWARD HEALTH - IMPERIAL POINT HOSPITAL	$7,070,245	$7,651,199	$580,954
23	BROWARD HEALTH - NORTH BROWARD MED CENT	$13,104,621	$12,930,301	($174,319)
24	CALHOUN LIBERTY HOSPITAL	$240,645	$254,392	$13,747
25	CAMPBELLTON-GRACEVILLE HOSPITAL	$574,589	$364,060	($210,529)
26	CAPE CANAVERAL HOSPITAL	$0	$335,160	$335,160
27	CAPE CORAL HOSPITAL	$5,101,179	$3,200,361	($1,900,818)
28	CAPITAL REGIONAL MEDICAL CENTER	$662,899	$1,302,467	$639,569
29	CENTRAL FLORIDA REGIONAL HOSPITAL	$0	$658,148	$658,148
30	CHARLOTTE REGIONAL MEDICAL CENTER	$0	$317,623	$317,623
31	CITRUS MEMORIAL HEALTH SYSTEM	$1,982,444	$1,545,272	($437,173)
32	CLEVELAND CLINIC FLORIDA WESTON	$0	$123,694	$123,694
33	COLUMBIA HOSPITAL	$2,398,655	$2,637,785	$239,131
34	COMMUNITY HOSPITAL	$0	$772,191	$772,191
35	CORAL GABLES HOSPITAL	$836,673	$1,275,302	$438,630
36	DELRAY MEDICAL CENTER	$2,716,209	$2,274,943	($441,266)
37	DESOTO MEMORIAL HOSPITAL	$1,282,755	$1,447,739	$164,984
38	DOCTORS' HOSPITAL - CORAL GABLES	$0	$245,555	$245,555
39	DOCTORS HOSPITAL OF SARASOTA	$0	$138,448	$138,448
40	DOCTORS MEMORIAL HOSPITAL - HOLMES CO	$2,419,515	$1,521,095	($898,420)
41	DOCTORS MEMORIAL HOSPITAL - TAYLOR CO	$725,400	$802,818	$77,418
42	ED FRASER MEMORIAL HOSPITAL	$1,897,515	$1,145,903	($751,612)
43	EDWARD WHITE HOSPITAL	$0	$140,899	$140,899
44	ENGLEWOOD COMMUNITY HOSPITAL	$0	$55,891	$55,891
45	FAWCETT MEMORIAL HOSPITAL	$0	$366,211	$366,211
46	FISHERMEN'S HOSPITAL	$270,179	$260,133	($10,047)
47	FLAGLER HOSPITAL	$1,072,290	$1,177,244	$104,954
48	FLORIDA HOSPITAL	$59,077,862	$77,536,435	$18,458,573
49	FLORIDA HOSPITAL - WAUCHULA	$374,250	$419,744	$45,494
50	FLORIDA HOSPITAL FISH MEMORIAL	$2,147,620	$1,576,343	($571,276)
51	FLORIDA HOSPITAL FLAGLER	$968,562	$1,132,130	$163,568
52	FLORIDA HOSPITAL HEARTLAND MED. CTR.	$980,433	$1,210,803	$230,370
53	FLORIDA HOSPITAL ORMOND MEMORIAL	$0	$970,915	$970,915

Senate LIP Proposal for 2015-16

Net Dollars Compared to 2014-15, by Hospital

		Net LIP Dollars, Including LIP and Rate Enhancements (does not include DSH)		
Row	**Hospital**	**2014-15 Net**	**2015-16 Net (projected)**	**Gain (Loss)**
54	FLORIDA HOSPITAL WATERMAN	$4,729,283	$3,317,257	($1,412,026)
55	FLORIDA HOSPITAL WESLEY CHAPEL	$0	$0	$0
56	FLORIDA HOSPITAL ZEPHYRHILLS	$361,367	$988,645	$627,278
57	FLORIDA STATE HOSPITAL	$0	$0	$0
58	FLORIDA STATE HOSPITAL - MED SURG.	$0	$0	$0
59	FORT WALTON BEACH MEDICAL CENTER	$0	$1,283,310	$1,283,310
60	G. PIERCE WOOD HOSPITAL	$0	$0	$0
61	GEORGE E. WEEMS MEMORIAL HOSPITAL	$224,986	$285,897	$60,911
62	GLADES GENERAL HOSPITAL	$2,865,919	$2,674,200	($191,719)
63	GOOD SAMARITAN MEDICAL CENTER	$2,771,612	$2,053,312	($718,300)
64	GULF COAST MEDICAL CENTER	$4,002,040	$5,518,734	$1,516,694
65	H. LEE MOFFIT CANCER CENTER	$18,939,572	$14,893,875	($4,045,697)
66	H.H. RAULERSON	$1,079,450	$1,333,872	$254,422
67	HALIFAX HEALTH	$19,605,072	$19,320,687	($284,385)
68	HEALTH CENTRAL	$5,481,933	$4,315,495	($1,166,438)
69	HEALTHMARK REGIONAL MEDICAL CENTER	$330,841	$362,120	$31,279
70	HEALTHSOUTH EMERALD COAST REHAB HOSPITAL	$0	$41,187	$41,187
71	HEALTHSOUTH REHAB HOSPITAL - TALLAHASSEE	$0	$22,743	$22,743
72	HEALTHSOUTH REHAB HOSPITAL OF MIAMI	$0	$58,521	$58,521
73	HEALTHSOUTH REHAB OF SPRING HILL	$0	$6,867	$6,867
74	HEALTHSOUTH REHAB. HOSPITAL - LARGO	$0	$40,582	$40,582
75	HEALTHSOUTH REHAB. HOSPITAL TREAS COAST	$0	$35,494	$35,494
76	HEALTHSOUTH REHAB. INSTITUTE - SARASOTA	$0	$19,647	$19,647
77	HEALTHSOUTH RIDGELAKE HOSPITAL	$0	$36,259	$36,259
78	HEALTHSOUTH SEA PINES REHAB HOSPITAL	$0	$19,428	$19,428
79	HEALTHSOUTH SUNRISE REHAB. HOSPITAL	$0	$5,982	$5,982
80	HEART OF FLORIDA REGIONAL MEDICAL CENTER	$3,890,630	$4,129,366	$238,736
81	HELEN ELLIS MEMORIAL HOSPITAL	$0	$274,824	$274,824
82	HENDRY REGIONAL MEDICAL CENTER	$385,547	$488,734	$103,186
83	HIALEAH HOSPITAL	$6,329,444	$7,906,131	$1,576,687
84	HIGHLANDS REGIONAL MEDICAL CENTER	$1,903,054	$1,276,805	($626,249)
85	HOLMES REGIONAL MEDICAL CENTER	$6,860,857	$8,865,544	$2,004,687
86	HOLY CROSS HOSPITAL	$0	$588,097	$588,097
87	HOMESTEAD HOSPITAL	$8,387,138	$9,793,763	$1,406,625
88	INDIAN RIVER MEDICAL CENTER	$4,948,163	$4,010,690	($937,472)
89	JACKSON HOSPITAL	$2,139,078	$2,215,561	$76,483
90	JACKSON MEMORIAL HOSPITAL	$237,240,249	$239,756,529	$2,516,280
91	JAY HOSPITAL	$306,896	$378,150	$71,254
92	JFK MEDICAL CENTER	$11,189,738	$10,962,738	($226,999)
93	JUPITER MEDICAL CENTER	$761,578	$703,410	($58,168)
94	KENDALL REGIONAL MEDICAL CENTER	$4,689,618	$9,344,998	$4,655,380
95	KINDRED HOSPITAL - CENTRAL TAMPA	$0	$3,131	$3,131
96	KINDRED HOSPITAL - NORTH FLORIDA	$0	$11,420	$11,420
97	KINDRED HOSPITAL - OCALA	$0	$19,490	$19,490
98	KINDRED HOSPITAL - PALM BEACHES	$0	$13,798	$13,798
99	KINDRED HOSPITAL - S FLORIDA - HOLLYWOOD	$0	$9,035	$9,035
100	KINDRED HOSPITAL - S. FLA - CORAL GABLES	$0	$1,372	$1,372
101	KINDRED HOSPITAL - SOUTH FLORIDA	$0	$32,946	$32,946
102	KINDRED HOSPITAL BAY AREA - ST. PETE	$0	$7,353	$7,353
103	KINDRED HOSPITAL BAY AREA - TAMPA	$0	$11,520	$11,520
104	KINDRED HOSPITAL - MELBOURNE	$0	$15,957	$15,957
105	LAKE BUTLER HOSPITAL	$621,489	$660,607	$39,119
106	LAKE CITY MEDICAL CENTER	$0	$166,878	$166,878

Senate LIP Proposal for 2015-16

Net Dollars Compared to 2014-15, by Hospital

		Net LIP Dollars, Including LIP and Rate Enhancements (does not include DSH)		
Row	**Hospital**	**2014-15 Net**	**2015-16 Net (projected)**	**Gain (Loss)**
107	LAKE WALES MEDICAL CENTERS	$1,170,151	$817,680	($352,471)
108	LAKELAND REGIONAL MEDICAL CENTER	$17,927,839	$19,099,511	$1,171,672
109	LAKEWOOD RANCH MEDICAL CENTER	$0	$126,293	$126,293
110	LARGO MEDICAL CENTER	$1,532,203	$2,269,751	$737,547
111	LARKIN COMMUNITY HOSPITAL	$1,585,372	$2,487,108	$901,736
112	LAWNWOOD REGIONAL MEDICAL CENTER	$6,414,568	$10,835,821	$4,421,252
113	LEE MEMORIAL HOSPITAL	$35,469,558	$46,218,972	$10,749,414
114	LEESBURG REGIONAL MEDICAL CENTER	$4,913,465	$3,490,888	($1,422,577)
115	LEHIGH REGIONAL MEDICAL CENTER	$0	$252,153	$252,153
116	LOWER KEYS MEDICAL CENTER	$1,748,422	$1,950,881	$202,459
117	MADISON COUNTY MEMORIAL HOSPITAL	$255,261	$186,389	($68,872)
118	MANATEE MEMORIAL HOSPITAL	$10,866,302	$9,970,752	($895,550)
119	MARINERS HOSPITAL	$457,458	$337,593	($119,865)
120	MARTIN MEMORIAL HOSPITAL	$2,375,411	$1,983,073	($392,337)
121	MEASE HOSPITAL - COUNTRYSIDE	$4,792,394	$3,541,481	($1,250,913)
122	MEASE HOSPITAL - DUNEDIN	$433,331	$411,819	($21,512)
123	MEMORIAL HOSPITAL - WEST VOLUSIA	$3,654,213	$2,523,056	($1,131,157)
124	MEMORIAL HOSPITAL JACKSONVILLE	$0	$1,893,374	$1,893,374
125	MEMORIAL HOSPITAL MIRAMAR	$11,639,410	$8,641,310	($2,998,100)
126	MEMORIAL HOSPITAL OF TAMPA	$0	$213,688	$213,688
127	MEMORIAL HOSPITAL PEMBROKE	$6,962,179	$5,887,573	($1,074,606)
128	MEMORIAL HOSPITAL WEST	$16,370,729	$10,975,169	($5,395,560)
129	MEMORIAL REGIONAL HOSPITAL	$62,643,795	$75,742,281	$13,098,486
130	MERCY HOSPITAL	$0	$0	$0
131	MIAMI CHILDRENS HOSPITAL	$51,464,568	$56,122,356	$4,657,787
132	MIAMI JEWISH HOME & HOSPITAL	$0	$0	$0
133	MORTON F. PLANT HOSPITAL	$11,090,648	$11,009,626	($81,022)
134	MORTON PLANT NORTH BAY HOSPITAL	$0	$856,613	$856,613
135	MT. SINAI MEDICAL CENTER	$16,413,531	$17,339,795	$926,264
136	MUNROE REGIONAL MEDICAL CENTER	$3,353,359	$3,505,763	$152,404
137	N.E. FLORIDA STATE HOSPITAL	$0	$0	$0
138	NATURE COAST REGIONAL HEALTH NETWORK	$232,000	$264,014	$32,014
139	NCH DOWNTOWN NAPLES HOSPITAL	$10,818,207	$9,620,333	($1,197,874)
140	NEMOURS HOSPITAL	$9,128,686	$9,315,227	$186,541
141	NORTH FLORIDA REGIONAL MEDICAL CENTER	$0	$1,707,113	$1,707,113
142	NORTH OKALOOSA MEDICAL CENTER	$0	$447,179	$447,179
143	NORTH SHORE MEDICAL CENTER	$8,491,078	$11,865,137	$3,374,059
144	NORTHSIDE HOSPITAL & HEART INST.	$1,999,577	$2,697,410	$697,833
145	NORTHWEST FLORIDA COMMUNITY HOSPITAL	$425,932	$485,237	$59,305
146	NORTHWEST MEDICAL CENTER	$0	$938,503	$938,503
147	OAK HILL HOSPITAL	$0	$414,833	$414,833
148	OCALA REGIONAL MEDICAL CENTER	$1,859,981	$1,948,592	$88,611
149	ORANGE PARK MEDICAL CENTER	$0	$1,541,977	$1,541,977
150	ORLANDO HEALTH	$54,845,355	$69,788,616	$14,943,261
151	OSCEOLA REGIONAL MEDICAL CENTER	$4,498,963	$6,198,460	$1,699,497
152	PALM BAY HOSPITAL	$0	$315,144	$315,144
153	PALM BEACH GARDENS MEDICAL CENTER	$1,331,024	$969,659	($361,365)
154	PALM SPRINGS GENERAL HOSPITAL	$0	$289,950	$289,950
155	PALMETTO GENERAL HOSPITAL	$7,081,793	$9,981,793	$2,900,000
156	PALMS OF PASADENA HOSPITAL	$0	$132,751	$132,751
157	PALMS WEST HOSPITAL	$7,600,976	$7,314,820	($286,156)
158	PAN AMERICAN HOSPITAL	$0	$251,256	$251,256
159	PARK ROYAL HOSPITAL	$0	$0	$0

Senate LIP Proposal for 2015-16

Net Dollars Compared to 2014-15, by Hospital

		Net LIP Dollars, Including LIP and Rate Enhancements (does not include DSH)		
Row	**Hospital**	**2014-15 Net**	**2015-16 Net (projected)**	**Gain (Loss)**
160	PARRISH MEDICAL CENTER	$4,679,924	$2,845,544	($1,834,379)
161	PASCO REGIONAL MEDICAL CENTER	$0	$230,265	$230,265
162	PEACE RIVER REGIONAL MEDICAL CENTER	$0	$896,682	$896,682
163	PHYSICAN'S REGIONAL MEDICAL CENTER	$2,007,118	$1,609,142	($397,976)
164	PLANTATION GENERAL HOSPITAL	$4,941,295	$8,604,611	$3,663,316
165	PUTNAM COMMUNITY MEDICAL CENTER	$1,281,636	$1,494,699	$213,063
166	REGIONAL MEDICAL CENTER AT BAYONET POINT	$206,266	$1,015,457	$809,191
167	SACRED HEART HOSPITAL	$19,177,152	$28,497,981	$9,320,829
168	SACRED HEART HOSPITAL ON THE GULF	$120,678	$91,663	($29,014)
169	SACRED HEART OF THE EMERALD COAST	$905,576	$1,057,252	$151,676
170	SAINT ANTHONY'S HOSPITAL	$5,446,083	$5,414,298	($31,785)
171	SAINT LUKE'S HOSPITAL	$254,093	$434,910	$180,818
172	SAINT PETERSBURG GENERAL HOSPITAL	$2,380,221	$2,984,241	$604,020
173	SAINT VINCENT'S MEDICAL CENTER	$2,988,193	$4,706,284	$1,718,092
174	SANTA ROSA MEDICAL CENTER	$2,064,819	$1,405,467	($659,352)
175	SARASOTA MEMORIAL HOSPITAL	$12,279,466	$9,806,750	($2,472,716)
176	SEBASTIAN RIVER MEDICAL CENTER	$0	$162,473	$162,473
177	SELECT SPECIALTY HOSP - ORLANDO	$0	$43,828	$43,828
178	SELECT SPECIALTY HOSP - MEMORIAL HEALTH JAX	$0	$0	$0
179	SELECT SPECIALTY HOSPITAL MIAMI	$0	$5,968	$5,968
180	SELECT SPECIALTY HOSPITAL PANAMA CITY	$0	$87,681	$87,681
181	SEVEN RIVERS COMMUNITY HOSPITAL	$0	$478,764	$478,764
182	SHANDS AT JACKSONVILLE	$94,922,651	$98,210,778	$3,288,127
183	SHANDS AT LAKE SHORE	$5,503,568	$4,186,934	($1,316,635)
184	SHANDS AT LIVE OAK	$617,661	$825,154	$207,493
185	SHANDS AT STARKE	$637,134	$751,904	$114,769
186	SHANDS TEACHING HOSPITAL & CLINIC	$106,672,132	$114,917,338	$8,245,206
187	SHRINER'S HOSPITAL FOR CHILDREN	$527,351	$571,189	$43,838
188	SISTER EMMANUEL HOSPITAL	$0	$5,770	$5,770
189	SOUTH BAY HOSPITAL	$456,282	$383,297	($72,985)
190	SOUTH FLORIDA BAPTIST HOSPITAL	$3,583,502	$3,434,128	($149,374)
191	SOUTH FLORIDA STATE HOSPITAL	$0	$0	$0
192	SOUTH LAKE HOSPITAL	$3,001,579	$1,912,622	($1,088,958)
193	SOUTH MIAMI HOSPITAL	$0	$4,430,139	$4,430,139
194	SOUTHWEST FLORIDA REGIONAL MEDICAL CENTER	$7,846,518	$5,698,632	($2,147,886)
195	SPECIALTY HOSPITAL - GAINESVILLE	$0	$68,473	$68,473
196	SPECIALTY HOSPITAL - PALM BEACH	$0	$57,097	$57,097
197	SPECIALTY HOSPITAL - PENSACOLA	$0	$107,757	$107,757
198	SPECIALTY HOSPITAL - TALLAHASSEE	$0	$46,578	$46,578
199	ST CLOUD REGIONAL MEDICAL CENTER	$0	$226,838	$226,838
200	ST. CATHERINE'S REHABILITATION HOSPITAL	$0	$127,343	$127,343
201	ST. JOHN'S REHABILITATION HOSPITAL	$0	$59,490	$59,490
202	ST. JOSEPH'S HOSPITAL	$41,381,614	$45,970,397	$4,588,783
203	ST. LUCIE MEDICAL CENTER	$2,296,803	$3,031,955	$735,152
204	ST. LUKE'S - ST. VINCENT'S HEALTHCARE	$0	$569,734	$569,734
205	ST. MARY'S HOSPITAL	$25,247,154	$31,260,319	$6,013,165
206	TALLAHASSEE MEMORIAL HOSPITAL	$8,018,297	$13,701,069	$5,682,772
207	TAMPA GENERAL HOSPITAL	$86,586,975	$95,471,385	$8,884,410
208	THE VILLAGES REGIONAL HOSPITAL	$0	$285,507	$285,507
209	TOWN & COUNTRY HOSPITAL	$545,193	$533,709	($11,484)
210	TWIN CITIES HOSPITAL	$0	$71,040	$71,040
211	UCHLTACH at Connerton	$0	$78,448	$78,448
212	UNIVERSITY COMMUNITY HOSP. - CARROLLWOOD	$577,259	$488,765	($88,494)

Senate LIP Proposal for 2015-16

Net Dollars Compared to 2014-15, by Hospital

		Net LIP Dollars, Including LIP and Rate Enhancements (does not include DSH)		
Row	**Hospital**	**2014-15 Net**	**2015-16 Net (projected)**	**Gain (Loss)**
213	UNIVERSITY COMMUNITY HOSPITAL - TAMPA	$2,036,203	$2,436,292	$400,089
214	UNIVERSITY HOSPITAL & MEDICAL C	$0	$488,711	$488,711
215	UNIVERSITY OF MIAMI HOSPITAL	$16,550,645	$15,616,550	($934,095)
216	UNIVERSITY OF MIAMI HOSPITAL & CLINICS	$10,079,550	$6,855,090	($3,224,460)
217	VENICE REGIONAL MEDICAL CENTER	$0	$241,716	$241,716
218	VIERA HOSPITAL	$0	$76,273	$76,273
219	W. FLORIDA COMMUNITY CARE	$0	$0	$0
220	WELLINGTON REGIONAL MEDICAL CENTER	$3,780,463	$3,873,493	$93,030
221	WEST BOCA MEDICAL CENTER	$2,543,264	$2,597,304	$54,040
222	WEST FLORIDA HOSPITAL	$0	$1,033,606	$1,033,606
223	WEST GABLES REHABILITATION HOSPITAL	$0	$51,630	$51,630
224	WEST KENDALL BAPTIST HOSPITAL	$0	$400,861	$400,861
225	WESTCHESTER GENERAL HOSPITAL	$1,415,531	$2,339,695	$924,164
226	WESTSIDE REGIONAL MEDICAL CENTE	$0	$511,320	$511,320
227	WINTER HAVEN HOSPITAL	$8,457,963	$7,824,132	($633,831)
228	WUESTHOFF MEDICAL CENTER - MELBOURNE	$0	$327,556	$327,556
229	WUESTHOFF MEDICAL CENTER - ROCKLEDGE	$0	$934,190	$934,190
		$1,544,362,275	**$1,709,893,933**	$165,531,658

Hospitals Getting No Benefit from	93	11	(82)
LIP or Rate Enhancements	40.6%	4.8%	

Exhibit 2

IGTs and Federal Dollars within 2014-15 LIP and Hospital Rate Enhancements

The 2014-15 figures in this document reflect letters of agreement with IGT donors and the corresponding allocations made effective after publication of spending authority appropriated in the 2014-15 GAA.

IGTs and Federal Dollars within LIP and Rate Enhancements in 2014-15

		IGTs and Federal Match for LIP and Rate Enhancements (does not include DSH)			
Row	Hospital	2014-15 IGTs Donated for LIP and Rate Enhancements	LIP and Rate Enhancement Dollars Received in 2014-15	Federal Dollars Lost if 2014-15 LIP Had Not Existed	IGTs Potentially Available in 2014-15 without LIP
1	ALL CHILDREN'S HOSPITAL	$8,444,120	$64,006,259	($55,562,140)	$8,444,120
2	ANN BATES LEACH EYE HOSPITAL	$1,517,727	$4,526,964	($3,009,237)	$1,517,727
3	AVENTURA HOSPITAL & MEDICAL CENTER	$0	$0	$0	$0
4	BAPTIST HOSPITAL OF MIAMI	$0	$18,723,363	($18,723,363)	$0
5	BAPTIST HOSPITAL OF PENSACOLA	$0	$7,662,147	($7,662,147)	$0
6	BAPTIST MEDICAL CENTER	$0	$12,166,017	($12,166,017)	$0
7	BAPTIST MEDICAL CENTER - BEACHES	$0	$0	$0	$0
8	BAPTIST MEDICAL CENTER - NASSAU	$0	$718,410	($718,410)	$0
9	BARTOW REGIONAL MEDICAL CENTER	$552,988	$1,878,125	($1,325,137)	$552,988
10	BAY MEDICAL CENTER	$3,615,997	$11,885,877	($8,269,880)	$3,615,997
11	BAYCARE ALLIANT HOSPITAL	$0	$0	$0	$0
12	BAYFRONT MEDICAL CENTER	$4,090,877	$16,305,761	($12,214,884)	$4,090,877
13	BERT FISH MEDICAL CENTER	$2,585,673	$4,647,710	($2,062,037)	$2,585,673
14	BETHESDA HEALTHCARE SYSTEM	$2,068,501	$9,264,373	($7,195,872)	$2,068,501
15	BLAKE MEDICAL CENTER	$697,540	$1,931,143	($1,233,603)	$697,540
16	BOCA RATON COMMUNITY HOSPITAL	$635,481	$1,571,416	($935,935)	$635,481
17	BRANDON REGIONAL HOSPITAL	$1,572,219	$7,970,965	($6,398,746)	$1,572,219
18	BROOKS HEALTH SYSTEM	$0	$0	$0	$0
19	BROOKSVILLE REGIONAL HOSPITAL	$1,713,676	$6,142,786	($4,429,110)	$1,713,676
20	BROWARD HEALTH - BROWARD GEN MED CEN	$103,695,419	$166,445,086	($62,749,667)	$103,695,419
21	BROWARD HEALTH - CORAL SPRINGS MED CE	$17,085,447	$26,975,893	($9,890,446)	$17,085,447
22	BROWARD HEALTH - IMPERIAL POINT HOSPIT	$32,529,319	$39,599,565	($7,070,245)	$32,529,319
23	BROWARD HEALTH - NORTH BROWARD MED (	$25,859,981	$38,964,602	($13,104,621)	$25,859,981
24	CALHOUN LIBERTY HOSPITAL	$0	$240,645	($240,645)	$0
25	CAMPBELLTON-GRACEVILLE HOSPITAL	$220,000	$794,589	($574,589)	$220,000
26	CAPE CANAVERAL HOSPITAL	$0	$0	$0	$0
27	CAPE CORAL HOSPITAL	$4,792,668	$9,893,847	($5,101,179)	$4,792,668
28	CAPITAL REGIONAL MEDICAL CENTER	$450,094	$1,112,993	($662,899)	$450,094
29	CENTRAL FLORIDA REGIONAL HOSPITAL	$0	$0	$0	$0
30	CHARLOTTE REGIONAL MEDICAL CENTER	$0	$0	$0	$0
31	CITRUS MEMORIAL HEALTH SYSTEM	$1,346,039	$3,328,483	($1,982,444)	$1,346,039
32	CLEVELAND CLINIC FLORIDA WESTON	$0	$0	$0	$0
33	COLUMBIA HOSPITAL	$742,232	$3,140,886	($2,398,655)	$742,232
34	COMMUNITY HOSPITAL	$0	$0	$0	$0
35	CORAL GABLES HOSPITAL	$0	$836,673	($836,673)	$0
36	DELRAY MEDICAL CENTER	$1,470,924	$4,187,133	($2,716,209)	$1,470,924
37	DESOTO MEMORIAL HOSPITAL	$0	$1,282,755	($1,282,755)	$0
38	DOCTORS' HOSPITAL - CORAL GABLES	$0	$0	$0	$0
39	DOCTORS HOSPITAL OF SARASOTA	$0	$0	$0	$0
40	DOCTORS MEMORIAL HOSPITAL - HOLMES CO	$1,300,000	$3,719,515	($2,419,515)	$1,300,000
41	DOCTORS MEMORIAL HOSPITAL - TAYLOR CO	$0	$725,400	($725,400)	$0
42	ED FRASER MEMORIAL HOSPITAL	$0	$1,897,515	($1,897,515)	$0
43	EDWARD WHITE HOSPITAL	$0	$0	$0	$0
44	ENGLEWOOD COMMUNITY HOSPITAL	$0	$0	$0	$0
45	FAWCETT MEMORIAL HOSPITAL	$0	$0	$0	$0
46	FISHERMEN'S HOSPITAL	$0	$270,179	($270,179)	$0
47	FLAGLER HOSPITAL	$728,063	$1,800,353	($1,072,290)	$728,063
48	FLORIDA HOSPITAL	$7,638,732	$66,716,594	($59,077,862)	$7,638,732
49	FLORIDA HOSPITAL - WAUCHULA	$0	$374,250	($374,250)	$0
50	FLORIDA HOSPITAL FISH MEMORIAL	$1,458,189	$3,605,809	($2,147,620)	$1,458,189
51	FLORIDA HOSPITAL FLAGLER	$0	$968,562	($968,562)	$0
52	FLORIDA HOSPITAL HEARTLAND MED. CTR.	$665,693	$1,646,126	($980,433)	$665,693
53	FLORIDA HOSPITAL ORMOND MEMORIAL	$0	$0	$0	$0

IGTs and Federal Dollars within LIP and Rate Enhancements in 2014-15

		IGTs and Federal Match for LIP and Rate Enhancements (does not include DSH)			
Row	Hospital	2014-15 IGTs Donated for LIP and Rate Enhancements	LIP and Rate Enhancement Dollars Received in 2014-15	Federal Dollars Lost if 2014-15 LIP Had Not Existed	IGTs Potentially Available in 2014-15 without LIP
54	FLORIDA HOSPITAL WATERMAN	$3,672,565	$8,401,848	($4,729,283)	$3,672,565
55	FLORIDA HOSPITAL WESLEY CHAPEL	$0	$0	$0	$0
56	FLORIDA HOSPITAL ZEPHYRHILLS	$0	$361,367	($361,367)	$0
57	FLORIDA STATE HOSPITAL	$0	$0	$0	$0
58	FLORIDA STATE HOSPITAL - MED SURG.	$0	$0	$0	$0
59	FORT WALTON BEACH MEDICAL CENTER	$0	$0	$0	$0
60	G. PIERCE WOOD HOSPITAL	$0	$0	$0	$0
61	GEORGE E. WEEMS MEMORIAL HOSPITAL	$0	$224,986	($224,986)	$0
62	GLADES GENERAL HOSPITAL	$4,303,723	$7,169,641	($2,865,919)	$4,303,723
63	GOOD SAMARITAN MEDICAL CENTER	$1,881,867	$4,653,479	($2,771,612)	$1,881,867
64	GULF COAST MEDICAL CENTER	$0	$4,002,040	($4,002,040)	$0
65	H. LEE MOFFIT CANCER CENTER	$13,549,572	$32,489,144	($18,939,572)	$13,549,572
66	H.H. RAULERSON	$115,000	$1,194,450	($1,079,450)	$115,000
67	HALIFAX HEALTH	$25,204,070	$44,809,142	($19,605,072)	$25,204,070
68	HEALTH CENTRAL	$2,831,525	$8,313,458	($5,481,933)	$2,831,525
69	HEALTHMARK REGIONAL MEDICAL CENTER	$0	$330,841	($330,841)	$0
70	HEALTHSOUTH EMERALD COAST REHAB HOS	$0	$0	$0	$0
71	HEALTHSOUTH REHAB HOSPITAL - TALLAHAS	$0	$0	$0	$0
72	HEALTHSOUTH REHAB HOSPITAL OF MIAMI	$0	$0	$0	$0
73	HEALTHSOUTH REHAB OF SPRING HILL	$0	$0	$0	$0
74	HEALTHSOUTH REHAB. HOSPITAL - LARGO	$0	$0	$0	$0
75	HEALTHSOUTH REHAB. HOSPITAL TREAS COA	$0	$0	$0	$0
76	HEALTHSOUTH REHAB. INSTITUTE - SARASOT	$0	$0	$0	$0
77	HEALTHSOUTH RIDGELAKE HOSPITAL	$0	$0	$0	$0
78	HEALTHSOUTH SEA PINES REHAB HOSPITAL	$0	$0	$0	$0
79	HEALTHSOUTH SUNRISE REHAB. HOSPITAL	$0	$0	$0	$0
80	HEART OF FLORIDA REGIONAL MEDICAL CENT	$740,302	$4,630,932	($3,890,630)	$740,302
81	HELEN ELLIS MEMORIAL HOSPITAL	$0	$0	$0	$0
82	HENDRY REGIONAL MEDICAL CENTER	$0	$385,547	($385,547)	$0
83	HIALEAH HOSPITAL	$0	$6,329,444	($6,329,444)	$0
84	HIGHLANDS REGIONAL MEDICAL CENTER	$1,292,134	$3,195,188	($1,903,054)	$1,292,134
85	HOLMES REGIONAL MEDICAL CENTER	$0	$6,860,857	($6,860,857)	$0
86	HOLY CROSS HOSPITAL	$0	$0	$0	$0
87	HOMESTEAD HOSPITAL	$0	$8,387,138	($8,387,138)	$0
88	INDIAN RIVER MEDICAL CENTER	$11,760,236	$16,708,399	($4,948,163)	$11,760,236
89	JACKSON HOSPITAL	$3,518,866	$5,657,944	($2,139,078)	$3,518,866
90	JACKSON MEMORIAL HOSPITAL	$373,276,901	$610,517,150	($237,240,249)	$373,276,901
91	JAY HOSPITAL	$0	$306,896	($306,896)	$0
92	JFK MEDICAL CENTER	$3,527,851	$14,717,589	($11,189,738)	$3,527,851
93	JUPITER MEDICAL CENTER	$517,095	$1,278,673	($761,578)	$517,095
94	KENDALL REGIONAL MEDICAL CENTER	$0	$4,689,618	($4,689,618)	$0
95	KINDRED HOSPITAL - CENTRAL TAMPA	$0	$0	$0	$0
96	KINDRED HOSPITAL - NORTH FLORIDA	$0	$0	$0	$0
97	KINDRED HOSPITAL - OCALA	$0	$0	$0	$0
98	KINDRED HOSPITAL - PALM BEACHES	$0	$0	$0	$0
99	KINDRED HOSPITAL - S FLORIDA - HOLLYWOO	$0	$0	$0	$0
100	KINDRED HOSPITAL - S. FLA - CORAL GABLES	$0	$0	$0	$0
101	KINDRED HOSPITAL - SOUTH FLORIDA	$0	$0	$0	$0
102	KINDRED HOSPITAL BAY AREA - ST. PETE	$0	$0	$0	$0
103	KINDRED HOSPITAL BAY AREA - TAMPA	$0	$0	$0	$0
104	KINDRED HOSPITAL - MELBOURNE	$0	$0	$0	$0
105	LAKE BUTLER HOSPITAL	$0	$621,489	($621,489)	$0
106	LAKE CITY MEDICAL CENTER	$0	$0	$0	$0

IGTs and Federal Dollars within LIP and Rate Enhancements in 2014-15

		IGTs and Federal Match for LIP and Rate Enhancements (does not include DSH)			
Row	Hospital	2014-15 IGTs Donated for LIP and Rate Enhancements	LIP and Rate Enhancement Dollars Received in 2014-15	Federal Dollars Lost if 2014-15 LIP Had Not Existed	IGTs Potentially Available in 2014-15 without LIP
107	LAKE WALES MEDICAL CENTERS	$794,508	$1,964,659	($1,170,151)	$794,508
108	LAKELAND REGIONAL MEDICAL CENTER	$6,461,167	$24,389,006	($17,927,839)	$6,461,167
109	LAKEWOOD RANCH MEDICAL CENTER	$0	$0	$0	$0
110	LARGO MEDICAL CENTER	$0	$1,532,203	($1,532,203)	$0
111	LARKIN COMMUNITY HOSPITAL	$0	$1,585,372	($1,585,372)	$0
112	LAWNWOOD REGIONAL MEDICAL CENTER	$0	$6,414,568	($6,414,568)	$0
113	LEE MEMORIAL HOSPITAL	$27,329,255	$62,798,813	($35,469,558)	$27,329,255
114	LEESBURG REGIONAL MEDICAL CENTER	$3,737,821	$8,651,286	($4,913,465)	$3,737,821
115	LEHIGH REGIONAL MEDICAL CENTER	$0	$0	$0	$0
116	LOWER KEYS MEDICAL CENTER	$0	$1,748,422	($1,748,422)	$0
117	MADISON COUNTY MEMORIAL HOSPITAL	$0	$255,261	($255,261)	$0
118	MANATEE MEMORIAL HOSPITAL	$6,067,187	$16,933,489	($10,866,302)	$6,067,187
119	MARINERS HOSPITAL	$0	$457,458	($457,458)	$0
120	MARTIN MEMORIAL HOSPITAL	$1,612,854	$3,988,265	($2,375,411)	$1,612,854
121	MEASE HOSPITAL - COUNTRYSIDE	$3,253,936	$8,046,330	($4,792,394)	$3,253,936
122	MEASE HOSPITAL - DUNEDIN	$294,223	$727,554	($433,331)	$294,223
123	MEMORIAL HOSPITAL - WEST VOLUSIA	$2,481,134	$6,135,347	($3,654,213)	$2,481,134
124	MEMORIAL HOSPITAL JACKSONVILLE	$0	$0	$0	$0
125	MEMORIAL HOSPITAL MIRAMAR	$10,146,635	$21,786,045	($11,639,410)	$10,146,635
126	MEMORIAL HOSPITAL OF TAMPA	$0	$0	$0	$0
127	MEMORIAL HOSPITAL PEMBROKE	$5,986,221	$12,948,400	($6,962,179)	$5,986,221
128	MEMORIAL HOSPITAL WEST	$18,833,131	$35,203,861	($16,370,729)	$18,833,131
129	MEMORIAL REGIONAL HOSPITAL	$100,544,422	$163,188,217	($62,643,795)	$100,544,422
130	MERCY HOSPITAL	$0	$0	$0	$0
131	MIAMI CHILDRENS HOSPITAL	$0	$51,464,568	($51,464,568)	$0
132	MIAMI JEWISH HOME & HOSPITAL	$0	$0	$0	$0
133	MORTON F. PLANT HOSPITAL	$2,459,746	$13,550,394	($11,090,648)	$2,459,746
134	MORTON PLANT NORTH BAY HOSPITAL	$0	$0	$0	$0
135	MT. SINAI MEDICAL CENTER	$3,388,382	$19,801,913	($16,413,531)	$3,388,382
136	MUNROE REGIONAL MEDICAL CENTER	$2,541,961	$5,895,320	($3,353,359)	$2,541,961
137	N.E. FLORIDA STATE HOSPITAL	$0	$0	$0	$0
138	NATURE COAST REGIONAL HEALTH NETWORK	$0	$232,000	($232,000)	$0
139	NCH DOWNTOWN NAPLES HOSPITAL	$4,365,204	$15,183,411	($10,818,207)	$4,365,204
140	NEMOURS HOSPITAL	$0	$9,128,686	($9,128,686)	$0
141	NORTH FLORIDA REGIONAL MEDICAL CENTER	$0	$0	$0	$0
142	NORTH OKALOOSA MEDICAL CENTER	$0	$0	$0	$0
143	NORTH SHORE MEDICAL CENTER	$0	$8,491,078	($8,491,078)	$0
144	NORTHSIDE HOSPITAL & HEART INST.	$0	$1,999,577	($1,999,577)	$0
145	NORTHWEST FLORIDA COMMUNITY HOSPITAL	$0	$425,932	($425,932)	$0
146	NORTHWEST MEDICAL CENTER	$0	$0	$0	$0
147	OAK HILL HOSPITAL	$0	$0	$0	$0
148	OCALA REGIONAL MEDICAL CENTER	$1,183,400	$3,043,381	($1,859,981)	$1,183,400
149	ORANGE PARK MEDICAL CENTER	$0	$0	$0	$0
150	ORLANDO HEALTH	$9,316,518	$64,161,873	($54,845,355)	$9,316,518
151	OSCEOLA REGIONAL MEDICAL CENTER	$0	$4,498,963	($4,498,963)	$0
152	PALM BAY HOSPITAL	$0	$0	$0	$0
153	PALM BEACH GARDENS MEDICAL CENTER	$903,738	$2,234,762	($1,331,024)	$903,738
154	PALM SPRINGS GENERAL HOSPITAL	$0	$0	$0	$0
155	PALMETTO GENERAL HOSPITAL	$0	$7,081,793	($7,081,793)	$0
156	PALMS OF PASADENA HOSPITAL	$0	$0	$0	$0
157	PALMS WEST HOSPITAL	$2,736,223	$10,337,199	($7,600,976)	$2,736,223
158	PAN AMERICAN HOSPITAL	$0	$0	$0	$0
159	PARK ROYAL HOSPITAL	$0	$0	$0	$0

IGTs and Federal Dollars within LIP and Rate Enhancements in 2014-15

		IGTs and Federal Match for LIP and Rate Enhancements (does not include DSH)			
Row	Hospital	2014-15 IGTs Donated for LIP and Rate Enhancements	LIP and Rate Enhancement Dollars Received in 2014-15	Federal Dollars Lost if 2014-15 LIP Had Not Existed	IGTs Potentially Available in 2014-15 without LIP
160	PARRISH MEDICAL CENTER	$4,172,558	$8,852,482	($4,679,924)	$4,172,558
161	PASCO REGIONAL MEDICAL CENTER	$0	$0	$0	$0
162	PEACE RIVER REGIONAL MEDICAL CENTER	$0	$0	$0	$0
163	PHYSICAN'S REGIONAL MEDICAL CENTER	$1,362,791	$3,369,909	($2,007,118)	$1,362,791
164	PLANTATION GENERAL HOSPITAL	$0	$4,941,295	($4,941,295)	$0
165	PUTNAM COMMUNITY MEDICAL CENTER	$0	$1,281,636	($1,281,636)	$0
166	REGIONAL MEDICAL CENTER AT BAYONET PO	$0	$206,266	($206,266)	$0
167	SACRED HEART HOSPITAL	$792,557	$19,969,709	($19,177,152)	$792,557
168	SACRED HEART HOSPITAL ON THE GULF	$0	$120,678	($120,678)	$0
169	SACRED HEART OF THE EMERALD COAST	$0	$905,576	($905,576)	$0
170	SAINT ANTHONY'S HOSPITAL	$1,541,504	$6,987,587	($5,446,083)	$1,541,504
171	SAINT LUKE'S HOSPITAL	$0	$254,093	($254,093)	$0
172	SAINT PETERSBURG GENERAL HOSPITAL	$0	$2,380,221	($2,380,221)	$0
173	SAINT VINCENT'S MEDICAL CENTER	$0	$2,988,193	($2,988,193)	$0
174	SANTA ROSA MEDICAL CENTER	$1,517,383	$3,582,202	($2,064,819)	$1,517,383
175	SARASOTA MEMORIAL HOSPITAL	$26,460,414	$38,739,880	($12,279,466)	$26,460,414
176	SEBASTIAN RIVER MEDICAL CENTER	$0	$0	$0	$0
177	SELECT SPECIALTY HOSP - ORLANDO	$0	$0	$0	$0
178	SELECT SPECIALTY HOSP - MEMORIAL HEALT	$0	$0	$0	$0
179	SELECT SPECIALTY HOSPITAL MIAMI	$0	$0	$0	$0
180	SELECT SPECIALTY HOSPITAL PANAMA CITY	$0	$0	$0	$0
181	SEVEN RIVERS COMMUNITY HOSPITAL	$0	$0	$0	$0
182	SHANDS AT JACKSONVILLE	$26,414,528	$121,337,179	($94,922,651)	$26,414,528
183	SHANDS AT LAKE SHORE	$2,400,000	$7,903,568	($5,503,568)	$2,400,000
184	SHANDS AT LIVE OAK	$233,644	$851,305	($617,661)	$233,644
185	SHANDS AT STARKE	$35,000	$672,134	($637,134)	$35,000
186	SHANDS TEACHING HOSPITAL & CLINIC	$28,724,709	$135,396,841	($106,672,132)	$28,724,709
187	SHRINER'S HOSPITAL FOR CHILDREN	$0	$527,351	($527,351)	$0
188	SISTER EMMANUEL HOSPITAL	$0	$0	$0	$0
189	SOUTH BAY HOSPITAL	$309,806	$766,088	($456,282)	$309,806
190	SOUTH FLORIDA BAPTIST HOSPITAL	$841,406	$4,424,908	($3,583,502)	$841,406
191	SOUTH FLORIDA STATE HOSPITAL	$0	$0	$0	$0
192	SOUTH LAKE HOSPITAL	$2,038,010	$5,039,589	($3,001,579)	$2,038,010
193	SOUTH MIAMI HOSPITAL	$0	$0	$0	$0
194	SOUTHWEST FLORIDA REGIONAL MEDICAL CE	$10,048,089	$17,894,607	($7,846,518)	$10,048,089
195	SPECIALTY HOSPITAL - GAINESVILLE	$0	$0	$0	$0
196	SPECIALTY HOSPITAL - PALM BEACH	$0	$0	$0	$0
197	SPECIALTY HOSPITAL - PENSACOLA	$0	$0	$0	$0
198	SPECIALTY HOSPITAL - TALLAHASSEE	$0	$0	$0	$0
199	ST CLOUD REGIONAL MEDICAL CENTER	$0	$0	$0	$0
200	ST. CATHERINE'S REHABILITATION HOSPITAL	$0	$0	$0	$0
201	ST. JOHN'S REHABILITATION HOSPITAL	$0	$0	$0	$0
202	ST. JOSEPH'S HOSPITAL	$17,915,090	$59,296,704	($41,381,614)	$17,915,090
203	ST. LUCIE MEDICAL CENTER	$0	$2,296,803	($2,296,803)	$0
204	ST. LUKE'S - ST. VINCENT'S HEALTHCARE	$0	$0	$0	$0
205	ST. MARY'S HOSPITAL	$8,172,713	$33,419,866	($25,247,154)	$8,172,713
206	TALLAHASSEE MEMORIAL HOSPITAL	$0	$8,018,297	($8,018,297)	$0
207	TAMPA GENERAL HOSPITAL	$36,023,991	$122,610,966	($86,586,975)	$36,023,991
208	THE VILLAGES REGIONAL HOSPITAL	$0	$0	$0	$0
209	TOWN & COUNTRY HOSPITAL	$370,174	$915,367	($545,193)	$370,174
210	TWIN CITIES HOSPITAL	$0	$0	$0	$0
211	UCHLTACH at Connerton	$0	$0	$0	$0
212	UNIVERSITY COMMUNITY HOSP. - CARROLLW	$391,947	$969,206	($577,259)	$391,947

IGTs and Federal Dollars within LIP and Rate Enhancements in 2014-15

		IGTs and Federal Match for LIP and Rate Enhancements (does not include DSH)			
Row	**Hospital**	2014-15 IGTs Donated for LIP and Rate Enhancements	LIP and Rate Enhancement Dollars Received in 2014-15	Federal Dollars Lost if 2014-15 LIP Had Not Existed	IGTs Potentially Available in 2014-15 without LIP
213	UNIVERSITY COMMUNITY HOSPITAL - TAMPA	$1,382,539	$3,418,742	($2,036,203)	$1,382,539
214	UNIVERSITY HOSPITAL & MEDICAL C	$0	$0	$0	$0
215	UNIVERSITY OF MIAMI HOSPITAL	$7,009,694	$23,560,339	($16,550,645)	$7,009,694
216	UNIVERSITY OF MIAMI HOSPITAL & CLINICS	$4,599,751	$14,679,301	($10,079,550)	$4,599,751
217	VENICE REGIONAL MEDICAL CENTER	$0	$0	$0	$0
218	VIERA HOSPITAL	$0	$0	$0	$0
219	W. FLORIDA COMMUNITY CARE	$0	$0	$0	$0
220	WELLINGTON REGIONAL MEDICAL CENTER	$1,483,446	$5,263,910	($3,780,463)	$1,483,446
221	WEST BOCA MEDICAL CENTER	$1,726,823	$4,270,087	($2,543,264)	$1,726,823
222	WEST FLORIDA HOSPITAL	$0	$0	$0	$0
223	WEST GABLES REHABILITATION HOSPITAL	$0	$0	$0	$0
224	WEST KENDALL BAPTIST HOSPITAL	$0	$0	$0	$0
225	WESTCHESTER GENERAL HOSPITAL	$0	$1,415,531	($1,415,531)	$0
226	WESTSIDE REGIONAL MEDICAL CENTE	$0	$0	$0	$0
227	WINTER HAVEN HOSPITAL	$2,418,153	$10,876,116	($8,457,963)	$2,418,153
228	WUESTHOFF MEDICAL CENTER - MELBOURNE	$0	$0	$0	$0
229	WUESTHOFF MEDICAL CENTER - ROCKLEDGE	$0	$0	$0	$0
		$1,076,493,695	$2,620,855,969	($1,544,362,275)	$1,076,493,695

Low Income Program

#	Scenarios	Net Loss (in millions)	Comments
A	**Program Not Renewed**	**(1,544.4)**	**Option 1: No General Revenue appropriated** ($1.5b) net hospital losses. **Option 2: Estimated General Revenue Impact: $604.8m** Offsets ($1.5b) net hospital losses. **Option 3: Estimated General Revenue Impact: $309.2m** Preserves current hospital rates for services; ($747.3m) net loss of LIP payments to hospitals.
B	**$600m Program Authorized**	**(716.3)**	**Estimated General Revenue Impact: $283.4m** Preserves current hospital rates for services. ($716.3m) net loss of LIP payments to hospitals.
C	**$1.2b Program Authorized**	**(421.3)**	**Estimated General Revenue Impact: $166.7m** Preserves current hospital rates for services. ($421.3m) net loss of LIP payments to hospitals.

Caveats:

1 Net Losses will vary by hospital. Analysis assumes local IGT dollars will remain at the local level. The donation of IGT dollars are not uniform by county.

2 $321m in other programs funded through the LIP Program are also at risk. These programs include:
- $204.5m: Payments to Medical Schools for faculty physicians
- $117m: Payments to certain programs such as County Health Departments, Federally Qualified Health Centers and Enhanced Primary Care initiatives.

Exhibit 3

Simulation of 2014-15 LIP Funded at $1.2 Billion

1 *The 2014-15 figures in this document reflect letters of agreement with IGT donors and the corresponding allocations made effective after publication of spending authority appropriated in the 2014-15 GAA.*

2 *Simulation based on 2014-15 LIP funded at $1.2 billion instead of $2.167 billion.*

3 *Net losses will vary by hospital. Dollars may flow differently if total dollars are reduced. Simulation assumes IGT dollars will remain at the local level. Donations of IGT dollars are not uniform by county.*

4 *$321 million in non-hospital programs funded through LIP are also at risk if LIP funding is reduced. These programs include:*

Medical school faculty portion of LIP ($204.5 million), and

LIP payments to other provider access systems, such as county health departments, federally qualified health centers, and enhanced primary care initiatives ($117 million).

2014-15 LIP Compared to a $1.2 Billion LIP

Comparison of Net Dollars, by Hospital

		Net LIP Dollars, Including LIP and Rate Enhancements (does not include DSH)		
Row	**Hospital**	**2014-15 Nets: $2.167 Billion LIP**	**Projected Nets: $1.2 Billion LIP**	**Gain (Loss)**
1	ALL CHILDREN'S HOSPITAL	$55,562,140	$46,514,149	($9,047,991)
2	ANN BATES LEACH EYE HOSPITAL	$3,009,237	$1,382,971	($1,626,265)
3	AVENTURA HOSPITAL & MEDICAL CENTER	$0	$0	$0
4	BAPTIST HOSPITAL OF MIAMI	$18,723,363	$18,723,363	$0
5	BAPTIST HOSPITAL OF PENSACOLA	$7,662,147	$7,662,147	$0
6	BAPTIST MEDICAL CENTER	$12,166,017	$12,166,017	$0
7	BAPTIST MEDICAL CENTER - BEACHES	$0	$0	$0
8	BAPTIST MEDICAL CENTER - NASSAU	$718,410	$718,410	$0
9	BARTOW REGIONAL MEDICAL CENTER	$1,325,137	$732,603	($592,533)
10	BAY MEDICAL CENTER	$8,269,880	$4,395,290	($3,874,590)
11	BAYCARE ALLIANT HOSPITAL	$0	$0	$0
12	BAYFRONT MEDICAL CENTER	$12,214,884	$7,831,455	($4,383,429)
13	BERT FISH MEDICAL CENTER	$2,062,037	$639,641	($1,422,396)
14	BETHESDA HEALTHCARE SYSTEM	$7,195,872	$4,979,445	($2,216,427)
15	BLAKE MEDICAL CENTER	$1,233,603	$486,179	($747,424)
16	BOCA RATON COMMUNITY HOSPITAL	$935,935	$255,009	($680,926)
17	BRANDON REGIONAL HOSPITAL	$6,398,746	$4,714,093	($1,684,653)
18	BROOKS HEALTH SYSTEM	$0	$0	$0
19	BROOKSVILLE REGIONAL HOSPITAL	$4,429,110	$2,592,884	($1,836,226)
20	BROWARD HEALTH - BROWARD GEN MED CENTER	$62,749,667	$47,144,731	($15,604,936)
21	BROWARD HEALTH - CORAL SPRINGS MED CENTER	$9,890,446	$6,393,133	($3,497,313)
22	BROWARD HEALTH - IMPERIAL POINT HOSPITAL	$7,070,245	$6,028,396	($1,041,850)
23	BROWARD HEALTH - NORTH BROWARD MED CENT	$13,104,621	$10,036,072	($3,068,549)
24	CALHOUN LIBERTY HOSPITAL	$240,645	$240,645	$0
25	CAMPBELLTON-GRACEVILLE HOSPITAL	$574,589	$338,855	($235,734)
26	CAPE CANAVERAL HOSPITAL	$0	$0	$0
27	CAPE CORAL HOSPITAL	$5,101,179	$1,477,116	($3,624,063)
28	CAPITAL REGIONAL MEDICAL CENTER	$662,899	$180,617	($482,282)
29	CENTRAL FLORIDA REGIONAL HOSPITAL	$0	$0	$0
30	CHARLOTTE REGIONAL MEDICAL CENTER	$0	$0	$0
31	CITRUS MEMORIAL HEALTH SYSTEM	$1,982,444	$540,147	($1,442,298)
32	CLEVELAND CLINIC FLORIDA WESTON	$0	$0	$0
33	COLUMBIA HOSPITAL	$2,398,655	$1,603,344	($795,310)
34	COMMUNITY HOSPITAL	$0	$0	$0
35	CORAL GABLES HOSPITAL	$836,673	$836,673	$0
36	DELRAY MEDICAL CENTER	$2,716,209	$1,140,094	($1,576,115)
37	DESOTO MEMORIAL HOSPITAL	$1,282,755	$1,282,755	$0
38	DOCTORS' HOSPITAL - CORAL GABLES	$0	$0	$0
39	DOCTORS HOSPITAL OF SARASOTA	$0	$0	$0
40	DOCTORS MEMORIAL HOSPITAL - HOLMES CO	$2,419,515	$1,026,546	($1,392,969)
41	DOCTORS MEMORIAL HOSPITAL - TAYLOR CO	$725,400	$725,400	$0
42	ED FRASER MEMORIAL HOSPITAL	$1,897,515	$1,897,514	($1)
43	EDWARD WHITE HOSPITAL	$0	$0	$0
44	ENGLEWOOD COMMUNITY HOSPITAL	$0	$0	$0
45	FAWCETT MEMORIAL HOSPITAL	$0	$0	$0
46	FISHERMEN'S HOSPITAL	$270,179	$270,179	$0
47	FLAGLER HOSPITAL	$1,072,290	$437,476	($634,814)
48	FLORIDA HOSPITAL	$59,077,862	$52,579,391	($6,498,471)
49	FLORIDA HOSPITAL - WAUCHULA	$374,250	$374,250	$0
50	FLORIDA HOSPITAL FISH MEMORIAL	$2,147,620	$585,151	($1,562,469)
51	FLORIDA HOSPITAL FLAGLER	$968,562	$968,561	($1)
52	FLORIDA HOSPITAL HEARTLAND MED. CTR.	$980,433	$267,134	($713,299)
53	FLORIDA HOSPITAL ORMOND MEMORIAL	$0	$0	$0

2014-15 LIP Compared to a $1.2 Billion LIP

Comparison of Net Dollars, by Hospital

		Net LIP Dollars, Including LIP and Rate Enhancements (does not include DSH)		
Row	**Hospital**	**2014-15 Nets: $2.167 Billion LIP**	**Projected Nets: $1.2 Billion LIP**	**Gain (Loss)**
54	FLORIDA HOSPITAL WATERMAN	$4,729,283	$1,318,848	($3,410,435)
55	FLORIDA HOSPITAL WESLEY CHAPEL	$0	$0	$0
56	FLORIDA HOSPITAL ZEPHYRHILLS	$361,367	$361,367	$0
57	FLORIDA STATE HOSPITAL	$0	$0	$0
58	FLORIDA STATE HOSPITAL - MED SURG.	$0	$0	$0
59	FORT WALTON BEACH MEDICAL CENTER	$0	$0	$0
60	G. PIERCE WOOD HOSPITAL	$0	$0	$0
61	GEORGE E. WEEMS MEMORIAL HOSPITAL	$224,986	$224,989	$3
62	GLADES GENERAL HOSPITAL	$2,865,919	$2,004,719	($861,200)
63	GOOD SAMARITAN MEDICAL CENTER	$2,771,612	$755,167	($2,016,445)
64	GULF COAST MEDICAL CENTER	$4,002,040	$4,002,040	$0
65	H. LEE MOFFIT CANCER CENTER	$18,939,572	$11,343,810	($7,595,762)
66	H.H. RAULERSON	$1,079,450	$956,226	($123,224)
67	HALIFAX HEALTH	$19,605,072	$12,002,794	($7,602,278)
68	HEALTH CENTRAL	$5,481,933	$2,447,916	($3,034,017)
69	HEALTHMARK REGIONAL MEDICAL CENTER	$330,841	$330,841	$0
70	HEALTHSOUTH EMERALD COAST REHAB HOSPITAL	$0	$0	$0
71	HEALTHSOUTH REHAB HOSPITAL - TALLAHASSEE	$0	$0	$0
72	HEALTHSOUTH REHAB HOSPITAL OF MIAMI	$0	$0	$0
73	HEALTHSOUTH REHAB OF SPRING HILL	$0	$0	$0
74	HEALTHSOUTH REHAB. HOSPITAL - LARGO	$0	$0	$0
75	HEALTHSOUTH REHAB. HOSPITAL TREAS COAST	$0	$0	$0
76	HEALTHSOUTH REHAB. INSTITUTE - SARASOTA	$0	$0	$0
77	HEALTHSOUTH RIDGELAKE HOSPITAL	$0	$0	$0
78	HEALTHSOUTH SEA PINES REHAB HOSPITAL	$0	$0	$0
79	HEALTHSOUTH SUNRISE REHAB. HOSPITAL	$0	$0	$0
80	HEART OF FLORIDA REGIONAL MEDICAL CENTER	$3,890,630	$3,097,386	($793,244)
81	HELEN ELLIS MEMORIAL HOSPITAL	$0	$0	$0
82	HENDRY REGIONAL MEDICAL CENTER	$385,547	$385,547	$0
83	HIALEAH HOSPITAL	$6,329,444	$6,329,444	$0
84	HIGHLANDS REGIONAL MEDICAL CENTER	$1,903,054	$518,514	($1,384,540)
85	HOLMES REGIONAL MEDICAL CENTER	$6,860,857	$6,860,857	$0
86	HOLY CROSS HOSPITAL	$0	$0	$0
87	HOMESTEAD HOSPITAL	$8,387,138	$8,387,138	$0
88	INDIAN RIVER MEDICAL CENTER	$4,948,163	$1,899,528	($3,048,634)
89	JACKSON HOSPITAL	$2,139,078	$1,904,559	($234,519)
90	JACKSON MEMORIAL HOSPITAL	$237,240,249	$160,562,795	($76,677,454)
91	JAY HOSPITAL	$306,896	$306,896	$0
92	JFK MEDICAL CENTER	$11,189,738	$7,409,597	($3,780,141)
93	JUPITER MEDICAL CENTER	$761,578	$207,502	($554,075)
94	KENDALL REGIONAL MEDICAL CENTER	$4,689,618	$4,689,618	$0
95	KINDRED HOSPITAL - CENTRAL TAMPA	$0	$0	$0
96	KINDRED HOSPITAL - NORTH FLORIDA	$0	$0	$0
97	KINDRED HOSPITAL - OCALA	$0	$0	$0
98	KINDRED HOSPITAL - PALM BEACHES	$0	$0	$0
99	KINDRED HOSPITAL - S FLORIDA - HOLLYWOOD	$0	$0	$0
100	KINDRED HOSPITAL - S. FLA - CORAL GABLES	$0	$0	$0
101	KINDRED HOSPITAL - SOUTH FLORIDA	$0	$0	$0
102	KINDRED HOSPITAL BAY AREA - ST. PETE	$0	$0	$0
103	KINDRED HOSPITAL BAY AREA - TAMPA	$0	$0	$0
104	KINDRED HOSPITAL - MELBOURNE	$0	$0	$0
105	LAKE BUTLER HOSPITAL	$621,489	$621,489	$0
106	LAKE CITY MEDICAL CENTER	$0	$0	$0

2014-15 LIP Compared to a $1.2 Billion LIP

Comparison of Net Dollars, by Hospital

		Net LIP Dollars, Including LIP and Rate Enhancements (does not include DSH)		
Row	**Hospital**	**2014-15 Nets: $2.167 Billion LIP**	**Projected Nets: $1.2 Billion LIP**	**Gain (Loss)**
107	LAKE WALES MEDICAL CENTERS	$1,170,151	$318,825	($851,326)
108	LAKELAND REGIONAL MEDICAL CENTER	$17,927,839	$11,004,613	($6,923,227)
109	LAKEWOOD RANCH MEDICAL CENTER	$0	$0	$0
110	LARGO MEDICAL CENTER	$1,532,203	$1,532,203	$0
111	LARKIN COMMUNITY HOSPITAL	$1,585,372	$1,585,372	$0
112	LAWNWOOD REGIONAL MEDICAL CENTER	$6,414,568	$6,414,568	$0
113	LEE MEMORIAL HOSPITAL	$35,469,558	$26,438,569	($9,030,989)
114	LEESBURG REGIONAL MEDICAL CENTER	$4,913,465	$1,365,108	($3,548,357)
115	LEHIGH REGIONAL MEDICAL CENTER	$0	$0	$0
116	LOWER KEYS MEDICAL CENTER	$1,748,422	$1,748,422	$0
117	MADISON COUNTY MEMORIAL HOSPITAL	$255,261	$255,261	$0
118	MANATEE MEMORIAL HOSPITAL	$10,866,302	$6,742,822	($4,123,479)
119	MARINERS HOSPITAL	$457,458	$457,458	$0
120	MARTIN MEMORIAL HOSPITAL	$2,375,411	$647,215	($1,728,196)
121	MEASE HOSPITAL - COUNTRYSIDE	$4,792,394	$1,305,758	($3,486,636)
122	MEASE HOSPITAL - DUNEDIN	$433,331	$118,067	($315,264)
123	MEMORIAL HOSPITAL - WEST VOLUSIA	$3,654,213	$995,644	($2,658,568)
124	MEMORIAL HOSPITAL JACKSONVILLE	$0	$0	$0
125	MEMORIAL HOSPITAL MIRAMAR	$11,639,410	$6,093,827	($5,545,584)
126	MEMORIAL HOSPITAL OF TAMPA	$0	$0	$0
127	MEMORIAL HOSPITAL PEMBROKE	$6,962,179	$4,764,873	($2,197,306)
128	MEMORIAL HOSPITAL WEST	$16,370,729	$6,206,709	($10,164,020)
129	MEMORIAL REGIONAL HOSPITAL	$62,643,795	$48,539,746	($14,104,049)
130	MERCY HOSPITAL	$0	$0	$0
131	MIAMI CHILDRENS HOSPITAL	$51,464,568	$51,464,571	$2
132	MIAMI JEWISH HOME & HOSPITAL	$0	$0	$0
133	MORTON F. PLANT HOSPITAL	$11,090,648	$8,454,998	($2,635,650)
134	MORTON PLANT NORTH BAY HOSPITAL	$0	$0	$0
135	MT. SINAI MEDICAL CENTER	$16,413,531	$12,782,835	($3,630,696)
136	MUNROE REGIONAL MEDICAL CENTER	$3,353,359	$931,071	($2,422,288)
137	N.E. FLORIDA STATE HOSPITAL	$0	$0	$0
138	NATURE COAST REGIONAL HEALTH NETWORK	$232,000	$232,000	$0
139	NCH DOWNTOWN NAPLES HOSPITAL	$10,818,207	$6,140,832	($4,677,375)
140	NEMOURS HOSPITAL	$9,128,686	$9,128,686	$0
141	NORTH FLORIDA REGIONAL MEDICAL CENTER	$0	$0	$0
142	NORTH OKALOOSA MEDICAL CENTER	$0	$0	$0
143	NORTH SHORE MEDICAL CENTER	$8,491,078	$8,491,078	$0
144	NORTHSIDE HOSPITAL & HEART INST.	$1,999,577	$1,999,577	$0
145	NORTHWEST FLORIDA COMMUNITY HOSPITAL	$425,932	$425,932	$0
146	NORTHWEST MEDICAL CENTER	$0	$0	$0
147	OAK HILL HOSPITAL	$0	$0	$0
148	OCALA REGIONAL MEDICAL CENTER	$1,859,981	$660,820	($1,199,161)
149	ORANGE PARK MEDICAL CENTER	$0	$0	$0
150	ORLANDO HEALTH	$54,845,355	$46,026,514	($8,818,841)
151	OSCEOLA REGIONAL MEDICAL CENTER	$4,498,963	$4,498,963	$0
152	PALM BAY HOSPITAL	$0	$0	$0
153	PALM BEACH GARDENS MEDICAL CENTER	$1,331,024	$362,656	($968,368)
154	PALM SPRINGS GENERAL HOSPITAL	$0	$0	$0
155	PALMETTO GENERAL HOSPITAL	$7,081,793	$7,081,793	$0
156	PALMS OF PASADENA HOSPITAL	$0	$0	$0
157	PALMS WEST HOSPITAL	$7,600,976	$4,669,076	($2,931,900)
158	PAN AMERICAN HOSPITAL	$0	$0	$0
159	PARK ROYAL HOSPITAL	$0	$0	$0

2014-15 LIP Compared to a $1.2 Billion LIP

Comparison of Net Dollars, by Hospital

		Net LIP Dollars, Including LIP and Rate Enhancements (does not include DSH)		
Row	**Hospital**	**2014-15 Nets: $2.167 Billion LIP**	**Projected Nets: $1.2 Billion LIP**	**Gain (Loss)**
160	PARRISH MEDICAL CENTER	$4,679,924	$1,340,414	($3,339,510)
161	PASCO REGIONAL MEDICAL CENTER	$0	$0	$0
162	PEACE RIVER REGIONAL MEDICAL CENTER	$0	$0	$0
163	PHYSICAN'S REGIONAL MEDICAL CENTER	$2,007,118	$546,869	($1,460,248)
164	PLANTATION GENERAL HOSPITAL	$4,941,295	$4,941,295	$0
165	PUTNAM COMMUNITY MEDICAL CENTER	$1,281,636	$1,281,636	$0
166	REGIONAL MEDICAL CENTER AT BAYONET POINT	$206,266	$206,266	$0
167	SACRED HEART HOSPITAL	$19,177,152	$18,327,916	($849,236)
168	SACRED HEART HOSPITAL ON THE GULF	$120,678	$120,678	$0
169	SACRED HEART OF THE EMERALD COAST	$905,576	$905,576	$0
170	SAINT ANTHONY'S HOSPITAL	$5,446,083	$3,794,340	($1,651,742)
171	SAINT LUKE'S HOSPITAL	$254,093	$254,093	$0
172	SAINT PETERSBURG GENERAL HOSPITAL	$2,380,221	$2,380,221	$0
173	SAINT VINCENT'S MEDICAL CENTER	$2,988,193	$2,988,193	$0
174	SANTA ROSA MEDICAL CENTER	$2,064,819	$570,165	($1,494,654)
175	SARASOTA MEMORIAL HOSPITAL	$12,279,466	$4,535,093	($7,744,373)
176	SEBASTIAN RIVER MEDICAL CENTER	$0	$0	$0
177	SELECT SPECIALTY HOSP - ORLANDO	$0	$0	$0
178	SELECT SPECIALTY HOSP - MEMORIAL HEALTH JAX	$0	$0	$0
179	SELECT SPECIALTY HOSPITAL MIAMI	$0	$0	$0
180	SELECT SPECIALTY HOSPITAL PANAMA CITY	$0	$0	$0
181	SEVEN RIVERS COMMUNITY HOSPITAL	$0	$0	$0
182	SHANDS AT JACKSONVILLE	$94,922,651	$72,058,693	($22,863,959)
183	SHANDS AT LAKE SHORE	$5,503,568	$2,931,937	($2,571,631)
184	SHANDS AT LIVE OAK	$617,661	$577,308	($40,353)
185	SHANDS AT STARKE	$637,134	$599,632	($37,503)
186	SHANDS TEACHING HOSPITAL & CLINIC	$106,672,132	$75,893,222	($30,778,910)
187	SHRINER'S HOSPITAL FOR CHILDREN	$527,351	$527,351	$0
188	SISTER EMMANUEL HOSPITAL	$0	$0	$0
189	SOUTH BAY HOSPITAL	$456,282	$124,321	($331,962)
190	SOUTH FLORIDA BAPTIST HOSPITAL	$3,583,502	$2,681,924	($901,578)
191	SOUTH FLORIDA STATE HOSPITAL	$0	$0	$0
192	SOUTH LAKE HOSPITAL	$3,001,579	$817,824	($2,183,755)
193	SOUTH MIAMI HOSPITAL	$0	$0	$0
194	SOUTHWEST FLORIDA REGIONAL MEDICAL CENTER	$7,846,518	$2,447,694	($5,398,824)
195	SPECIALTY HOSPITAL - GAINESVILLE	$0	$0	$0
196	SPECIALTY HOSPITAL - PALM BEACH	$0	$0	$0
197	SPECIALTY HOSPITAL - PENSACOLA	$0	$0	$0
198	SPECIALTY HOSPITAL - TALLAHASSEE	$0	$0	$0
199	ST CLOUD REGIONAL MEDICAL CENTER	$0	$0	$0
200	ST. CATHERINE'S REHABILITATION HOSPITAL	$0	$0	$0
201	ST. JOHN'S REHABILITATION HOSPITAL	$0	$0	$0
202	ST. JOSEPH'S HOSPITAL	$41,381,614	$28,614,436	($12,767,177)
203	ST. LUCIE MEDICAL CENTER	$2,296,803	$2,296,803	$0
204	ST. LUKE'S - ST. VINCENT'S HEALTHCARE	$0	$0	$0
205	ST. MARY'S HOSPITAL	$25,247,154	$16,489,984	($8,757,170)
206	TALLAHASSEE MEMORIAL HOSPITAL	$8,018,297	$8,018,298	$0
207	TAMPA GENERAL HOSPITAL	$86,586,975	$65,797,894	($20,789,081)
208	THE VILLAGES REGIONAL HOSPITAL	$0	$0	$0
209	TOWN & COUNTRY HOSPITAL	$545,193	$148,546	($396,647)
210	TWIN CITIES HOSPITAL	$0	$0	$0
211	UCHLTACH at Connerton	$0	$0	$0
212	UNIVERSITY COMMUNITY HOSP. - CARROLLWOOD	$577,259	$157,283	($419,976)

2014-15 LIP Compared to a $1.2 Billion LIP

Comparison of Net Dollars, by Hospital

		Net LIP Dollars, Including LIP and Rate Enhancements (does not include DSH)		
Row	**Hospital**	**2014-15 Nets: $2.167 Billion LIP**	**Projected Nets: $1.2 Billion LIP**	**Gain (Loss)**
213	UNIVERSITY COMMUNITY HOSPITAL - TAMPA	$2,036,203	$554,794	($1,481,409)
214	UNIVERSITY HOSPITAL & MEDICAL C	$0	$0	$0
215	UNIVERSITY OF MIAMI HOSPITAL	$16,550,645	$9,039,664	($7,510,981)
216	UNIVERSITY OF MIAMI HOSPITAL & CLINICS	$10,079,550	$5,150,855	($4,928,695)
217	VENICE REGIONAL MEDICAL CENTER	$0	$0	$0
218	VIERA HOSPITAL	$0	$0	$0
219	W. FLORIDA COMMUNITY CARE	$0	$0	$0
220	WELLINGTON REGIONAL MEDICAL CENTER	$3,780,463	$2,190,932	($1,589,532)
221	WEST BOCA MEDICAL CENTER	$2,543,264	$692,949	($1,850,315)
222	WEST FLORIDA HOSPITAL	$0	$0	$0
223	WEST GABLES REHABILITATION HOSPITAL	$0	$0	$0
224	WEST KENDALL BAPTIST HOSPITAL	$0	$0	$0
225	WESTCHESTER GENERAL HOSPITAL	$1,415,531	$1,415,531	$0
226	WESTSIDE REGIONAL MEDICAL CENTE	$0	$0	$0
227	WINTER HAVEN HOSPITAL	$8,457,963	$2,651,978	($5,805,985)
228	WUESTHOFF MEDICAL CENTER - MELBOURNE	$0	$0	$0
229	WUESTHOFF MEDICAL CENTER - ROCKLEDGE	$0	$0	$0
		$1,544,362,275	**$1,123,056,492**	($421,305,783)

Exhibit 4

Simulation of 2014-15 LIP Funded at $600 Million

1 *The 2014-15 figures in this document reflect letters of agreement with IGT donors and the corresponding allocations made effective after publication of spending authority appropriated in the 2014-15 GAA.*

2 *Simulation based on 2014-15 LIP funded at $1.2 billion instead of $2.167 billion.*

3 *Net losses will vary by hospital. Dollars may flow differently if total dollars are reduced. Simulation assumes IGT dollars will remain at the local level. Donations of IGT dollars are not uniform by county.*

4 *$321 million in non-hospital programs funded through LIP are also at risk if LIP funding is reduced. These programs include:*

Medical school faculty portion of LIP ($204.5 million), and

LIP payments to other provider access systems, such as county health departments, federally qualified health centers, and enhanced primary care initiatives ($117 million).

2014-15 LIP Compared to a $600 Million LIP

Comparison of Net Dollars, by Hospital

		Net LIP Dollars, Including LIP and Rate Enhancements (does not include DSH)		
Row	**Hospital**	**2014-15 Nets: $2.167 Billion LIP**	**Projected Nets: $600 Million LIP**	**Gain (Loss)**
1	ALL CHILDREN'S HOSPITAL	$55,562,140	$38,189,883	($17,372,256)
2	ANN BATES LEACH EYE HOSPITAL	$3,009,237	$856,601	($2,152,636)
3	AVENTURA HOSPITAL & MEDICAL CENTER	$0	$0	$0
4	BAPTIST HOSPITAL OF MIAMI	$18,723,363	$17,503,272	($1,220,091)
5	BAPTIST HOSPITAL OF PENSACOLA	$7,662,147	$7,118,545	($543,603)
6	BAPTIST MEDICAL CENTER	$12,166,017	$11,651,369	($514,648)
7	BAPTIST MEDICAL CENTER - BEACHES	$0	$0	$0
8	BAPTIST MEDICAL CENTER - NASSAU	$718,410	$462,721	($255,689)
9	BARTOW REGIONAL MEDICAL CENTER	$1,325,137	$540,818	($784,319)
10	BAY MEDICAL CENTER	$8,269,880	$2,844,194	($5,425,686)
11	BAYCARE ALLIANT HOSPITAL	$0	$0	$0
12	BAYFRONT MEDICAL CENTER	$12,214,884	$6,061,781	($6,153,103)
13	BERT FISH MEDICAL CENTER	$2,062,037	$140,842	($1,921,195)
14	BETHESDA HEALTHCARE SYSTEM	$7,195,872	$4,127,952	($3,067,920)
15	BLAKE MEDICAL CENTER	$1,233,603	$37,995	($1,195,608)
16	BOCA RATON COMMUNITY HOSPITAL	$935,935	$34,614	($901,321)
17	BRANDON REGIONAL HOSPITAL	$6,398,746	$3,957,684	($2,441,062)
18	BROOKS HEALTH SYSTEM	$0	$0	$0
19	BROOKSVILLE REGIONAL HOSPITAL	$4,429,110	$1,805,323	($2,623,787)
20	BROWARD HEALTH - BROWARD GEN MED CENTER	$62,749,667	$32,724,006	($30,025,661)
21	BROWARD HEALTH - CORAL SPRINGS MED CENTER	$9,890,446	$4,191,607	($5,698,839)
22	BROWARD HEALTH - IMPERIAL POINT HOSPITAL	$7,070,245	$2,757,604	($4,312,642)
23	BROWARD HEALTH - NORTH BROWARD MED CENT	$13,104,621	$6,909,154	($6,195,467)
24	CALHOUN LIBERTY HOSPITAL	$240,645	$69,967	($170,678)
25	CAMPBELLTON-GRACEVILLE HOSPITAL	$574,589	$56,638	($517,951)
26	CAPE CANAVERAL HOSPITAL	$0	$0	$0
27	CAPE CORAL HOSPITAL	$5,101,179	$199,334	($4,901,845)
28	CAPITAL REGIONAL MEDICAL CENTER	$662,899	$24,517	($638,382)
29	CENTRAL FLORIDA REGIONAL HOSPITAL	$0	$0	$0
30	CHARLOTTE REGIONAL MEDICAL CENTER	$0	$0	$0
31	CITRUS MEMORIAL HEALTH SYSTEM	$1,982,444	$73,318	($1,909,126)
32	CLEVELAND CLINIC FLORIDA WESTON	$0	$0	$0
33	COLUMBIA HOSPITAL	$2,398,655	$1,266,140	($1,132,515)
34	COMMUNITY HOSPITAL	$0	$0	$0
35	CORAL GABLES HOSPITAL	$836,673	$795,352	($41,320)
36	DELRAY MEDICAL CENTER	$2,716,209	$191,463	($2,524,746)
37	DESOTO MEMORIAL HOSPITAL	$1,282,755	$955,724	($327,031)
38	DOCTORS' HOSPITAL - CORAL GABLES	$0	$0	$0
39	DOCTORS HOSPITAL OF SARASOTA	$0	$0	$0
40	DOCTORS MEMORIAL HOSPITAL - HOLMES CO	$2,419,515	$352,521	($2,066,994)
41	DOCTORS MEMORIAL HOSPITAL - TAYLOR CO	$725,400	$421,804	($303,596)
42	ED FRASER MEMORIAL HOSPITAL	$1,897,515	$26,684	($1,870,831)
43	EDWARD WHITE HOSPITAL	$0	$0	$0
44	ENGLEWOOD COMMUNITY HOSPITAL	$0	$0	$0
45	FAWCETT MEMORIAL HOSPITAL	$0	$0	$0
46	FISHERMEN'S HOSPITAL	$270,179	$89,691	($180,488)
47	FLAGLER HOSPITAL	$1,072,290	$132,779	($939,511)
48	FLORIDA HOSPITAL	$59,077,862	$50,261,796	($8,816,066)
49	FLORIDA HOSPITAL - WAUCHULA	$374,250	$208,413	($165,837)
50	FLORIDA HOSPITAL FISH MEMORIAL	$2,147,620	$79,428	($2,068,192)
51	FLORIDA HOSPITAL FLAGLER	$968,562	$674,480	($294,082)
52	FLORIDA HOSPITAL HEARTLAND MED. CTR.	$980,433	$36,261	($944,172)
53	FLORIDA HOSPITAL ORMOND MEMORIAL	$0	$0	$0

2014-15 LIP Compared to a $600 Million LIP

Comparison of Net Dollars, by Hospital

		Net LIP Dollars, Including LIP and Rate Enhancements (does not include DSH)		
Row	**Hospital**	**2014-15 Nets: $2.167 Billion LIP**	**Projected Nets: $600 Million LIP**	**Gain (Loss)**
54	FLORIDA HOSPITAL WATERMAN	$4,729,283	$200,045	($4,529,238)
55	FLORIDA HOSPITAL WESLEY CHAPEL	$0	$0	$0
56	FLORIDA HOSPITAL ZEPHYRHILLS	$361,367	$361,367	$0
57	FLORIDA STATE HOSPITAL	$0	$0	$0
58	FLORIDA STATE HOSPITAL - MED SURG.	$0	$0	$0
59	FORT WALTON BEACH MEDICAL CENTER	$0	$0	$0
60	G. PIERCE WOOD HOSPITAL	$0	$0	$0
61	GEORGE E. WEEMS MEMORIAL HOSPITAL	$224,986	$79,005	($145,981)
62	GLADES GENERAL HOSPITAL	$2,865,919	$1,256,530	($1,609,389)
63	GOOD SAMARITAN MEDICAL CENTER	$2,771,612	$102,505	($2,669,107)
64	GULF COAST MEDICAL CENTER	$4,002,040	$3,836,849	($165,191)
65	H. LEE MOFFIT CANCER CENTER	$18,939,572	$8,688,049	($10,251,523)
66	H.H. RAULERSON	$1,079,450	$813,024	($266,426)
67	HALIFAX HEALTH	$19,605,072	$7,924,845	($11,680,227)
68	HEALTH CENTRAL	$5,481,933	$1,446,164	($4,035,769)
69	HEALTHMARK REGIONAL MEDICAL CENTER	$330,841	$165,906	($164,935)
70	HEALTHSOUTH EMERALD COAST REHAB HOSPITAL	$0	$0	$0
71	HEALTHSOUTH REHAB HOSPITAL - TALLAHASSEE	$0	$0	$0
72	HEALTHSOUTH REHAB HOSPITAL OF MIAMI	$0	$0	$0
73	HEALTHSOUTH REHAB OF SPRING HILL	$0	$0	$0
74	HEALTHSOUTH REHAB. HOSPITAL - LARGO	$0	$0	$0
75	HEALTHSOUTH REHAB. HOSPITAL TREAS COAST	$0	$0	$0
76	HEALTHSOUTH REHAB. INSTITUTE - SARASOTA	$0	$0	$0
77	HEALTHSOUTH RIDGELAKE HOSPITAL	$0	$0	$0
78	HEALTHSOUTH SEA PINES REHAB HOSPITAL	$0	$0	$0
79	HEALTHSOUTH SUNRISE REHAB. HOSPITAL	$0	$0	$0
80	HEART OF FLORIDA REGIONAL MEDICAL CENTER	$3,890,630	$2,715,519	($1,175,111)
81	HELEN ELLIS MEMORIAL HOSPITAL	$0	$0	$0
82	HENDRY REGIONAL MEDICAL CENTER	$385,547	$242,340	($143,207)
83	HIALEAH HOSPITAL	$6,329,444	$6,077,915	($251,529)
84	HIGHLANDS REGIONAL MEDICAL CENTER	$1,903,054	$70,382	($1,832,672)
85	HOLMES REGIONAL MEDICAL CENTER	$6,860,857	$6,555,027	($305,830)
86	HOLY CROSS HOSPITAL	$0	$0	$0
87	HOMESTEAD HOSPITAL	$8,387,138	$7,969,702	($417,436)
88	INDIAN RIVER MEDICAL CENTER	$4,948,163	$640,591	($4,307,572)
89	JACKSON HOSPITAL	$2,139,078	$1,378,318	($760,760)
90	JACKSON MEMORIAL HOSPITAL	$237,240,249	$112,256,115	($124,984,134)
91	JAY HOSPITAL	$306,896	$168,672	($138,224)
92	JFK MEDICAL CENTER	$11,189,738	$5,038,968	($6,150,770)
93	JUPITER MEDICAL CENTER	$761,578	$28,167	($733,411)
94	KENDALL REGIONAL MEDICAL CENTER	$4,689,618	$4,238,601	($451,017)
95	KINDRED HOSPITAL - CENTRAL TAMPA	$0	$0	$0
96	KINDRED HOSPITAL - NORTH FLORIDA	$0	$0	$0
97	KINDRED HOSPITAL - OCALA	$0	$0	$0
98	KINDRED HOSPITAL - PALM BEACHES	$0	$0	$0
99	KINDRED HOSPITAL - S FLORIDA - HOLLYWOOD	$0	$0	$0
100	KINDRED HOSPITAL - S. FLA - CORAL GABLES	$0	$0	$0
101	KINDRED HOSPITAL - SOUTH FLORIDA	$0	$0	$0
102	KINDRED HOSPITAL BAY AREA - ST. PETE	$0	$0	$0
103	KINDRED HOSPITAL BAY AREA - TAMPA	$0	$0	$0
104	KINDRED HOSPITAL - MELBOURNE	$0	$0	$0
105	LAKE BUTLER HOSPITAL	$621,489	$97,193	($524,296)
106	LAKE CITY MEDICAL CENTER	$0	$0	$0

2014-15 LIP Compared to a $600 Million LIP

Comparison of Net Dollars, by Hospital

		Net LIP Dollars, Including LIP and Rate Enhancements (does not include DSH)		
Row	**Hospital**	**2014-15 Nets: $2.167 Billion LIP**	**Projected Nets: $600 Million LIP**	**Gain (Loss)**
107	LAKE WALES MEDICAL CENTERS	$1,170,151	$43,277	($1,126,874)
108	LAKELAND REGIONAL MEDICAL CENTER	$17,927,839	$8,383,416	($9,544,423)
109	LAKEWOOD RANCH MEDICAL CENTER	$0	$0	$0
110	LARGO MEDICAL CENTER	$1,532,203	$996,527	($535,676)
111	LARKIN COMMUNITY HOSPITAL	$1,585,372	$1,581,700	($3,672)
112	LAWNWOOD REGIONAL MEDICAL CENTER	$6,414,568	$5,953,319	($461,249)
113	LEE MEMORIAL HOSPITAL	$35,469,558	$20,993,834	($14,475,724)
114	LEESBURG REGIONAL MEDICAL CENTER	$4,913,465	$203,599	($4,709,866)
115	LEHIGH REGIONAL MEDICAL CENTER	$0	$0	$0
116	LOWER KEYS MEDICAL CENTER	$1,748,422	$1,674,916	($73,506)
117	MADISON COUNTY MEMORIAL HOSPITAL	$255,261	$40,875	($214,386)
118	MANATEE MEMORIAL HOSPITAL	$10,866,302	$5,246,150	($5,620,152)
119	MARINERS HOSPITAL	$457,458	$111,924	($345,534)
120	MARTIN MEMORIAL HOSPITAL	$2,375,411	$87,853	($2,287,558)
121	MEASE HOSPITAL - COUNTRYSIDE	$4,792,394	$177,242	($4,615,152)
122	MEASE HOSPITAL - DUNEDIN	$433,331	$16,026	($417,305)
123	MEMORIAL HOSPITAL - WEST VOLUSIA	$3,654,213	$135,148	($3,519,065)
124	MEMORIAL HOSPITAL JACKSONVILLE	$0	$0	$0
125	MEMORIAL HOSPITAL MIRAMAR	$11,639,410	$3,929,583	($7,709,828)
126	MEMORIAL HOSPITAL OF TAMPA	$0	$0	$0
127	MEMORIAL HOSPITAL PEMBROKE	$6,962,179	$3,175,490	($3,786,690)
128	MEMORIAL HOSPITAL WEST	$16,370,729	$2,222,505	($14,148,225)
129	MEMORIAL REGIONAL HOSPITAL	$62,643,795	$33,925,416	($28,718,379)
130	MERCY HOSPITAL	$0	$0	$0
131	MIAMI CHILDRENS HOSPITAL	$51,464,568	$46,876,440	($4,588,128)
132	MIAMI JEWISH HOME & HOSPITAL	$0	$0	$0
133	MORTON F. PLANT HOSPITAL	$11,090,648	$7,320,397	($3,770,251)
134	MORTON PLANT NORTH BAY HOSPITAL	$0	$0	$0
135	MT. SINAI MEDICAL CENTER	$16,413,531	$5,505,478	($10,908,053)
136	MUNROE REGIONAL MEDICAL CENTER	$3,353,359	$138,461	($3,214,898)
137	N.E. FLORIDA STATE HOSPITAL	$0	$0	$0
138	NATURE COAST REGIONAL HEALTH NETWORK	$232,000	$93,194	($138,806)
139	NCH DOWNTOWN NAPLES HOSPITAL	$10,818,207	$4,319,650	($6,498,557)
140	NEMOURS HOSPITAL	$9,128,686	$9,128,686	$0
141	NORTH FLORIDA REGIONAL MEDICAL CENTER	$0	$0	$0
142	NORTH OKALOOSA MEDICAL CENTER	$0	$0	$0
143	NORTH SHORE MEDICAL CENTER	$8,491,078	$8,401,808	($89,269)
144	NORTHSIDE HOSPITAL & HEART INST.	$1,999,577	$1,896,393	($103,184)
145	NORTHWEST FLORIDA COMMUNITY HOSPITAL	$425,932	$207,390	($218,542)
146	NORTHWEST MEDICAL CENTER	$0	$0	$0
147	OAK HILL HOSPITAL	$0	$0	$0
148	OCALA REGIONAL MEDICAL CENTER	$1,859,981	$64,460	($1,795,521)
149	ORANGE PARK MEDICAL CENTER	$0	$0	$0
150	ORLANDO HEALTH	$54,845,355	$38,463,225	($16,382,130)
151	OSCEOLA REGIONAL MEDICAL CENTER	$4,498,963	$4,318,222	($180,741)
152	PALM BAY HOSPITAL	$0	$0	$0
153	PALM BEACH GARDENS MEDICAL CENTER	$1,331,024	$49,226	($1,281,798)
154	PALM SPRINGS GENERAL HOSPITAL	$0	$0	$0
155	PALMETTO GENERAL HOSPITAL	$7,081,793	$6,785,342	($296,451)
156	PALMS OF PASADENA HOSPITAL	$0	$0	$0
157	PALMS WEST HOSPITAL	$7,600,976	$3,487,931	($4,113,045)
158	PAN AMERICAN HOSPITAL	$0	$0	$0
159	PARK ROYAL HOSPITAL	$0	$0	$0

2014-15 LIP Compared to a $600 Million LIP

Comparison of Net Dollars, by Hospital

		Net LIP Dollars, Including LIP and Rate Enhancements (does not include DSH)		
Row	Hospital	2014-15 Nets: $2.167 Billion LIP	Projected Nets: $600 Million LIP	Gain (Loss)
160	PARRISH MEDICAL CENTER	$4,679,924	$181,071	($4,498,852)
161	PASCO REGIONAL MEDICAL CENTER	$0	$0	$0
162	PEACE RIVER REGIONAL MEDICAL CENTER	$0	$0	$0
163	PHYSICAN'S REGIONAL MEDICAL CENTER	$2,007,118	$74,231	($1,932,887)
164	PLANTATION GENERAL HOSPITAL	$4,941,295	$3,807,918	($1,133,377)
165	PUTNAM COMMUNITY MEDICAL CENTER	$1,281,636	$1,041,856	($239,780)
166	REGIONAL MEDICAL CENTER AT BAYONET POINT	$206,266	$0	($206,266)
167	SACRED HEART HOSPITAL	$19,177,152	$14,744,662	($4,432,490)
168	SACRED HEART HOSPITAL ON THE GULF	$120,678	$80,138	($40,540)
169	SACRED HEART OF THE EMERALD COAST	$905,576	$758,246	($147,330)
170	SAINT ANTHONY'S HOSPITAL	$5,446,083	$3,243,385	($2,202,698)
171	SAINT LUKE'S HOSPITAL	$254,093	$247,895	($6,197)
172	SAINT PETERSBURG GENERAL HOSPITAL	$2,380,221	$1,797,871	($582,350)
173	SAINT VINCENT'S MEDICAL CENTER	$2,988,193	$2,817,274	($170,918)
174	SANTA ROSA MEDICAL CENTER	$2,064,819	$75,980	($1,988,839)
175	SARASOTA MEMORIAL HOSPITAL	$12,279,466	$599,665	($11,679,802)
176	SEBASTIAN RIVER MEDICAL CENTER	$0	$0	$0
177	SELECT SPECIALTY HOSP - ORLANDO	$0	$0	$0
178	SELECT SPECIALTY HOSP - MEMORIAL HEALTH JAX	$0	$0	$0
179	SELECT SPECIALTY HOSPITAL MIAMI	$0	$0	$0
180	SELECT SPECIALTY HOSPITAL PANAMA CITY	$0	$0	$0
181	SEVEN RIVERS COMMUNITY HOSPITAL	$0	$0	$0
182	SHANDS AT JACKSONVILLE	$94,922,651	$31,445,643	($63,477,008)
183	SHANDS AT LAKE SHORE	$5,503,568	$1,520,002	($3,983,566)
184	SHANDS AT LIVE OAK	$617,661	$265,307	($352,354)
185	SHANDS AT STARKE	$637,134	$281,408	($355,727)
186	SHANDS TEACHING HOSPITAL & CLINIC	$106,672,132	$58,393,418	($48,278,714)
187	SHRINER'S HOSPITAL FOR CHILDREN	$527,351	$527,351	$0
188	SISTER EMMANUEL HOSPITAL	$0	$0	$0
189	SOUTH BAY HOSPITAL	$456,282	$16,875	($439,407)
190	SOUTH FLORIDA BAPTIST HOSPITAL	$3,583,502	$2,373,046	($1,210,455)
191	SOUTH FLORIDA STATE HOSPITAL	$0	$0	$0
192	SOUTH LAKE HOSPITAL	$3,001,579	$111,010	($2,890,569)
193	SOUTH MIAMI HOSPITAL	$0	$0	$0
194	SOUTHWEST FLORIDA REGIONAL MEDICAL CENTER	$7,846,518	$328,099	($7,518,419)
195	SPECIALTY HOSPITAL - GAINESVILLE	$0	$0	$0
196	SPECIALTY HOSPITAL - PALM BEACH	$0	$0	$0
197	SPECIALTY HOSPITAL - PENSACOLA	$0	$0	$0
198	SPECIALTY HOSPITAL - TALLAHASSEE	$0	$0	$0
199	ST CLOUD REGIONAL MEDICAL CENTER	$0	$0	$0
200	ST. CATHERINE'S REHABILITATION HOSPITAL	$0	$0	$0
201	ST. JOHN'S REHABILITATION HOSPITAL	$0	$0	$0
202	ST. JOSEPH'S HOSPITAL	$41,381,614	$23,360,079	($18,021,535)
203	ST. LUCIE MEDICAL CENTER	$2,296,803	$2,192,456	($104,347)
204	ST. LUKE'S - ST. VINCENT'S HEALTHCARE	$0	$0	$0
205	ST. MARY'S HOSPITAL	$25,247,154	$12,567,250	($12,679,904)
206	TALLAHASSEE MEMORIAL HOSPITAL	$8,018,297	$7,620,425	($397,873)
207	TAMPA GENERAL HOSPITAL	$86,586,975	$44,098,731	($42,488,245)
208	THE VILLAGES REGIONAL HOSPITAL	$0	$0	$0
209	TOWN & COUNTRY HOSPITAL	$545,193	$20,164	($525,029)
210	TWIN CITIES HOSPITAL	$0	$0	$0
211	UCHLTACH at Connerton	$0	$0	$0
212	UNIVERSITY COMMUNITY HOSP. - CARROLLWOOD	$577,259	$21,349	($555,910)

2014-15 LIP Compared to a $600 Million LIP

Comparison of Net Dollars, by Hospital

		Net LIP Dollars, Including LIP and Rate Enhancements (does not include DSH)		
Row	**Hospital**	**2014-15 Nets: $2.167 Billion LIP**	**Projected Nets: $600 Million LIP**	**Gain (Loss)**
213	UNIVERSITY COMMUNITY HOSPITAL - TAMPA	$2,036,203	$75,307	($1,960,896)
214	UNIVERSITY HOSPITAL & MEDICAL C	$0	$0	$0
215	UNIVERSITY OF MIAMI HOSPITAL	$16,550,645	$6,588,956	($9,961,689)
216	UNIVERSITY OF MIAMI HOSPITAL & CLINICS	$10,079,550	$3,555,589	($6,523,961)
217	VENICE REGIONAL MEDICAL CENTER	$0	$0	$0
218	VIERA HOSPITAL	$0	$0	$0
219	W. FLORIDA COMMUNITY CARE	$0	$0	$0
220	WELLINGTON REGIONAL MEDICAL CENTER	$3,780,463	$1,655,341	($2,125,123)
221	WEST BOCA MEDICAL CENTER	$2,543,264	$94,060	($2,449,204)
222	WEST FLORIDA HOSPITAL	$0	$0	$0
223	WEST GABLES REHABILITATION HOSPITAL	$0	$0	$0
224	WEST KENDALL BAPTIST HOSPITAL	$0	$0	$0
225	WESTCHESTER GENERAL HOSPITAL	$1,415,531	$1,415,531	$0
226	WESTSIDE REGIONAL MEDICAL CENTE	$0	$0	$0
227	WINTER HAVEN HOSPITAL	$8,457,963	$3,912,164	($4,545,799)
228	WUESTHOFF MEDICAL CENTER - MELBOURNE	$0	$0	$0
229	WUESTHOFF MEDICAL CENTER - ROCKLEDGE	$0	$0	$0
		$1,544,362,275	**$828,048,925**	($716,313,349)

Impact Analysis
LIP, IGTs and SB 2512

Phase 1: Simple Expansion (July 2015)

Phase 2: FHIX (January 2016)

Phase 3: Healthy Kids Transition (July 2016)

April 21, 2015

Presented by:

The Florida Legislature
Office of Economic and
Demographic Research
850.487.1402
http://edr.state.fl.us

LIP—SSEC and Economic Assumptions...

Social Services Estimating Conference zeroed out LIP Funding in 2015-16

Issue APPROPRIATIONS	County Transfers	General Revenue	Medical Care TF	Total Funds
Low Income Pool - Primary Care Hospitals	$4,854,712	$0	$7,150,016	$12,004,728
Low Income Pool - Provisional Trauma Centers	$3,569,512	$0	$5,257,175	$8,826,687
Low Income Pool - Rural Hospitals	$2,273,635	$0	$3,348,607	$5,622,242
Low Income Pool - Safety Net Hospitals	$28,873,580	$700,000	$43,555,946	$73,129,526
Low Income Pool - Independent Report	$202,200	$0	$297,800	$500,000
Low Income Pool - Poison Control Hospitals	$0	$1,283,082	$1,889,723	$3,172,805
Low Income Pool - Specialty Pediatric Hospitals	$569,867	$0	$839,299	$1,409,166
Low Income Pool - Hospitals Providers Access System	$309,941,891	$0	$456,482,171	$766,424,062
Low Income Pool - Quality Add On	$6,066,000	$0	$8,934,000	$15,000,000
Low Income Pool - LIP 6	$389,511,815	$0	$573,672,693	$963,184,508
Low Income Pool - Federally Qualified Health Centers	$5,919,659	$1,471,259	$10,885,338	$18,276,256
Low Income Pool - Primary Care and ER Diversion, Manatee, Sarasota, and Desoto	$0	$485,280	$714,720	$1,200,000
Low Income Pool - Premium Assistance Program - Miami Dade	$101,100	$0	$148,900	$250,000
Low Income Pool - Premium Assistance Program - HCDPB	$6,416,620	$0	$9,450,394	$15,867,014
Low Income Pool - County Health Initiatives	$1,833,844	$0	$2,700,883	$4,534,727
Low Income Pool - Primary Care Health Departments	$808,800	$0	$1,191,200	$2,000,000
Low Income Pool - Hospital Primary Care with DOH	$1,213,200	$0	$1,786,800	$3,000,000
Low Income Pool - Teaching Physicians	$82,713,482	$0	$121,820,351	$204,533,833
Low Income Pool - STC 61_Tier One Milestone Distribution	$14,154,000	$0	$20,846,000	$35,000,000
Low Income Pool - Primary Care	$8,582,754	$5,180,105	$20,269,927	$34,032,786
Total Low Income Pool Provider Access System Payments	$867,606,670	$9,119,726	$1,291,241,942	$2,167,968,340

The Legislative Office of Economic and Demographic Research modeled the full effects (direct, indirect and induced) of losing the federal dollars on Florida's economy over five years. Key assumptions are:

- The inter-governmental transfers (IGTs) associated with LIP are retained locally.
- The federal LIP funding ($1.29 billion) has been used in the past to support the daily operations of the Hospital and Nursing industry through a "helicopter drop". These dollars are removed each year from the economy.

Economic Analysis Using Statewide Model

Cumulative Impact of the Loss of LIP Funding over 5 years:
$6.46 Billion

State Revenues are Lost	State GDP is Reduced	Employees Leave the State	Disposable Personal Income is Lost	Outmigration Occurs
$611.96 Million Lost	$10.69 Billion Lost	19,986 Jobs Lost	$11.00 Billion Lost	53,232 People Lost

Loss of Federal LIP Dollars...

Major State Revenue Impact Areas

- Sales Tax: -$361.4 Million
- Documentary Stamps: -$78.9 Million
- Corporate Income Tax: -$30.8 Million
- Motor Fuel Tax: -$22.04 Million

Significant Employment Change by Industry

- Hospital and Nursing: -4.17%
- Real Estate: -0.26%
- Retail: -0.14%
- Construction: -0.07%

Related Risk Areas

- The Social Services Estimating Conference assumed non-LIP related IGTs of $359.5 million for FY 2015-16 would continue. Of this amount, $99.7 million are in Hospital Outpatient and $259.8 million are in Hospital Inpatient. Overall, the SSEC placed 80.4% in prepaid, and 19.6% in fee for service. Any future transfers are at risk if LIP is discontinued since the local dollars are voluntary, and local governments will reassess their return from the statewide distribution of these dollars.

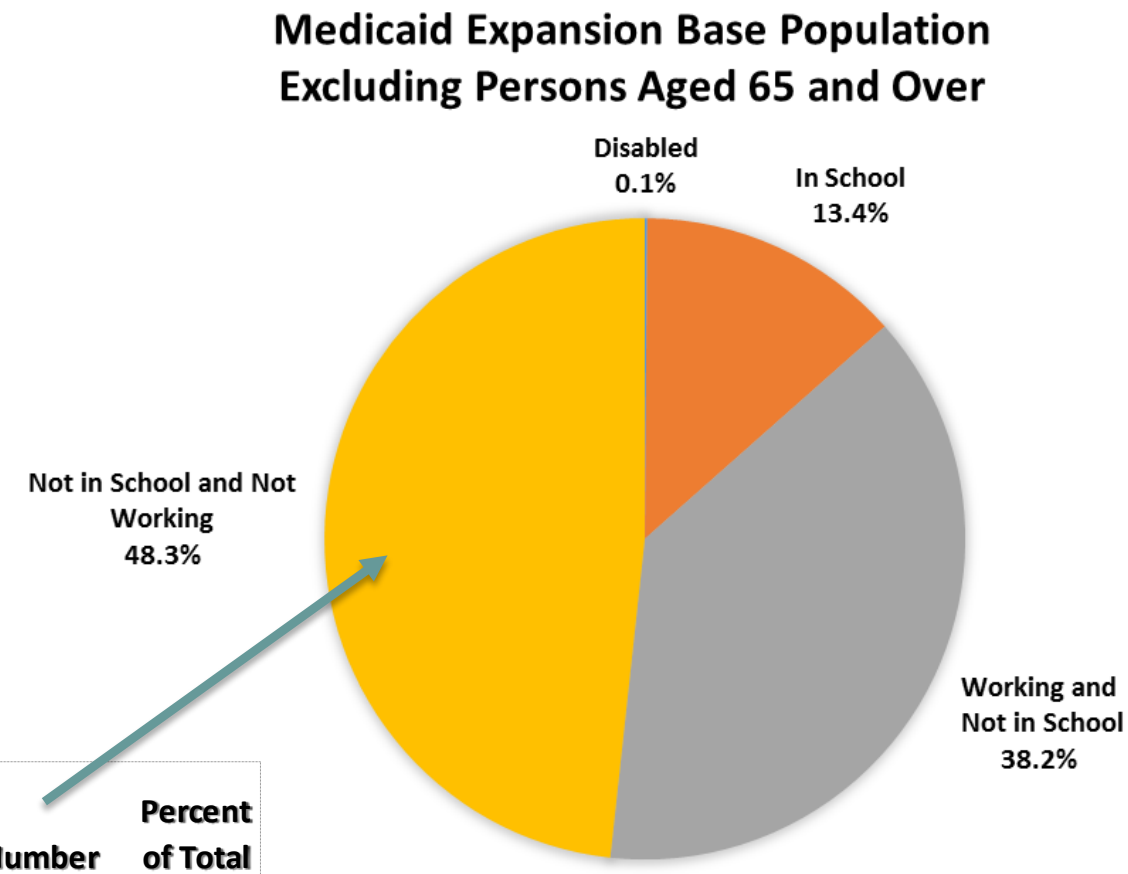
Replacing Federal LIP Dollars...

- Federal funds come into Florida from outside the state ("helicopter drop").

- A preliminary analysis shows that redirecting state funds from other areas of the budget to offset the elimination of federal dollars would only partially mitigate the lost economic activity. While the state is not made whole, mitigation spreads the shock from being concentrated in a limited number of industries to a greater number of industries—diffusing some of the economic consequences.

SB 2512 ~ Characteristics of the Expansion Base Population from the American Community Survey (ACS) 2011-2013, Public Use Microdata (PUMS)...

Population of 829,802



	Number	Percent of Total
Not in School and Not Working	400,612	48.28%
Parents	59,186	7.13%
Non-Parents	341,426	41.15%

Population Adjustments to Base...

CROWD OUT

- The crowd out population is individuals who are paying for private health insurance today and who would qualify for Medicaid coverage under Simple Expansion-Phase 1.

- Using the 2011-13 ACS PUMS data, there were 122,704 individuals who would be classified as crowd out population.

Revised Population of 951,826

LIKELY PRESENTERS

- A take-up rate of 85.8% is applied to the Medicaid Expansion population to match the health insurance participation rate of today's Medicaid eligible population. The crowd out population is assumed to present fully.

- The total number of likely presenters is 834,674. This number is subsequently adjusted for population growth, reaching 908,127 in 2019-20.

Likely Presenting Population is 834,674

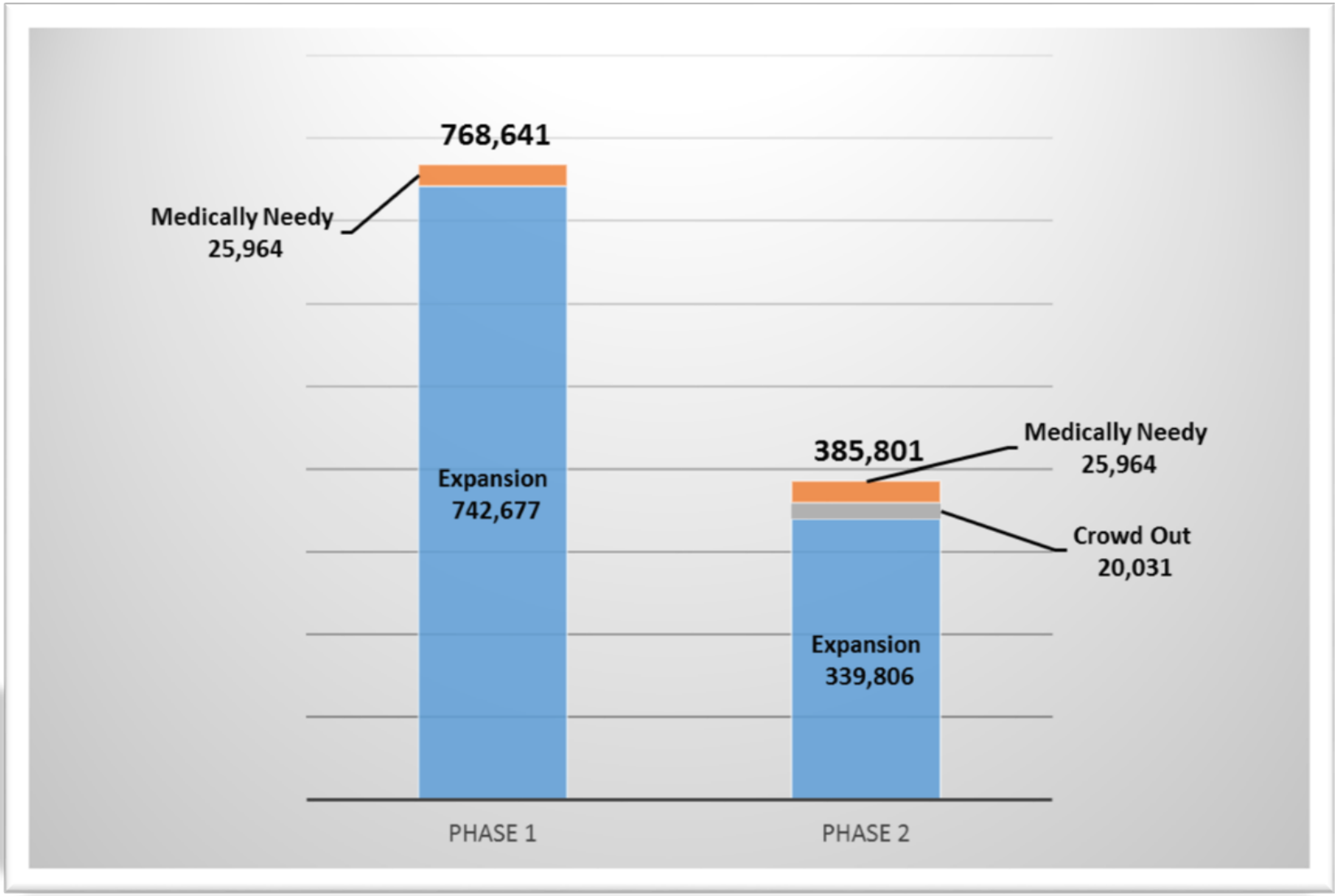
Medically Needy...

- Non-pregnant adults aged 19-64 under 133% FPL (25,964) would automatically transition from the Medically Needy Program to Medicaid Simple Expansion-Phase 1.
  - Transition of these individuals would result in state savings due to the different federal participation matching rates.

- Persons aged 19-64 who are above 133% FPL and Seniors at all income levels (5,114) are disenrolled from the Medically Needy Program on October 1, 2015.
  - The disenrollment of these individuals produces savings from the state match that will no longer be required.

- Children under the age of 19 and Pregnant Women who do not otherwise qualify for Medicaid (936) are enrolled until October 1, 2019.
  - The disenrollment of these individuals produces savings from the state match that will no longer be required.

Year 1 ~ Simple Expansion and Transition to FHIX…



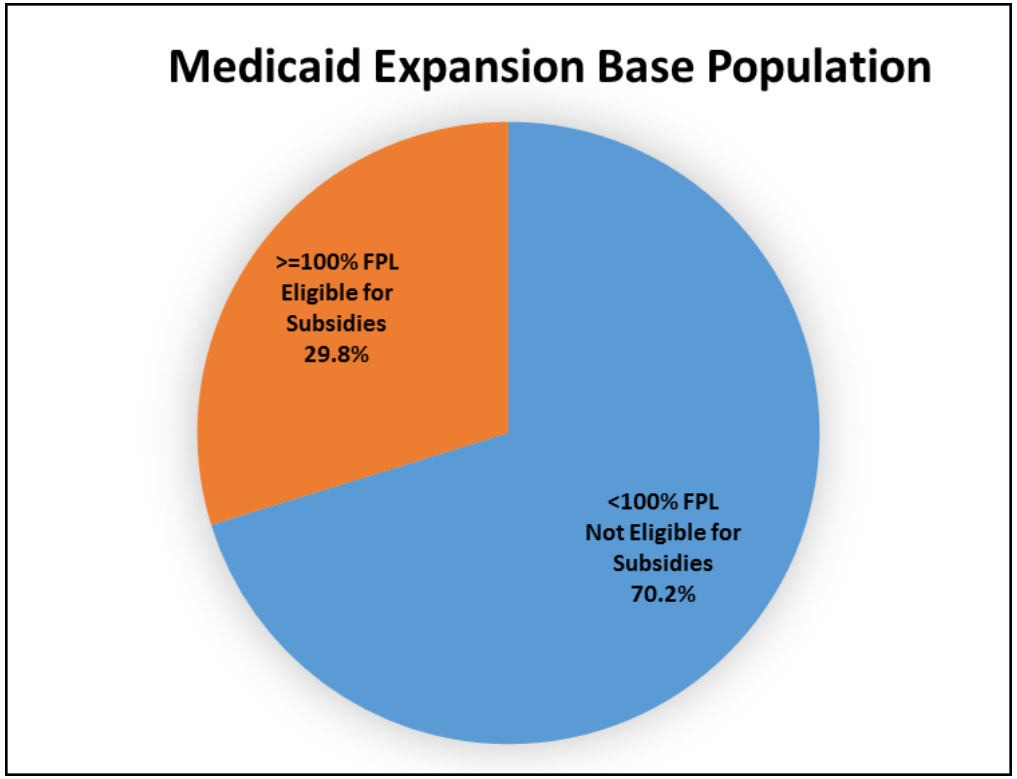
The various components of the population are grown to the start of the program in FY 2015-16, and then through the subsequent years. Adjustments are also made to reflect SB 2512.

Assumptions for Transition to FHIX-Phase 2…

- Expansion enrollees from Phase 1 (742,677) are:
  - Reduced for Constraints (64.4% remain).
    - School
    - Employment by hours for parents and others
    - Job Seekers
    - Disabled
  - Increased for Caregivers (estimated to be 7,153 in the base population) who otherwise would have been removed by the Constraints.
  - Further reduced for attrition between Phase 1 and Phase 2 (30% removed).
  - Ultimately, 339,806 enroll.
- Medically Needy enrollees from Phase 1 (25,964) are assumed to transition fully.
- Since the Crowd Out population (122,704) already has insurance, they wait for the FHIX options to become known at the beginning of Phase 2 to make a decision and do not participate in Phase 1.
  - The Eligible Universe was screened to determine those most likely to stay with private insurance (approximately 67% based on school status, youth, and probability of constraint failure).
  - The remaining population was reduced again by 50% to reflect those making a case by case decision based on specific FHIX offerings.
  - Ultimately, 20,031 enroll in FHIX.

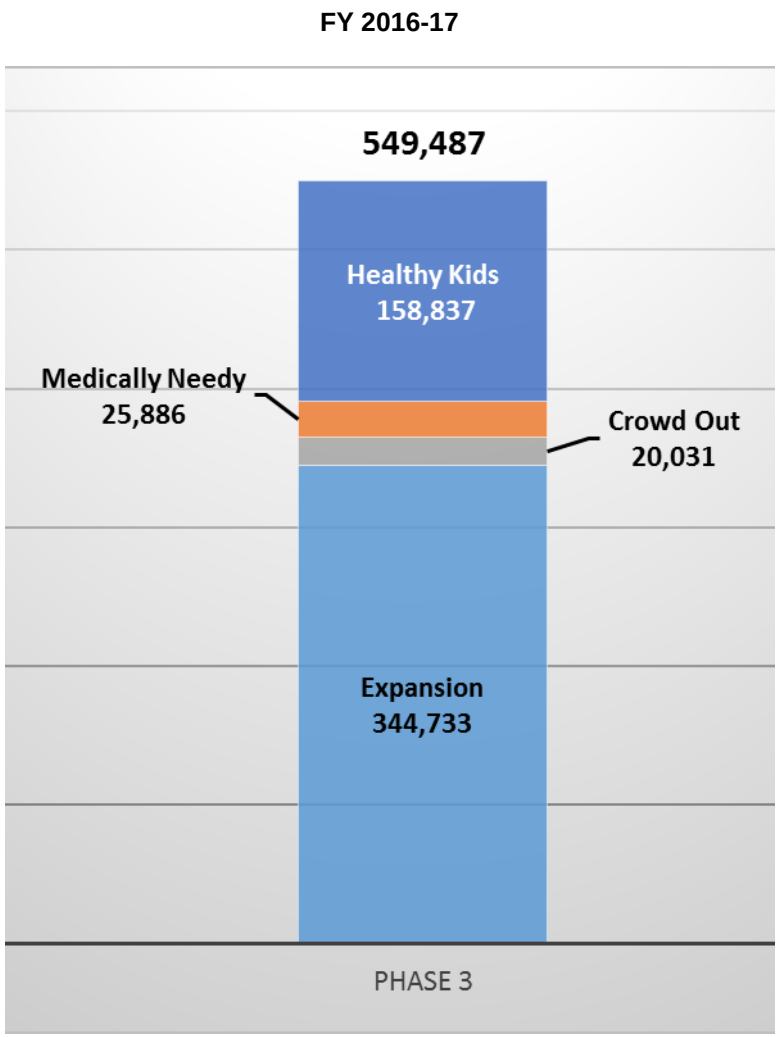
Disenrollees and the Exchange…

- Subsidies (health insurance premium tax credits) are only available to persons between 100% to 400% FPL selecting insurance coverage through the Exchange.
- Florida's Medicaid Expansion base population has 70.2% who are not eligible for subsidies today, and the remaining 29.8% are eligible for subsidies.
- EDR assumes that the disenrolled population would mirror Florida's Medicaid Expansion base population and therefore at least 70.2% would continue to be ineligible for subsidies on the Exchange and may no longer have access to unsubsidized options.
- It is unknown how the remaining 29.8% who are between 100% and 133% FPL could be allowed to access or receive subsidies for private insurance coverage purchased on the Exchange. If access and future subsidies are denied, this population would be worse off.



Healthy Kids in FHIX-Phase 3…

- Current Healthy Kids Title XXI (133% - 200% FPL):
  - Current enrollees (158,837) will transition to FHIX-Phase 3.
  - The monthly premium amount for these children will be the maximum $25 because all have family incomes above 100% FPL (the current average monthly premium is $12.48; the shift to FHIX will reduce costs to the state due to the increase in premiums).
- Current Healthy Kids Full Pay (above 200% FPL):
  - This analysis assumes Healthy Kids Full Pay enrollees (37,607) will not be eligible for the FHIX marketplace (today, these families pay 100% of their insurance costs).
  - Instead of moving to FHIX, Full Pay enrollees will shift to private insurance coverage on July 1, 2016.



Savings from Changes to Existing Programs…

- Savings from Transition to Expansion/FHIX:
  - 25,964 Medically Needy individuals - state savings due to both the higher federal participation matching rates and newly required premium payments.
  - 158,837 Healthy Kids individuals - state savings due to the increased average monthly premium paid by families.

- Savings from Disenrollment:
  - 5,114 Medically Needy individuals (October 1, 2015) – state savings because state match is no longer required.
  - 936 Medically Needy pregnant women and children (October 1, 2019) – state savings because state match is no longer required.

State Savings (in Millions)	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19	FY 2019-20	Total
Transition to Expansion/FHIX						
Medically Needy Non Pregnant adults 19-64 Under 133%	$237.4	$219.0	$200.5	$193.9	$180.8	**$1,031.6**
Healthy Kids Title XXI	N/A	$0.9	$1.0	$1.0	$5.3	**$8.2**
Disenrollment from Medically Needy						
Non Pregnant adults 19-64 Above 133% (in October 2015)	$22.0	$28.9	$28.9	$28.8	$28.7	**$137.4**
Adults 65+ (in October 2015)	$11.6	$15.2	$15.2	$15.2	$15.1	**$72.3**
Children and Pregnant Women (in October 2019)	$0.0	$0.0	$0.0	$0.0	$3.3	**$3.3**
Total	**$271.1**	**$264.1**	**$245.6**	**$238.8**	**$233.1**	**$1,252.7**

Note: Dollars in Millions; Positive Total = Savings; Negative Total = Expenditures; Numbers may not sum due to rounding

Insurance Premium Tax...

A. The current revenue forecast assumes 1.44 million individuals are induced by the Affordable Care Act to obtain private insurance that is subject to the Insurance Premium Tax in the 2015 calendar year.

B. This analysis assumes that 234,284 of the 1.44 million individuals would qualify for and move to Medicaid under Simple Expansion-Phase 1, in lieu of seeking private insurance. This number grows and is included within the uninsured presenters.

C. This analysis also assumes that 20,031 individuals who currently pay for their own private insurance will seek and obtain coverage through FHIX (Crowd Out population).

D. The premiums and tax collections from the underlying Insurance Premium Tax forecast associated with all of these individuals [from above: (B + C)] are removed throughout the entire forecast.

E. Some of the Phase 1 participants would be disenrolled during the transition to Phase 2; however, their remaining insurance options are unclear and the disenrollee feedback to the Insurance Premium Tax forecast is indeterminate.

State Insurance Premium Tax

	Insurance Premium Tax				
	FY 2015-16	FY 2016-17	FY2017-18	FY 2018-19	FY 2019-20
Phase 1 - Impact of Simple Expansion	($7,226,394)	($6,187,003)	($6,570,490)	($6,807,356)	($7,108,618)
Phase 2 - Impact of Crowd Out Leaving Private Insurance	$0	($403,304)	($311,722)	($307,841)	($317,198)
Phase 2 - Impact of FHIX Plan Selection	$0	Indeterminate	Indeterminate	Indeterminate	Indeterminate
Impact of Disenrolled	$0	Indeterminate	Indeterminate	Indeterminate	Indeterminate
Phase 3 - Impact of Healthy Kids Full Pay Purchasing Insurance	$0	$362,106	$629,801	$525,205	$548,440
Total Cash Impact of Insurance Premium Tax	($7,226,394)	($6,228,201)	($6,252,411)	($6,589,992)	($6,877,376)

- The ultimate mix of insurance offerings on FHIX are currently unknown.
- Among other options, FHIX can offer "...a managed care plan contracted with the Agency for Health Care Administration under the managed medical assistance program under part IV of Chapter 409." Today, these plans (Medicaid MMA) are not subject to the Insurance Premium Tax. The Insurance Premium Tax status of the FHIX options is unclear.
- For these reasons, the impact of FHIX selections on Insurance Premium Tax collections is indeterminate.

Overall Coverage Status after Full Implementation...

Current Coverage Status	Coverage Status under SB 2512 (after Phase 3 full implementation)	Description	FY 2016-17	FY 2017-18	FY 2018-19	FY 2019-20
Uninsured	FHIX	This group is currently uninsured and would qualify for the FHIX marketplace (school/work requirements and premium payment requirements).	344,733	349,639	354,520	359,364
Private Insurance	FHIX	This group currently has private insurance and would transition to the FHIX marketplace; they will meet all FHIX requirements and will opt for a FHIX plan over their current private insurance plan.	20,031	20,031	20,031	20,031
Medicaid Medically Needy	FHIX	This group is currently in Medicaid Medically Needy and would be transitioned to FHIX because they would meet all the requirements. This group, which has not paid premiums in Medicaid, would be subject to premium payments starting in Phase 2.	25,886	25,808	25,731	25,653
Healthy Kids Title XXI	FHIX	This group comprises the current Healthy Kids Title XXI population. They would be transitioned to FHIX in Phase 3; premiums would increase from the current average of $12.48 per month to $25.00 per month (all are above 100% FPL).	158,837	162,305	164,740	167,211
		FHIX Enrollment Subtotal	549,486	557,783	565,021	572,259
Medicaid Medically Needy	Medicaid Medically Needy	This group is children or pregnant women currently in Medicaid Medically Needy. They would remain in Medicaid until the Medically Needy program is terminated on October 1, 2019.	934	931	928	- 925
Medicaid Medically Needy	No longer with a state-sponsored program	This group includes the elderly at all income levels and the individuals with incomes above 133% FPL who are currently in Medicaid Medically Needy. This group would not meet income and/or age requirements for FHIX. They would be disenrolled from Medicaid on October 1, 2015.	- 5,099	- 5,084	- 5,069	- 5,053
Healthy Kids Full Pay	No longer with a state-sponsored program	This group comprises the Healthy Kids Full Pay population (all have incomes above 200% FPL). It is assumed that they would not have a path to insurance through the FHIX marketplace.	- 37,607	- 37,607	- 37,607	- 37,607
Uninsured	Not with a state-sponsored program	This group is currently uninsured and would not qualify for the FHIX marketplace (school/work requirements and/or premium payment requirements).	~ 408,713	~ 414,528	~ 420,315	~ 426,059
		Number of individuals no longer benefitting after full implementation	451,419	457,219	462,991	469,644

A negative sign (-) indicates individuals who are currently enrolled in a state-sponsored program but would be disenrolled under SB 2512.
A tilde (~) indicates Expansion individuals who are currently uninsured and would not become eligible for a state-sponsored program through SB 2512.

Overall Fiscal Impacts...

Expansion Program	Impact on State $$$						Impact on Federal $$$ Coming to FL					
	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19	FY 2019-20	Total	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19	FY 2019-20	Total
Uninsured Presenters (new)	-	(75.1)	(172.3)	(212.3)	(289.3)	**(749.0)**	2,872.4	2,929.3	2,960.6	3,053.7	3,114.5	**14,930.4**
Crowd-Out (new)	-	(12.2)	(27.6)	(33.5)	(45.0)	**(118.3)**	472.6	475.0	473.4	481.6	484.5	**2,387.1**
Medically Needy Shift (net)	237.4	218.9	200.2	193.5	180.4	**1,030.4**	237.4	218.9	200.2	193.5	180.4	**1,030.4**
Medicaid Subtotal	237.4	131.6	0.3	(52.3)	(153.9)	**163.1**	3,582.4	3,623.2	3,634.2	3,728.8	3,779.4	**18,347.9**
Insurance Premium Revenue Adj.	(8.9)	(8.0)	(8.4)	(8.7)	(9.1)	**(43.1)**	N/A	N/A	N/A	N/A	N/A	**N/A**
Total	228.5	123.6	(8.1)	(61.0)	(163.0)	**120.0**	3,582.4	3,623.2	3,634.2	3,728.8	3,779.4	**18,347.9**

SB 2512 Phases 1 and 2	Impact on State $$$						Impact on Federal $$$ Coming to FL					
	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19	FY 2019-20	Total	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19	FY 2019-20	Total
Uninsured Presenters (new)	-	(32.5)	(75.0)	(92.1)	(125.7)	**(325.3)**	1,946.8	1,266.8	1,282.2	1,324.4	1,352.6	**7,172.8**
Crowd-Out (new)	-	(1.9)	(4.3)	(5.2)	(7.0)	**(18.4)**	30.6	74.0	73.9	75.2	75.8	**329.6**
Medically Needy Shift (net)	237.4	219.0	200.5	193.9	180.8	**1,031.6**	235.3	213.8	195.3	188.7	175.6	**1,008.7**
Medically Needy Sunset	33.6	44.2	44.1	44.0	47.1	**213.0**	(51.5)	(69.6)	(69.9)	(70.3)	(75.9)	**(337.3)**
Phase 1 and 2 Subtotal	271.0	228.8	165.3	140.6	95.2	**900.9**	2,161.1	1,485.0	1,481.5	1,518.1	1,528.1	**8,173.9**
Insurance Premium Revenue Adj.	(7.2)	(6.6)	(6.9)	(7.1)	(7.4)	**(35.2)**	N/A	N/A	N/A	N/A	N/A	**N/A**
Total	263.8	222.2	158.4	133.5	87.8	**865.7**	2,161.1	1,485.0	1,481.5	1,518.1	1,528.1	**8,173.9**
Compared to Expansion Program	**+35.3**	**+98.6**	**+166.5**	**+194.5**	**+250.8**	**+745.7**	**-1,421.2**	**-2,138.1**	**-2,152.7**	**-2,210.7**	**-2,251.2**	**-10,174.0**

SB 2512 Phases 1, 2, and 3	Impact on State $$$						Impact on Federal $$$ Coming to FL					
	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19	FY 2019-20	Total	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19	FY 2019-20	Total
Uninsured Presenters (new)	-	(32.5)	(75.0)	(92.1)	(125.7)	**(325.3)**	1,946.8	1,266.8	1,282.2	1,324.4	1,352.6	**7,172.8**
Crowd-Out (new)	-	(1.9)	(4.3)	(5.2)	(7.0)	**(18.4)**	30.6	74.0	73.9	75.2	75.8	**329.6**
Medically Needy Shift (net)	237.4	219.0	200.5	193.9	180.8	**1,031.6**	235.3	213.8	195.3	188.7	175.6	**1,008.7**
Medically Needy Sunset	33.6	44.2	44.1	44.0	47.1	**213.0**	(51.5)	(69.6)	(69.9)	(70.3)	(75.9)	**(337.3)**
Healthy Kids Title XXI	N/A	0.9	1.0	1.0	5.3	**8.2**	N/A	(21.0)	(23.4)	(23.8)	(19.8)	**(88.0)**
Phase 1, 2, and 3 Subtotal	271.0	229.7	166.3	141.6	100.5	**909.1**	2,161.1	1,464.0	1,458.1	1,494.4	1,508.3	**8,085.9**
Insurance Premium Revenue Adj.	(7.2)	(6.2)	(6.3)	(6.6)	(6.9)	**(33.2)**	N/A	N/A	N/A	N/A	N/A	**N/A**
Total	263.8	223.5	160.0	135.0	93.6	**875.9**	2,161.1	1,464.0	1,458.1	1,494.4	1,508.3	**8,085.9**
Compared to Expansion Program	**+35.3**	**+99.9**	**+168.1**	**+196.0**	**+256.6**	**+755.9**	**-1,421.2**	**-2,159.1**	**-2,176.1**	**-2,234.5**	**-2,271.0**	**-10,262.0**
Compared to SB 2512 Phases 1 and 2	**0.0**	**+1.3**	**+1.6**	**+1.5**	**+5.8**	**+10.2**	**0.0**	**-21.0**	**-23.4**	**-23.8**	**-19.8**	**-88.0**

Note: Dollars in Millions; Positive Total = Surplus; Negative Total = Shortfall

THE FLORIDA SENATE

SENATOR ANDY GARDINER
President

TO: All Senators
FROM: Andy Gardiner, President
SUBJECT: Florida Health Insurance Affordability Exchange Program
DATE: March 5, 2015

Florida is at an important crossroads in the Medicaid program. Nearly $2 billion of Low Income Pool (LIP) funding is in jeopardy. LIP funding is a critical source of support for hospitals that provide essential services to Medicaid patients as well as the uninsured. Some of our safety net hospitals struggle to remain solvent even with the supplemental payments provided through LIP. Our communities depend on the services supported by LIP payments and loss of these funds poses a significant threat.

At the same time, more than 800,000 uninsured Floridians can qualify for Medicaid if we decide to expand coverage. Extra federal funds will enable more of our friends and neighbors to obtain health coverage. Not surprisingly, the federal money comes with strings attached. Some say Florida should not expand the existing Medicaid program and I agree. But we have the obligation to make coverage affordable and the opportunity to develop a consumer-driven approach—one that provides access to high-quality, affordable health care coverage while promoting personal responsibility. We should develop options that uniquely suit the needs of Floridians. We should examine the opportunity for expansion and determine the best way to put in place conservative, free market guardrails that will control the cost and growth of the Medicaid program for Florida's taxpayers.

This week, the Health Policy Committee conducted a workshop and panel discussion on health care coverage options. The committee received a presentation on the Healthy Indiana Plan 2.0 (HIP 2.0), Indiana's recently expanded health insurance program. HIP 2.0 is an alternative to traditional Medicaid expansion. Indiana's waiver is different than other Medicaid expansion waivers approved by the federal government to date in that it allows new flexibility to the state. Additionally, senators heard from the AHCA regarding the capacity of the agency to add the new group of eligible enrollees under the existing Medicaid managed care program.

During the workshop, members discussed ideas with experts and listened to constituents from across the state. As a result, the Health Policy Committee, under the leadership of Chair Bean, has developed Proposed Committee Bill 7044. PCB 7044 creates a state-operated marketplace for

low-income Floridians to access health care coverage, services and products. Under the proposed legislation, enrollment will begin July 1, 2015 and will utilize a phased transition to ensure continuity of care. A summary of the proposed legislation is attached. I encourage you to review this information and become familiar with the challenges facing Florida's Medicaid program. I look forward to working with all of you to find the best way to meet the healthcare needs of our state.

PCB 7044 relating to Access to Health Coverage

Establishment of the Florida Health Insurance Affordability Exchange (FHIX) Program:
The FHIX program is a consumer-driven approach to providing access to high-quality, affordable health care coverage while promoting personal responsibility. FHIX participants will have access to a state-operated marketplace to shop and select coverage, services and products. The FHIX program will have a start date of July 1, 2015 and offer existing Medicaid Managed Care Plans immediately.

Coverage Population & Eligibility Requirements:

- The FHIX program will extend coverage to an estimated 800,000 low-income Floridians.
- The expanded population will include individuals earning less than 138% of the Federal Poverty Level (FPL), who are not currently eligible under section 409.902, Florida Statutes. Individuals who earn an annual income of up to approximately $16,000 or parents who earn up to approximately $33,000 for a family of 4 will now be eligible.
- Must be a Florida resident.

Products and Services:

- All Florida Health Choices Program products and services.
- All Medicaid Managed Care plans.
- All products offered by Florida Healthy Kids Corporation.
- Employer sponsored plans.

Cost-Sharing Principles:

- Participants may be charged for inappropriate use of emergency room visits, $8 for the first visit and up to $25 for subsequent visits.
- Participants will be assessed mandatory monthly premiums based on their modified adjusted gross income as follows:
    - Less than 22% of the FPL: $3
    - Between 22.01%-50% of the FPL: $8
    - Between 50.01%-75% of the FPL: $15
    - Between 75.01%-100% of the FPL: $20
    - Between 100.01%-138% of the FPL: $25
- If a full premium payment is not received after a 30-day grace period, the premium assistance will be suspended and the participant may not re-activate coverage for a minimum of 6 months.

Employment Requirements:

- Participants are required to complete an initial application for coverage which includes proof of employment, on-the-job training or placement activities, or pursuit of educational opportunities at a minimum hourly level as follows:
    - Parents with children under the age of 18: Minimum requirement of 20 hours per week.

    - Childless adults (disabled adults or caregivers of disabled children or adults may submit exceptions): Minimum requirement of 30 hours per week.
- Participants must maintain the above work or educational requirements and will submit a renewal annually.

Implementation:

There will be a 3-phased approach to eligibility and enrollment that uses existing resources:

- Phase One - Extend eligibility to the newly eligible with the Medicaid Managed Care Plans while seeking approval for Phase 2;
- Phase Two - Transition participants to the Florida Health Choices marketplace to select plans, services and products using premium credits based on a risk adjusted rate beginning January 1, 2016; and
- Phase Three - Fold Florida Healthy Kids enrollees into the marketplace starting July 1, 2016.
- A Transition Workgroup will oversee the process and make recommendations to the Agency for Health Care Administration (AHCA).
- The AHCA, as the single state agency for Medicaid, will make the ultimate decision on whether or not a region or phase is ready to "go live".

Administration:

- The Department of Children and Families will continue to determine eligibility.
- The Agency for Health Care Administration will administer Phase One, is the recipient and distributor of federal funds, chairs the FHIX Workgroup and has overall responsibility for the program.
- The Florida Healthy Kids Corporation will provide customer support, financial services and retain its other responsibilities until Phase Three.
- Florida Health Choices, Inc., will implement and operate the FHIX marketplace.

Participant Responsibilities:

- Apply for coverage.
- Execute participant contract to acknowledge program limitations, including possible non-funding, participant responsibilities for payments and work or education, and disenrollment consequences.
- Make monthly premium payments based on income and work or educational requirements that begin in Phase Two.
- Assume cost sharing for services based on products selected in the marketplace.
- Renew eligibility annually.

Participant Rights:

- Access the FHIX marketplace to shop and select coverage, services and products.
- Avoid disruption of coverage through portability and continuity of coverage when eligibility changes.

- Retain premium credits earned despite changes in circumstances in a health reimbursement or health savings account.
- Select more than one plan or product on the FHIX marketplace.
- Choose from at least two plans on the FHIX marketplace that are compliant with the Patient Protection and Affordable Care Act.

THE FLORIDA SENATE

SENATOR ANDY GARDINER
President

TO: All Senators
FROM: Andy Gardiner, President
SUBJECT: Senate Plan for Medicaid Sustainability
DATE: March 19, 2015

As we work together to develop the Fiscal Year 2015-16 General Appropriations Act, the single greatest unknown factor influencing our decision-making is the future of Low-Income Pool (LIP) funding. As you are aware, funds contributed by local hospital authorities and county governments, combined with the federal match, generate more than $2 billion in funding that enables many hospitals to continue serving Floridians in need.

The LIP has helped Florida fund its Medicaid program since 2006. Last session, to account for delays in federal reauthorization of the LIP, the Senate passed its initial budget without a LIP model. The current-year model and associated federal funding were included during the budget conference after eleventh hour approval from the federal government. At that time, and several times subsequently, the Centers for Medicare & Medicaid Services (CMS) have clearly stated that the federal government will not approve an extension of the current LIP model for another year.

Understanding this history, the Senate budget aims to avoid brinksmanship negotiations with the federal government. Instead the Senate proactively proposes an alternative plan for Medicaid sustainability in Florida.

Today Chair Garcia will publish a proposal for the Health and Human Services portion of the Fiscal Year 2015-16 General Appropriations Act. Chair Garcia's proposal includes a new LIP model which we believe offers a better chance for swift approval by the federal government.

The Senate's Plan for Medicaid Sustainability seeks to preserve but restructure the LIP by changing the portions of the LIP that have received the most criticism from CMS. Our plan directs more funds to increase base hospital rates and more broadly distributes LIP dollars.

Under the Senate plan, the redeployed LIP will maintain an aggregate level of funding identical to the current LIP or $2.16 billion.

The Senate plan also maintains two crucial components of the current LIP:

- Support for rural hospitals, trauma centers, primary care services, specialty pediatric hospitals, and safety-net hospitals, along with a special aspect of incenting quality (known as Special LIP; $116 million); and
- Funding for primary care and other non-hospital providers, such as federally qualified health centers, emergency room diversion, county health departments, poison control programs, and medical schools ($322 million).

The Senate plan continues to provide a return on investment to local governments and hospital authorities that voluntarily donate their funds (local tax dollars), known as intergovernmental transfers (IGTs), but alters the methodology for the return on that investment, in ways which are consistent with how the federal government has told Florida the system must be changed. These changes include:

- Funds previously targeted for specific hospitals will instead be distributed in a broad-based system so that *all* hospitals can benefit.
- More than $200 million will be directed into the base funding for hospital Medicaid reimbursement.
- An additional $234 million will be distributed among hospitals based on their Medicaid utilization and criteria regarding the provision of critical-needs services.
- The donors' return on investment will be limited and it will be the same for all IGTs.

The overall effect of the Senate plan is a new LIP that distributes funds more broadly, so more hospitals benefit, and does so in a manner our federal partners are much more likely to accept on an ongoing basis.

The Senate plan also asks our federal partners to amend certain Medicaid calculations so that our local partners are not penalized as a result of donating IGTs. Medicaid does not allow providers to be compensated beyond certain limits when providing Medicaid services. Under the current CMS method for calculating those limits, some IGT donors are being penalized for the IGTs they donate to the system. We are asking our federal partners to work with us to begin using a more realistic and fair method for calculating provider cost limits.

The Senate's Medicaid Sustainability Plan couples the revamped LIP with the Health Policy Committee's Florida Health Insurance Affordability Exchange (FHIX) program to provide private health coverage for persons under 133 percent of the federal poverty level who are not already covered by Medicaid. These two proposals, a new LIP and the FHIX, go hand-in-hand.

Gaining federal approval of the new Senate LIP model, as well as federal authority to fully implement the FHIX, are ambitious goals. I am confident, however, that our federal partners will

recognize how the Senate plan benefits everyone involved. The Senate's Medicaid Sustainability Plan is innovative, forward-thinking, and budget conscious. The plan is designed not only to provide market-based health insurance for Floridians currently in a coverage gap, but also ensure that the backbone of our health care system – community hospitals and safety-net hospitals – can continue relying on the Medicaid funding that has provided critical support since 2006.

Unlike last year when we had good reason to expect a last-minute federal extension of the current LIP, Washington has been abundantly clear: the LIP in its current form will not continue. If our Senate model does not gain approval from CMS and the federal government walks away from a LIP of some form, we simply cannot count on our local partners to continue contributing hundreds of millions of dollars. Such contributions are available only if the donors realize a benefit for their local taxpayers, and federal approval of a LIP is the only way to provide that guarantee.

Without federal approval of a new LIP model, state funds may be needed to help maintain hospital rates at their current levels. This state funding would be eligible for a federal drawdown that would more than double any funding we contribute. We must keep this risk in mind as we evaluate other spending priorities.

We can no longer wait for Washington. We must advocate for our own pro-active, market-based, Florida-driven solution for the enormous health care challenges facing our state. I look forward to your continued input and assistance with this important issue.

THE FLORIDA SENATE

SENATOR ANDY GARDINER
President

TO: All Senators
FROM: Andy Gardiner, President
SUBJECT: Information on Senate Plan for Medicaid Sustainability
DATE: April 14, 2015

With the first two-thirds of session complete, I would like to provide some additional information related to the Senate Plan for Medicaid Sustainability, including today's developments.

Today AHCA received a letter from CMS (attached for your reference) stating the following:

- **"…the future of the LIP, sufficient provider rates, and Medicaid expansion are linked…"**
- **"Transition periods can ease the process of reducing the LIP as the state makes the transition to broader Medicaid coverage for its residents…"**

I have included some additional information below, which I hope you will find useful in answering questions as to how we arrived at this point.

Many opposed to expansion point to examples of California and Texas to make the case that expansion and LIP are separate issues. It is true California expanded Medicaid and receives LIP funding, while Texas did not expand, but also receives LIP funding. However, comparing Texas to Florida is misleading. The Texas waiver authorizing LIP payments was approved prior to the Supreme Court decision that made expansion voluntary instead of mandatory. Next year, the Texas waiver will need to be renewed and that request is likely to face similar scrutiny. Federal decisions about Florida will serve as precedent for Texas, not vice versa.

In Fiscal Year 2014-15, Florida fully implemented its Managed Medical Assistance demonstration program (managed care) as authorized by CMS. As part of the managed care demonstration program, Florida was permitted to receive federal matching funds for LIP payments up to $2.16 billion. Specifically, in April 2014, CMS provisionally granted Florida a one year extension of LIP funding and specifically required Florida to review "Medicaid provider payments and funding mechanisms, with the goal of developing sustainable, transparent, equitable, appropriate, accountable, and actuarially sound Medicaid payment

systems and funding mechanisms that will ensure quality health care services to Florida's Medicaid beneficiaries throughout the state **without the need for LIP funding**."

In July 2014, when CMS officially granted the one year LIP extension, another requirement directed Florida to obtain an independent study (The Navigant Report) by March 1, 2015. The report was required to "recommend reforms to Florida's Medicaid financing system that can…move toward Medicaid managed care and fee-for-service payments…rather than through over reliance on supplemental payments" such as LIP.

Since the report was submitted, AHCA has been in discussions with CMS regarding Florida's LIP funding for FY 2015-16. The following is a summary of the discussions between AHCA and CMS:

- All discussions with CMS have revolved around estimating Florida's cost for uncompensated care **absent those Floridians who could be covered through an expansion of Medicaid.** (This factor contributed to the Senate decision to include both LIP and expansion in our budget.)
- Though AHCA has presented credible information that uncompensated care after expansion of Medicaid would still exceed $2.16 billion, CMS has questioned this data and indicated an interest in seeking an assessment of uncompensated care from an independent source.
- **CMS has also pointed to an additional source for the analysis of uncompensated care costs that pegs Florida's uncompensated costs at less than half the amount advanced by AHCA.**
- Public statements from federal officials further indicate the federal government will not "cover the same people twice," meaning CMS will not continue to authorize supplemental payments to hospitals to pay for services for those who can be covered by expansion.

Today's letter from CMS also states the following:

"**We will approach a review of a LIP proposal from Florida based on several key principles. First, coverage rather than uncompensated care pools is the best way to secure affordable access to health care for low-income individuals, and uncompensated care pool funding should not pay for costs that would be covered in Medicaid expansion. Second, Medicaid payments should support services provided to Medicaid beneficiaries and low-income uninsured individuals. Finally, provider payment rates must be sufficient to promote provider participation and access, and should support plans in managing and coordinating care. We also note that transition periods can ease the process of reducing LIP as the state makes the transition to broader Medicaid coverage for its residents at**

sustainable rates, and that disproportionate share hospital payments will remain available to support uncompensated care."

This and all prior indications from the federal government since April 2014 outlined above indicate the LIP program will be phased out.

Absent expansion or additional state funding, what does the phasing out of LIP mean for Florida's hospitals and the people they serve?

On average, Medicaid payments to Florida hospitals at current levels equate to only 49 percent of costs. The Navigant report states elimination of LIP payments results in a loss of $1.3 billion in hospital revenues or an average 15 percent reduction statewide. Many hospitals will be unable to sustain a cut this large. If LIP funding is eliminated or substantially reduced, we should expect layoffs and less services. The programs most at risk are those with high costs and low margins. Cancer centers, dialysis units, transplant services, graduate medical education capacity, and other special services will be limited or may even close their doors as hospitals struggle to cover the high emergency room costs of uninsured Floridians who could qualify for expanded coverage.

The impact is not limited to hospitals alone. State payments to managed care organizations will also drop. During implementation of statewide managed care, contracts were negotiated and signed based on expected revenues. Sudden cuts in managed care funding that would result from the loss of LIP also jeopardize the arrangements between managed care and all providers and raise questions about whether Florida can continue to meet federal requirements for actuarial sound rates and adequate payment levels.

The bottom line is: more than ever, today's correspondence from CMS highlights the link between LIP and expansion and the need to consider a comprehensive Florida solution. Time is of the essence. The Senate remains open to meeting at any time to discuss our free-market approach to expansion or any alternative the House or Governor would like to propose.

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
7500 Security Boulevard, Mail Stop S2-26-12
Baltimore, Maryland 21244-1850

April 11, 2014

Justin Senior
State of Florida, Agency for Health Care Administration
2727 Mahan Drive, Mail Stop 8
Tallahassee, FL 32308

Dear Justin:

I am writing to memorialize the work we have accomplished together to date on Florida's request to renew its section 1115 demonstration, titled, Managed Medical Assistance, demonstration number 11-W-00206/4. We have made significant progress toward the goal of finalizing the terms of the demonstration renewal. We are eager to continue working together to grant the renewal based on the following agreements described below:

- A three-year extension of the demonstration through June 30, 2017, except for the Low Income Pool (LIP), which will be extended only for one year from July 1, 2014 through June 30, 2015.
- During the one-year extension for the LIP, expenditures would be authorized to provide stability for providers for a limited time during Florida's transition to statewide Medicaid managed care and a significantly reformed Medicaid payment system. The LIP would be funded only through existing state and local funding arrangements. Federal LIP funding for the year is still under review, but would not exceed $2.16 billion (total computable), or the level of previous LIP funding (in the prior year) increased by the amount of federal funding previously provided for certain supplemental payments, to the extent that those payments are discontinued by the state. Final LIP funding amounts and provider participation requirements will be specified in the terms and conditions of the demonstration approval documents.
- During this one year extension of the LIP, Florida will review Medicaid provider payments and funding mechanisms, with the goal of developing sustainable, transparent, equitable, appropriate, accountable, and actuarially sound Medicaid payment systems and funding mechanisms that will ensure quality health care services to Florida's Medicaid beneficiaries throughout the state without the need for LIP funding.
- Expenditures authorized under the LIP would be limited to uncompensated care costs of providers, the independent report discussed below, and other categories of expenditure as specified in the demonstration's current special terms and conditions. Uncompensated care costs will be verified through provider cost reports. Allowable LIP expenditures will be offset by the amount of payments that were made to providers in prior demonstration years in excess of allowable costs identified on provider cost reports.

- During the one-year LIP extension, the state will use a portion of the LIP funds to commission a report from an independent entity on Medicaid provider payment in the state that reviews the adequacy of payment levels, and the adequacy, equity, accountability and sustainability of the State's funding mechanisms for these payments. The report must recommend reforms to the Florida Medicaid financing system that can allow the state, beginning in state fiscal year 2015, to move toward Medicaid fee-for-service and managed care payments that ensure access for Medicaid beneficiaries to providers without payments through the LIP. A final report will be due no later than March 1, 2015.

We look forward to working with you further on these topics as part of our effort to reach a final agreement on the demonstration. Please feel free to call me if you have concerns or questions as we continue our discussions.

Sincerely,

/s/

Cindy Mann
Director

cc: Jackie Glaze, Associate Regional Administrator, Region IV

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
7500 Security Boulevard, Mail Stop: S2-26-12
Baltimore, Maryland 21244-1850

JUL 3 1 2014

Justin Senior
Deputy Secretary for Medicaid
Florida Agency for Health Care Administration
2727 Mahan Drive, Mail Stop 8
Tallahassee, FL 32308

Dear Mr. Senior:

This letter is to inform you that the Centers for Medicare & Medicaid Services (CMS) is approving your request to extend Florida's section 1115 demonstration project, titled Managed Medical Assistance Program (MMA) (Project Number 11-W-00206/4). The demonstration extension succeeds the temporary one month extension of the demonstration that was granted on June 30, 2014, extending the previously approved demonstration through July 31, 2014. This extension is approved for three years from July 31, 2014 through June 30, 2017, except for the Low Income Pool (LIP) supplemental payment authority which will be extended through June 30, 2015. This extension retains improvements to the overall demonstration that were added in the June 2013 amendment, including improved stakeholder engagement processes and consumer protections and improved evaluation and quality initiatives.

As noted in our April 11, 2014 Agreement in Principle letter, CMS and Florida agree that this one-year extension of the LIP will provide stability for providers as Florida transitions to statewide Medicaid managed care, while allowing the state to move toward a significantly reformed Medicaid payment system. The terms and conditions for this extension specify that LIP payments will be funded through existing state and local funding arrangements. They also reflect our agreement that CMS will authorize up to $2,167,718,341 (total computable) for LIP in demonstration year (DY) 9. To promote sound decision making going forward, the state will commission a report from an independent entity on Medicaid provider payments in the state. The report will review the adequacy of payment levels, and the adequacy, equity, accountability and sustainability of the state's funding mechanisms for these payments. The report shall recommend reforms to the Florida Medicaid financing system that can allow the state, beginning in state fiscal year 2015-2016, to move toward Medicaid managed care and fee-for-service payments that ensure access for Medicaid beneficiaries to providers throughout the state through such payments rather than through over reliance on supplemental payments. The revised terms and conditions also require measures to strengthen oversight of LIP expenditures, to ensure that payments to providers through the LIP represent only allowable costs. As discussed with you previously, our review indicates that certain payments made to providers through LIP in DYs 1-3

were unallowable; therefore we plan to issue a disallowance in accordance with 42 CFR 430.42 for the amounts we identified ($104,351,578 in total computable, for which the federal share must be returned). You will receive official notification of this disallowance (including your rights to reconsideration and appeal of our decision) in a separate transmittal.

We will continue to work with you to review payments made under subsequent DYs, and if additional overpayments are identified, follow the same procedure. We appreciate the work of you and your staff to develop a new data tool that will help speed and strengthen the reconciliation process. Our financial management staff in our central office and Atlanta Regional office will continue to communicate closely with you and your staff regarding LIP reconciliations.

CMS approval of this section 1115 demonstration extension is subject to the limitations specified in the approved waiver and expenditure authorities and the list of requirements that are not applicable to the expenditure authorities. The state may deviate from the Medicaid State plan requirements only to the extent those requirements have been specifically listed as waived or not applicable to the expenditure authorities. All requirements of the Medicaid program as expressed in law, regulation, and policy statement not expressly waived or identified as not applicable shall apply to Florida's Managed Medical Assistance program. This approval is also conditioned upon continued compliance with the enclosed special terms and conditions (STCs) defining the nature, character, and extent of federal involvement in this project.

These approvals are conditioned upon written acceptance from the state that it agrees with the waiver and expenditure authorities and STCs. This written acceptance is needed for our records within 30 days of the date of this letter.

Your project officer is Ms. Heather Hostetler. Ms. Hostetler's contact information is as follows:

Centers for Medicare & Medicaid Services
Center for Medicaid & CHIP Services
Division of State Demonstrations and Waivers
7500 Security Boulevard
Mail Stop S2-02-26
Baltimore, MD 21244-1850
Telephone: (410) 786-4515
Facsimile: (410) 786-8534
E-mail: Heather.Hostetler@cms.hhs.gov

Official communications regarding program matters should be sent simultaneously to Ms. Hostetler and to Ms. Jackie Glaze, Associate Regional Administrator in our Atlanta Regional Office. Ms. Glaze's address is:

Jackie Glaze
Centers for Medicare & Medicaid Services
Atlanta Federal Center, 4th Floor
61 Forsyth Street, SW Suite 4T20

Atlanta, GA 30303-8909
Telephone: (404) 562-7417
E-mail: Jackie.Glaze@cms.hhs.gov

If you have questions regarding this approval, please contact Mr. Eliot Fishman, Director, Children and Adults Health Programs Group, Center for Medicaid & CHIP Services, at (410) 786-5647. Thank you for you and your staffs' thoughtful work on this demonstration extension.

Sincerely,

Cindy Mann
Director

Enclosures

cc: Jackie Glaze, Associate Regional Administrator, Region IV

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
7500 Security Boulevard, Mail Stop S2-26-12
Baltimore, Maryland 21244-1850

April 14, 2015

Justin Senior
Deputy Secretary for Medicaid
2727 Mahan Drive
Mail Stop #8
Tallahassee, FL 32308

Dear Deputy Secretary Senior:

I am writing to follow up with you on the discussions underway about the status of Florida's Low Income Pool (LIP). The LIP was implemented in 2006 as a time-limited demonstration to support Florida safety net providers that provide uncompensated care to some of the state's most vulnerable residents. As you know, over time CMS has had a number of concerns about the LIP, including its lack of transparency, encouragement toward overreliance on supplemental payments, and distribution of funds based on providers' access to local revenue instead of service to Medicaid patients. Last year, CMS made clear that LIP would not continue in its current form. We extended the Florida Managed Medical Assistance Program demonstration through June 30, 2017, and granted a limited one-year extension of the LIP which otherwise would have expired in 2014. There was also a specific requirement that Florida commission an independent review and analyze and develop a plan to reform Medicaid provider payments and funding mechanisms to ensure quality health care services to Florida's Medicaid beneficiaries throughout the state without the need for LIP funding. We established the goal of the state implementing reformed payment and funding mechanisms in state fiscal year 2015-2016.

When the Affordable Care Act (ACA) was enacted, it established a more comprehensive approach to providing health care coverage, including Medicaid, while supporting hospitals that serve communities with the greatest needs. Medicaid expansion would reduce uncompensated care in the state, and therefore have an impact on the LIP, which is why the state's expansion status is an important consideration in our approach regarding extending the LIP beyond June. We believe that the future of the LIP, sufficient provider rates, and Medicaid expansion are linked in considering a solution for Florida's low income citizens, safety net providers, and taxpayers.

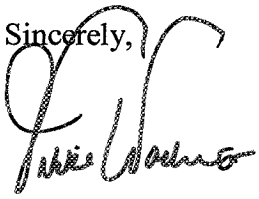
We are encouraged by the State Senate's interest in expanding Medicaid to low-income adults in the state, to cover between 870,000 and 1 million vulnerable Floridians, according to the independent report that the state commissioned from Navigant Health Care. CMS will monitor the progress of this legislation closely and, if enacted, looks forward to working with the state on the substance of the state's expansion approach. With Medicaid expansion, individuals with coverage would be less likely to seek bankruptcy protection or generate unpaid medical bills. In addition, expanding Medicaid would reduce the burden of uncompensated hospital care and provide new revenues to Florida's safety net providers. A new independent analysis of eight expansion states finds that savings and revenues by the end of 2015 across those states are expected to exceed $1.8 billion. State specific studies estimate that, in the first three years of expansion, Florida could realize an $8.9 billion increase in economic activity stemming from Medicaid expansion. Florida could also expect

to reap employment gains; the Kaiser Family Foundation projects that the state could gain 71,000 jobs in the first three years following Medicaid expansion. Additionally, the ACA provides that the federal government will pay 100 percent of the costs for newly-eligible adult beneficiaries through 2016. While the federal contribution gradually declines beginning in 2017, the law requires that federal funding for this group will never be less than 90 percent of the cost of care. This guarantee of federal support for paying for the expansion population can only be modified by legislation passed by Congress and signed into law by the President.

We will approach review of a LIP proposal from Florida based on several key principles. First, coverage rather than uncompensated care pools is the best way to secure affordable access to health care for low-income individuals, and uncompensated care pool funding should not pay for costs that would be covered in a Medicaid expansion. Second, Medicaid payments should support services provided to Medicaid beneficiaries and low-income uninsured individuals. Finally, provider payment rates must be sufficient to promote provider participation and access, and should support plans in managing and coordinating care. We also note that transition periods can ease the process of reducing the LIP as the state makes the transition to broader Medicaid coverage for its residents at sustainable rates, and that disproportionate share hospital payments will remain available to support uncompensated care.

I look forward to continuing our discussions on how best to support the health needs of low-income Floridians and Florida's health care system, while at the same time spending federal tax dollars most wisely and meeting the objectives of the Medicaid program and the Affordable Care Act. I am available at your earliest convenience to discuss next steps.

Sincerely,



Vikki Wachino
Acting Director

RICK SCOTT
GOVERNOR

March 4, 2015

The Honorable Barack Obama
President of the United States of America
The White House
1600 Pennsylvania Avenue, NW
Washington, D.C. 20500

Dear Mr. President:

In early February, Eliot Fishman, a director within the Medicaid division of the Centers for Medicare and Medicaid Services (CMS), stated at a conference in Florida that Florida's Low Income Pool (LIP) program will not continue in its present form. This federal matching program provides federal funds that Florida hospitals have depended on to pay for the state's most vulnerable residents. Termination of the federal matching participation would severely hamper future efforts to improve health care services for low income individuals who rely on a certain predictability of funding.

In just the last four years, my administration has worked with CMS to successfully put in place Statewide Managed Care and Diagnosis Related Group based payment for hospital services in Medicaid. These patient-centered reforms are the most significant in the history of Florida's Medicaid program and, as noted by CMS, are key structural elements to build on in continuing to move toward delivery based models that ensure access to cost-effective quality care for recipients.

My "Keep Florida Working" Budget builds on these structural elements, with the first ever statewide initiative in Medicaid, to pay directly for quality outcomes. Like the major reforms it is built on, this new, patient-centered initiative will further reward the delivery of high-value, quality-driven health care services in an efficient manner, to the benefit of both Medicaid recipients and state and federal taxpayers.

In our current discussions with CMS, Florida is not proposing to continue the LIP Waiver in its present form, but to maximize the value of our tax dollars to further the same goals for the Medicaid program that we have shared with CMS over the last four years. This request is not associated with Medicaid expansion in any way and your administration has already made it clear that whether or not a state expands Medicaid does not impact the continuation of similar programs within that state.

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

California, for example, has expanded Medicaid and their supplement funding continues at more than $5 billion a year. Texas, by contrast, has not expanded Medicaid and their supplemental funding continues at nearly $7.5 billion a year. As was noted in the independent evaluation of Florida's Medicaid program that the federal government required for this year, "When considering the total population that Medicaid funding will cover, California and Texas are both receiving substantially more supplemental funding than Florida."

Should your administration decline to accept a new LIP model and therefore terminate this program, I will not support using any state funds to backfill this federal program. Florida taxpayers fund our federal government and deserve to get a return on their investment. Moreover, we have worked hard to turn Florida's economy around and cannot afford to fund programs started by the federal government.

As with previous negotiations, we are optimistic that you will not terminate LIP and we will be able to reach an agreement on how best to structure this program in a way that protects both our state's most vulnerable residents as well as state and federal taxpayers.

Sincerely,

Rick Scott
Governor

Congress of the United States
Washington, DC 20515

April 14, 2015

Mr. Andy Slavitt
Acting Administrator
Centers for Medicare and Medicaid Services
Department of Health and Human Services
201 Independence Avenue, S.W., Room 445-G
Washington, D.C. 20201

Dear Acting Administrator Slavitt:

Over the past three months, Florida has been working with the Centers for Medicare and Medicaid Services (CMS) to determine the future of the Low Income Pool (LIP) in order to prevent disruption of access to quality health care for low income individuals in the State of Florida. Currently, the LIP includes approximately $2.1 billion in annual funding. These dollars, among other things, allow local governments to make investments in their own health care delivery systems, fund hospitals for providing services to the current Medicaid population, fund the faculties at Florida's medical schools for services provided to the current Medicaid population, and offset losses providers incur from rendering services to uninsured and underinsured Floridians. The LIP program, however, is in many ways separate and apart from any decision to expand Medicaid as envisioned under the Affordable Care Act.

Uncompensated care will still exist in Florida with or without the expansion of Medicaid, and thus it is important to continue the LIP so that the federal government and Florida continue to support providers who serve this ongoing uninsured population.

Time is of the essence. Florida's House of Representatives and Senate must propose, negotiate, and finalize the state's budget by the second half of April 2015. CMS therefore must agree in principle on the LIP in the first half of April 2015. This agreement in principle need only express the total dollar value of the LIP going forward, along with any general parameters around the flow of the funds.

CMS has stated that it will not provide LIP funds to pay for costs associated with uninsured Floridians who would become insured if the state expanded the Medicaid program.

Florida has sought out independent studies that estimate the amount of uninsured costs that would remain in the state even if Florida were to expand its Medicaid program. In a report from 2012, the Urban Institute, in conjunction with the Robert Wood Johnson Foundation, estimated that **Florida would still have nearly $1.6 billion in costs related to uncompensated care even after it expanded its Medicaid program.** This $1.6 billion dollar figure is particularly reliable, in that it comes from an independent source and predates the current negotiations.

Additionally, the LIP currently includes incentives of over $400 million annually that are fully independent of any political decision around Medicaid expansion. These funds

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support Florida's medical schools, county health departments, local health centers, and poison control initiatives.

CMS should not destabilize, eliminate, or hold these programs hostage to an expansion decision. Continuing LIP, at approximately the current level of funding, would treat Florida equally with other states, like California, that have both expanded Medicaid and continue to receive uncompensated care funds for their remaining uninsured populations. Florida strongly believes $1.6 billion in remaining uncompensated care, coupled with the over $400 million in support of the medical schools and other providers, should be the basis of a renewed LIP.

Florida is willing to address other concerns expressed by CMS during the current LIP discussions, such as streamlining and refining the rate of return local governments receive for participation and tweaking the funds' distribution to more closely follow the patient.

Florida is asking CMS to treat the state consistently with other states that have expanded, like California, and to support health care providers in the state that provide services to people who would remain uninsured even if Florida Medicaid expanded. Florida is also asking CMS to continue to support institutions and initiatives, like medical schools, that are critical to Florida's health care system and that have nothing to do with the expansion decision.

As members of the Florida Congressional delegation, we ask that you strongly support Florida's efforts in this regard, and urge CMS to agree in principle to continue LIP funding near the current level of funding prior to mid-April.

Sincerely,

Ted S. Yoho, D.V.M.
Member of Congress

Marco Rubio
United States Senate

Gus Bilirakis
Member of Congress

Ileana Ros-Lehtinen
Member of Congress

Richard Nugent
Member of Congress

Curt Clawson
Member of Congress

RICK SCOTT
GOVERNOR

ELIZABETH DUDEK
SECRETARY

April 15, 2015

Victoria Wachino
Acting Director
Department of Health & Human Services
Centers for Medicare & Medicaid Services
7500 Security Boulevard, Mail Stop S2-26-12
Baltimore, MD 21244-1850

Dear Vikki:

Thank you for your letter of April 14, 2015 regarding the future of Florida's Low Income Pool (LIP). Your letter, for the first time, clearly links a continued LIP with Medicaid expansion. In NFIB v. Sebelius 132 S. Ct. 2566 (2012), the U.S. Supreme Court explicitly warned the federal government against attempting to coerce states into participating in Medicaid expansion – yet that appears to be exactly what the federal government is attempting here. Regardless, our Agency lacks the authority to expand the Medicaid program. As such, in our role we can only focus on LIP and its features going forward. As we agree upon a renewed LIP, we are also willing to grant the federal government flexibility, but cannot adopt the burden of oversight or additional financial participation in the expansion of Medicaid without a change in state law.

Over the past several months, our Agency has proposed multiple LIP models that address the concerns you raise in your letter. We will now promptly file a formal amendment to our 1115 waiver that will renew the LIP for two years, and that will address the concerns you have raised. It is worth noting that the LIP program is separate and apart from any decision to expand Medicaid. As even the Urban Institute acknowledges, almost $1.6 billion in uncompensated care would exist post expansion. Florida children's hospitals would receive virtually no benefit from an expansion but stand to lose $125 million without the renewal of the LIP program.

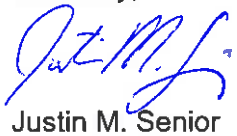
This year, 1.6 million Floridians purchased health plans in the federal exchange. Because of this, any Medicaid expansion in Florida would likely force hundreds of thousands of Floridians between 100% and 138% of the poverty line off of private coverage they have chosen and into a welfare and entitlement program. CMS should thoroughly review this new reality as it considers approaches to coverage expansions in Florida and around the country.

As you know, federal law requires the federal government to pay the full cost of those who currently fall in the so-called Medicaid "coverage gap" through calendar year 2016. The federal government is currently doing this for those between 100% and 138% of the poverty line. As we submit our renewed LIP model, please note that we are willing to give the federal government permission to cover all Floridians they identify as long as they 100% support their policies on the federal exchange. Under current law this permission cannot involve any additional state dollars from Florida. Also, the Floridians you choose to cover must have free reign to choose their health coverage on the exchange, just like those between 100% and 138% of the poverty line currently do, and the federal government must not restrict or interfere with their choices.

We hope the federal government receives our LIP amendment cordially, and recognizes it for the opportunity it presents for every Floridian to have access to quality, affordable private health insurance through the free market. Our Agency has worked hard to establish a strong and productive relationship with CMS over the past five years. We will continue our efforts to foster a strong relationship in the future.

Thank you for your time and consideration.

Sincerely,



Justin M. Senior
Deputy Secretary for Medicaid

From the office of
GOVERNOR
RICK SCOTT
@FLGovScott www.FLGov.com
COMMUNICATIONS OFFICE
PRESS RELEASE

FOR IMMEDIATE RELEASE
April 16, 2015

CONTACT: GOVERNOR'S PRESS OFFICE
(850) 717-9282
media@eog.myflorida.com

Governor Rick Scott to Take Legal Action Against Obama for Stopping Federal Funds to Force State Further Into Obamacare

TALLAHASSEE, Fla. – Today, Governor Rick Scott announced that he will take legal action against President Obama's federal healthcare agency for stopping Low Income Pool (LIP) healthcare funds to Florida in order to force the state to take Legislative action to expand Medicaid under Obamacare.

Governor Rick Scott said, "It is appalling that President Obama would cut off federal healthcare dollars to Florida in an effort to force our state further into Obamacare. The President's healthcare agency sent us a letter this week saying the 'the future of LIP' and 'Medicaid expansion are linked.' But, the Supreme Court has already ruled in NFIB v. Sebelius that the President cannot force Medicaid expansion on states. In fact, the Court ruled that the President could not use 'gun to the head' approaches in pushing for Medicaid expansion.

"Not only does President Obama's end to LIP funding in Florida violate the law by crossing the line into a coercion tactic for Obamacare, it also threatens poor families' access to the safety net healthcare services they need. The population in Florida served under the LIP program is different from the population that would be covered under any Medicaid expansion, as is well documented in a recent Urban Institute report that said Florida would still have $1.6 billion in uncompensated care costs with or without an expansion of Medicaid.

"We will fight to protect the healthcare of Floridians, and their right to be free from federal overreach. Our citizens already pay federal taxes that go into the federal LIP program. Now, President Obama has decided that the state must take on a larger Medicaid program, forcing our taxpayers to pay even more to government, before they get their own federal tax dollars back. This is outrageous, and specifically what the Supreme Court warned against.

"Our democracy is designed so that state governments can make the decision to not take on federal programs that will ultimately cost state taxpayers billions of dollars. We will not pass this cost on to our citizens in Florida and we will continue to fight for the federal LIP dollars our citizens already pay for with their federal taxes."

###

Florida Times Union: UF Health Jacksonville shouldn't worry yet about loss of LIP, lawmakers say

Posted: April 11, 2015 - 10:51pm

By TIA MITCHELL
tia.mitchell@jacksonville.com

TALLAHASSEE — If Florida doesn't find a way to continue a program that helps hospitals treat uninsured patients, UF Health Jacksonville could cease to exist, its administrators and community supporters say.

The hospital receives $95 million in so-called federal Low Income Pool money, a program that helps hospitals and health clinics pay for the services they provide to uninsured or under-insured patients. Without that money, roughly 20 percent of its annual budget, UF Health Jacksonville would run out of cash in six months and could face higher interest rates and problems with creditors, chief executive Russell Armistead said.

Baptist Health president and CEO Hugh Greene said Jacksonville's other hospitals lack back the beds and emergency capacity to make up for the loss, evoking an image of M*A*S*H-like tents set up outside emergency rooms to handle the overflow.

John Delaney, University of North Florida president and chairman of JAX Chamber, said quality doctors would transfer to hospitals in other cities and more than 5,000 people could lose their jobs. "Someone is going to die," he said.

So where is the panic among elected officials in Tallahassee?

There isn't any. Not yet.

Members of the House and Senate both say they are optimistic a solution can be reached.

UF Health Jacksonville treats more than 4,000 patients a year through its trauma center, the only place in the region that people with the most severe injuries can receive treatment. The hospital reported last year 602,602 patients arrived via ambulance, nearly 90,000 people came through the emergency room and 2,865 births occurred in the facility.

The impact goes beyond the hospital, its patients and employees.

If the hospital closes, patients would be spread throughout the other hospitals in the region, not only lengthening wait times and competition for beds but also increasing those hospitals' share of Medicaid patients and the lower reimbursements that come with them.

Contrary to Gov. Rick Scott's recent negative outlook on the current funding impasse, most lawmakers believe Florida and the federal Centers for Medicare and Medicaid Services continue to negotiate in good faith to renew LIP past its June expiration date.

They believe an agreement will be worked out, though they admit it might not come in enough time to finalize the state budget by May 1 when the legislative session is scheduled to end.

No one knows what the revised version of LIP will look like and whether the money coming to Florida may decrease from the currently allocated $2.2 billion.

That is what worries Armistead.

Of the state's 14 safety net hospitals, those that shoulder the bulk of charity health care and Medicaid costs, Armistead said UF Health Jacksonville is among the best run but also among the most cash-strapped.

Florida counties support local hospitals in a variety of ways. Broward County's hospital taxing districts collect nearly $164 million in taxes to supplement hospital care, and Miami-Dade's Jackson Memorial Hospital gets $228 million from a half-penny sales tax.

In comparison, Jacksonville writes a check: $26 million this year. There are no plans to boost that amount.

Delaney thinks nearby counties, like Clay and Nassau, should pitch in because UF Health Jacksonville has the region's trauma center. There aren't plans for that either.

The state sends these local dollars to Washington, where the complicated LIP formula allows the money to multiple and come back to be shared by hospitals and health clinics statewide. That is how UF Health Jacksonville's share increases to $95 million.

"If I lose some part of that money, I am losing money," Armistead said. "So the LIP program is critical to us."

Lawmakers have started to play the blame game on why the state has yet to work out an agreement.

The state has known since April 2014 that the LIP program would expire June 30 unless Florida worked out substantial changes to address Washington's concerns about where the money comes from and how it is allocated.

Florida has swapped ideas back and forth with the feds, but there is still no official state proposal in the form of an amendment or extension to the Medicaid waiver that authorizes the LIP program.

“It would be premature to submit a final amendment at this point in negotiations with CMS,” said Katherine Riviere, a spokeswoman for Agency for Health Care Administration Secretary Liz Dudek, in an email.

Earlier this month, Dudek put out a statement saying the federal government had suddenly walked away from its talks with Florida for two weeks. “For CMS to discontinue LIP negotiations now is troubling and could signal the abrupt end of this federal health care program in Florida,” she said.

The next day, it came to light that the chief CMS negotiator was on a pre-planned international vacation, scheduled to coincide with the Passover holiday. The federal government said it is still communicating with Florida and open to any ideas the state has.

Still, Gov. Rick Scott blasted the federal government for being disingenuous about wanting to collaborate. He said inaction on LIP caused him to change his mind on supporting Medicaid expansion.

The timing seemed unusual since two Senate Republicans had just returned from their own trip to Washington with a glowing evaluation of relations with CMS.

Sens. Garrett Richter, R-Naples, and Rene Garcia, R-Hialeah, were pushing the Senate’s own proposal to keep LIP going.

Some House Republicans did not approve, saying the pair should have left talks up to the governor’s office.

“I think that when you negotiate, you negotiate through one person and not multiple people,” House Speaker Steve Crisafulli said last week. “And I think it’s probably confused the process and weakened the conversations that were taking place at earlier times with the governor’s office.”

Senate President Andy Gardiner, and Orlando Republican who is vice president of a safety net hospital, said his colleagues weren’t trying to insert themselves into LIP negotiations but rather went to the source to get a better understanding of where talks stand.

“People want to try to point fingers; the reality is again we’ve known this for a year,” he said.

Although LIP and Medicaid expansion are two separate topics, one affects the other.

Medicaid expansion would get more Floridians health coverage, meaning there would be fewer uninsured people showing up in hospital ERs and health clinics. That would mean less need for LIP.

One wouldn’t completely replace the need for the other, Armistead said.

He expects UF Health Jacksonville to receive $30 million to $35 million if Medicaid expansion is approved in Florida, a long shot this year with the House and Senate taking opposing views.

“If they don’t fix the LIP program, it wouldn’t matter,” Armistead said. “If they couldn’t fix LIP and we got Medicaid expansion, I would lose $95 million and gain $35 million. I would still go broke.”

Rep. Travis Cummings, R-Orange Park, is considered one of the First Coast delegation’s health-care chiefs. He doesn’t think UF Health Jacksonville should ring the alarm yet. “I’m still optimistic, thinking that something will be worked out in terms of that continued federal partnership,” he said.

Cummings said cooler heads should prevail among elected officials and a LIP deal be worked out, though perhaps later in the year than many people would like.

Although the LIP program expires June 30, the money actually wouldn’t run out until Oct. 1 when the federal fiscal year begins, health experts say. That gives Florida a few months of wiggle room.

If that final agreement factors out to a loss in money for Jacksonville’s safety net hospital, the legislative delegation will consider its options, Cummings said. The House has said it will not use general fund dollars to make up any LIP losses, but he believes a special case could be made.

“If there is any one that really has a significant case and it’s valid, it’s proven, it’s not just rhetoric, we know that,” he said.

QUOTE OF THE DAY

"However many holy words you read, however many you speak, what good will they do you if you do not act on upon them?" Buddha

SUNDAY, APRIL 19, 2015 BRADENTON.COM

Editorial Board: Bob Turner, President & Publisher **Christopher Wille,** Editorial Page Editor **Joan Krauter,** Executive Editor

House reckless, Senate sensible on health funding

BRADENTON HERALD EDITORIAL | Chambers dug in on Medicaid expansion

The Republican versus Republican wrestling match over health care funding is intensifying as the deadline in the Legislature's regular session nears. This high stakes game of chicken will likely result in a special session, though the end game is difficult to imagine given the current state of rigid.

Last week, the war of words between the Senate president and House speaker hardened. The House keeps digging in deeper and deeper on a fiscally reckless position and partisan opposition to accepting billions in federal aid connected to accepting some form of Medicaid expansion.

This is a disservice to the 800,000 working poor who cannot afford health insurance but don't qualify for Medicaid or Affordable Care Act policies. They are trapped in the coverage gap unless Florida embraces the higher income level limits for ACA policies set in Medicaid expansion.

This is also a disservice to the business and health care communities, especially Florida's safety-net hospitals — which all stand to suffer the financial consequences of the House's irresponsible position.

The state's premier business organizations, medical providers, consumer advocacy groups and others continue to issue a clarion call for accepting the federal aid, citing the creation of thousands of jobs and huge savings to the state budget. Representatives of those stakeholders descended on the Florida Capitol to express those views.

Influential business organizations also made a new case for the federal aid, predicting Florida companies would face $253 million in tax penalties for failing to provide health policies for full-time employees who fall in the coverage gap.

But the House remains stuck on no — in direct opposition to conservative ideals covering job creation and fiscal discipline. The Senate plan to accept the federal aid embraces those and another one, a private market solution instead of a federal program — which Medicaid officials are willing to consider. Ten states with Republican governors have taken Medicaid expansion money, overcoming stubborn partisan opposition to anything connected to Obamacare.

Just days ago, the federal Centers for Medicare & Medicaid Services made it abundantly clear that Low Income Pool payments for charity care is inexorably tied to Medicaid expansion.

But Florida's House leadership and Gov. Rick Scott reacted with surprise.

Scott went so far as to include LIP money in his budget outline, assuming CMS would grant Florida a second deadline extension even though the state did not expand Medicaid.

House Speaker Steve Crisafulli, R-Merritt Island, stated Wednesday that CMS never linked the two programs, a point hotly disputed in the Senate.

Without LIP, which expires in June, the House stands to blow a $1.3 billion hole in the 2015-2016 budget and cripple safety-net hospitals. Does the House expect those medical facilities to simply absorb the losses for uncompensated care?

The chief executive of UF Health Jacksonville, which is set to receive $95 million in LIP funding this year, recently told the Florida Times-Union Editorial Board the hospital would close if those funds disappear — insisting he wasn't being alarmist.

In a memo to all senators last week, Senate President Andy Gardiner, R-Orlando, provided evidence and backed the Jacksonville hospital position: "On average, Medicaid payments to Florida hospitals at current levels equate to only 49 percent of costs." Furthermore, with the elimination of $1.3 billion in LIP payments, "Many hospitals will be unable to sustain a cut this large."

On Thursday, Crisafulli upped the ante by stating the House would not allocate state funds to cover the loss of federal LIP money regardless of the possible ramifications — hospital closures.

The stakes couldn't be higher, but the state of the House-Senate acrimony gives little sign of simmering down. With the session two weeks away from its May 1 finish, the two chambers stand $4 billion apart on the budget.

The Senate plan to accept $2 billion in federal funds so low-income residents can obtain private health care coverage is the only sensible, responsible and pragmatic way forward. As a bonus, it would retrieve Florida income tax money taxpayers sent to the IRS.

Gardiner expressed an openness last week to discuss alternatives with the governor and House for a "comprehensive Florida solution."

Something's got to give. Currently, the House has no solution. Good governance requires one.

THE INDEPENDENT VOICE OF VOLUSIA & FLAGLER COUNTIES

OPINION &

SUNDAY, APRIL 19, 2015

House must abandon its brinkmanship

NJ OUR VIEW

With two weeks left in this year's regular session, the Florida Legislature is not any closer to resolving an intra-party dispute over Medicaid and funding indigent health care.

In fact, the two sides are further apart than they've ever been, and time is running out on reaching an agreement.

The federal government has notified the state that in June it will stop funding its half of the $2.2 billion Low-Income Pool, which helps cover the costs of charity care at hospitals across the state. Losing that money would deal a severe blow to local hospitals — Halifax Health, which provides about $50 million in uncompensated care and community health programs annually, would forfeit $14 million, and Bert Fish Medical Center would be denied about $2 million.

From the start, the Florida House and Senate, both controlled by Republican majorities, have disagreed on what to do. To maintain a LIP funding stream and avert a crisis, the Senate has proposed accepting additional Medicaid funds from Washington and using them to create the Florida Health Insurance Affordability Exchange. FHIX would provide private-policy health coverage for the 800,000 Floridians not already covered by Medicaid. Able-bodied recipients would be required to pay modest premiums and be employed, looking for work or enrolled in school. Proponents argue this would inject some market forces into the health insurance system.

The House, though, has refused even to consider the Senate plan, maintaining that it merely applies lipstick to a Medicaid pig. Most House Republicans oppose Medicaid expansion of any type on the grounds that it's a component of the reviled Obamacare, that the program doesn't actually provide quality health care, and that the feds can't be trusted to keep their promise to fund 100 percent of the expansion the first three years and 90 percent of it thereafter.

Two weeks ago, Gov. Rick Scott said he was reversing his previous (tepid) support for expanded Medicaid and criticized the Senate plan for undermining the state's negotiations with Washington to continue LIP funding. Then last Thursday, the governor announced that his office would sue the Obama administration for making LIP's future contingent on the state expanding Medicaid.

Scott and the House Republicans are digging in for trench warfare when they should be exploring ways to cover the $1.3 billion LIP shortfall. Not only have they not developed an alternative to the Senate plan, they haven't even budgeted a contingency to assist hospitals losing LIP money. Of course, if the state made up the difference, that would necessitate cuts in other spending — and/or reductions in the $690 million package of tax cuts the House has passed.

The Medicaid split has caused the House and Senate spending plans to be more than $4 billion apart, and with neither side budging, it's increasingly likely that the Legislature will fail to pass a reconciled budget by the May 1 deadline. Lawmakers then will be forced to hold a special session.

This is pure brinkmanship by the House — staring down not only the Senate but also the Obama administration, and expecting one or both to blink. Its dangerous game of obstinacy is sowing political chaos and threatens economic harm. The cost of doing nothing: Hospitals could be forced to cut personnel and services; taxes and insurance premiums could rise to cover shortfalls at safety-net hospitals.

We call on this area's legislative delegation to help break the impasse. Reps. David Santiago, Fred Costello and Paul Renner — all Republicans — should push the House leadership to work toward a solution that rescues area hospitals and avoids a train wreck.

opinion

Mark Nusbaum, President
Frank M. Denton, Editor
Michael P. Clark,
Editorial Page Editor

Editorial board: Those at left, Bobby Martin, editorial writers Roger Brown and Paula Horvath; citizen members Lois Chepenik, The Rev. Georgia Gaston, Samuel Hart, Bruce Musser and Sichao Ni.

A VERSE FOR TODAY
"If a kingdom is divided against itself, that kingdom cannot stand."
Mark 3:24

Tell Scott, speaker to work for citizens

Florida's leaders are playing politics with health care.

Hospitals are paying millions in charity care.

Employees are paying hidden taxes on their premiums of about $1,500 a year to provide that charity care.

But Gov. Rick Scott — aka "Mr. Jobs" — is willing to turn down 71,000 jobs in the first three years following Medicaid expansion.

He's playing politics with the state's economy.

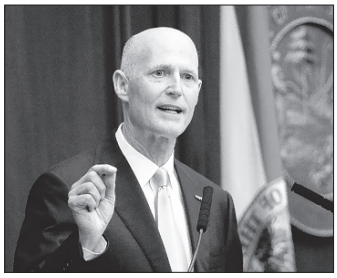
Scott — aka "Mr. Business" — is turning down the proposed Medicaid expansion plans supported by the Florida Chamber of Commerce and the Associated Industries of Florida. In the first three years of Medicaid expansion, Florida could realize an $8.8 billion increase in economic activity.

Why would he turn down business expansion? Politics.

At stake is a program to pay for charity health care that the federal government always intended to be temporary, the Low Income Pool.

The federal government didn't care for the way Florida was managing those funds. As Vikki Wachino, acting director of the Centers for Medicare and Medicaid Services wrote to Florida's health care administrators, Florida's program suffered from a lack of transparency, an overreliance on supplemental payments and too little focus on Medicaid patients.

The federal government presumed that Medicaid expansion would lessen the need for this Low Income Pool, which is why the two programs are linked.



Associated Press

Tell Florida Gov. Rick Scott you expect him to work with the federal government to protect the health care of Florida's citizens, expand business and create jobs.
Website contact: tinyurl.com/4lgyzz2
Phone: (850) 717-9337

Associated Press

Tell House Speaker Steve Crisafulli, R-Merritt Island, that he should work with the federal government to expand health care for Florida's citizens.
Email: Steve.Crisafulli@myfloridahouse.gov
Phone: (850) 717-5051

Scott and House Speaker Steve Crisafulli are righteously indignant over that linkage. How, they fume, could the federal government dare do that?

Well, because it could. And it did.

Other states with Republican governors and legislatures have been able to accept Medicaid expansion funds in ways that reflect the culture of their states.

And Wachino confirmed that she would be willing to work with Florida.

"We are encouraged by the state Senate's interest in expanding Medicaid to low-income adults in the state to cover between 870,000 and 1 million vulnerable Floridians," she wrote, adding that CMS "will monitor the progress of this legislation closely and, if enacted, looks forward to working with the state on the substance of the state's expansion approach."

That hardly sounds like stubbornness.

But the intransigence of Scott and Crisafulli knows no end. Scott has promised to sue the federal government, demanding the Low Income Pool money. Crisafulli has said the state won't fill the funding gap if Low Income Pool funds are lost, meaning a health care disaster would take place in Florida.

Anyone who cares about people, who cares about jobs, who cares about business, must become engaged.

The local legislative delegation should press state leaders to engage with the federal government and resolve this standoff.

Citizens should call or write the two main roadblocks, Scott and Crisafulli, as well as members of the delegation.

Contacts are included on this page. Wachino's letter is on the opposite page.

If necessary, the Legislature should meet in special session to make sure funding for Florida's safety-net hospitals is maintained. But even more important, state leaders must follow the advice of major business groups and expand Medicaid. That will ensure continuation of the Low Income Pool funds for hospitals like UF Health Jacksonville.

Jobs are at stake. Business expansion is at stake. Health is at stake.

Lives are at stake.

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Opinion

EDITORIAL

Stop gouging us and cover the poor

Because Legislature rejects Obamacare, you pay twice for uninsured

It's bad enough that you pay for your own health insurance while also covering the unpaid hospital bills for the poor. In Florida, the pain is worse than that.

By rejecting an expansion of Medicaid, the House of Representatives is standing guard over a broken system that forces you to pay *twice* to care for the working poor:

» Your next hospital visit will cost $1,700-$2,300 more for you and your health insurer to cover the costs of treating the uninsured. Hospital companies call that "cost shifting." The Florida Chamber of Commerce calls it a "hidden tax" of 8 percent.

» Your federal taxes already pay to solve that problem under the Affordable Care Act by expanding Medicaid coverage for about 800,000 uninsured people in Florida. But because the Legislature has turned away $2.8 billion a year for that purpose, your tax dollars instead care for the poor in California, New York and other states — while the cost-shifting continues in the private sector here.

This situation doesn't just deny scores of low-income Florida workers a chance to get preventative care or to visit doctors' offices and urgent-care clinics instead of waiting to go to high-cost emergency rooms.

Plain and simple, it is a rip-off for patients, taxpayers and employers.

We urge House leaders including Speaker Steve Crisafulli, R-Merritt Island, and Ritch Workman, R-Melbourne, to stop the gouging. With time running out in the Legislative session, they should at least open negotiations with the Senate on a plan it passed to accept Medicaid dollars and enroll the poor in privatized managed-care plans.

And if you are tired of paying twice, we urge you to call or email your state representative to say so.

It could get worse

Failure to act in Tallahassee could significantly worsen the shift of costs — from the uninsured, to hospitals, to you — as the feds phase-out an older $2 billion fund from Medicaid that pays for some indigent care. The expansion of Medicaid under Obamacare was meant to supplant it. Gov. Rick Scott has sued to try to keep the money, even as he condemns federal involvement in health care.

To be sure, we understand the reluctance by Crisafulli and other Republicans to enroll those 800,000 low-income people in traditional Medicaid. That program has been a nightmare of red tape, ballooning state costs and few choices for enrollees.

"It's not about the money, it's about the product," Crisafulli said at the start of the Legislative session.

But Florida isn't stuck with traditional Medicaid. It spent years developing a privatized and successful alternative that contained costs and curbed fraud. Now it's the heart of the Senate plan backed by Senate President Andy Gardiner, R-Orlando, who represents north Brevard.

AP

Rep. Steve Crisafulli

AP

Sen. Andy Gardiner

LEADERSHIP CONTACTS

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Failure to act in Tallahassee could significantly worsen the shift of costs — from the uninsured, to hospitals, to you — as the feds phase-out an older $2 billion fund from Medicaid ...

Under that pilot program — advanced by Gov. Jeb Bush for Broward, Duval and several rural counties —the state enrolled nearly 3 million patients in their choice of managed care plans, then used Medicaid dollars to pay their premiums instead of paying providers directly.

Per-patient spending stayed flat. State taxpayers saved $118 million per year. Patient health and satisfaction improved, surveys found. HMOs assumed responsibility for preventing fraud.

The conservative Heritage Foundation called it "one of the most comprehensive, innovative and significant Medicaid reforms of the past decade." Applied statewide, the Florida could save $900 million per year, Heritage found.

Build on success

Now, the Legislature should expand its creation, for everyone's sake. The U.S. Department of Health and Human Services has blessed it. The Chamber of Commerce and powerful hospital lobby have pledged their support.

And its potential for cost containment should reassure fiscal conservatives who fear that a gradual, 10 percent reduction in federal funding will somehow leave Florida with a much bigger share of costs.

That could be a rip-off for the state budget, conservative lawmakers have said.

But their refusal to act on a Medicaid expansion has perpetuated another rip-off for patients, employers and federal taxpayers — and could soon make it worse.

THE NEWS-PRESS
VIEWS

Tell us what you think. Include your name, address and daytime phone number. Letters must be 200 words or less. Op-ed pieces must be 600 words or less. All submissions will be verified and may be edited. **Mail:** P.O. Box 10, Fort Myers, FL 33902 **Email:** mailbag@news-press.com **Phone:** 239-335-0390 **Fax:** 239-334-0708

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EDITORIAL

WE DESERVE MEDICAID EXPANSION FUNDS

Florida organizations shouldn't have to pay for Legislature's fight

The Florida Legislature and Gov. Rick Scott seem more interested in digging their collective heels into the self-induced mayhem that is Medicaid expansion than coming up with a workable plan that takes the weight off Florida taxpayers, reduces the burden on hospital systems and gives the state's uninsured some relief.

This has become a political war – with no end or unified plan in sight – and we suffer because of it. The federal government is sitting on $50 billion of our money that could go to expanding Medicaid to about 800,000 of the uninsured over the next 10 years. That money provides much-needed relief to heath care operations, like the Lee Memorial Health Systems, currently subsidizing those without health insurance and reduce the risk of insurance premiums rising and health programs sinking.

The News-Press, along with other media groups throughout the state, are urging Legislators today to find a pathway to agreement and take the money.

Here is the Medicaid expansion scorecard as we know it today, but it changes by the minute and remains a disjointed mess of political and flip-flopping wills:

» Gov. Rick Scott, who once supported accepting the $50 billion, then shifted to chastising the federal government for imposing a deadline this year to pull $2.2 billion from the Low Income Pool, which also serves thousands of uninsured, to suing the federal government on Thursday for linking an extension of that pool to whether or not the state accepts about $2.8 billion annually in Medicaid expansion.

The Senate has approved a plan that would use the $2.8 billion in expansion funding to help low income Floridians purchase private health

See Money, Page 38A

Inside

State Rep. Matt Caldwell and state Sen. Garrett Richter present opposing views.
Page 35A

STAFF ILLUSTRATION BY MERRY ECCLES

OPINION

JOHN S. KNIGHT (1894-1981) ALEXANDRA VILLOCH, **PUBLISHER** | AMINDA MARQUES GONZALEZ, **EXECUTIVE EDITOR** | NANCY ANGRUM, **EDITORIAL PAGE EDITOR** JAMES L. KNIGHT (1909-1991)

MIAMI HERALD | EDITORIAL

Litigation isn't leadership

OUR OPINION: Gov. Scott goes to court with a dishonest argument over Medicaid expansion

Don't be fooled by Gov. Rick Scott's phony lawsuit against the federal government over Medicaid expansion. It's a politically inspired grandstand play that utterly fails to protect the interests of the people of Florida.

Ostensibly, the lawsuit is about the end of a federal program called LIP (Low Income Pool) that partially reimburses hospitals that care for indigent and low-income uninsured patients. In effect, it has been superseded by Obamacare, which offers the states federal funding to expand Medicaid.

The problem is that the state's Republican leaders want the $2.2 billion that LIP provides, but they reject Medicaid expansion — for purely political reasons. Hence Mr. Scott's lawsuit, which defies logic: It demands that the federal government offer Florida one pot of money even while the state rejects another.

Memo to Mr. Scott: The Supreme Court said that states don't have to accept Medicaid expansion as part of the Affordable Care Act, but it never said rejection was a *good* idea. It ruled that states can opt out of the program — and the money that comes with it — leaving them to face the consequences.

In budgetary terms, accepting federal funding to expand Medicaid would be the smart decision. In human terms, it makes even more sense: As reporter Dan Chang explains in an in-depth report that begins today in the Herald, an estimated 850,000 uninsured Floridians would be newly eligible for coverage under a Florida Senate plan that accepts federal funds to establish a state-run private insurance exchange for low-income residents.

The stumbling block is that Mr. Scott and like-minded Republicans in the House say they don't trust the feds to keep their promise to pay for covering more Floridians. They cite withdrawal of the LIP money as both a form of coercion and as proof that the government can't be trusted to keep its word.

This is a fundamentally dishonest argument.

In the first place, LIP is a discretionary program, a contract with the state that has expired. The Affordable Care Act, in contrast, provides money guaranteed *by law*. Second, state officials weren't blindsided. They've known for years that LIP money would disappear. It was *always* tied to Medicaid expansion, for obvious reasons.

Other states are eagerly taking the money. Most recently, Indiana, a red state, became the 28th state — and the 10th with a Republican governor — to receive approval for an expansion plan. Why can't Florida do the same?

The absence of healthcare coverage is most acute in Miami-Dade County, as today's stories in the Herald explain in painful detail. Yet some Dade legislators — like Rep. Michael Bileca, a former member of the Jackson Health System board of trustees, and Erik Fresen, now in his last term — are not on board with Medicaid expansion. What a shame.

Meanwhile, the bad choices made by state leaders have wreaked havoc on the budget. It faces a $1.3-billion shortfall with the loss of LIP funding. Yet even though this was known to everyone, Mr. Scott irresponsibly presented a budget that ignored this crucial reality.

The Senate plan offers a way out of this budget mess by accepting Medicaid money, which would make the federal government more amenable to negotiate a new LIP contract to cover costs not met by expansion, but the House has refused to go along.

This is where a strong governor would step in and bring both sides together to craft a compromise. Instead, Gov. Scott has chosen litigation over leadership. His disappointing performance won't resolve the budget crisis, and it will do nothing to help the 850,000 Floridians who would benefit by Medicaid expansion.

THE READERS' FORUM

Florida Senate's FHIX is an affordable healthcare option

A recent United Way study reported that 45 percent of Florida's working families struggle to make ends meet and to afford the basic necessities such as housing, food, transportation, childcare and healthcare. In Miami-Dade, the number is as high as 50 percent. For these hardworking families a single crisis, often a healthcare emergency, can result in financial chaos.

The fact is, Florida has among the highest rates and numbers of people without health-insurance coverage in the nation, according to the Kaiser Family Foundation. Miami-Dade County ranks first in the state with 35 percent of residents uninsured. Three out of four uninsured Floridians work full or part time and do not have access to affordable health insurance through their employers. They are veterans, moms and dads and young people just entering the workforce, who earn less than $16,000 a year.

When our residents don't have health insurance and can't afford care, they avoid going to the doctor and usually wait until they are forced to go to the hospital. This is not an issue that just affects those without health insurance. Lack of coverage has impacts on our community, businesses and hospitals, as well as on the individuals and families who are paying monthly health-insurance premiums.

Finding a way to get more people covered is a community responsibility. At United Way, we focus on education, financial stability and health as the building blocks of our community's well-being. Access to affordable healthcare is central to this vision. That is why in November 2014 the United Way of Miami-Dade took a position in support of extending healthcare coverage to uninsured Florida residents.

The state Senate's Florida Health Insurance Exchange (FHIX), developed and championed by Hialeah's State Sen. Rene Garcia, who chairs the Appropriations Subcommittee on Health and Human Services, under the leadership of Senate President Andy Gardiner, does just that.

The Senate's proposed FHIX would use more than $50 billion in available funds to extend healthcare coverage to approximately 800,000 low-income, working Floridians through a private option plan that promotes personal responsibility and healthy lifestyles. The cost of the program is already paid through taxes on health insurers and medical equipment, and reductions in Medicare and Medicaid payments to hospitals.

But time is running out. We encourage the Florida House to use the remaining days of the 2015 Legislative Session to pass the Senate's FHIX plan — a common-sense solution that's in the best interest of South Florida and all Floridians.

— Harve A. Mogul, president and CEO, United Way of Miami-Dade
Marielena Villamil, board member, United Way of Miami-Dade

Opinion

Orlando Sentinel
NANCY A. MEYER Publisher and CEO
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WHAT WE THINK

Listen to reason on health care

Florida House leaders are dead set against a bipartisan Senate plan to provide private health insurance to 800,000 working poor Floridians with billions of federal dollars — so dead set against it that they've thrown this year's legislative session into chaos.

Leaders in both chambers conceded this week that the deadlock would prevent them from agreeing on a budget, their lone constitutional obligation, before the regular session ends.

Meanwhile, Gov. Rick Scott is so dead set against the same plan that he actually announced Thursday that he'll sue the federal government for trying to "force" Florida into accepting all those billions to expand coverage.

Welcome to Tallahassee, where reason often gets shouted down by politics.

The federal dollars that the Senate plan would utilize were authorized under the Affordable Care Act, and that's the rub for the House and the governor. They'll turn the money down to say hell no to Obamacare, even if it costs 800,000 of their constituents without health care a shot at insurance. How noble of them.

Here's the latest cover story for the House and the governor on why they oppose the Senate plan: The feds can't be trusted to honor their funding commitment because they're ending another program, called LIP, that has reimbursed hospitals in the state for charity care. Which is baloney.

Scott's lawsuit will accuse the Obama administration of ending LIP to force Florida to expand coverage under the ACA. In fact, federal officials chose to continue LIP funding for Florida beyond its original expiration date a year ago, but warned the state at the time that it wouldn't get another extension — at least not without changes in the program.

However, if the federal government were to renege on the ACA funding, the Senate plan stipulates that the expansion of health-care coverage it finances in Florida would automatically end. State taxpayers would not be left holding the bag.

House leaders and Scott are well aware of this fact, but it's not convenient for their cover story.

The ACA gives states the option of using federal dollars to expand health coverage to their uninsured residents who make too much to qualify for Medicaid but too little to be eligible for federal health-insurance subsidies. In Florida, that's at least 800,000 people.

When those Floridians get sick or hurt, they often end up in hospital emergency rooms. Some of the cost of that care gets shifted to businesses that pay for insurance, making them less competitive, and families with coverage, squeezing their budgets.

So to those who object to paying anything to provide care to the uninsured, we've got news: You're already paying, but not as efficiently as you would if they had insurance.

The federal offer under the ACA was to pay 100 percent of the cost for states of expanding health coverage for three years, 2014-16, and no less than 90 percent in later years. Florida would have received $15 billion from Washington during that three-year period to expand coverage to working poor Floridians if lawmakers had passed another bipartisan Senate plan in 2013, but the House also balked two years ago.

Most other states, including several led by Republicans, have said yes to the offer. How has it worked out?

Consider Kentucky. It expanded coverage starting in 2014, and 375,000 Kentuckians have signed up. A study released in February from Deloitte Consulting LLC and the University of Louisville's Urban Studies Institute found that the expansion will add $30 billion and 40,000 jobs to the state's economy through 2021.

Perhaps even more notable, the additional costs for Kentucky in later years, as federal funding ratchets back, will be more than covered by savings for state and local governments in other health-care programs and additional taxes generated by the expansion. That means Kentucky taxpayers will end up ahead, not behind, by expanding health care.

Scott, in a statement attempting to justify his lawsuit, said an end to LIP funding by the Obama administration "threatens poor families' access to the safety net health-care services they need." Oh, how ironic. If the governor were truly committed to providing health care to poor families, he wouldn't be standing in the way of Florida accepting billions more for that purpose. He would have made sure two years ago that Florida said yes to expanding health coverage.

It's not too late for him, and House leaders, to listen to reason, and change their minds.

OPINION: THE DEBATE STARTS HERE

OUR VIEWS
HEALTH CARE FUNDING

Health care ego clash no help to state, its people

One of the more disturbing scenes in American cinema is the chicken run race from the 1955 classic "Rebel Without a Cause." This past week, Florida's Medicaid/budget debacle looked a lot like that scene.

Gov. Rick Scott is Buzz, adjusting his leather jacket, bent out of shape over the latest health-funding knife fight with the Obama administration: "She signals. We head for the edge. And the first man who jumps is a chicken. All right?"

It's Senate President Andy Gardiner in the Medicaid expansion car, looking like James Dean, coolly checking to be sure that the escape door is working. Gardiner's the one with the plan; Scott's the one with the hubris, threatening to sue the feds for tying safety-net hospital funding to Medicaid expansion. House Speaker Steve Crisafulli is right there with him. Will Scott and Crisafulli take Florida over a cliff? It's looking that way.

The Senate has advanced a compromise called FHIX that would give Florida a unique twist on Medicaid expansion. It would allow more low-income Floridians access to Medicaid-managed care plans, and it would create a state-run, online health insurance exchange.

Florida businesses are paying an extra 8 percent a year in insurance premiums to absorb the cost of the uninsured.

We've said it before: It's nobody's perfect solution, but it's a compromise that leaves Floridians in a much safer position.

If it becomes law, Florida's looming health and budget crises would be resolved:

■ Safety-net hospitals would be assured that their low-income patients had coverage, and so they wouldn't need a massive state bailout or face layoffs and closures. As it stands, hospitals are facing possible losses of up to $2 billion in expiring Low Income Pool (LIP) funding for uninsured people, with nothing to offset that hit.

■ Budget uncertainty would be settled, allowing Scott to have his much-touted tax cuts and education spending increases. That's because the federal government would send up to $5 billion into the state to cover the newly insured.

■ Real people would be helped. An estimated 800,000 unfortunate low-income Floridians are in the health coverage gap. They don't qualify for Medicaid or Obamacare subsidies. They have few options but to show up at the emergency room.

■ Businesses would be helped. Forcing the uninsured to use emergency rooms is just about the worst, most costly possible way to deliver health care, and those costs inevitably get shifted to those who can pay.

Mark Wilson, president of the Florida Chamber of Commerce, met with The Palm Beach Post editorial board last week. He said businesses have been told they are paying an extra 8 percent a year in insurance premiums to absorb the uninsured cost shift right now. He figures it could rise to 20 percent if LIP goes away, as the federal government has promised. The chamber is proposing FHIX tweaks that would require the 8 percent cost shift be returned to businesses in the form of lower hospital prices. "That would pick up a lot of support from a lot of people," he said.

Wilson said the chamber also wants an aggressive push to lower health-care costs by fighting Medicaid fraud, solving medical malpractice, expanding telemedicine and increasing the scope of practice of nurse practitioners. Finally, the chamber wants a commitment to capping how much of the state budget can go to Medicaid.

"Ten years ago, Medicaid was 21 percent of the state budget," Wilson said. "Today it's 29.2 percent. It's continuing to go up. What we have said is, let's cap Medicaid expenditures at 32 percent of the state budget" to force more attention on lowering costs.

What's the alternative to passing FHIX? Senate budget chief Tom Lee, a Republican from Brandon, said it's something "nobody wanted."

Driving off a cliff.

"The (Senate) president doesn't get a health-care solution. The governor doesn't get his tax cuts. And we put $2 billion in reserves and wait and see what the federal government says," Lee told the News Service of Florida.

There's so much drama and ego wrapped up in this battle over federal health care funding that the point of it all seems to have been lost. Real people need health care. Employers need cost relief. Hospitals need certainty. What no one needs is pointless ego trips. Scott is looking more and more like a rebel without a cause.

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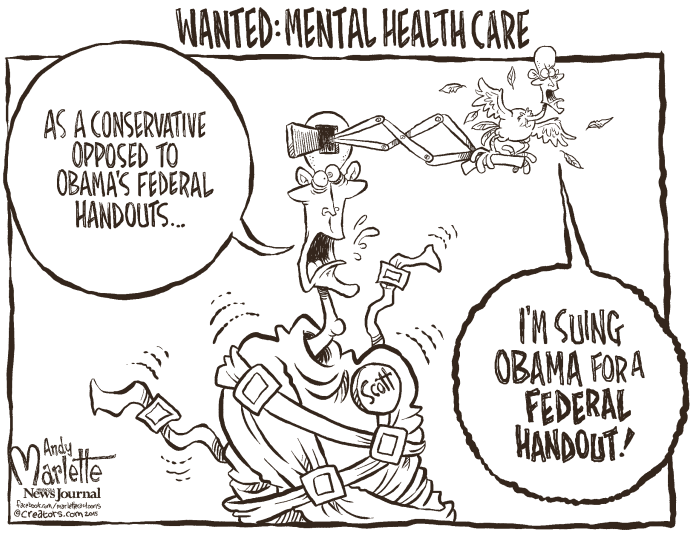

EDITORIAL

Scott is wrong on Medicaid

Gov. Rick Scott won his first term in office by demonizing President Obama and denouncing handouts and spending by the federal government. Now in his second term, Gov. Scott is suing the Obama administration for not handing over more than $1 billion in federal money.

Welcome to Florida: the mentally unstable state.

This is what our battle over Medicaid expansion has become. Our governor will now spend your tax dollars in order to sue the president in opposition to an issue that he once supported. If it wasn't so stupid, wasteful and tragic, it might be funny.

First of all, it should be noted that the conservative, Republican-dominated state Senate has come up with a private-sector-based plan for Medicaid expansion money. This is the Florida Senate of Don Gaetz. They're not playing by Obamacare's rules. They've made up their own rules and the federal government is poised to go along.

It should further be noted that a majority of Floridians support this expansion, as do hospitals, state medical groups, business interests and the Chamber of Commerce – hardly a gaggle of left-wing radicals.

Simply put, Medicaid expansion means that the federal government will give us back roughly $15 billion of our tax dollars through 2016. Floridians have already surrendered these taxes to the federal government. If we don't take them back, someone else will.

Like Obamacare or hate it, there is no fiscal rationale for refusing to take back our own money. Yet the Florida House has stubbornly dug in to oppose it.

Worse yet, the governor, who once supported Medicaid expansion is now against it. Not only is he against it, he's suing the Obama administration for more than $1 billion in federal Low Income Pool funds, a program that essentially gives charity money to hospitals for treating the poor.

The state has known for several years that the program was expiring in June. For the governor to pretend otherwise is blatant dishonesty.

Furthermore, Medicaid expansion would go beyond charity money. It would go for purchasing private-sector insurance for the same poor Floridians whose hospital bills are subsidized by the LIP funds. Is either solution perfect? No. But isn't a private-sector-based solution more palatable to ideological conservatives than a direct handout?

Essentially, the governor and House Republicans have fallen back on the bizarre logic that the federal government cannot be trusted so therefore, we should not take our own tax dollars from them to expand Medicaid. At the same time, however, they apparently believe the federal government *should* be trusted to provide a handout of $1 billion in LIP funds.

The logic in this debate is flawed.

"It is appalling that President Obama would cut off federal health care dollars to Florida in an effort to force our state further into Obamacare," Scott said on his decision to sue the president.

Governor, with all due respect, you are the one blocking federal health-care dollars to Florida. This is not about your perverse fantasy of battling Obamacare. This is about a solution created by smart, Republican state senators to work around Obamacare, which, like it or not, is the law of the land. This is about taking our fortunes back from the federal government. This is about the wellness and the jobs that can be created with those fortunes. This is about state control and giving a homegrown solution created by Florida lawmakers a chance to work for Floridians – more than 800,000 low-income Floridians, for whom the economy "is not working." This is about doing the right thing for our economy and citizens who are most vulnerable.

This is not about you, Governor.

Floridians don't want to reject the Senate's plan. You do. Floridians don't want to see (or pay for) an extended legislative session. You do. And Floridians don't want to foot the legal bill for another long and fruitless court battle against the federal government. That is all you.

And it's disgraceful.

The Florida Senate is to be commended. Senators have grappled with this issue intellectually and legislatively and developed a meaningful solution that can work for Florida. They've faithfully done the job that voters elected them to do. They have stepped up, solved a problem and done their duty to taxpayers.

Gov. Scott and the House now need to do theirs — by getting out of the way.

More on the issue

See comments to our Facebook page below and viewpoints from State Sen. Greg Evers and state Reps. Mike Hill and Doug Broxson on Page 8F. State Rep. Clay Ingram was invited to participate but declined.

MEDICAID DEBATE

The state House and Senate are divided over whether to provide health care coverage to uninsured Floridians by using billions available under the federal Affordable Care Act, "Obamacare."

We asked our readers to share their opinions on whether or not to use those funds. Here's some of what they had to say on our Facebook page, facebook.com/pnjnews:

CATHY TWODAT CLARKSON: "The ones on Medicaid, yes. The ones who work and were told they could keep their insurance, bring the premiums down to where they were before Obamacare."

JOHN JUSTIN: "Mein Scott said no."

PENNY HILTZMAN: "Yes. Those billions are being spent in other states. The money is there. We should take it and cover the poorest people. Why is that so hard to understand? The red states have the highest number of uninsured because they hate Obama more than they care about their people."

ELLEN DALY: "We all pay for the health care of individuals who show up at the ER without any coverage. All those costs are passed on to everyone. An fyi: Many Medicaid recipients are the elderly and children! Anyone wants stats on that?"

SUSAN REHNBERG ULLOA: "No! No! No! Florida had a good plan for covering the uninsured until Obama stopped Federal funding to Florida to promote his Unaffordable Care Act!"

JOHNNY OWEN: "As long as we have that crook for a governor, the poor and the working class will continue to suffer."

JASMINE CARABALLO: "Some jobs don't even offer benefits to their employees who work full time. It's awful that some have to suffer because they can't afford Obamacare."

PAT DWYER: "I say we save also by removing state representatives and senators' health care plans. It is a great one that will save millions if terminated.They only work part-time anyway."

PATTI MAXWELL: "Why anyone would believe a word coming out of the mouth of our medicare fraud governor is beyond me. Governor Scott made a unilateral decision, with the help of our conservative supreme court, to opt out of the crucial provision to expand medicaid when he had the opportunity. By expanding Medicaid, I mean making it available to those individuals who were at 133 percent below the federal poverty level. As it stands now, Medicaid is pretty much only available to children, pregnant women, parents caring for children at home and people with disabilities. Expanding Medicaid would have lifted those restrictions so that it was based on where individuals fell within the poverty line. Scott then changed his mind and decided to expand Medicaid and the Senate agreed, but it hit a dead end with the GOP-led house. Now we have nearly a million uninsured Floridians. Rick Scott is by far the worst governor in Florida's history. How that crook got elected once, let alone twice is a mystery. Will someone explain to me how you look at someone and tell them they do not deserve health coverage because they're poor? Then explain to me how you live with yourself after doing so?"

LIPO DAVIS: "I think Government-run health care is a very bad idea. The best thing to do is to go back to a free market, devoid of federal government intrusion."

KATHLEEN REED: "Help the old, the weak and the poor."

BRANDY DAILEY RODGERS: "I find it ironic that our dear old governor has such a huge problem expanding Medicaid, when he made the bulk of his millions off of the Medicaid/Medicare program. Go figure. Not everyone who genuinely needs Medicaid is 'lazy' or 'milking the system.' There are a lot of hard-working people who have to ask themselves, do I purchase health insurance or do I buy enough groceries? Do I purchase health insurance or do I pay for the childcare that allows me to work? Those are questions that should never be pondered by anyone."

PENNY HILTZMAN: "Workers that can't afford care are the ones that could get coverage if they expand Medicaid. States that have expanded Medicaid have much fewer uninsured."

SANDRA ALLEN RUBEN: "I have a 50-year old friend who is w/o employment. She applied for Obamacare and her premium would have been over $300 a month. Without income? So much for the indigent getting healthcare."

opinion

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THE ST. AUGUSTINE RECORD

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EDITORIAL

Lawmakers split on 'LIP' service

Policy and politics are hitting head-on in Tallahassee this week over federal funds for low-income healthcare.

With the House and Senate split on the issue, Gov. Rick Scott turned up the heat from the executive branch Thursday by announcing that he'll file suit against the Obama administration over the withholding of these funds.

Some background. The federal government has told Florida that around $1.3 billion in Low Income Pool (LIP) dollars will be withheld this year because the state has not bought into the Medicaid expansion of President Obama's Affordable Health Care Act.

For his part, Scott, was considered a player in the federal game until, according to capital politicos, the November elections brought about a turnaround.

The issue is not as unexpected as Tallahassee might like constituents to believe. Florida was awarded the LIP dollars last year, only as a temporary extension to give it time to comply. When it did not, the money was pulled. More correctly, the money will be pulled in June.

The money was to be used, basically, for the lowest income patients who cannot afford Obamacare or other federal programs. It's paid for the most part to hospitals for providing the free care.

Flagler Hospital isn't hit as hard as publicly-funded medical centers. But plenty of St. Johns County residents travel to Shands Gainesville and are transported to University of Florida Jacksonville for care. These two facilities would lose $200 million in funding come June — $107 million at Gainesville and $94 million in Jacksonville.

That's then. The issue is red-hot right now in the legislature. Scott and the House are solidly against taking the money. The party line is that the federal government can't be trusted to continue the funding for the agreed upon minimum of 10 years, and that throwing more money at a broken system makes little sense.

The Senate is solidly behind the expansion plan. Its shtick is that the money was paid by Florida taxpayers. Members are calling the withholding of the funds "extortion" by the Obama administration. Our most at-risk residents need the safety net the funds supply, they say.

The Senate includes the $1.3 billion in its budget, the House does not. That's not likely to change. The end result seems likely to be that Scott is going to be given a budget that's missing the $1.3 billion out of the $77 billion total.

While there are no givens with two weeks left in the session, most believe that the state will take the hit, rather than the hospitals, leaving it to cut the budget: Or to use the projected $1 billion in surplus dollars to make up the difference. And that, of course, is money that could go to teacher salaries, tax cuts or historic preservation projects in counties such as ours.

Rep. Cyndi Stevenson said from Tallahassee Friday that the issue is the most divisive facing the legislators as the session winds down. There's a lot of money on the table and a lot of political capital at stake — re-election funds too.

Scott's lawsuit is not likely to settle anything in time to make any kind of difference. Challenging the federal government 45 days into a 60 day session is political grandstanding, though there's an outside chance it may force the feds to rethink things. But if the healthcare feds are anything like the Veterans Administration higher-ups that have been stonewalling our county — we wouldn't look for movement any time soon.

"I think we'll be back in June," Stevenson said, just before ducking into a Tallahassee luncheon Friday before heading home from her first official week in office.

We're not sure where all this is headed, but we are sure that being held hostage by the feds to either embrace Obamacare expansion, or put indigent patients at risk, isn't the way America is supposed to work.

Opinion

SUN SENTINEL EDITORIAL

Stark choices ahead if no one caves

The partisan gridlock in Washington has nothing on the partisan gridlock in Tallahassee, except for one key difference: The Republican Party of Florida controls everything in the state capital and this year, its leaders are waging the ugliest intramural battle we've seen in decades.

With just two weeks to go in the 60-day legislative session, the Florida House and Senate stand $4 billion apart on next year's proposed state budget.

Four billion dollars apart.

And rather than work overtime this weekend, their members are back home, taking time off, barely able to talk to one another. There's no budget discussions going on, no negotiations, nothing.

It's surprising that the standoff has gotten this far because as a rule, state Republicans are generally more disciplined in standing together and keeping their differences private. But given the Florida House's relentless efforts to reject President Obama's signature health care law — no matter the cost — that ship has sailed.

The rhetoric has grown war-like, with the House battling the Senate, the Senate battling Gov. Rick Scott, and the governor battling Washington over a Medicaid expansion plan he initially opposed, then supported and now opposes again.

Indeed, future House speaker Richard Corcoran asked his colleagues to "come to war with us" against the Senate, the federal government, the hospital industry and "all the special interests — all the Gucci-loafing, shoe-wearing special interests powers" that want Medicaid expanded. "If it costs me my political career or yours, so be it."

The Senate is taking the high road, with more measured statements and a more realistic endgame. Its budget would take the Medicaid expansion money, with one big caveat.

Instead of expanding the government-run program, the Senate would create a private-option plan that would draw down available funds, but stay nimble enough to evaporate if the money dries up. It would require people to work, or be looking for work, and pay some type of co-pay. But because it's not known if the plan would pass federal muster, two senators went to Washington recently to inquire, which generated howls from the House and the Governor's Mansion.

House Speaker Steve Crisafulli said Senate Republicans have provided "inaccurate and false hope" and "muddled negotiations" by going to Washington. He and his fellow House leaders want nothing to do with the Senate plan because they don't trust the federal government or its promise to cover 100 percent of the costs for new Medicaid enrollees through 2016, and 90 percent after 2020.

Instead, House leaders want things to stay as they were before Obamacare became the law of the land. Specifically, they want the feds to continue funding the Low Income Pool that reimburses certain hospitals for providing a large volume of charity care.

It must be said that the federal government has worked with state officials during the rollout of the Affordable Care Act, despite their differences.

Two years ago, the U.S. Department of Health & Human Services granted Scott's request for a waiver to treat Medicaid patients through managed-care plans, rather than traditional fee-for-service. And to help hospitals during the transition, it agreed to extend LIP funding through this June, though it made clear another extension would not be granted.

In return, the governor did an about-face and announced his support for expanding Medicaid, saying, "While the federal government is committed to paying 100 percent of the cost of new people in Medicaid, I cannot, in good conscience, deny the uninsured access to care."

STEVE CANNON/AP

Future House Speaker Richard Corcoran invited the Florida Senate to "come to war" with the Florida House of Representatives over a budget battle on the expansion of Medicaid.

But this summer, the extension is set to expire. HHS says the money for charity care now must flow to people through Medicaid expansion plans, rather than to hospitals via LIP. And now, the governor says he opposes the expansion of Medicaid. Plus, he plans to sue the federal government for its "coercion tactics" to force Florida to accept a Medicaid expansion.

It's unfortunate the governor has decided to sue, given his poor and costly track record in suing the federal government.

A lawsuit takes time, and lawmakers have a legal duty to pass a state budget for the fiscal year that begins July 1.

If legislators fail to reach agreement by their scheduled May 1 end, it's likely they'll be called back later for a special session. But absent a governor who can help feuding chambers reach a meeting of the minds, what's the point?

Without a state budget, state agencies, local governments and private vendors can't plan because they don't know what their budgets will look like in July. Is this any way to run government like a business?

No one is yet suggesting the impasse could lead to a state government shutdown, which would affect non-essential employees, not prison guards, for example. Florida last reached the brink of a shutdown in the early 1990s, when a legislative standoff with then-Gov. Lawton Chiles went a couple hours past the June 30 tipping point.

But at the moment, it's hard to see how leaders of the Florida House, especially, can find their way out of the corner they have painted themselves into. And if the more-considered Senate caves, it risks losing its effectiveness.

If Senate leaders do give in, they would likely find the $4 billion difference by eliminating the governor's proposed tax cuts on telephones and textbooks, the proposed increase in education spending, the proposed funds for mental health care, the proposed money for new prison guards and of course, the proposed path for helping poor people get access to health care.

Given the choices before us, it appears the steadfast House loathes the president more than it loves tax cuts, children, public safety and all the people of Florida.

ANOTHER VIEWPOINT

Leaders must find health care solution

El Sanadi

By Nabil El Sanadi

As our Florida state senators and representatives are nearing the end of the legislative session, there remain two looming health care issues: The unresolved Low Income Pool funding, which is dependent on a federal waiver and whether or not Florida will pass a health care expansion bill. Despite the fact that these are two separate programs, the federal government has linked them together.

In a letter sent by the federal government from the Center of Medicare Services to the Florida Agency for Health Care Administration on April 14, it was made clear that the CMS will not fund the Low Income Pool unless the state government agrees to Medicaid expansion, a cornerstone initiative of the Affordable Care Act. We urge federal CMS and state legislators to find a workable solution to fund necessary and essential health care programs so that the most vulnerable in our community can be cared for.

Our government leaders need to ensure that we can continue to serve our citizens and patients.

Broward Health is a safety net hospital system serving more than two-thirds of the 1.9 million residents in Broward County. We have two trauma centers, two comprehensive stroke centers, two primary stroke centers and several cardiac catheterization facilities. We are also a training facility for nursing students, medical students and paramedics. In addition, we graduate more than 100 medical residents every year. These are new doctors that serve our community and our citizens. Our physicians and nurses also conduct medical research to create new life-saving measures.

Even if Broward Health does not receive LIP funds, we will, and must, continue to provide essential acute care services including emergency care and inpatient services. However, we may not be able to continue to provide non-life critical services such as physical and occupational therapy or outpatient services for elective and preventative care. In addition, our ability to continue our academic teaching and mentoring programs may be impacted.

At Broward Health our doors will remain open; we are a provider of last resort for all who need health care, regardless of socio-economic status or insurance coverage. We urge a quick resolution so our health care safety net system is not impacted adversely, and we can continue to serve our citizens and patients by providing the quality health care they need.

Nabil El Sanadi is the president and CEO of Broward Health and a board certified emergency medicine physician.

| OUR OPINION |

Florida needs Medicaid expansion

It's time to grow up and accept the necessity of federal dollars

Our state's leadership is embroiled in a kindergarten-style fight that would be laughable if it didn't have such serious consequences.

It's time to stop the political power games, suck it up and admit that – like it or not – Florida needs to accept Medicaid expansion.

It's the right thing to do financially – the fiscal burden would fall overwhelmingly on the federal government. And it's the right thing to do ethically – we can prevent tremendous suffering and we should.

There is no reasonable argument for what Gov. Scott and House Republicans are doing in refusing to accept Medicaid expansion. The only explanation is that they are posturing for their bases, gathering votes for future elections at the expense of the people they are supposed to be serving.

It's time to get over it.

Here's the crux of the story. LIP – the Low Income Pool of money that provides $2.2 billion annually to Florida hospitals to help treat uninsured patients and supplement payments for Medicaid patients – runs out June 30.

The federal government has informed Florida that it will not renew the funding unless the state expands Medicaid, as 29 other states have done, successfully it seems. The federal government will cover the entire cost of the expanded Medicaid program – 100 percent – through 2016. After that Florida will have to kick in some money, but never more than 10 percent of the cost.

So no expanded Medicaid, no LIP funding. Gov. Scott has said he'll sue the feds over LIP funding, but he's likely to lose. Even Florida Senate President Andy Gardiner — a fellow Republican — has conceded that the federal government isn't obligated to give Florida the money.

The removal of LIP will be a huge problem for our hospitals. Tallahassee Memorial HealthCare received approximately $3.2 million in LIP funding last year.

"The loss of this funding will not stop these patients from accessing our services," said TMH in a statement. "It will place a significant financial strain as we balance our mission to care for our community with the financial realities of providing the human and capital resources to provide that care."

Hospitals will be in an almost unthinkable predicament: They'll have to turn away genuinely sick people without insurance – which TMH says it will not do, and we hope other hospitals won't either – or treat them anyway and raise already-high prices for the paying customers to help cover skyrocketing costs.

In fact, Sen. Bill Montford has said many rural hospitals could close if a deal isn't reached.

What's to be done? The Republicans, who are in control of both branches of the Florida Legislature, are squabbling among themselves.

The Senate seems to contain the only grown-ups in the schoolyard. It has a plan to create a state-run marketplace that would subsidize health insurance for low-income Floridians who are working – essentially Medicaid expansion. Its budget contains both LIP and Medicaid expansion money.

The House and the governor are flat out refusing to consider it. Gov. Scott says he doesn't trust the feds to live up to their end of the bargain, and the Republican House members agree.

There doesn't seem to be any reason to think the federal government will renege – it hasn't in any other state so far.

The truth is, whether it's LIP or Medicaid expansion, it's all federal money – all dollars Floridians have already paid out to Washington, D.C. We want those dollars back, and we're entitled to them. Why does it matter which program they come from?

This is a childish power struggle, which would be of little import except that it's hurting around 800,000 Floridians.

The state budget hinges on this issue. Right now, the two chambers' budgets are about $4 billion apart. The clock is ticking. The Legislature has until May 1 to knock it off.

We urge the governor and House Republicans to stop playing political chess with peoples' lives.

"There comes a point in time where you have to make a decision that's right," said Sen. Montford.

We agree. Do the right thing. The Senate has offered a viable compromise. Take it.

A COLLECTIVE VOICE

Gannett Florida newspapers and websites in Fort Myers, Brevard County, Tallahassee and Pensacola are joining with others this weekend to speak up about the need for our state leaders to resolve an impasse related to Medicaid expansion and the federally funded Low Income Pool.

At least seven news sites will publish commentary about the issues. To read these editorials and columns, turn to Tallahassee.com/opinion, where you will find a list of links to information and opinions about Medicaid expansion, the standoff between the state and federal government and the politics surrounding the issue.

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AN OPEN LETTER TO THE FLORIDA HOUSE OF REPRESENTATIVES ON BEHALF OF THE 800,000 UNINSURED AND THE 16 MILLION PAYING FOR IT

As a fiscally conservative and caring Republican, I will ask you to recognize that you were elected to serve the people of Florida.

Your future as a well-intentioned citizen and representative of the people should not be beholden to a few political committee chairs and elected officials who are failing to recognize that our state and our country have changed. I will speak my mind as I am not a politician, nor do I want to be.

I am simply an adopted son of our great country who has been blessed and chooses to express my view in a field that I know "just a little" about – the healthcare needs of those who can least afford to be without it.

We have more than 800,000 uninsured neighbors: our auto mechanics, small business employers and employees, young graduates and young families, and volunteers who help the rest of us carry on with our daily lives. These are people who cannot afford health insurance and do not qualify for Medicaid. Yet, we all pay for their medical care when they show up at the most expensive site of care, an emergency room.

Why not lower our costs by allowing these people to access entry level care at a lower cost setting – the doctor's office – and then, if need be, at the higher cost setting.

Will you stand by the 800,000 uninsured who are currently receiving care in the emergency room and the 16 million Floridians – those who elected you and who are funding the care – and join the Florida Senate to solve this problem?

Will you stop the rhetoric? As most of you will agree, the federal government does not make our money. They get to spend our money, and we, as taxpayers want some of our money returned to us. This is not a win-lose proposition. It's a humanitarian proposition.

It's not a zero sum game. It's about doing the right thing by making sure our tax dollars are returned to Florida and spent on the people of Florida.

Please join the Florida Senate and adopt the Florida Health Insurance Affordability Exchange. It's the right thing to do. It's the conservative and compassionate thing to do. It's the smart thing to do.

Sincerely,
Mike Fernandez
Chairman MBF Healthcare Partners
Coral Gables

Sponsored by a Healthy Florida Works, contact: team@ahealthyfloridaworks.com

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/21/15
Meeting Date

Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic: Medicaid Sustainability

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

Waive Speaking: [ ] In Support [ ] Against
(The Chair will read this information into the record.)

Representing: Navigant

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

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4-21-15
Meeting Date

Medicaid waiver
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic: Medicaid sustainability

Name: Debbie Harrison Rumberger

Job Title: Legislative Liaison

Address: 540 Beverly Court
Street

Tallahassee FL 32301
City State Zip

Phone: 850-224-2454

Email: LWVFadvocacy@gmail.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing: Florida League of Women Voters

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

Meeting Date _____

Bill Number (if applicable) _____

Amendment Barcode (if applicable) _____

Topic: Medicaid Sustainability Plan

Name _____

Job Title _____

Address _____ Phone _____
Street

_____ Email _____
City State Zip

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

Waive Speaking: [ ] In Support [ ] Against
(The Chair will read this information into the record.)

Representing _____

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

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4-21-15
Meeting Date

Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic: Medicaid Sustainability

Name: Russ Armistead

Job Title: CEO, UF Health Jacksonville

Address: 655 West 8th Street
Street

Jacksonville, FL 32209
City State Zip

Phone: 904-244-3002

Email: russ.armistead@jax.ufl.edu

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

Expansion/LIP programs

Waive Speaking: [ ] In Support [ ] Against
(The Chair will read this information into the record.)

Representing:

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

Lobbyist registered with Legislature: [ ] Yes [ ] No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

April 21, 2015
Meeting Date

Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic: LIP Funding

Name: Andy Behrman

Job Title: President & CEO , FACHC

Address: 2340 Hansen Drive
Street

Tallahassee, FL, 323
City, State, Zip

Phone: 850-942-1822

Email: abehrman@fachc.org

Speaking: ☐ For ☐ Against ☑ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing: The Florida Association of Community Health Centers

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/21/15
Meeting Date

Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic: MEDICAID EXPANSION

Name: MARNI STAHLMAN

Job Title: President / CEO - Shepherd's Hope

Address: 4851 S. Apopka Vineland Rd
Street

Orlando FL 32819
City State Zip

Phone: 407-876-6699 x+22

Email:

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

Waive Speaking: [ ] In Support [ ] Against
(The Chair will read this information into the record.)

Representing: The uninsured

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

Lobbyist registered with Legislature: [ ] Yes [ ] No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

Meeting Date: _____

Bill Number (if applicable): _____

Amendment Barcode (if applicable): _____

Topic: Medicaid Expansion

Name: The Rev. Bryan Fulwider

Job Title: Minister / Pastor

Address: 670 Post Oak Cir
Street

Altamonte Springs, FL 32701
City, State, Zip

Phone: 407-963-5556

Email: bryan@buildingpas.org

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

Waive Speaking: [ ] In Support [ ] Against
(The Chair will read this information into the record.)

Representing: Interfaith Council of Central Florida

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

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/21/2015
Meeting Date

Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic: Medicaid Expansion

Name: Athena Smith Ford

Job Title: Advocacy Director

Address: _____
Street

_____
City State Zip

Phone: 570-760-1828

Email: athena@floridachain.org

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

Waive Speaking: [ ] In Support [ ] Against
(The Chair will read this information into the record.)

Representing: Florida CHAIN

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

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4-21-15
Meeting Date

Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic MEDICAID SUSTAINABILITY PLAN

Name JOHN HORNBUCKLE

Job Title CHAIR, BOARD OF DIRECTORS, DOCTORS' MEMORIAL HOSPITAL

Address 209 PINELAND ST.
Street

PERRY FL 32348
City State Zip

Phone 850-838-2949

Email JOHNRHORNBUCKLE@GMAIL.COM

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

Waive Speaking: [ ] In Support [ ] Against
(The Chair will read this information into the record.)

Representing DOCTORS' MEMORIAL HOSPITAL

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

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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4/21/15
Meeting Date

Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic: Medicaid Expansion + LIP Funding

Name: Rev. James T. Golden, Esquire

Job Title: Social Action Coordinator, ~~11th Episcopal District~~, ~~African Methodist Episcopal Church~~ ~~Wathalla~~

Address: 4815 11th Ave Cir E.
Street

Bradenton FL 34208
City State Zip

Phone: 941-773-4031

Email: jamethegold@aol.com

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

Waive Speaking: [ ] In Support [ ] Against
(The Chair will read this information into the record.)

Representing: 11th Episcopal District, African Methodist Episcopal Church

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

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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4/21/15
Meeting Date

Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic: Medicaid Workshop

Name: JoAnn Baker

Job Title: Administrator

Address: 2600 Hospital Drive
Street

Bonifay, FL 32425
City, State, Zip

Phone: (850) 547-8001

Email: Joann.Baker@doctorsmemorial.org

Speaking: ☐ For ☐ Against ☑ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing: Doctors Memorial Hospital - Bonifay

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/21/15
Meeting Date

Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic: Medicaid Sustainability

Name: Mike Youngblood

Job Title: ~~Member~~ Constituent

Address: 3135 Shady dell Lane
Street

Melbourne, FL 32935
City, State, Zip

Phone

Email

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

Waive Speaking: [ ] In Support [ ] Against
(The Chair will read this information into the record.)

Representing

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

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/21/15
Meeting Date

Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic LIP

Name Annette Johnson

Job Title Board Chair of MCMH / Business Owner in Madison County.

Address 4773 W. US 90
Street

Madison, FL 32340
City State Zip

Phone (850) 973-7172

Email annette@jj-fuel.co

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

Waive Speaking: [ ] In Support [ ] Against
(The Chair will read this information into the record.)

Representing Madison County Memorial Hospital

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

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

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/21/15
Meeting Date

Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic L.I.P.

Name Greg Poond

Job Title

Address 9166 Sunrise Dr.
Street

Largo Fl. 33773
City State Zip

Phone

Email

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

Waive Speaking: [ ] In Support [ ] Against
(The Chair will read this information into the record.)

Representing Florida Health

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

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

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

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S-001 (10/14/14)

752856

576-01913-15

Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on Health and Human Services)

A bill to be entitled

An act for the relief of Asia Rollins by the Public Health Trust of Miami-Dade County, d/b/a Jackson Memorial Hospital; providing an appropriation to compensate her for injuries and damages sustained as a result of the negligence of the Public Health Trust of Miami-Dade County; providing a limitation on the payment of fees and costs; providing an effective date.

WHEREAS, on October 26, 2011, 3-year-old Asia Rollins suffered a seizure at her day care center and was taken by emergency medical personnel to Jackson Memorial Hospital, and

WHEREAS, at the hospital, Asia Rollins experienced difficulty breathing and was electively intubated a total of four times, during the third of which vomit was expelled from her endotracheal tube, and

WHEREAS, the delay between the intubations deprived Asia Rollins of oxygen for extended periods, causing her oxygen levels and heart rate to decrease, and

WHEREAS, as a result of her depleted oxygen levels and decreased heart rate, Asia Rollins went into asystole, and

WHEREAS, by the time cardiopulmonary resuscitation was completed Asia Rollins suffered a global ischemic brain injury and was subsequently diagnosed with hypoxic ischemic encephalopathy and cortical blindness, and

WHEREAS, Asia Rollins, now 6 years old, is unable to walk

752856

576-01913-15

or talk and will never be able to live an independent life, and

WHEREAS, Asia Rollins's neurologist recommends that she receive 24-hour care for the rest of her life, and

WHEREAS, Asia Rollins needs assistive devices for ambulation and is unable to dress or feed herself or get around her home, which requires modification to accommodate the required assistive and therapy devices, and

WHEREAS, the Public Health Trust of Miami-Dade County agreed to settle Asia Rollins's claim for $999,999, and

WHEREAS, $300,000, has been paid pursuant to the statutory limits of liability in s. 768.28, Florida Statutes, and $699,999 remains to be paid, NOW, THEREFORE,

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

Section 1. The facts stated in the preamble to this act are found and declared to be true.

Section 2. The Public Health Trust of Miami-Dade County, d/b/a Jackson Memorial Hospital, is authorized and directed to appropriate from funds not otherwise encumbered and to draw a warrant in the sum of $699,999, payable to the Supplemental Care Trust for the Benefit of Asia Rose Rollins or other special needs trust for the exclusive use and benefit of Asia Rollins.

Section 3. The amount paid by the Public Health Trust of Miami-Dade County pursuant to s. 768.28, Florida Statutes, and the amount awarded under this act are intended to provide the sole compensation for all present and future claims arising out of the factual situation described in this act which resulted in the injuries and damages to Asia Rollins.

57 Section 4. The total amount paid for attorney fees,
58 lobbying fees, costs, and other similar expenses relating to
59 this claim may not exceed 25 percent of the amount awarded under
60 this act.
61 Section 5. This act shall take effect upon becoming a law.

THE FLORIDA SENATE

SPECIAL MASTER ON CLAIM BILLS

Location
402 Senate Office Building

Mailing Address
404 South Monroe Street
Tallahassee, Florida 32399-1100
(850) 487-5237

DATE	COMM	ACTION
12/31/14	SM	Fav/1 amendment
2/3/15	JU	Fav/CS
3/4/15	AHS	Recommend:Fav/CS
4/21/15	AP	Fav/CS

December 31, 2014

The Honorable Andy Gardiner
President, The Florida Senate
Suite 409, The Capitol
Tallahassee, Florida 32399-1100

Re: **CS/CS/SB 34** – Appropriations Committee (Recommended by Appropriations Subcommittee on Health and Human Services); Committee on Judiciary; Senator Miguel Diaz de la Portilla
Relief of Asia Rollins

SPECIAL MASTER'S FINAL REPORT

THIS IS AN EQUITABLE CLAIM FOR $699,999, BASED ON A PRESUIT SETTLEMENT OF A MEDICAL MALPRACTICE CLAIM, AGAINST THE MIAMI-DADE PUBLIC HEALTH TRUST, WHICH OPERATES JACKSON MEMORIAL HOSPITAL. ASIA ROLLINS, THE CLAIMANT, HAS SEVERE BRAIN INJURIES AND IS DEPENDENT ON OTHERS FOR HER BASIC NEEDS BECAUSE THE HOSPITAL FAILED TO TIMELY INTUBATE HER.

FINDINGS OF FACT:

On October 26, 2011, 3 year old Asia Rollins, who had history of epileptic seizures, had a seizure at daycare. The daycare providers gave her medicine and sent her to Jackson Memorial Hospital by ambulance. Upon arrival at the hospital's emergency room, Asia was breathing poorly. To help Asia breathe, the hospital's physicians decided to intubate her.

The staff mal-intubated Asia three times with several minutes elapsing between intubations. The delays deprived Asia of oxygen for extended time periods. Eventually, Asia's oxygen levels and heart rate decreased until she went into asystole, meaning her heart stopped. By the time Asia was breathing

again, she had suffered a global ischemic brain injury,[i] which is a brain injury caused by the lack of blood flow.
Later, Asia's neurologist, Dr. Ian Miller of Miami Children's Hospital, diagnosed Asia as having hypoxic ischemic encephalopathy,[ii] a condition in which the brain does not receive enough oxygen. She was also diagnosed as having cortical blindness,[iii] a type of blindness caused by a brain injury.

Currently, Asia is 6 years old and she is completely dependent on others.[iv] She cannot dress herself, talk, or walk. She is wheelchair bound. She cannot feed herself and must be fed through a gastronomy tube. Asia's breathing must be monitored and her airways must be suctioned regularly to prevent the accumulation of mucus. Asia also receives regular physical therapy to prevent or minimize muscle stiffness.

Asia has many disabilities and few abilities. According to her mother's comments, which were recorded in Asia's medical records, Asia looks around when her name is called.[v] She smiles, laughs, and enjoys petting her dog.

Asia's current condition is not likely to significantly improve, and she will need full-time care for the rest of her life.

CONCLUSIONS OF LAW:

Jackson Memorial Hospital is a public hospital that is operated by the Miami-Dade Public Health Trust.[vi] Additionally, the hospital or trust, under the doctrine of *respondeat superior*, is responsible for the medical negligence of its doctors.[vii]

Under Florida law, to establish the liability of a physician in a medical malpractice action, the plaintiff has a burden of proving that (1) the physician had a duty to the patient, (2) the physician breached the duty, and (3) the breach of the duty caused the plaintiff's damages.[viii] The Florida Supreme Court has explained these elements as follows:

> The duty element requires a physician to act within the standard of professional care. See § 766.102, Fla. Stat. (2013). The standard of professional care is a level of care, skill, and treatment that, in consideration of all surrounding circumstances, is recognized as acceptable and appropriate by similar and reasonably prudent health care providers. In short, it is to provide the care that a reasonably prudent physician would

> provide. A physician breaches that duty when he or she does not provide the care that a reasonably prudent physician would provide. See § 766.102, Fla. Stat. (2013). Therefore, in a medical malpractice action, the burden is on the plaintiff to establish that the care provided by the physician was not that of a *reasonably prudent physician*.[ix]

During the special master proceeding, the claimant proved the elements of its medical malpractice claim through the use of a Verified Medical Opinion by Dr. Anthony C. Mustalish.[x] According to the opinion, Dr. Mustalish practices emergency medicine and, among other credentials related to the practice of emergency medicine, was certified by the American Board of Emergency Medicine in 1990 and 1999. The hospital had no objection to the opinion and did not offer any evidence contradicting the opinion.

According to the Verified Medical Opinion, the hospital deviated from the standard of care for reasonably prudent similar providers by:

- Failing to provide proper care and treatment to the patient;
- Failing to properly intubate the patient;
- Failing to properly have and maintain an adequate airway for the patient;
- Failing to properly insure the patient was properly oxygenated;
- Failing to timely recognize an inappropriate intubation;
- Failing to timely and properly correct an inappropriate intubation;
- Improperly allowing the patient to suffer a prolonged period of anoxia, which is oxygen deprivation;
- Improperly allowing the patient to suffer cardiac arrest; and
- Inappropriately causing the patient to suffer a severe hypoxic ischemic injury.

The Verified Medical Opinion concluded with a finding that "within a reasonable degree of medical certainty, the . . . deviations from the standard of care caused or contributed to Asia Rollins' injuries."[xi]

As a result of s. 768.28(5), F.S., the hospital's liability for medical malpractice claims or judgments is limited to $200,000 per claim or judgment and $300,000 for all claims or judgments arising out of the same incident. Amounts in

excess of these limits may be paid only if authorized by the Legislature in a claim bill. Thus, Asia Rollins will not receive the full amount of the settlement with the hospital unless the Legislature approves a claim bill for her benefit.

SETTLEMENT AGREEMENT: The parties to the claim bill settled the claim without resorting to a lawsuit, pursuant to the presuit procedures in chapter 766, F.S.[xii] Under the terms of the settlement, the parties agreed to settle the medical negligence claim for $999,999. Of that amount, $300,000[xiii] has been paid and $699,999 remains unpaid. The agreement further provides that the hospital supports a claim bill in the amount of $699,999. The hospital will oppose a claim bill that exceeds the amount of the settlement.

Because the amount of the settlement in this matter exceeds certain statutory thresholds, the settlement agreement had to be approved by a court, and the court had to appoint a guardian *ad litem* to represent Asia's interests.[xiv] Asia's guardian *ad litem*, attorney Stephen F. Cain, reviewed the settlement agreement and issued a report to the court recommending that the settlement be approved.[xv] In its order approving the settlement, the court ordered that the funds from the settlement be deposited into a special needs trust for the benefit of Asia Rollins.

SPECIAL NEEDS TRUST: A special needs trust is a mechanism authorized by federal law that prevents a beneficiary, like Asia Rollins, from being disqualified from government benefits like Medicaid.[xvi] Thus, the funds in Asia's special needs trust will supplement, not supplant the government benefits she is receiving. However, federal law also requires that any funds remaining in a special needs trust after the death of the beneficiary be used to reimburse the state providing the benefits.

Typically, in claim bills for the benefit of individuals like Asia Rollins, the Legislature expressly requires that the proceeds of a claim bill be paid into a special needs trust.[xvii] This claim bill, however, does not contain the typical requirement for a special needs trust. Instead, the bill requires that funds be paid directly to Asia Rollins. To avoid any argument that the court order approving the settlement agreement applies only to the amounts already paid by the hospital, the Legislature should amend the claim bill to expressly require that the proceeds be placed in a special needs trust.

ATTORNEYS FEES:

Claim bills can raise several related attorney fee issues. The first issue is whether the claimant's attorney has complied with the 25 percent limit on attorney fees in s. 768.28(8), F.S., or will comply with the limit on attorney fees in the bill. In this matter, a closing statement submitted by Stuart Ratzan, the attorney for the claimant, shows that he or his firm was paid $75,000 in attorney fees from the initial $300,000 from Jackson Memorial Hospital. Thus, the payment for attorney fees is consistent with the 25 percent limit on attorney fees in s. 768.28(8), F.S. Additionally, Mr. Ratzan submitted an affidavit stating that the attorney fees related to the bill will be limited to 25 percent of the amount awarded.

The second issue relating to attorney fees is whether the claim bill contains a fee limitation and whether that limitation is appropriate. This issue arises in the underlying claim bill because it contains an unusual fee limitation. Since 2008, most claim bills passed by the Legislature expressly limit the amount of proceeds available to pay attorney fees, lobbying fees, and related costs to 25 percent of the proceeds. In contrast, if the facts of this claim bill related to a nongovernmental defendant, Florida Rule of Professional Conduct 4-1.5(f)(4)(B), would have limited the attorney fee to 33 1/3 percent of the proceeds.

This bill limits the amount of the proceeds available to pay attorney fees, lobbying fees, and related cost to 15 percent of the proceeds unless the claimant, meaning Asia's mother, executes a waiver agreeing to a 25 percent fee limit. Perhaps the Legislature should decide the appropriate fee limit instead of Asia's mother.

Weighing in favor of a lower amount of fees, the claim was settled without the time and expense of litigation, and Asia Rollins has suffered severe injuries and has great needs.[xviii] Weighing in favor of the higher amount, the 25 percent fee limit is consistent with past practices of the Legislature and is significantly lower than the 33 1/3 percent authorized by The Florida Bar rule regulating contingency fees.

RECOMMENDATIONS:

For the reasons set forth above, the undersigned recommends that Senate Bill 34 (2015) be reported FAVORABLY, AS AMENDED.

Respectfully submitted,

Thomas C. Cibula
Senate Special Master

cc: Secretary of the Senate

CS/CS by Appropriations on April 21, 2015:
The committee substitute provides for the proceeds of the claim bill to be paid into a special needs trust instead of directly to the claimant as had been provided in the underlying bill.

CS by Judiciary on February 3, 2015:
The underlying bill limits attorney fees, lobbying fees, and related costs to 15 percent of the amount awarded by the claim bill unless the claimant agrees to a 25 percent fee limit. The committee substitute replaces this fee limit with the customary fee limit for claim bills which limits attorney fees, lobbying fees, costs, and other similar expenses to 25 percent of the amount awarded by the claim bill.

---

[i] Columbia Neurosurgeons, Department of Neurosurgery, Columbia University Medical Center, *Cerebral Ischemia*, http://www.columbianeurosurgery.org/conditions/cerebral-ischemia/ (last vised December 9, 2014).
[ii] Diana Kohnle, NYU Langone Medical Center, *Hypoxic Ischemic Encephalopathy*, http://www.med.nyu.edu/content?ChunkIID=230598 (last editorial review May 2014).
[iii] MedicineNet.com, *Definition of Cortical Blindness*, http://www.medicinenet.com/script/main/art.asp?articlekey=23943 (last editorial review June 6, 2012).
[iv] Asia was born in May 2008.
[v] Sayed Naqvi, M.D., Neurology Note for Asia Rollins (June 16, 2014).
[vi] *Bylaws of the Board of Trustees of the Public Health Trust of Miami-Dade, County, Florida*, *available at* http://www.jacksonhealth.org/library/trust/public-health-trust-bylaws-2013.pdf.
[vii] *Roessler v. Novak*, 858 So. 2d 1158, 1161 (Fla. 2d DCA 2003).
[viii] *Saunders v. Dickens,* 2014 WL 3361813, *6 (Fla. 2014).
[ix] *Id.* (citations omitted).
[x] Anthony Mustalish, M.D., Verified Medical Opinion (November 7, 2012). The opinion was likely prepared to show that the claimant conducted a presuit investigation of a medical negligence claim, which is a prerequisite to filing a medical malpractice lawsuit under chapter 766, F.S.
[xi] *Id.*
[xii] The presuit procedures in chapter 766, F.S., require claimants and prospective defendants to a medical malpractice action to investigate medical malpractice claims before the claimant may file a lawsuit.
[xiii] If the matter in this claim bill proceeded to trial, there likely would have been two plaintiffs, Asia Rollins and her mother, Indya Marc. Each would have asserted a different injury resulting from the hospital's negligence. As such, the $300,000 payment is consistent with the limits of $200,000 per claim and $300,000 per incident in s 768.28(5), F.S.
[xiv] Sections 744.3025 and 744.387, F.S.
[xv] Report of Guardian *Ad Litem*, In Re: Guardianship of Asia Rollins, No. 13-3642 (Fla. 11th Cir. Ct. December 3, 2013).
[xvi] See 42 U.S.C. 1396p(d)(4).

[xvii] A review of previously enacted claim bills shows that the Legislature occasionally requires all of the proceeds of a special needs trust to revert to the payor upon the death of the beneficiary. Such a requirement may make sense if the claim bill awards an unusually large amount of funds or the claimant's life expectancy or the cost of the claimant's future medical care is unknown or in dispute.

[xviii] Asia's guardian *ad litem*, attorney Stephen F. Cain, explained the financial magnitude of Asia's damages as follows: "A reasonable estimate of the full damages in this case would likely exceed $35,000,000." Report of Guardian *Ad Litem*, supra note xv.

By the Committee on Judiciary; and Senator Diaz de la Portilla

590-01490-15 201534c1

A bill to be entitled

An act for the relief of Asia Rollins by the Public Health Trust of Miami-Dade County, d/b/a Jackson Memorial Hospital; providing an appropriation to compensate her for injuries and damages sustained as a result of the negligence of the Public Health Trust of Miami-Dade County; providing a limitation on the payment of fees and costs; providing an effective date.

WHEREAS, on October 26, 2011, 3-year-old Asia Rollins suffered a seizure at her day care center and was taken by emergency medical personnel to Jackson Memorial Hospital, and

WHEREAS, at the hospital, Asia Rollins experienced difficulty breathing and was electively intubated a total of four times, during the third of which vomit was expelled from her endotracheal tube, and

WHEREAS, the delay between the intubations deprived Asia Rollins of oxygen for extended periods, causing her oxygen levels and heart rate to decrease, and

WHEREAS, as a result of her depleted oxygen levels and decreased heart rate, Asia Rollins went into asystole, and

WHEREAS, by the time cardiopulmonary resuscitation was completed Asia Rollins suffered a global ischemic brain injury and was subsequently diagnosed with hypoxic ischemic encephalopathy and cortical blindness, and

WHEREAS, Asia Rollins, now 6 years old, is unable to walk or talk and will never be able to live an independent life, and

WHEREAS, Asia Rollins's neurologist recommends that she

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590-01490-15 201534c1

receive 24-hour care for the rest of her life, and

WHEREAS, Asia Rollins needs assistive devices for ambulation and is unable to dress or feed herself or get around her home, which requires modification to accommodate the required assistive and therapy devices, and

WHEREAS, the Public Health Trust of Miami-Dade County agreed to settle Asia Rollins's claim for $999,999, and

WHEREAS, $300,000, has been paid pursuant to the statutory limits of liability in s. 768.28, Florida Statutes, and $699,999 remains to be paid, NOW, THEREFORE,

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

Section 1. The facts stated in the preamble to this act are found and declared to be true.

Section 2. The Public Health Trust of Miami-Dade County, d/b/a Jackson Memorial Hospital, is authorized and directed to appropriate from funds not otherwise encumbered and to draw a warrant in the sum of $699,999, payable to Asia Rollins.

Section 3. The amount paid by the Public Health Trust of Miami-Dade County pursuant to s. 768.28, Florida Statutes, and the amount awarded under this act are intended to provide the sole compensation for all present and future claims arising out of the factual situation described in this act which resulted in the injuries and damages to Asia Rollins.

Section 4. The total amount paid for attorney fees, lobbying fees, costs, and other similar expenses relating to this claim may not exceed 25 percent of the amount awarded under this act.

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

59 Section 5. This act shall take effect upon becoming a law.

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 /21 /2015
Meeting Date

Topic _____

Bill Number 34 *(if applicable)*

Name BRIAN PITTS

Amendment Barcode _____ *(if applicable)*

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH
Street

SAINT PETERSBURG FLORIDA 33705
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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.

S-001 (10/20/11)

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

THE FLORIDA SENATE

SPECIAL MASTER ON CLAIM BILLS

Location
402 Senate Office Building

Mailing Address
404 South Monroe Street
Tallahassee, Florida 32399-1100
(850) 487-5237

DATE	COMM	ACTION
01/16/15	SM	Fav/1 amendment
02/17/15	JU	Fav/CS
03/04/15	CA	Favorable
04/21/15	AP	Favorable

January 16, 2015

The Honorable Andy Gardiner
President, The Florida Senate
Suite 409, The Capitol
Tallahassee, Florida 32399-1100

Re: **CS/SB 60** – Judiciary Committee and Senator Wilton Simpson
Relief of Roy Wright and Ashley Wright

SPECIAL MASTER'S FINAL REPORT

THIS IS A SETTLED EXCESS JUDGMENT CLAIM FOR $395,000. THE CLAIM SEEKS COMPENSATION FROM THE NORTH BREVARD COUNTY HOSPITAL DISTRICT D/B/A PARRISH MEDICAL CENTER FOR ALLEGED MEDICAL MALPRACTICE COMMITTED DURING THE BIRTH OF TUCKER WRIGHT.

FINDINGS OF FACT:

Ashley Wright was admitted to Parrish Medical Center in Titusville at approximately 10:30 p.m. on July 15, 2009, to give birth to her son, Tucker Wright. Because very little prenatal information was available on Ashley Wright, an ultrasound was ordered by Dr. Denis Perez, the admitting obstetrician, to obtain an estimated birth weight of the baby. The ultrasound projected the baby's weight to be 7 pounds and 6 ounces[i] at approximately 35 or 36 weeks of gestation.

Dr. Vidya Haté, an obstetrician employed by Parrish Medical Center, visited Ashley Wright the next day, at approximately 12:30 p.m. and conducted a vaginal examination. Dr. Haté asked certified nurse midwife Cara Starkey, who was attending Ashley Wright, to call her when the patient was either fully dilated or began to push. It is unclear from the available records if this call was simply to be a status update

or if Dr. Haté would leave her office and return to the hospital upon receiving the call. After the exam, Dr. Haté returned to her office, a drive of less than 3 minutes by car, to continue seeing other patients. Medical notes indicate that the patient was pushing at 3:20 p.m. and her cervix was fully dilated at 3:45 p.m., but Dr. Haté was not called at her office and advised of this status. Dr. Haté called midwife Starkey at approximately 4:00 p.m., when midwife Starkey's work shift was ending, and asked her to work until 4:30 p.m. and stated that she, Dr. Haté, would be there by 4:30 p.m.

At some undetermined time during labor, but after 4:00 p.m., the baby's head appeared outside the mother's body and then retracted, making a "turtle sign," which signals shoulder dystocia. Shoulder dystocia is an obstetric emergency in which a shoulder is trapped behind the mother's pubic bone. Midwife Starkey performed a medical procedure known as the McRoberts maneuver and additionally rotated the posterior, or lower, shoulder to release the anterior, or upper, shoulder, permitting release of the trapped shoulder and delivery of the baby. The McRoberts maneuver is accomplished by hyperflexing the mother's legs to her abdomen which tilts the pelvis more horizontally and helps facilitate delivery of the shoulder. In some instances, suprapubic pressure is simultaneously applied to the mother's abdomen to help manipulate the shoulder downward for delivery.

Midwife Starkey recruited Ms. Wright's husband, Roy, and one of her sisters to assist with the McRoberts maneuver. They were to flex Ashley's legs back against her abdomen. Midwife Starkey requested that the attending nurse, Donna Hayashi, apply suprapubic pressure to Ashley's abdomen, thereby ultimately allowing the baby's shoulder to be dislodged and the baby delivered.

The testimony describing the amount of time that elapsed during the maneuver and delivery is in conflict. According to midwife Starkey, the procedure took approximately 1 to 2 minutes from the time she noticed the shoulder dystocia until the baby was delivered. In contrast, Ashley Wright stated that the process took approximately 10 minutes, and Roy Wright stated that it took between 10 and 15 minutes.

Also, the evidence of whether the McRoberts maneuver and delivery were properly performed is in conflict. Midwife

Starkey testified in her deposition that she rotated the shoulders of Tucker Wright and performed the maneuver correctly. In contrast, the Wrights and their medical expert argue that midwife Starkey twisted Tucker's head, instead of his shoulders, while performing the McRoberts maneuver, thereby injuring their son.

After his birth, Tucker Wright was diagnosed with Erb's palsy, a limitation of the use of the arm which results from a stretching or tearing injury to the brachial plexus nerves. The brachial plexus is a group of nerves which run from the spine through the neck and into the arm and stimulate the arm and hand. Tucker underwent surgeries when he was almost 7 months old and again at 3 years of age in an attempt to repair and give him full use of his right arm. He has regularly received physical therapy. While he will experience some limitations with the use of his right arm, the surgeon's prognosis is good that Tucker will have most of the normal function of his arm.

LITIGATION HISTORY

The Wrights filed a medical malpractice lawsuit in 2012 against North Brevard County Medical Hospital District doing business as Parrish Medical Center. The case was resolved through mediation in 2013 and a claim bill for the excess judgment was filed in 2014.

A claim bill hearing was held on October 27, 2014, before the House and Senate special masters. Bill Ogle appeared with his clients, Roy and Ashley Wright and their son Tucker, and presented the plaintiffs' case. David Doyle, who represents the North Brevard County Hospital District, attended by Skype and was available for questions by the special masters. Because the hospital district agreed that it would not oppose the claim bill, he did not present any evidence on the hospital district's behalf. However, Mr. Doyle provided documents in response to specific requests by the special masters. The hospital district has not admitted fault in this claim.

CONCLUSIONS OF LAW:

Parrish Medical Center is a public, not-for-profit hospital in Titusville which is operated by the North Brevard County Hospital District. Under the legal doctrine of *respondeat superior*, the hospital district is liable for its employees' wrongful acts, or medical negligence, committed within the scope of their employment.

When a plaintiff seeks to recover damages for a personal injury and alleges that the injury resulted from the negligence of a health care provider, the plaintiff bears the legal burden of proving, by the greater weight of the evidence, that the alleged actions of the health care provider were a breach of the prevailing professional standard of care for that health care provider. The prevailing professional standard of care is defined in statute as "that level of care, skill, and treatment which, in light of all relevant surrounding circumstances, is recognized as acceptable and appropriate by reasonably prudent similar health care providers."[ii]

To establish liability in a medical malpractice action, the plaintiff must prove (1) a duty by the healthcare provider to the patient, (2) a breach of that duty, (3) that the breach of that duty caused the plaintiff's injury, and (4) damages.[iii]

These elements as outlined below are based upon depositions, testimony, and other information provided during the special master hearing. Medical malpractice cases generally "involve a battle of expert witnesses"[iv] and this claim is no exception.

Duty

A hospital generally has a duty to provide adequate staffing and care to its patients. In the matter of this claim bill, at least before settlement, the specific duty that the hospital owed to Ashley and Tucker Wright was in dispute. In the claimants' opinion, the hospital's duty required it to have an obstetrician participating in the delivery of Tucker Wright. Documents provided by the hospital indicated that it was prepared to argue that midwife Starkey's qualifications, including her training and experiences in performing the McRoberts maneuver, made her qualified to deliver Tucker Wright without the presence of an obstetrician.

Additionally, when medical personnel perform a medical procedure, they have a duty to perform the procedure in a non-negligent manner Thus, when medical personnel perform a McRoberts maneuver and delivery, those personnel have a duty to properly perform the procedures. Whether the maneuver and delivery were properly performed is the primary issue that governs the hospital's liability in this matter.

Breach of Duty
If this case had proceeded to trial, it would likely have been disputed whether the duty of care owed to Ashley Wright was breached. Based upon the evidence, each side had a plausible argument to support its case.

The Wrights' Arguments
Staffing and the Absence of Dr. Haté: In addressing the issue of whether an adequate number of staff was on hand for the delivery, the Wrights enlisted Dr. Ray King, an obstetrician and gynecologist, to provide expert medical testimony. Dr. King testified that, at a minimum for a high risk patient, three hospital staff members should be in the room or immediately available, one of whom is taking notes, and the midwife or physician performing the delivery. Because only midwife Starkey and nurse Donna Hayashi were present, he concluded that the hospital district breached its duty of care in adequately staffing the delivery room.

The Wrights argue that Dr. Haté should have been present during Tucker's delivery. Dr. Haté knew that Ashley Wright's high-risk pregnancy, caused by her obesity and gestational diabetes, could result in a large baby or a complicated delivery To support their argument, they look to Dr. Haté's deposition, which was prepared for trial, in which she asked to be called when the patient was fully dilated and pushing. Moreover, Dr. Haté was not called and informed when the shoulder dystocia was discovered. Additionally, Dr. Haté's progress notes of July 16, 2009, record that Dr. Haté discussed with Ashley the possibility of shoulder problems, among other things, in a high risk pregnancy.

To further develop their breach of care theory, the Wrights' relied on Dr. King who stated that, even though he believed that Dr. Haté was a qualified physician, he believed that she deviated from the standard of care in her treatment of Ashley and Tucker Wright. He stated that Dr. Haté did not monitor the progress of Ashley Wright's labor sufficiently to be present at the time of delivery, but left her to the care of a midwife, even though she knew that Ashley Wright was a high risk delivery due to her gestational diabetes and obesity which can produce a larger baby. He concluded that it was highly unlikely that the injury to Tucker Wright would have occurred if an experienced obstetrician had been present to deliver the baby.

Dr. King stated that, although he did not have any criticisms of midwife Starkey's training, experience, or qualifications, he did not feel that she was qualified to deliver a baby whose mother was a gestational diabetic or obese without the supervision and presence of a physician. He faulted midwife Starkey, not for performing a McRoberts maneuver with suprapubic pressure, but for allegedly rotating the baby's head on the perineum as indicated in her typed delivery notes. Dr. King found that to be a deviation from the standard of care.

The Hospital District's Arguments

Staffing and the Absence of Dr. Haté: Based upon the evidence, the hospital was preparing to argue that it did not breach its standard of care to Ashley Wright. The hospital demonstrated that midwife Starkey was an experienced professional with sufficient training and qualifications to deliver a high-risk pregnancy unassisted. Cara Starkey has a bachelor's and master's degree in nursing and is a certified nurse midwife who had previously worked in a high-risk obstetrical unit. She testified in her deposition that she was trained in school and had participated in drills at Parrish Medical Center, using various maneuvers, to deliver babies having shoulder dystocia. She stated that she had likely performed the McRoberts maneuver 10 times or more in a year and had never had a child sustain a brachial plexus injury. Midwife Starkey testified in a deposition that she used an average, not excessive, amount of traction on Tucker to deliver him.

When asked why she did not call someone else into the delivery room to document what was happening, Ms. Starkey replied that she was focused on "getting the baby out" and believed that Dr. Haté was on her way to the delivery room, based upon the time and an earlier phone call from Dr. Haté.

In her deposition, Dr. Haté stated that she planned only to be the backup for Ashley Wright's delivery in case her help was needed. They were not expecting shoulder dystocia because, according to the ultrasound performed when Ashley was admitted for delivery, the baby's weight was projected at 7 pounds 6 ounces, not a large baby, and a size that would not suggest complications or shoulder dystocia. Dr. Haté explained in her deposition that shoulder dystocia does not become apparent until the head delivers. At that point, time is of the essence for the baby's survival and the healthcare workers cannot leave the patient to summon additional

assistance. If the baby is not quickly delivered, brain damage or death will be the result.

At one point in his deposition, Dr. King, the Wright's expert, was asked if Tucker could still have had the very same injury had Dr. Haté been present, and he acknowledged that Tucker could have.

The hospital district offered the deposition of Dr. Jordan Perlow, an obstetrician, as its expert witness. Dr. Perlow disagreed with Dr. King, the Wrights' medical expert, and said that it was not necessary nor below the standard of care for midwife Starkey to attend this particular delivery without a physician in the room. Dr. Perlow felt that the management that midwife Starkey provided was within the scope of her practice and that she had the backup support available from Dr. Haté if needed. He did note, though, that there was some lack of documentation and detail in the medical record of midwife Starkey.

Dr. Perlow testified that he looked specifically at the hospital's collaborative protocol and found it to be specifically within the scope of practice for a midwife to assess and provide management of shoulder dystocia. He further believed that midwife Starkey's actions were within the midwifery domain to deliver Ashley Wright's baby because she had a normal labor course, a normal estimated fetal weight, and a normal reassuring fetal heart rate. Midwife Starkey recognized the shoulder dystocia problem as soon as it occurred and then acted efficiently and appropriately in a timely fashion. Dr. Perlow said midwife Starkey resolved the shoulder dystocia in 1 to 2 minutes as evidenced by the fact that there was no fetal asphyxia and no fetal or neonatal death, and the Apgar scores were good at 5 minutes. His expert testimony, supported by his medical conclusions, lends credence to the theory that the amount of time that elapsed from the recognition of the shoulder dystocia to Tucker's delivery was 1 to 2 minutes, not 10 to 15 minutes as the Wrights suggest.

In assessing Ashley Wright's medical condition, Dr. Perlow noted that Ashley Wright was not medication-dependent for her gestational diabetes and was perhaps not as high-risk as others with gestational diabetes who were medication dependent.

When asked his opinion of Dr. Haté's prenatal medical care, Dr. Perlow responded that Dr. Haté's conduct was appropriate and within the standard of care. She continued to provide care to Ashley Wright when concerned about her noncompliance[v] and gestational diabetes, wanted her referred back to her previous obstetrician, and tried to refer her to a high-risk obstetrician. Dr. Haté remained within 3 minutes' drive from the hospital and was available to the nurse-midwife.

When the Wrights' attorney asked if Dr. Perlow believed that there were enough staff in the delivery room, he stated that he thought it met the standard of care although more staff and better notification for more people to come would have been ideal. Nevertheless, he said that in all probability, the shoulder dystocia would have likely been resolved by the time that additional staff would have arrived.

The McRoberts Maneuver and Delivery: Each side has a seemingly valid argument as to whether the McRoberts maneuver and delivery were properly performed.

The Wrights argue that they were not properly performed. In support of their position they look to midwife Starkey's delivery notes which state that "moderate shoulder dystocia relieved with McRoberts, suprapubic pressure and *rotation of the head on the perineum ….*" Because of this notation, the Wrights argue that midwife Starkey rotated the baby's head on the mother's perineum which should not have been undertaken because the rotation of the head would damage the fragile brachial plexus nerves that control the use of the baby's arm, and thereby cause Erb's palsy. A proper execution of the McRoberts maneuver and delivery would have only involved rotating the infant's shoulder, not his head.

The hospital district relied on midwife Starkey's deposition testimony and its medical expert, Dr. Perlow to support its position that the McRoberts maneuver was properly executed.

Midwife Starkey stated that when Tucker's head came out and retracted, she realized, based upon her training, that she had encountered shoulder dystocia and quickly needed to perform a McRoberts maneuver to help manipulate the shoulder downward for delivery. Ms. Starkey called for Donna Hayashi, the attending nurse, who came to the bed and began applying suprapubic pressure while Ashley Wright's legs were pulled back by family members. Ms. Starkey said that while she had

her hands supporting Tucker's head, she rotated the left shoulder which allowed for the release of the right shoulder and delivery of the baby. She testified that she did not pull on the baby's head in the delivery process and was able to get behind the baby's shoulder to rotate him.

Dr. Perlow, the hospital district's expert, said that midwife Starkey recognized and resolved the shoulder dystocia problem, prevented any neurologic injury from the brain, and concluded that she saved the baby's life. When asked about the seeming contradiction between the delivery notes, which said midwife Starkey rotated the baby's head versus her deposition testimony in which she said that she rotated the shoulder, Dr. Perlow felt that she wrote the note after dealing with a true obstetrical emergency and either misstated what she did or perhaps didn't accurately write what she did but that her actions were not below the standard of care.[vi]

Causation

The Wrights argue that midwife Starkey's improper rotation of Tucker's head caused the brachial plexus injury and the resulting Erb's palsy. They also argue that if the more experienced Dr. Haté had been present to deliver Tucker, his injury would not have occurred.

Dr. John Grossman, the Wright's expert, a hand and peripheral nerve surgeon who specializes in performing brachial plexus surgeries has operated on Tucker twice. It is his opinion that the damage to the nerves was caused by traction to the brachial plexus during delivery. He did not believe that the injury could have been caused by the maternal pressure of the delivery.

In contrast, the hospital district does not believe that midwife Starkey's actions were necessarily the cause of Tucker's injury as one might assume. Dr. Perlow noted that "there can be rotation of the head to a degree in order to effect the delivery." He explained that when the baby's head comes out, he or she is "essentially looking straight down at the ground" and there has to be a process of "restitution where the head then goes 90 degrees one way or the other, depending upon the baby's position … [and] there can be a need for some rotation to get to that point." Dr. Perlow believed that midwife Starkey also completed a technique referred to as a Rubin maneuver, which involves the rotation of the shoulder, and a resulting rotation of the head on the perineum. If, however,

midwife Starkey rotated the baby's head as opposed to rotating the baby's shoulder, he concluded that it would be a violation of the standard of care.

Dr. Perlow noted that medical literature has recognized that shoulder dystocia in itself, the stretching of the baby's neck as it continues down the birth canal with the shoulder hung up at the pubic symphysis, would be sufficient to cause the baby's injury without additional traction forces. The special master found this statement was corroborated by medical research.

The American College of Obstetricians and Gynecologists released a 2014 report entitled "Neonatal Brachial Plexus Palsy." The report stated that neonatal brachial plexus palsy, or NBPP, which includes Erb's palsy and Klumpke palsy, is a rare event and occurs only in approximately 1.5 of every 1,000 births. The report addressed the difficulty of determining which risk factors are statistically reliable predictors of NBPP. While noting that NBPP occurs more often as birth weight increases, the report concluded that the majority of NBPP cases occur with mothers who do not have diabetes and in babies who weigh less than 8.8 pounds. For women who have diabetes and an estimated baby birth weight greater than 9.92 pounds, the ability to accurately predict NBPP was only 5 percent. In addressing the issue of causation, the report stated that risk factors for shoulder dystocia are not very reliable. The report also provided that, while it was routinely believed during most of the last century that NBPP was caused by force used by the person delivering the baby, there was no clinical data supporting that conclusion. More recently, data began appearing which indicated that other forces unrelated to the injury, such as congenital and uterine abnormalities or malpositioning of the fetus within the uterus, played a role in NBPP.[vii]

When the hospital district deposed Dr. Andrew Price, who has assisted Dr. Grossman in Tucker's surgeries, Dr. Price testified that Tucker's injury was due to traction forces, but had no opinion as to the mechanical causes of the injury. He also noted that he had seen children with brachial plexus injuries who were delivered by Cesarean sections.

Damages

Because Tucker has Erb's palsy, his doctors have testified that Tucker will have a weakness in his right arm throughout his life.

Dr. Price testified that there will be some limitations on Tucker's future activities and career opportunities. He projects that Tucker will experience muscle weakening and his right arm will be somewhat smaller, perhaps a centimeter or two smaller, than his left arm. The shoulder girdle will also be a little smaller creating an asymmetry. Tucker does not have any impairment in the function of his hand or wrist. Sports that require the use of both hands will not be easy for Tucker, but Dr. Price testified that Tucker should be able to play sports such as football, basketball, baseball, soccer, tennis, swimming, martial arts, most everything else.

Dr. Price testified that Tucker's injury should not impair his academic performance but that some careers would be difficult for him. He would not likely be able to perform many upward motion labors requiring significant strength and he would probably not be able to pursue a military career or work as a firefighter, law enforcement officer, or mechanic. But a wide range of other careers should be open to him.

Unlike the claim bill, Dr. Price declined to characterize and refer to Tucker as having "partial paralysis," but rather as having deficits of strength and flexibility.

Dr. Price noted that Tucker does not need any adaptive equipment to compensate for his injury and is not on any medications for his injury nor should he need any future medications for the injury.

Final Conclusion in Light of the Evidence

The evidence made available to the special masters indicates that the hospital district had a plausible defense to the medical malpractice claims by the Wrights. However, the Wrights claims are also at least plausible. A negligently performed McRoberts maneuver and delivery can cause Erb's palsy, but no independent verifiable evidence such as a video tape exists to prove what actually happened as Tucker Wright was being born. Similarly, one might agree with Dr. Perlow as he stated in his deposition, "I would say that the nurse, Nurse Starkey, saved this baby's life" even though Tucker was born with Erb's palsy. Thus, considering the costs of litigation and the uncertainty of juries, the settlement agreement is reasonable under the circumstances.

SETTLEMENT AGREEMENT

Per the terms of its settlement with the Wrights, the North Brevard County Hospital District did not present evidence or make any arguments during the de novo special master hearing. The district, however, did provide information or evidence in response to specific requests. Much of the information was prepared as part of its defense to the Wright's medical malpractice lawsuit. However, the information or evidence provided by the hospital district suggests that the hospital district, at least initially, intended to dispute the Wright's negligence allegations.

The Wrights initially offered to settle the claim for $2,500,000. However, the parties settled this suit at mediation for $595,000, of which $200,000 has been paid. The Order Approving Settlement authorized the payment of attorney fees of 25 percent, or $50,000, and attorney costs of $15,790.15 from the initial $200,000. A petition to reduce medical liens was approved and their payment authorized in two installments, with the first installment of $28,123.20 coming from the initial allocation and the second installment being paid contingent upon passage of the claim bill. Roy and Ashley Wright received 25 percent or $26,521.66 and the Tucker Wright Trust received 75 percent of the net balance or $79,564.99.

Should the claim bill pass, the proceeds would be distributed first to pay attorney fees of 25 percent or $98,750, plus costs followed by a net award of 25 percent distributed to Roy and Ashley Wright for the expenses they have incurred caring for Tucker and the remaining 75 percent to Tucker's trust. Roy and Ashley Wright were approved as co-trustees to manage the assets of Tucker until he reaches majority. The funds are restricted to his educational and healthcare needs and may be invested only in secure, conservative minimal risk investments.

The settlement release, dated December 20, 2013, states that neither the release nor payments are to be construed as an admission of liability on the part of the North Brevard County Hospital District. The Hospital District does not oppose the claim bill. The claim bill will be solely funded by a dedicated trust fund of the North Brevard County Hospital District d/b/a Parrish Medical Center because the district does not maintain professional liability insurance that applies to the claim.

Because the settlement amount exceeds $50,000, the settlement agreement had to be approved by a judge who was required to appoint a guardian ad litem to represent Tucker's interests.[viii] Tucker's guardian ad litem, attorney Arthur W. Niergarth, Jr., reviewed the proposed settlement on behalf of Tucker and filed his recommendation with the court in support of the proposed settlement

ATTORNEYS FEES: Section 768.28, F.S., limits the claimant's attorney fees to 25 percent of the claimant's total recovery by way of any judgment or settlement obtained pursuant to s. 768.28, F.S. The claimant's attorney has acknowledged this limitation and verified in writing that nothing in excess of 25 percent of the gross recovery will be withheld or paid as attorney fees.

RECOMMENDATIONS: Based upon the foregoing, the undersigned recommends that Senate Bill 60 be reported FAVORABLY.

Respectfully submitted,

Eva M. Davis
Senate Special Master

CS by Judiciary on February 17, 2015:
The committee substitute corrects the spelling of midwife Starkey, clarifies that the McRoberts maneuver does not involve the rotation of an infant's head during delivery, states that an additional procedure was performed to deliver the baby, deletes a reference to the infant's arm being paralyzed, and removes references to the negligence of "an employee of" the Parrish Medical Center.

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[i] When Tucker was born, he actually weighed over a pound more than what the sonogram projected. Even at that birth weight, however, he did not meet the definition of "macrosomic" or excessively large baby.
[ii] Section 766.102(1), F.S.
[iii] *Saunders v. Dickens*, No. SC12-2314, 2014 WL 3361813, at *6 (Fla. July 10, 2014).
[iv] *Id.*, at *7.
[v] In her progress notes on the date of the delivery, Dr. Haté described Ashley Wright as being noncompliant. She stated that Ashley Wright left her first obstetrician late in the pregnancy and refused to return to that obstetrician's care when encouraged to do so. Ashley chose to discontinue taking insulin to treat her gestational diabetes, and did not keep her high risk appointment when referred to a high risk specialist. The facts are in dispute as to why she did not keep the appointment.
[vi] Dr. Perlow indicates that he believed that midwife Starkey might have actually performed a Rubin maneuver in addition to a McRoberts maneuver. The Rubin maneuver involves reaching in and rotating a shoulder of the baby to help dislodge it.

[vii] American College of Obstetricians and Gynecologists, Task Force on Neonatal Brachial Plexus Palsy, *Neonatal Brachial Plexus Palsy*, 2014.
[viii] Sections 744.3025 and 744.387, F.S.

By the Committee on Judiciary; and Senator Simpson

A bill to be entitled

An act for the relief of Roy Wright and Ashley Wright by the North Brevard County Hospital District; providing for an appropriation to compensate Roy Wright and Ashley Wright, individually and as guardians of Tucker Wright, for injuries and damages sustained by Tucker Wright as a result of the negligence of Parrish Medical Center; providing a limitation on the payment of fees and costs; providing that certain payments and the appropriation satisfy all present and future claims related to the negligent act; providing an effective date.

WHEREAS, on July 15, 2009, Ashley Wright, suffering from gestational diabetes, was admitted as a high-risk obstetrical patient at Parrish Medical Center, operated by the North Brevard County Hospital District, in Titusville, Florida, and

WHEREAS, mothers with gestational diabetes are classified as high-risk obstetrical patients because their fetuses tend to be larger than normal and large fetuses are at risk for complications during the birth process, and

WHEREAS, Ashley Wright's care at Parrish Medical Center was provided by Vidya Hate, M.D., an obstetrician, and Cara Starkey, R.N., a midwife, both employees of Parrish Medical Center, and

WHEREAS, on July 16, 2009, Ashley Wright was in labor with her unborn child, Tucker Wright, and Nurse Starkey failed to notify Dr. Hate of the impending delivery as previously instructed and delivered Tucker Wright herself without the presence, supervision, or assistance of Dr. Hate, and

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

WHEREAS, complications arose during the delivery, and Tucker Wright developed shoulder dystocia, a condition in which the shoulder of a fetus becomes wedged on the mother's pelvic bone as the fetus transits the birth canal, which condition is a known and recognized risk for mothers with gestational diabetes, and

WHEREAS, Nurse Starkey attempted to resolve the shoulder dystocia by performing a McRoberts maneuver and a procedure in which the shoulders of a fetus are gently rotated by hand underneath the shoulders, allowing the shoulders to pass underneath the pelvic bone and out through the birth canal, and

WHEREAS, Nurse Starkey negligently rotated the head of the fetus on the perineum, causing a brachial plexus injury to Tucker Wright which injured his right arm and will limit his activities and future career options, and

WHEREAS, all parties to this claim agree that rotation of the head of a fetus on the perineum is an improper maneuver because rotation of the head with pressure can stretch and damage the nerves in a fetus's neck which control the use of muscles in the arm, and

WHEREAS, Tucker Wright has undergone two surgeries on his right shoulder and regained some use of his right arm but continues to be challenged with functional deficits that may be permanent, and

WHEREAS, Roy Wright and Ashley Wright have incurred medical expenses on behalf of Tucker Wright in the amount of $320,016.91 due to the injury caused by the negligence of Parrish Medical Center, and may incur additional expenses for surgeries needed as Tucker Wright grows older, and

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

59 WHEREAS, on January 11, 2012, Roy Wright and Ashley Wright,
60 individually and as guardians of Tucker Wright, filed suit
61 against the North Brevard County Hospital District in the
62 Circuit Court for Brevard County, Case No. 05-2012-CA-024060, to
63 recover damages for the injuries sustained by Tucker Wright as a
64 result of the negligence of Parrish Medical Center, and
65 WHEREAS, the North Brevard County Hospital District, Roy
66 Wright, and Ashley Wright agreed to settle the lawsuit for
67 $595,000, and
68 WHEREAS, the North Brevard County Hospital District paid
69 $200,000 of the settlement pursuant to the statutory limits of
70 liability set forth in s. 768.28, Florida Statutes, and there
71 remains $395,000 of the settlement unsatisfied, and
72 WHEREAS, the North Brevard County Hospital District does
73 not oppose passage of this claim bill, NOW, THEREFORE,
74
75 Be It Enacted by the Legislature of the State of Florida:
76
77 Section 1. The facts stated in the preamble to this act are
78 found and declared to be true.
79 Section 2. The North Brevard County Hospital District is
80 authorized and directed to appropriate from funds of the
81 district not otherwise appropriated and to draw a warrant,
82 payable to Roy Wright and Ashley Wright, individually and as
83 guardians for Tucker Wright, for the total amount of $395,000 as
84 compensation for injuries and damages sustained by Tucker Wright
85 as a result of the negligence of Parrish Medical Center.
86 Section 3. The total amount paid for attorney fees,
87 lobbying fees, costs, and other similar expenses relating to

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

88 this claim may not exceed 25 percent of the amount awarded under
89 this act.
90 Section 4. The amount paid by the North Brevard County
91 Hospital District pursuant to s. 768.28, Florida Statutes, and
92 the amount awarded under this act are intended to provide the
93 sole compensation for all present and future claims arising out
94 of the factual situation described in this act which resulted in
95 the injuries to Tucker Wright.
96 Section 5. This act shall take effect upon becoming a law.

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 / 21 /2015
Meeting Date

Topic _____ Bill Number 60 *(if applicable)*

Name BRIAN PITTS Amendment Barcode _____ *(if applicable)*

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH
Street

SAINT PETERSBURG FLORIDA 33705
City *State* *Zip*

Phone 727-897-9291

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)

THE FLORIDA SENATE

SPECIAL MASTER ON CLAIM BILLS

Location
402 Senate Office Building

Mailing Address
404 South Monroe Street
Tallahassee, Florida 32399-1100
(850) 487-5237

DATE	COMM	ACTION
12/29/14	SM	Favorable
2/3/15	JU	Fav/CS
4/8/15	AED	Favorable
4/21/15	AP	Favorable

April 7, 2015

The Honorable Andy Gardiner
President, The Florida Senate
Suite 409, The Capitol
Tallahassee, Florida 32399-1100

Re: **SB 68** – Senator Legg
Relief of Carl Abbott

SPECIAL MASTER'S FINAL REPORT

THIS IS AN UNOPPOSED EQUITABLE CLAIM FOR $1.9 MILLION, IN LOCAL FUNDS, AGAINST THE PALM BEACH COUNTY SCHOOL BOARD FOR THE NEGLIGENCE OF A BUS DRIVER WHO STRUCK AND SERIOULY INJURED CARL ABBOTT AS HE WAS ATTEMPTING TO WALK ACROSS A ROADWAY WITHIN A MARKED PEDESTRIAN CROSSWALK.

CURRENT STATUS:

On December 15, 2010, an administrative law judge from the Division of Administrative Hearings, serving as a Senate special master, held a de novo hearing on a previous version of this bill, SB 54 (2012). After the hearing, the judge issued a report containing findings of fact and conclusions of law and recommended that the bill be reported favorably. That report is attached as an addendum to this report.

Due to the passage of time since the hearing, the Senate President reassigned the claim to me, Jason Hand. My responsibilities were to review the records relating to the claim bill, be available for questions from the members, and determine whether any changes have occurred since the hearing, which if known at the hearing, might have significantly altered the findings or recommendation in the previous report.

According to counsel for the parties, Carl Abbott passed away in June, 2014. The bill may need to be amended to reflect Mr. Abbott's death. The bill anticipates Carl Abbott's death, and provides that David Abbott, as guardian of Carl Abbott, is guaranteed a minimum payment of $633,333.33 (via three annual payments of $211,111.11) if Carl Abbott dies "within 3 years after the effective date of the act." In light of Carl Abbott's death before the effective date, the bill may need to be amended to clarify David Abbott's ability to receive the referenced payments. No other changes have occurred since the hearing which might have altered the findings and recommendations in the report.

Additionally, the prior claim bill, SB 54 (2012), is effectively identical to claim bill filed for the 2015 Legislative Session.

Respectfully submitted,

Jason Hand
Senate Special Master

cc: Debbie Brown, Secretary of the Senate

CS by Judiciary
The bill was drafted under the assumption that the claimant, Carl Abbott, would be alive at the time of passage, but potentially die before all required annual payments are made. The committee substitute recognizes that the claimant recently died, and provides for the payments in the bill to be made consistently with the payment structure in the underlying bill for payments after the claimant's death. Accordingly, Palm Beach County School Board will be required to pay $633,333.33 instead of $1.9 million had Carl Abbot lived until he received the last annual payment in the year 2022.

THE FLORIDA SENATE

SPECIAL MASTER ON CLAIM BILLS

Location
402 Senate Office Building
Mailing Address
404 South Monroe Street
Tallahassee, Florida 32399-1100
(850) 487-5237

DATE	COMM	ACTION
12/2/11	SM	Favorable

December 2, 2011

The Honorable Mike Haridopolos
President, The Florida Senate
Suite 409, The Capitol
Tallahassee, Florida 32399-1100

Re: **SB 54 (2012)** – Senator Joe Negron
Relief of Carl Abbott

SPECIAL MASTER'S FINAL REPORT

THIS IS AN UNOPPOSED EQUITABLE CLAIM FOR $1.9 MILLION, IN LOCAL FUNDS, AGAINST THE PALM BEACH COUNTY SCHOOL BOARD FOR THE NEGLIGENCE OF A BUS DRIVER WHO STRUCK AND SERIOUSLY INJURED CARL ABBOTT AS HE WAS ATTEMPTING TO WALK ACROSS A ROADWAY WITHIN A MARKED PEDESTRIAN CROSSWALK.

FINDINGS OF FACT:

On June 30, 2008, at about 2:00 p.m., Carl Abbott, then 68 years old, started to walk across U.S. Highway 1 at the intersection with South Anchorage Drive in North Palm Beach, Florida. Mr. Abbott was heading west from the northeast quadrant of the intersection, toward the intersection's northwest quadrant. To get to the other side of U. S. Highway 1, which runs north and south, Mr. Abbott needed to cross the highway's three northbound lanes, a median, the southbound left turn lane, and the three southbound travel lanes. Mr. Abbott remained within the marked pedestrian crosswalk. (See diagram below.)

At the time Mr. Abbott began to cross U. S. Highway 1, a school bus was idling in the eastbound left-turn lane on South Anchorage Drive, waiting for the green light. The bus driver, Generia Bedford, intended to turn left and proceed

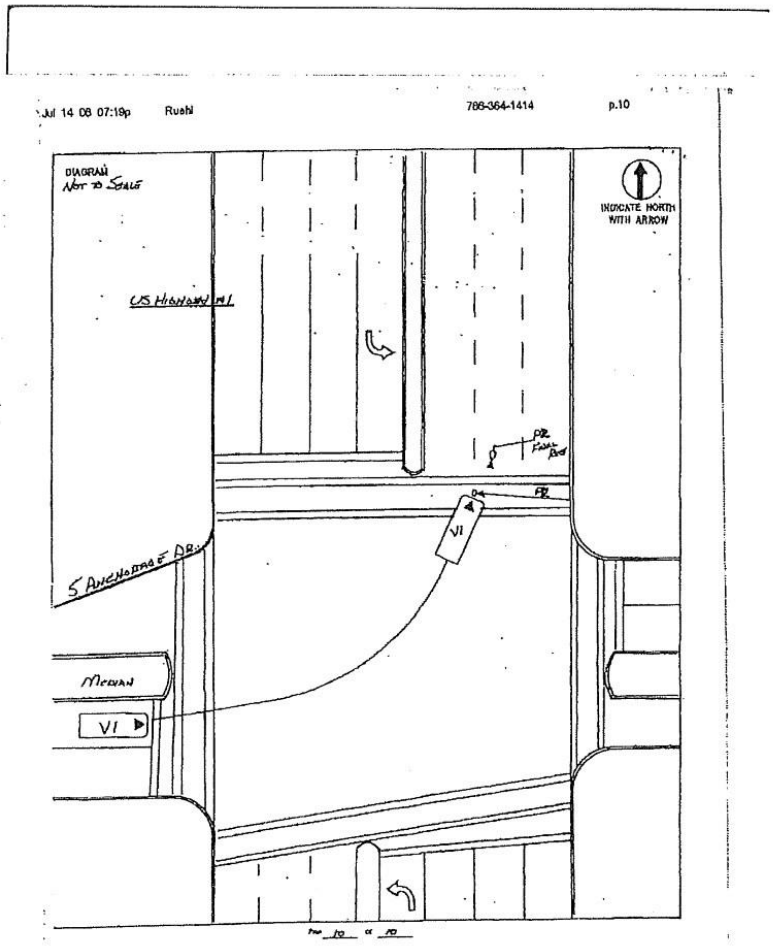
north on U. S. Highway 1. When the light changed, Ms. Bedford drove the bus eastward through the intersection and turned left, as planned, heading northward. She did not see Mr. Abbott, who was in the center northbound lane of U. S. Highway 1, until it was too late. The school bus struck Mr. Abbott and knocked him to the ground. He sustained a serious, traumatic brain injury in the accident.

Mr. Abbott received cardiopulmonary resuscitation (CPR) at the scene and was rushed to St. Mary's Medical Center, where he was placed on a ventilator. A cerebral shunt was placed to decrease intracranial pressure. After two months, Mr. Abbott was discharged with the following diagnoses: traumatic brain injury, pulmonary contusions, intracranial hemorrhage, subdural hematoma, and paralysis.

Mr. Abbott presently resides in a nursing home. As a result of the brain injury, he is unable to talk, walk, or take care of himself. He is alert but has significant cognitive impairments. Mr. Abbott has neurogenic bladder and bowel and hence is incontinent. He cannot perform any activities of daily living and needs constant, total care. His condition is not expected to improve.

Based on the Life Care Plan prepared by Stuart B. Krost, M.D., Mr. Abbott's future medical needs, assuming a life expectancy of 78 years, are projected to cost about $4 million, before a reduction to present value. Based on the evidence presented, the undersigned is unable to determine the approximate amount of Mr. Abbott's past medical expenses, but it appears to be a sum between, very roughly, $200,000 and $775,000.

DIAGRAM:



LEGAL PROCEEDINGS:

In 2008, Mr. Abbott's son David, as guardian, brought suit on Mr. Abbott's behalf against the School Board of Palm Beach County. The action was filed in the Circuit Court in and for Palm Beach County, Florida.

Before trial the parties attended a mediation conference and agreed to settle the case for $2 million, $100,000 of which the School Board paid immediately. Pursuant to the settlement agreement, the $1.9 million balance will be paid, if this claim bill is enacted, in eight yearly installments of $211,111.11, plus a ninth and final annual payment of $211,111.12. These yearly payments will commence, if at all, on the effective date of the claim bill, should it become law, and continue for nine years, or until Mr. Abbott's death, whichever first occurs. The School Board has agreed, however, to make at least three years' worth of payments,

guaranteeing a minimum payout of $633,333.33 (if this claim bill passes).

Out of the $100,000 settlement proceeds he has already received, Mr. Abbott paid $25,000 in attorney's fees and, after paying some expenses, netted $51,905.65. This amount was paid to Mr. Abbott's guardian, David Abbott.

CLAIMANT'S ARGUMENTS: The Palm Beach County School Board is vicariously liable for the negligence of its employee, who breached the duty of a motorist to use reasonable care toward a pedestrian by failing to yield the right-of-way to Mr. Abbott as he crossed U. S. Highway #1 on foot within a marked crosswalk.

RESPONDENT'S POSITION: The Palm Beach County School Board does not oppose the enactment of this claim bill. It is self-insured, however, and would pay the balance of the agreed sum out of its General Fund, which was the source of revenue used to satisfy the initial commitment of $100,000. The School Board notes that payment of the $1.9 million sought in this bill would be difficult, given budgetary constraints, but it stops short of urging that the bill be rejected on this basis.

CONCLUSIONS OF LAW: As provided in s. 768.28, Florida Statutes (2010), sovereign immunity shields the School Board against tort liability in excess of $200,000 per occurrence.

A school board is liable for any negligent act committed by a public school bus driver whom it employs, provided the act is within the scope of the driver's employment. Hollis v. School Board of Leon Cnty., 384 So. 2d 661, 665 (Fla. 1st DCA 1980). Ms. Bedford was the School Board's employee and was clearly acting within the scope of her employment at the time of the accident in question. Accordingly, the negligence of Ms. Bedford is attributable to the School Board.

Like any motorist, a school bus driver has a duty to look out for pedestrians and to avoid creating hazardous situations. See Resnick v. National Car Rental Systems, Inc., 266 So. 2d 74, 75 (Fla. 3d DCA 1972). While "the rights of motorists and pedestrians on highways are reciprocal," the motorist "must exercise ordinary reasonable and due care toward a pedestrian." Edwards v. Donaldson, 103 So. 2d 256, 259 (Fla. 2d DCA 1958).

Here, the applicable traffic regulations required that Ms. Bedford yield to Mr. Abbott because he was crossing the road within a marked crosswalk. See § 316.130(7), Fla. Stat.; see also, § 316.075(1)(a)1., Fla. Stat. ("[V]ehicular traffic, including vehicles turning right or left, shall yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time such [green] signal is exhibited.") Ms. Bedford breached the duty to use reasonable care for the safety of Mr. Abbott. Her negligence was the direct and proximate cause of Mr. Abbott's serious and irreversible brain injury.

The sum that the School District has agreed to pay Mr. Abbott ($2 million) is both reasonable and responsible, given the nature and permanence of the injury and the Mr. Abbott's substantial and continuing medical needs.

ATTORNEYS FEES:

Section 768.28(8), Florida Statutes, provides that "[n]o attorney may charge, demand, receive, or collect, for services rendered, fees in excess of 25 percent of any judgment or settlement." Mr. Abbott's attorney, Joseph R. Johnson, Esquire, has submitted an affidavit attesting that all attorney's fees, lobbying fees, and costs will be paid in accordance with the limitations specified in the claim bill.

RECOMMENDATIONS:

For the reasons set forth above, I recommend that Senate Bill 54 (2012) be reported FAVORABLY.

Respectfully submitted,

John G. Van Laningham
Senate Special Master

cc: Senator Joe Negron
Debbie Brown, Interim Secretary of the Senate
Counsel of Record

By the Committee on Judiciary; and Senator Legg

A bill to be entitled

An act for the relief of Carl Abbott by the Palm Beach County School Board; providing for an appropriation to compensate Carl Abbott for injuries sustained as a result of the negligence of an employee of the Palm Beach County School District; providing a limitation on the payment of fees and costs; providing an effective date.

WHEREAS, on June 30, 2008, 67-year-old Carl Abbott was struck by a school bus driven by an employee of the Palm Beach County School District while Mr. Abbott was crossing the street in a designated crosswalk at the intersection of South Anchorage Drive and U.S. 1 in Palm Beach County, and

WHEREAS, as a result of the accident, Carl Abbott suffered a closed head injury, traumatic brain injury, subdural hematoma, and subarachnoid hemorrhage, and

WHEREAS, as a result of his injuries, Carl Abbott had to reside in a nursing home, suffered from loss of cognitive function, right-sided paralysis, immobility, urinary incontinence, bowel incontinence, delirium, and an inability to speak, and had to obtain nutrition through a feeding tube, and

WHEREAS, the Palm Beach County School Board unanimously passed a resolution in support of settling the lawsuit that was filed in this case, tendered payment of $100,000 to Carl Abbott in accordance with the statutory limits of liability set forth in s. 768.28, Florida Statutes, and does not oppose the passage of this claim bill in favor of Carl Abbott in the amount of $1.9 million, as structured, and

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

WHEREAS, Carl Abbott passed away in June 2014, NOW, THEREFORE,

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

Section 1. The facts stated in the preamble to this act are found and declared to be true.

Section 2. The Palm Beach County School Board is authorized and directed to appropriate from funds of the school board not otherwise appropriated and to draw warrants in the amount of $211,111.11 each fiscal year beginning in 2015 through 2022, inclusive, and $211,111.12 in the 2023-2024 fiscal year for a total of $1.9 million, payable to David Abbott, as guardian of Carl Abbott, as compensation for injuries and damages sustained as a result of the negligence of an employee of the Palm Beach County School District. The payments were scheduled to cease upon the death of Carl Abbott if he died before the last payment was made. However, David Abbott, as guardian of Carl Abbott, is guaranteed a total payment amount of $633,333.33 since Carl Abbott died before or within 3 years after the effective date of this act. This amount represents three annual payments and shall be payable on the annual due dates.

Section 3. The amount paid by the Palm Beach County School Board pursuant to s. 768.28, Florida Statutes, and the amount awarded under this act are intended to provide the sole compensation for all present and future claims against the Palm Beach County School District arising out of the factual situation that resulted in the injuries to Carl Abbott as

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59 described in the preamble to this act. The total amount paid for
60 attorney fees, lobbying fees, costs, and other similar expenses
61 relating to this claim may not exceed 25 percent of the total
62 amount awarded under this act.
63 Section 4. This act shall take effect upon becoming a law.

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

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Education Pre-K - 12, Chair
Ethics and Elections, Vice Chair
Appropriations Subcommittee on Education
Fiscal Policy
Government Oversight and Accountability
Higher Education

SENATOR JOHN LEGG
17th District

Legg.John.web@FLSenate.gov

March 25, 2015

The Honorable Don Gaetz
Appropriations Subcommittee on Education Chair
201 The Capitol
404 S. Monroe Street
Tallahassee, FL 32399

RE: CS/SB 68 - Relief of Carl Abbott by the Palm Beach County School Board

Dear Chair Gaetz:

CS/SB 68 - Relief of Carl Abbott by the Palm Beach County School Board has been referred to your committee. I respectfully request that it be placed on the Appropriations Subcommittee on Education Agenda, at your convenience. Your leadership and consideration are appreciated.

Sincerely,

John Legg
State Senator, District 17

cc: Tim Elwell, Staff Director

JL/jb

SENATE APPROPRIATIONS
RECEIVED
15 MAR 25 PM 1:27
CHAIRMAN
STAFF DIR. STAFF

REPLY TO:
☐ 262 Crystal Grove Boulevard, Lutz, Florida 33548 (813) 909-9919
☐ 316 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5017

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

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Education Pre-K - 12, Chair
Ethics and Elections, Vice Chair
Appropriations Subcommittee on Education
Fiscal Policy
Government Oversight and Accountability
Higher Education

SENATOR JOHN LEGG
17th District

Legg.John.web@FLSenate.gov

March 5, 2015

The Honorable Tom Lee
Committee on Appropriations Chair
201 The Capitol
404 S. Monroe Street
Tallahassee, FL 32399

RE: CS/SB 0068 - Relief of Carl Abbott by the Palm Beach County School Board

Dear Chair Lee:

CS/SB 0068 - Relief of Carl Abbott by the Palm Beach County School Board has been referred to your committee. I respectfully request that it be placed on the Committee on Appropriations Agenda, at your convenience. Your leadership and consideration are appreciated.

Sincerely,

John Legg
State Senator, District 17

cc: Cindy Kynoch, Staff Director

JL/jb

SENATE APPROPRIATIONS
RECEIVED
15 APR -8 PM 2:25
COMMITTEE ON APPROPRIATIONS
STAFF DIR. _____ STAFF _____

REPLY TO:
☐ 262 Crystal Grove Boulevard, Lutz, Florida 33548 (813) 909-9919
☐ 316 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5017

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

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

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

4 / 21/2015
Meeting Date

Topic _____ Bill Number 68 *(if applicable)*

Name BRIAN PITTS Amendment Barcode _____ *(if applicable)*

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH
Street

SAINT PETERSBURG FLORIDA 33705
City *State* *Zip*

Phone 727-897-9291

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)

THE FLORIDA SENATE

SPECIAL MASTER ON CLAIM BILLS

Location
302 Senate Office Building

Mailing Address
404 South Monroe Street
Tallahassee, Florida 32399-1100
(850) 487-5237

DATE	COMM	ACTION
12/31/14	SM	Fav/1 amendment
03/24/15	JU	Fav/CS
04/07/15	AHS	Favorable
04/21/15	AP	Favorable

December 31, 2014

The Honorable Andy Gardiner
President, The Florida Senate
Suite 409, The Capitol
Tallahassee, Florida 32399-1100

Re: **CS/SB 80** – Judiciary Committee and Senator Anitere Flores
Relief of Michael Rardin

SPECIAL MASTER'S FINAL REPORT

THIS IS AN UNCONTESTED CLAIM FOR $2,000,000 AGAINST THE NORTH BROWARD HOSPITAL DISTRICT FOR AN INCIDENT OF MEDICAL MALPRACTICE.

FINDINGS OF FACT:

In 2011, Michael Rardin was a 42-year old construction company employee. He acted in a general contractor role on high value projects and earned a high salary. On July 14, 2011, Mr. Rardin went to his primary care physician complaining of fatigue and shortness of breath. His primary care physician sent Mr. Rardin to the emergency room. Mr. Rardin was triaged as a priority 1/critical patient. Mr. Rardin was seen by Dr. Susan Nesselroth at 2:04 pm. Dr. Nesselroth noted his complaints and ordered an oxygen saturation monitor. Mr. Rardin had an oxygen saturation level of 53%. A normal oxygen saturation level is 95% or greater. Dr. Nesselroth ordered a non-rebreather mask with supplemental oxygen. Mr. Rardin was to be monitored in the emergency department.

Mr. Rardin was not intubated nor placed on a centrally monitored respiratory or cardiac monitor. A chest x-ray was then performed, indicating a left lower lobe infiltrate, and Dr. Nesselroth's diagnostic impression was left lower lobe

pneumonia and hypoxia. Over the next two hours, Mr. Rardin's condition deteriorated.

At 3:57 pm, Dr. Nesselroth was called to Mr. Rardin's bedside. A nurse noted increased respiratory distress and difficulty in arousing Mr. Rardin. Dr. Nesselroth evaluated Mr. Rardin as unresponsive, diaphoretic, and with agonal respirations. Dr. Nesselroth decided to intubate Mr. Rardin. There were two attempts to intubate Mr. Rardin. The first attempt at 4:05 pm, resulted in an "esophageal intubation" where oxygen was being delivered to his stomach rather than his lungs. Mr. Rardin became asystolic. A code was called and CPR and other live saving efforts were administered. By the time the physicians and staff successfully intubated Mr. Rardin, a sufficient period of time had passed with inadequate oxygen to the brain, resulting in a serious and permanent hypoxic brain injury. The second intubation attempt occurred at 4:15 pm, resulting in approximately 10 minutes of time of no heart rate, no blood pressure, and no oxygen being delivered to Mr. Rardin's brain.

The Rardins filed a lawsuit against the North Broward Hospital District. The minor children were subsequently dropped from the lawsuit and the matter continued with Mr. and Mrs. Rardin as plaintiffs. North Broward Hospital District, which owns and operates North Broward Medical Center, reached a settlement agreement with the Rardins by mediation in the amount of $2.2 million dollars, $200,000 of which has been paid in partial satisfaction of the final judgment. As a condition of the settlement, North Broward Hospital District agreed to support passage of a claim bill. If the bill passes, the claim will be paid through a combination of money the North Broward Hospital District has set aside for the payment of claims and insurance.

The Rardins also settled a claim against Dr. Nesselroth for an undisclosed amount. Counsel for the claimants did not disclose the amount of the settlement to the Special Master, citing a confidentiality agreement.

CONCLUSIONS OF LAW:

The claim bill hearing was a *de novo* proceeding to determine whether the North Broward Hospital District was liable in negligence for the damages suffered by Michael and Patricia Rardin. The undersigned finds that the staff of the North Broward Hospital District had a duty to treat Mr. Rardin

according to the standard of care and that it failed to do so. In waiting approximately two hours to intubate, despite an initial evaluation indicating critical oxygen values, Dr. Nesselroth and the hospital staff violated the standard of care. The failure of the staff was the cause of Mr. Rardin's injuries.

Due to the failure of hospital personnel to properly monitor and timely intubate Mr. Rardin, he suffers from a permanent brain injury, including but not limited to visual disturbances, short term memory loss and severe depression. Mr. Rardin's catastrophic injuries have rendered him unable to work. Furthermore, Mr. Rardin's injuries render him unable to provide the services, comfort, attention, and affection that he otherwise would have provided to his wife, Patricia Rardin, and his two minor children, Kayla and Emily Rardin The amount of damages agreed to by the parties is reasonable.

ATTORNEYS FEES: Mr. Rardin's attorneys have agreed to limit their fees to 25 percent of any amount awarded by the Legislature. Lobbyist fees are included with the attorney fees.

RECOMMENDATIONS: SB 80 names the Rardin's children as claimants when they were dropped from the litigation. The attached amendment names only Michael and Patricia Rardin as the claimants, removing the names of the children. The undersigned recommends that the bill be reported favorably with the suggested amendment.

Respectfully submitted,

L. Michael Billmeier, Jr.
Senate Special Master

cc: Debbie Brown, Secretary of the Senate

CS by Judiciary on March 24. 2015:
The committee substitute revises the underlying bill to clearly identify Patricia Rardin as a claimant. Additionally, the committee substitute also deletes references to the children of Michael and Patricia Rardin.

By the Committee on Judiciary; and Senator Flores

A bill to be entitled

An act for the relief of Michael and Patricia Rardin by the North Broward Hospital District; providing for an appropriation to compensate Michael and Patricia Rardin for injuries sustained as a result of the negligence of the North Broward Hospital District; providing a limitation on the payment of fees and costs; providing an effective date.

WHEREAS, on July 14, 2011, Michael Rardin, a 42-year-old construction company employee earning a six-figure salary, visited the emergency room at the North Broward Medical Center, which is owned and operated by the North Broward Hospital District, complaining of chest pain, shortness of breath for the prior 2 weeks, and the need to sleep during the day, and

WHEREAS, based on Mr. Rardin's alarming vital signs, he was triaged as a priority 1/critical patient, and

WHEREAS, Mr. Rardin was evaluated by Susan Nesselroth, M.D., at 2:04 p.m., who noted that his chief complaint was persistent shortness of breath with an associated cough, and

WHEREAS, Dr. Nesselroth ordered an oxygen saturation monitor, which reported a critical oxygen saturation level of 53 percent, and a nonrebreather mask with supplemental oxygen, and

WHEREAS, Mr. Rardin was to be monitored in the emergency department, and

WHEREAS, in violation of the standard of care, Mr. Rardin, a priority 1/critical patient, was not placed on a centrally monitored respiratory or cardiac monitor, and

WHEREAS, a chest x-ray was performed, which indicated a

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left lower lobe infiltrate, and Dr. Nesselroth's diagnostic impression was left lower lobe pneumonia and hypoxia, and

WHEREAS, Mr. Rardin proceeded to progressively deteriorate for about the following 2 hours, and

WHEREAS, at 3:57 p.m., Dr. Nesselroth was called to Mr. Rardin's bedside and a nurse noted increased respiratory distress and difficulty arousing Mr. Rardin, and

WHEREAS, at Mr. Rardin's bedside, Dr. Nesselroth evaluated him as unresponsive, diaphoretic, and as having agonal respirations, and

WHEREAS, in violation of the standard of care, Mr. Rardin was not intubated until about 2 hours after Dr. Nesselroth's initial evaluation that indicated critical oxygen values, and

WHEREAS, at 4:05 p.m., the first of two intubation attempts resulted in an esophageal intubation, where oxygen was being delivered to Mr. Rardin's stomach rather than his lungs, and

WHEREAS, as a result of the faulty intubation, Mr. Rardin became asystolic and a code was called, which led to the administration of cardiopulmonary resuscitation (CPR) and Advance Life Support (ALS) efforts, and

WHEREAS, by the time hospital personnel were able to successfully intubate Mr. Rardin he had suffered a serious and permanent hypoxic brain injury due to the length of time, approximately 10 minutes, during which his brain did not receive sufficient oxygen, and

WHEREAS, as a result of the hospital personnel's negligent failure to monitor and timely intubate Mr. Rardin, he now suffers from a permanent brain injury and symptoms such as visual disturbances, short-term memory loss, and severe

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

59 depression, and
60 WHEREAS, as a result of the hospital personnel's negligent
61 failure to monitor and timely intubate Mr. Rardin, he can no
62 longer support his family or provide the company and affection
63 that he otherwise would have provided to his wife, Patricia
64 Rardin, and their two minor children, Emily and Kayla Rardin,
65 and
66 WHEREAS, a tort claim was filed on behalf of Michael and
67 Patricia Rardin, Case No. 12-034723(13), in the 17th Judicial
68 Circuit, and
69 WHEREAS, the North Broward Hospital District and Mr. and
70 Mrs. Rardin have agreed to settle the claim for $2.2 million,
71 and
72 WHEREAS, $200,000 has been paid pursuant to the statutory
73 limits of liability imposed under s. 768.28, Florida Statutes,
74 and
75 WHEREAS, the North Broward Hospital District has agreed to
76 fully cooperate and promote the passage of this claim bill in
77 the amount of $2 million, the remainder of the settlement
78 amount, NOW, THEREFORE,
79
80 Be It Enacted by the Legislature of the State of Florida:
81
82 Section 1. The facts stated in the preamble to this act are
83 found and declared to be true.
84 Section 2. The North Broward Hospital District is
85 authorized and directed to appropriate from funds of the
86 district not otherwise appropriated, including insurance, and to
87 draw a warrant in the sum of $2 million payable to Michael

88 Rardin and Patricia Rardin, as compensation for the catastrophic
89 injuries and damages Mr. Rardin sustained.
90 Section 3. The amount paid by the North Broward Hospital
91 District pursuant to s. 768.28, Florida Statutes, and the amount
92 awarded under this act are intended to provide the sole
93 compensation for all present and future claims arising out of
94 the factual situation described in this act which resulted in
95 the catastrophic injuries to Mr. Rardin. The total amount paid
96 for attorney fees, lobbying fees, costs, and other similar
97 expenses relating to this claim may not exceed 25 percent of the
98 amount awarded under this act.
99 Section 4. This act shall take effect upon becoming a law.

The Florida Senate

Committee Agenda Request

To: Senator Rene Garcia, Chair
Appropriations Subcommittee on Health and Human Services

Subject: Committee Agenda Request

Date: March 29, 2015

I respectfully request that **Senate Bill #80**, relating to Relief of Michael Rardin, be placed on the:

☐ committee agenda at your earliest possible convenience.

☒ next committee agenda.

Anitere Flores

Senator Anitere Flores
Florida Senate, District 37

SENATE APPROPRIATIONS
RECEIVED
15 MAR 30 AM 9: 52
STAFF DIR. ____ STAFF ____

File signed original with committee office

The Florida Senate

Committee Agenda Request

To: Senator Tom Lee, Chair
Committee on Appropriations

Subject: Committee Agenda Request

Date: April 9, 2015

I respectfully request that **Senate Bill #80**, relating to Relief of Michael Rardin, be placed on the:

☐ committee agenda at your earliest possible convenience.

☒ next committee agenda.

Anitere Flores

Senator Anitere Flores
Florida Senate, District 37

SENATE APPROPRIATIONS
RECEIVED
15 APR -9 PM 4:55
CHAIRMAN
STAFF DIR. STAFF

File signed original with committee office

S-020 (03/2004)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/21/2015
Meeting Date

Topic _____ Bill Number 80 *(if applicable)*

Name BRIAN PITTS Amendment Barcode _____ *(if applicable)*

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH
Street

SAINT PETERSBURG FLORIDA 33705
City *State* *Zip*

Phone 727-897-9291

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)

THE FLORIDA SENATE

APPEARANCE RECORD

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

21 April 2015
Meeting Date

SB 80
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic: SB 80 Relating to Relief of Michael and Patricia Rardin by the North Broward Hospital District

Name: Jason Unger

Job Title:

Address: 301 S. Bronough Street, Ste. 600
Street

Tallahassee, FL 32301
City *State* *Zip*

Phone: 850-577-9090

Email: junger@gray-robinson.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☑ In Support ☐ Against
(The Chair will read this information into the record.)

Representing: North Broward Hospital District

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 (10/14/14)

THE FLORIDA SENATE

SPECIAL MASTER ON CLAIM BILLS

Location
302 Senate Office Building

Mailing Address
404 South Monroe Street
Tallahassee, Florida 32399-1100
(850) 487-5237

DATE	COMM	ACTION
12/31/14	SM	Fav/1 amendment
03/24/15	JU	Fav/CS
04/08/15	ATD	Favorable
04/21/15	AP	Favorable

December 31, 2014

The Honorable Andy Gardiner
President, The Florida Senate
Suite 409, The Capitol
Tallahassee, Florida 32399-1100

Re: **SB 84** – Senator Soto
Relief of Sharon Robinson and Mark Robinson

SPECIAL MASTER'S FINAL REPORT

THIS IS AN UNOPPOSED PERSONAL INJURY CLAIM FOR $3 MILLION IN GENERAL REVENUE FUNDS ARISING OUT OF AN COLLISION IN KISSIMMEE, FLORIDA IN WHICH A BUS STRUCK TWO PEDESTRIANS, MATTHEW ROBINSON AND MARK ROBINSON. MATTHEW ROBINSON WAS KILLED IN THE COLLISION.

FINDINGS OF FACT:

This claims bill arises from an incident that took place on November 4, 2010, at the intersection of Dyer Boulevard and Columbia Avenue in Kissimmee, Florida. Between approximately 6 P.M. and 7 P.M. a Lynx public transportation bus traveling north on Dyer Boulevard stopped in the left turn lane at the intersection of Columbia Avenue. Upon the light turning green the bus, driven by Fernando Vega, began turning left onto Columbia Avenue.

Concurrently, brothers Matthew Robinson and Mark Robinson arrived at the crosswalk at the southwest corner of the intersection of Dyer Boulevard and Columbia Avenue. Upon receiving a signal at the crosswalk indicating that pedestrians may walk, Matthew and Mark Robinson entered the crosswalk and began walking north to cross Columbia Avenue. As Matthew and Mark Robinson were walking in the crosswalk,

the Lynx bus struck them. Matthew Robinson was killed, coming to rest near the left rear tires of the bus. Mark Robinson survived the collision, coming to rest on the curb at the north end of the crosswalk, just past Columbia Avenue.

Mark Robinson began calling for help after the collision. A pedestrian, Harold Perez, allowed Mark to use his cell phone to call his mother, Sharon Robinson. Mr. Perez then called 911 emergency services to report the accident. Sharon Robinson left her nearby apartment and began walking to the accident scene.

The Kissimmee Police Department and Kissimmee Fire Department arrived at the accident scene shortly before 7 P.M. Matthew Robinson was pronounced dead at 6:55 P.M. by paramedic Eric Gentry of the Kissimmee Fire Department. Officer Charles Conrad of the Kissimmee Police Department responded at the accident scene and created the accident report. Officer Conrad's report found that a contributing cause of the accident was the failure of bus driver Fernando Vega to yield right-of-way.

An autopsy of Matthew Robinson was performed by Associate Medical Examiner Joshua D. Stephany, MD, of the Office of the Medical Examiner, District Nine in Orlando, Florida. The autopsy results indicate that Matthew Robinson died due to blunt force trauma injuries, primarily to his head, neck, and torso. His injuries included severe cranial and facial fractures.

Mark Robinson was immediately taken from the accident scene to the emergency room at the Arnold Palmer Hospital For Children in Orlando, Florida. Mark Robinson was treated for lower back pain that was identified as a spondylolisthesis (forward displacement) of the lumbar spine at L5-S1. The lumbar spine injury was treated without an operation. Mark Robinson was also treated for a right knee sprain. Medical records reviewed by the undersigned indicate that the forward displacement of Mark Robinson's lumbar spine has remained stable as of January 2014 and that his right knee has no injuries related to the accident.

Both Sharon Robinson and Mark Robinson have been diagnosed as suffering from Post-Traumatic Stress Disorder (PTSD). Sharon Robinson testified at the Special Master Hearing on November 7, 2014, that both she and her son

Mark have struggled emotionally since the death of Mark. Neither is currently receiving regular treatment for PTSD. Documentation provided by the Claimant indicates that Sharon Robinson and Mark Robinson have incurred $27,137.90 in medical bills.

The undersigned reviewed an earning capacity assessment of Matthew Robinson performed by Jerry Adato of Adato Vocational Services, Inc. Mr. Adato opined that Matthew Robinson's lifetime lost earnings would be $2,167,514.80 over the course of 40 years of work.

On July 16, 2014, a Consent Judgment was entered between Sharon Robinson and the Central Florida Regional Transit Authority. The Consent Judgment awarded $3.2 million to the Sharon Robinson, individually and as the personal representative of the estate of Matthew Robinson, and as the Guardian of Mark Robinson. The Consent Judgment findings of fact included that Fernando Vega operated the Lynx bus in a negligent manner, violating s. 316.1925, F.S., while in the course and scope of his employment.

The Central Florida Regional Transit Authority paid $200,000 in damages, which is the limit of the sovereign immunity exception in s. 768.28(5), F.S. Sharon Robinson agreed to seek the remaining $3 million through the legislative claims process. Lynx also agreed to support the payment of $3 million via a claims bill. Counsel for Lynx represented to the Special Master that the Central Florida Regional Transit Authority has sufficient reserves to pay the claim, if SB 84 is passed by the Legislature.

CLAIMANT'S ARGUMENTS: Claimant asserts that the Central Florida Regional Transit Authority is responsible for the negligence of its bus driver, Fernando Vega, whose negligent operation of a Lynx bus was the sole cause of the death of Matthew Robinson and permanent injury to Mark Robinson.

RESPONDENT'S ARGUMENTS: Respondent agrees that the Central Florida Regional Transit Authority is responsible for the negligence of its bus driver, Fernando Vega, whose negligent operation of a Lynx bus was the sole cause of the death of Matthew Robinson and permanent injury to Mark Robinson.

Respondent also supports the payment of $3,000,000 to the claimants pursuant to the passage of a claim bill.

CONCLUSIONS OF LAW:

As provided in s. 768.28, F.S., sovereign immunity shields the Central Florida Regional Transit Authority against tort liability in excess of $200,000 per occurrence. Unless a claim bill is enacted, Sharon Robinson and Mark Robinson will not realize the full benefit of the settlement agreement they have made with the Central Florida Regional Transit Authority.

Fernando Vega breached his duty to operate the bus at all times with consideration for the safety of pedestrians and other drivers. Pedigo v. Smith, 395 So.2d 615, 616 (Fla. 5th DCA 1981). Mr. Vega violated s. 316.130(7)(a), F.S., which requires the driver of a vehicle at an intersection that has a traffic control signal in place to stop before entering a crosswalk and allow a pedestrian with a permitted signal to cross a roadway. This negligent act was the direct cause of the accident that resulted in the death of Matthew Robinson.

The Central Florida Regional Transit Authority, as the employer of Fernando Vega, is liable for his negligent act. An employer is vicariously liable for an employee's negligent acts if the employee was acting to further the employer's interests within the course and scope of his employment. See Mercury Motors Express v. Smith, 393 So.2d 545, 549 (Fla. 1981). Florida's dangerous instrumentality imposes "vicarious liability upon the owner of a motor vehicle who voluntarily entrusts that motor vehicle to an individual whose negligent operation causes damage to another." Aurbach v. Gallina, 753 So.2d 60, 62 (Fla. 2000). Motor vehicles have been considered dangerous instrumentalities under Florida law for nearly a century. See Anderson v. S. Cotton Oil Co., 74 So. 975, 978 (Fla.1917).

ATTORNEYS FEES:

The Claimants' attorneys executed an affidavit stating that the Claimant retained their firm on a contingent fee based upon 25 percent of any amount awarded by the Legislature in compliance with section 768.28(8), F.S.

SPECIAL ISSUES:

The father of Matthew Robinson is Warren Robinson, who is not named in the claim bill. Warren Robinson was not a named party to the litigation between the Claimants and Respondent, but did receive a disbursement of a portion of the $200,000 settlement payment from the Respondent.

Sharon Robinson and Claimant's counsel state that Warren Robinson was estranged from Matthew and Mark and does not regularly interact with Mark. The 4-year statute of limitations for Warren Robinson to bring a negligence based claim based on the accident has passed.

The claim bill contemplates a single lump sum payment to Sharon Robinson, individually, as guardian of Mark Robinson, and as personal representative of the Estate of Matthew Robinson. Both Mark Robinson and Sharon Robinson suffered from the loss of Matthew Robinson. Accordingly, I recommend that the claim bill specifically apportion part of the recovery to Mark Robinson, to be held in trust because he is a minor. Counsel for the Claimant recommends an amendment that will apportion the $3,000,000 claim award as follows:

Sharon Robinson as the Personal Representative of the estate of Matthew Robinson	$58,529.34
Sharon Robinson individually as mother	$821,838.99
Warren Robinson individually as father	$61,250.00
Mark Robinson (to be placed in a trust account, guardianship, or structure to provide income)	$1,308,481.67
Attorney fees and lobbying costs	$749,900.00

RECOMMENDATIONS: For the reasons set forth above, the undersigned recommends that Senate Bill 84 (2015) be reported FAVORABLY, with amendment.

Respectfully submitted,

James Knudson
Senate Special Master

cc: Debbie Brown, Secretary of the Senate

CS by Judiciary on March 24, 2015:
The committee substitute provides for the payment of the claim from the funds of the Central Florida Regional Transportation Authority instead of the State General Revenue Fund as

provided in the underlying bill. The committee substitute also allocates specific amounts of the claim among the claimants and provides for the payment of additional attorney fees to the claimants' attorneys for their services to the Estate of Matthew Robinson.

By the Committee on Judiciary; and Senator Soto

A bill to be entitled

An act for the relief of Sharon Robinson, individually, as guardian of Mark Robinson, and as personal representative of the Estate of Matthew Robinson; authorizing the Central Florida Regional Transportation Authority to make an appropriation from funds of the authority not otherwise appropriated to compensate her and her son for the death of Matthew Robinson and for injuries and damages they sustained as a result of the negligence of the Central Florida Regional Transportation Authority as operator of Lynx buses; providing that the amount already paid by the authority and the appropriation satisfy all present and future claims related to the negligent act; providing a limitation on the payment of fees and costs; providing an effective date.

WHEREAS, on November 4, 2010, Matthew Robinson, 10, and Mark Robinson, 12, both children of Sharon Robinson, were crossing the street at the intersection of Columbia Avenue and Dyer Street in Kissimmee, and

WHEREAS, Matthew Robinson and Mark Robinson were struck by the front bike rack of a Lynx bus while in the crosswalk and dragged underneath the bus when the driver of the bus failed to yield to pedestrians in the crosswalk, and

WHEREAS, while the bus was still moving, Mark Robinson was able to crawl out to safety, but Matthew Robinson's belt loop was caught in the undercarriage of the bus, and

WHEREAS, Matthew Robinson was dragged underneath the bus

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

until the rear tire crushed his head, and

WHEREAS, Matthew Robinson was pronounced dead at the scene, and

WHEREAS, Mark Robinson was transported to the hospital via ambulance and diagnosed with a stress fracture of the vertebrae with spondolysthesis, and

WHEREAS, Mark Robinson wore a brace until he recovered from his physical injuries, but has permanent injury due to the spondolysthesis, and

WHEREAS, Mark Robinson's medical bills total $27,137.90, and

WHEREAS, Sharon Robinson and Mark Robinson both suffer from posttraumatic stress disorder, and Ms. Robinson suffers from symptoms placing her in the range of severe depression, and

WHEREAS, the driver of the bus that struck Matthew Robinson and Mark Robinson had been previously involved in six preventable accidents, and

WHEREAS, the driver was found guilty of violating s. 316.075, Florida Statutes, and was terminated by Lynx for violation of safety policies and procedures after a finding that the accident was preventable, and

WHEREAS, Sharon Robinson, individually, as guardian of Mark Robinson, and as personal representative of the Estate of Matthew Robinson, filed a lawsuit against Central Florida Regional Transportation Authority, which operates Lynx, in the Ninth Judicial Circuit in Osceola County, and

WHEREAS, before trial, the respondent admitted liability, and the parties reached a settlement agreement totaling $3.2 million, of which the Central Florida Regional Transportation

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

59 Authority has paid $200,000 under the statutory limits of
60 liability set forth in s. 768.28, Florida Statutes, and
61 WHEREAS, the Central Florida Regional Transportation
62 Authority fully supports the passage of this claim bill for the
63 unpaid portion of the settlement amount, NOW, THEREFORE,
64
65 Be It Enacted by the Legislature of the State of Florida:
66
67 Section 1. The facts stated in the preamble to this act are
68 found and declared to be true.
69 Section 2. The Central Florida Regional Transportation
70 Authority is authorized and directed to appropriate from funds
71 of the authority not otherwise appropriated and to draw a
72 warrant, payable to Sharon Robinson, individually, as guardian
73 of Mark Robinson and as personal representative for the Estate
74 of Matthew Robinson, for the total amount of $3 million as
75 compensation for injuries and damages sustained as a result of
76 the negligence of an employee of the Central Florida Regional
77 Transportation Authority.
78 Section 3. The warrant shall be drawn to Sharon and Mark
79 Robinson's attorneys to be placed in the Florida Bar Interest on
80 Trust Accounts (IOTA) program for the benefit of Sharon
81 Robinson, as the personal representative of the Estate of
82 Matthew Robinson, for a reduced statutory fee after attorney
83 fees and costs pursuant to s. 733.617(2), Florida Statutes, in
84 the amount of 3 percent of the first $1 million and 2.5 percent
85 of the remainder, reducing the fee to $58,529.34. The payment to
86 Sharon Robinson, as mother individually, will be 37.5 percent of
87 the remainder or $821,838.99; to Warren Robinson, as father

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

88 individually, 2.8 percent of the remainder or $61,250.00; and
89 for Mark Robinson in the amount of 59.7 percent of the remainder
90 or $1,308,481.67, to be placed in a trust account, guardianship,
91 or structure to provide income, protect from wasteful
92 dissipation, and provide protection of the assets for the
93 benefit of Mark Robinson; for a total in the sum of $3 million.
94 The Central Florida Regional Transportation Authority is
95 directed to pay the same out of funds not otherwise
96 appropriated. The remainder of the total shall be paid to
97 reimburse for taxable costs and fees. Lobbying and attorney fees
98 shall be prorated and may not exceed 25 percent.
99 Section 4. The amount paid by the Central Florida Regional
100 Transportation Authority pursuant to s. 768.28, Florida
101 Statutes, and the amount awarded under this act are intended to
102 provide the sole compensation for all present and future claims
103 arising out of the factual situation described in the preamble
104 to this act which resulted in the death of Matthew Robinson and
105 the injuries and damages sustained by Mark and Sharon Robinson.
106 The total amount paid for attorney fees, lobbying fees, costs,
107 and other similar expenses relating to this claim may not exceed
108 25 percent of the amount awarded under this act.
109 Section 5. This act shall take effect upon becoming a law.

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

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Rules, *Vice Chair*
Appropriations Subcommittee on Criminal and Civil Justice
Environmental Preservation and Conservation
Finance and Tax
Judiciary

JOINT COMMITTEE:
Joint Committee on Public Counsel Oversight

SENATOR DARREN SOTO
Democratic Caucus Rules Chair
14th District

April 10, 2015

The Honorable Tom Lee
Committee on Appropriations
201 The Capitol
404 S. Monroe Street
Tallahassee, FL 32399-1100

Chair Lee,

I respectively request that Senate Bill 84, Relief of Sharon Robinson by the Central Florida Regional Transportation Authority, be placed on the agenda as soon as possible. Senate Bill 84 provides an appropriation to compensate Sharon Robinson and her son for the death of Matthew Robinson and for injuries and damages they sustained as a result of the negligence of the Central Florida Regional Transportation Authority as operator of Lynx buses.

Thank you for your consideration. Should you have any questions or concerns, please feel free to contact me at 850-487-5014.

Sincerely,

Darren M. Soto

Darren M. Soto
State Senator, District 14

Cc: Cindy Kynoch, Staff Director
Sharon Bradford, Deputy Staff Director
Alicia Weiss, Committee Administrative Assistant
Ann Roberts, Committee Administrative Assistant

REPLY TO:
❒ Kissimmee City Hall, 101 North Church Street, Suite 305, Kissimmee, Florida 34741 (407) 846-5187 FAX: (407) 846-5188
❒ 220 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5014

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

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/21/2015
Meeting Date

Topic _____ Bill Number 84 *(if applicable)*

Name BRIAN PITTS Amendment Barcode _____ *(if applicable)*

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH
Street

SAINT PETERSBURG FLORIDA 33705
City *State* *Zip*

Phone 727-897-9291

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)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/21/15
Meeting Date

SB84
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic: Relief of Robinson

Name: JEREMY MARKMAN, King & Markman, PA

Job Title: attorney

Address: 941 Lake Baldwin Lane, Suite 101
Street

Orlando, FL 32814
City, State, Zip

Phone: (407) 447-6848

Email: markman@kingmarkman.com

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

Waive Speaking: [ ] In Support [ ] Against
(The Chair will read this information into the record.)

Representing: Robinson family

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

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

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

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

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 Appropriations

BILL: PCS/CS/SB 284 (318734)

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on General Government); Environmental Preservation and Conservation Committee; and Senator Diaz de la Portilla

SUBJECT: Private Property Rights

DATE: April 20, 2015 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hinton	Uchino	EP	**Fav/CS**
2.	Howard	DeLoach	AGG	**Recommend: Fav/CS**
3.	Howard	Kynoch	AP	**Pre-meeting**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/CS/SB 284 creates a cause of action under chapter 70, Florida Statutes, and when claims may be brought and procedures for those claims. The bill provides that a governmental agency defending the claim has the burden of proof to defend the agency exaction. It authorizes awards of attorney fees and costs under certain circumstances. The bill provides that the state, its agencies, and political subdivisions waive sovereign immunity for causes of action under section 70.45, Florida Statutes, which is created by the bill. The bill prohibits sections 70.001, 70.45, and 70.51, Florida Statutes, from being construed together as parts of a common subject. The bill clarifies the terms "property owner" and "real property" and provides definitions for "damages," "governmental entity," "prohibited exaction," "property owner," and "real property" under chapter 70, Florida Statutes. It provides circumstances when a governmental entity may treat a claim as pending litigation and clarifies when a settlement offer may be accepted. It provides an exception for counties under certain circumstances and that the provisions of section 70.45, Florida Statutes, to not apply to impact fees or non-ad valorem assessments.

The bill could have a negative indeterminate fiscal impact on governmental entities due to limitations on conditions that might otherwise be imposed. Legal costs could increase but are estimated to be minimal since claims may be settled prior to a suit being brought by a private property owner.

The bill provides an effective date of October 1, 2015.

II. Present Situation:

The Fifth Amendment to the U.S. Constitution guarantees that citizens' private property will not be taken for public use without just compensation. The Takings Clause of the Fifth Amendment is applicable to the states through the Fourteenth Amendment to the U.S. Constitution, which provides, "[n]o State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States, nor shall any State deprive any person of life, liberty, or property, without due process of law…" The government may acquire private property through the power of eminent domain, provided the property owner is compensated.[1]

Article I, section 2 of the Florida Constitution also guarantees all natural persons the right to "acquire, possess and protect property" and further provides that no person will be deprived of property without due process of law.[2] Article X, section 6 of the Florida Constitution, which provides that private property cannot be taken except for a public purpose and with full compensation paid to each owner, is complimentary to the Fifth and Fourteenth Amendments to the U. S. Constitution.

In addition to physical infringement by a governmental entity upon a property, certain regulations on property can constitute a taking. When a governmental regulation results in a permanent, physical occupation of a property or deprives an owner of "all economically productive or beneficial uses" of the property, a "per se" taking is deemed to have occurred. Such actions require full compensation for the property.[3] Additionally, when the regulation does not substantially advance a legitimate state interest, it is invalid[4] and the property owner may recover compensation for the period during which the invalid regulation deprived all use of the property.[5]

In other takings cases, courts have used a multi-factor, "ad hoc" analysis to determine whether a regulation has adversely affected the property to such an extent as to require government compensation. The factors considered by the courts include:

- The economic impact of the regulation on the property owner;
- The extent to which the regulation interferes with the property owner's investment-backed expectations;
- Whether the regulation confers a public benefit or prevents a public harm, i.e., the nature of the regulation;
- Whether the regulation is arbitrarily and capriciously applied; and
- The history of the property, history of the development, and history of the zoning and regulation.[6]

---

[1] Chapters 73 and 74, F.S.
[2] FLA. CONST. art. I, s. 9.
[3] *Lucas v. South Carolina Coastal Council*, 505 U.S. 1003 (1992).
[4] *See Nollan v. California Coastal Comm'n*, 483 U.S. 825 (1987).
[5] *See First English Evangelical Lutheran Church of Glendale v. County of Los Angeles*, 482 U.S. 304 (1987).
[6] *See Reahard v. Lee County*, 968 F.2d 1131, 1136 (11th Cir. 1992). *See also Keystone Bituminous Coal Assn. v. DeBenedictis*, 480 U.S. 470 (1987); *Penn Central Transportation Co. v. New York City*, 438 U.S. 104 (1978); *Graham v. Estuary Properties*, 399 So. 2d 1374 (Fla. 1981).

The U.S. Supreme Court, in *Tahoe-Sierra Preservation Council, Inc. v. Tahoe Regional Planning Agency*, rejected property owners' contentions that a three-year moratorium on development constituted a per se taking of property requiring compensation under the Takings Clause.[7] The Court recognized that there are a wide range of moratoria that occur as a regular part of land use regulation such as "normal delays in obtaining building permits, changes in zoning ordinances, variances, and the like."[8] The Court determined that the length of time a parcel of property was undevelopable was one of the many factors to be considered when determining whether a taking occurred.

Regulatory Takings Requiring Compensation

Nollan v. California Coastal Comm'n, 483 U.S. 825, and *Dolan v. City of Tigard*, 512 U.S. 374, established a two-prong test to determine if a landowner should receive compensation under a takings claim. In *Nollan*, the U.S. Supreme Court held that permit conditions that do not demonstrate an essential nexus between the conditions and the purpose served by those conditions constituted a regulatory taking. In *Dolan*, the Court adopted a "rough proportionality" test, requiring that a dedication of private property must also be roughly proportional in nature and extent to the impact, or social costs, of the proposed development.[9]

Lingle v. Chevron U.S.A., Inc., 544 U.S. 528, further clarified regulatory takings by limiting them to four situations:

- When there is a permanent physical invasion of property, however slight;
- When the regulation eliminates all economic value in the property;
- When the action is the imposition of a condition on the grant of a permit that does not serve a purpose related to the permitted activity or the condition was not roughly proportional to the impact of the development; and
- When the regulation involves a substantial economic impact on the owner and interferes with the owner's investment-backed expectations or imposes an undue burden on the owner.[10]

This line of jurisprudence concerns permits that have been granted. However, it does not address conditions imposed on permits that have been denied.

Unconstitutional Exactions

In *Koontz v. St. Johns River Water Management District*, 133 S.Ct 2586 (2013), the U.S. Supreme Court held that a government cannot deny a land-use permit based on the landowner's refusal to accede to the government's demands to either turn over property or pay money to the government unless there is a nexus and rough proportionality between the government's demand on the landowner and the effect of the proposed land use.[11]

The *Koontz* case arose from the denial of a permit by the St. Johns River Water Management District (district). Coy Koontz, Sr., sought to develop part of his property and applied for the

[7] *Tahoe-Sierra Preservation Council, Inc. v. Tahoe Regional Planning Agency*, 535 U.S. 302 (2002).
[8] *See id.* (quoting *First English Evangelical Lutheran Church of Glendale v. County of Los Angeles*, 482 U.S. 304 (1987)).
[9] *See Dolan v. City of Tigard*, 512 U.S. 374 (1994).
[10] *See Lingle v. Chevron U.S.A., Inc.*, 544 U.S. 528 (2005).
[11] *Koontz v. St. Johns River Water Management District*, 133 S.Ct. 2586 (2013).

necessary permit from the district, which was required due to the effect the development would have on wetlands. Mr. Koontz wanted to develop 3.7 acres of a 14.9 acre tract of land and offered to grant a conservation easement on most of the rest of the parcel. The district considered the conservation easement inadequate and, along with offering to entertain any other suggestions, gave Mr. Koontz two choices:

- He could reduce the size of the development to one acre and grant a conservation easement on the rest of the property and make other changes to his proposed development; or
- He could build on the full 3.7 acres if he deeded to the district a conservation easement on the rest of the property, and pay to enhance approximately 50 acres of district-owned wetlands, or an equivalent project proposed by Mr. Koontz.[12]

The U.S. Supreme Court heard the case in 2013 and decided later that year in favor of Mr. Koontz. The Court's decision was based on violation of the unconstitutional condition doctrine. The doctrine precludes the government from burdening the Constitution's enumerated rights by coercively withholding benefits from those who exercise them. The constitutional right burdened under the doctrine is the right to compensation when private property is taken for public use.[13] As explained by the Court, "[e]xtortionate demands for property in the land-use permitting context run afoul of the Takings Clause not because they take property but because they impermissibly burden the right not to have property taken without just compensation."[14]

The Court did not rule on state or federal remedies for violating the holdings of the case. "In cases where there is an excessive demand but no taking, whether money damages are available is not a question of federal constitutional law but of the cause of action – whether state or federal – on which the landowner relies."[15] The Court left unanswered the question of whether the landowner in *Koontz* could recover damages for unconstitutional conditions claims based on the Takings Clause because the landowner's claim was based on s. 373.617, F.S.[16] Because s. 373.617, F.S., allows for damages when a state agency's action is "an unreasonable exercise of the state's police power constituting a taking without just compensation," it is a question of state law as to whether that provision covers an unconstitutional conditions claim.[17]

Remedies for Unconstitutional Conditions Claims

Federal law provides a cause of action for unconstitutional conditions claims.[18] However, it is unclear what type of damages would be recoverable under federal law. Section 373.617, F.S., allows for monetary damages to be awarded to a landowner when a circuit court determines a state agency's action is "an unreasonable exercise of the State's police power constituting a taking without just compensation." However, because this provision applies to takings, it is unclear whether it provides a cause of action for monetary damages for unconstitutional conditions claims based on the Takings Clause where no taking has occurred.

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[12] *Id.* at 2593.
[13] U.S. CONST. amend. V.
[14] *Supra* note 11, at 2596.
[15] *Supra* note 11, at 2597.
[16] *Supra* note 11, at 2597.
[17] *Royal World Metropolitan, Inc. v. The City of Miami Beach,* 863 So. 2d 320 (Fla. 3d DCA 2003).
[18] See *O'Hare Truck Serv., Inc. v. City of Northlake,* 518 U.S. 712 (1996).

Bert J. Harris, Jr., Private Property Rights Protection Act

Limitation of Application of the Bert J. Harris, Jr., Private Property Rights Protection Act

In 1995, the Legislature enacted the Bert J. Harris, Jr., Private Property Rights Protection Act (Bert Harris Act)[19] to provide a new cause of action for private property owners whose real property has been inordinately burdened by a specific action of a governmental entity that may not rise to the level of a taking under the Florida or U.S. Constitutions.[20] The inordinate burden can apply to either an existing use of real property or a vested right to a specific use.[21]

For the purposes of the Bert Harris Act, the term "property owner" is defined as "the person who holds legal title to the real property at issue," but does not include a governmental entity. "Real property" is defined as "land and includes any appurtenances and improvements to the land, including any other relevant real property in which the property owner had a relevant interest."[22]

Safe Harbor Provisions for Settlement Agreements

The Bert Harris Act provides for a mandatory presuit procedure in which a property owner must present written notice of the claim to the governmental entity at least 150 days, or 90 days if the property in question is classified as agricultural, prior to filing a lawsuit. During that period, unless it is extended by agreement of the parties, the governmental entity must make a written settlement offer.[23]

If the parties enter into a settlement agreement that would have the effect of a modification, variance, or special exception to the application of a rule, regulation, or ordinance that would otherwise apply to the property, the agreement must protect the public interest served by the regulation at issue and be the appropriate relief necessary to prevent the regulation from inordinately burdening the property. If the settlement agreement would have the effect of contravening the application of a statute that would otherwise apply to the property, the parties must file an action in the circuit court seeking approval of the settlement agreement, "to ensure that the relief granted protects the public interest served by the statute…and is the appropriate relief necessary to prevent the governmental regulatory effort from inordinately burdening the real property." These safe harbor provisions allow settlement terms that provide for the property to be immune from the application of contrary statutes and local regulations.[24]

Recently, a Florida appellate court affirmed the denial of a settlement agreement between a property owner and a governmental entity on the grounds that the parties failed to enter into the settlement agreement within the period provided in the Bert Harris Act and after the property

[19] Chapter. 95-181, Laws of Fla.
[20] Section 70.001, F.S.
[21] Section 70.001(2), F.S.
[22] Section 70.001(2), F.S. As recently noted by a Florida appellate court, "[t]he expressed legislative intent, as well as numerous other sections of the Act, indicate the Harris Act only applies when rules, ordinances, or regulations are actually applied to the property in question." *City of Jacksonville v. R. Lee Smith and Christy Smith*, Fla. 1st DCA, Case No. 1D14-2192 (Feb. 26, 2015). *See also* Op. Att'y Gen. Fla. 95-78 (1995), stating that the act "does not provide recovery of damages to property that is not the subject of governmental action or regulation, but which may have incidentally suffered a diminution in value or other loss as a result of the regulation of the subject property."
[23] Section 70.001(4)(c), F.S.
[24] Section 70.001(4)(d), F.S.

owner had filed a lawsuit under the Bert Harris Act.[25] The court's ruling, in effect, limits the safe harbor provision in the Bert Harris Act to only those settlement agreements made within the time-frame specified in the Bert Harris Act.

The National Flood Insurance Program

The National Flood Insurance Program (NFIP) is a federal program created by Congress with the passage of the National Flood Insurance Act of 1968.[26] The NFIP was created to mitigate future flood losses nationwide through sound, community-enforced building and zoning ordinances and to provide access to affordable, federally-backed flood insurance protection for property owners. The NFIP is designed to provide an insurance alternative to disaster assistance to meet the escalating costs of repairing damage to buildings and their contents caused by floods.[27] Community participation in the NFIP is voluntary, although some states require NFIP participation as part of their floodplain management program. Each identified flood-prone community must assess its flood hazard and determine whether flood insurance and floodplain management would benefit the community's residents and economy.[28] Participation in the NFIP is based on an agreement between local communities and the federal government, which states if a community will adopt and enforce a floodplain management ordinance to reduce future flood risks to new construction in Special Flood Hazard Areas, the federal government will make flood insurance available within the community as a financial protection against flood losses.[29] The Federal Emergency Management Agency (FEMA) identifies flood hazard areas throughout the United States and its territories. Areas of flood hazard are commonly identified on an official map of a community, referred to as a Flood Insurance Rate Map.[30]

Some Florida counties implementing updated Flood Insurance Rate Maps required by FEMA have received claims under the Bert Harris Act for the alleged impacts to property caused by the maps. For example, Lee County's 2015 State Legislative Agenda indicates the county has received 18 claims under the Bert Harris Act due to adopting Flood Insurance Rate Maps.[31]

III. Effect of Proposed Changes:

Section 1 amends s. 70.001, F.S., to clarify that the term "property owner" means the person who holds legal title to the real property that is the subject of and directly impacted by the action of a governmental entity.

The bill clarifies that the term "real property" includes only parcels that are the subject of and directly impacted by the action of a governmental entity.

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[25] *Collier County v. Hussey*, 147 So. 3d 35 (Fla. 2d DCA 2014).
[26] Federal Emergency Management Agency, *National Flood Insurance Program – Answers to Questions About the NFIP, FEMA F-084*, 1 (Mar. 2011), *available at* http://www.fema.gov/media-library-data/20130726-1438-20490-1905/f084_atq_11aug11.pdf (last visited Mar. 25, 2015).
[27] *Id.*
[28] *Id.* at 4.
[29] *Id.* at 4.
[30] *Id.* at 2.
[31] Lee County, *State Legislative Agenda*, (Dec. 16, 2014), *available at* http://www.leegov.com/gov/BoardofCountyCommissioners/Documents/2015%20State%20Agenda_7JAN2015.pdf (last visited Mar. 25, 2015).

The bill allows a governmental entity to treat a claim as pending litigation for the purposes of s. 286.011(8), F.S., which concerns discussions between a governmental entity and a private entity's attorney.

The bill allows a settlement agreement to be reached between a property owner and a governmental entity regardless of when the settlement agreement is entered into if the agreement fully resolves all claims.

The bill exempts counties from claims regarding the adoption of a Flood Insurance Rate Map issued by FEMA for the purpose of participating in the NFIP, unless the map incorrectly applies an aspect of the map to the property in such a way, but not limited to, incorrectly assessing the elevation of the property.

Section 2 creates s. 70.45, F.S. regarding governmental exactions.

The bill defines "damages" as meaning, "in addition to the right to injunctive relief, the reduction in fair market value of the real property or the amount of the fee or infrastructure cost that exceeds what would be permitted under this section".

The bill defines "prohibited exaction" as any condition imposed by a governmental entity on a property owner's proposed use of real property which lacks an essential nexus to a legitimate public purpose and is not roughly proportionate to the impacts of the proposed use that the governmental entity is seeking to avoid, minimize, or mitigate.

The bill defines "governmental entity," "property owner," and "real property" as having the same meaning as provided in s. 70.001(3), F.S.

The bill provides that a property owner may bring an action for injunctive relief or to recover damages caused by a prohibited exaction. Further, it provides that the action may not be brought until a prohibited exaction is actually imposed or required in written form as a final condition of approval for the requested use of real property, and that the right to bring the action may not be waived. The bill provides that the section does not apply to impact fees or non-ad valorem assessments.

The bill requires a property owner to provide written notice of proposed action to the relevant governmental entity at least 90 days before filing the action, but no later than 180 days after the imposition of the prohibited exaction. The notice must identify the exaction the property owner believes is prohibited and include a brief explanation of why the property owner believes the exaction is prohibited and include an estimate of the damages. When the governmental entity receives the notice, it may treat the claim as pending litigation for the purposes of s. 286.011(8), F.S., which allows for a governmental entity or its representative to discuss pending litigation with the affected party and its representative.

The bill provides that when a governmental entity receives the written notice, the governmental entity must review the notice and identify the basis for the exaction and explain why it maintains that the exaction is proportionate to the harm created by the proposed use of real property, or

remove all or a portion of the exaction. The governmental entity must provide this information in writing.

The bill provides that the written response may not be used against the governmental entity in subsequent litigation other than for purposes of assessing attorney fees and costs.

The bill requires the governmental entity to prove an exaction at issue has an essential nexus to a legitimate public purpose and is roughly proportionate to the impacts of the proposed use that the governmental entity is seeking to avoid, minimize, or mitigate. It requires the property owner to prove damages resulting from a prohibited exaction.

The bill allows the court to award attorney fees and costs to the prevailing party, but requires the court to award attorney fees and costs to the property owner if it determines that the exaction lacks an essential nexus to a legitimate public purpose and is not roughly proportionate to the impacts of the proposed use.

The bill waives sovereign immunity for causes of action brought under this section of the bill. It limits the waiver to claims brought under this section.

The bill provides that the section only applies to prohibited exactions imposed or required in writing on or after October 1, 2015, as a final condition of approval for the requested use of real property.

Section 3 amends s. 70.80, F.S., to clarify that s. 70.45, F.S., has a separate and distinct basis, objective, application, and process from ss. 70.001 and 70.51, F.S., and that it may not be construed in pari materia with those two sections, meaning that it may not interpreted in light of those sections though they have a common purpose.

The bill provides an effective date of October 1, 2015.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues

The bill waives sovereign immunity protection for the state, its agencies, and political subdivisions for causes of action based on governmental exactions. The bill provides no

limitation on the liability of political entities found to be in violation of the provisions of the bill.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

PCS/CS/SB 284 could potentially limit expenditures required of people or entities seeking a permit by preventing a governmental entity from imposing any conditions that are deemed to be prohibited exactions.

C. Government Sector Impact:

This bill could have an indeterminate negative effect due to limitations on conditions that might otherwise have been imposed by governmental entities.

The bill could have a positive impact on counties that would otherwise be subject to suits based on the effects of adopting required Flood Insurance Rate Map.

This bill could result in an increase in legal costs for governmental entities due to the potential for increased litigation under the new cause of action provided for in the bill. However, legal costs are likely to be minimal since claims may be settled prior to a suit being brought by a private property owner.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 70.001 and 70.80.

The bill creates section 70.45 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

Recommended CS/CS by Appropriations Subcommittee on General Government on April 14, 2015:

The committee substitute:

- Amends the definition of "damages";
- Provides that the cause of action provided by the bill does not apply to impact fees or non-ad valorem assessments;
- Limits the time frame for filing an action to no later than 180 days after imposition of a prohibited exaction;
- Provides actions to be taken by a governmental entity upon receipt of a notice of claim;
- Provides that a written response by the governmental entity may only be used for purposes of assessing attorney fees and costs;
- Provides guidance for awarding fees and costs; and
- Provides that the section only applies to any prohibited exaction imposed or required in writing on or after October 1, 2015.

CS by Environmental Preservation and Conservation on March 24, 2015:

- Deletes references to ss. 253.763, 373.617, and 403.90, F.S., which were amended by the original bill to provide a cause of action for exactions takings as a result of extortionate demands as conditions of permits;
- Clarifies terms for "property owner," "real property," and "governmental entity" under ch. 70, F.S.;
- Defines "damages" and "prohibited exaction";
- Clarifies that upon receipt of a written claim, a governmental entity may treat the claim as pending litigation for the purposes of s. 286.011(8), F.S.;
- Clarifies that a settlement offer may be accepted either before or after filing an action so long as it fully resolves all claims;
- Exempts claims under the Bert Harris Act against a county for adopting a Flood Insurance Rate Map issued by FEMA for the purpose of participating in the NFIP, unless the adoption incorrectly applies an aspect of the Flood Insurance Rate Map;
- Provides a cause of action under ch. 70, F.S., for a property owner for injunctive relief or to recover damages caused by a prohibited exaction;
- Provides the cause of action may not be brought until a prohibited exaction is actually imposed or required in written form as a final condition of approval for the requested use of real property, and that the right to bring such an action may not be waived;
- Provides that a property owner must provide a written notice of the action 90 days before filing the action;
- Provides that the notice must identify the exaction the property owner believes is prohibited and include a brief explanation of why the owner believes the exaction is prohibited and an estimate of the damages;

- Provides that upon receipt of the property owner's notice, the governmental entity may treat the claim as pending litigation;
- Assigns the burden of proof to the governmental entity that the exaction has an essential nexus to a legitimate public purpose and is roughly proportionate to the impacts of the proposed use that the governmental entity is seeking to avoid, minimize, or mitigate;
- Assigns the burden of proving damages resulting from a prohibited exaction on the property owner;
- Requires the court to award prejudgment interest and reasonable attorney fees and costs to a prevailing property owner;
- Provides the court with the option of awarding reasonable attorney fees and costs to the governmental entity if the court finds that the property owner filed the action in bad faith and absent a colorable basis for relief;
- Waives sovereign immunity for the state and its agencies or political subdivisions for causes of action brought under s. 70.45, F.S., created by the bill; and
- Provides that s. 70.45, F.S., has separate and distinct bases, objectives, applications, and processes from ss. 70.001 and 70.51, F.S.

B. Amendments:

None.

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

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LEGISLATIVE ACTION

Senate	.	House
Comm: UNFAV	.	
04/22/2015	.	
	.	
	.	
	.	

The Committee on Appropriations (Smith) recommended the following:

1 **Senate Amendment (with title amendment)**
2
3 Delete lines 182 - 202
4 and insert:
5 (4).
6 (4) The court may award attorney fees and costs to the
7 prevailing party; however, if the court determines that the
8 exaction which is the subject of the claim lacks an essential
9 nexus to a legitimate public purpose and is not roughly
10 proportionate to the impacts of the proposed use, the court

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11 shall award attorney fees and costs to the property owner.
12 (5) To ensure that courts may assess damages for claims
13 filed under this section in accordance with s. 13, Art. X of the
14 State Constitution, the state, for itself and its agencies or
15 political subdivisions, waives sovereign immunity for causes of
16 action based upon the application of this section. Such waiver
17 is limited only to actions brought under this section.
18 (6) This section applies to any prohibited exaction imposed
19
20 ========== T I T L E A M E N D M E N T ==========
21 And the title is amended as follows:
22 Delete lines 19 - 21
23 and insert:
24 authorizing the award

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Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on General Government)

A bill to be entitled

An act relating to private property rights; amending s. 70.001, F.S.; revising the terms "property owner" and "real property"; authorizing a governmental entity to treat a written claim as pending litigation for purposes of holding certain meetings privately; providing that any settlement agreement reached between an owner and a governmental entity applies so long as the agreement resolves all issues; providing exceptions to the applicability of the Bert J. Harris, Jr., Private Property Rights Protection Act; creating s. 70.45, F.S.; defining terms; authorizing a property owner to bring an action to recover damages caused by a prohibited exaction; requiring a property owner to provide written notice of such action to the relevant governmental entity; authorizing the governmental entity to treat such a claim as pending litigation for purposes of holding certain meetings privately; specifying the burden of proof imposed on the governmental entity and the property owner, respectively, in such an action; authorizing the award of reasonable attorney fees and costs under specified circumstances; waiving the state's sovereign immunity for certain causes of action; providing applicability; amending s. 70.80, F.S.; specifying that an action for a prohibited exaction is not to be construed in pari materia with certain other actions; providing an

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effective date.

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

Section 1. Paragraphs (b), (c), and (d) of subsection (4) of section 70.001, Florida Statutes, are redesignated as paragraphs (c), (d), and (e), respectively, and amended, paragraphs (f) and (g) of subsection (3) and subsection (10) are amended, and a new paragraph (b) is added to subsection (4) of that section, to read:

70.001 Private property rights protection.—

(3) For purposes of this section:

(f) The term "property owner" means the person who holds legal title to the real property that is the subject of and directly impacted by the action of a governmental entity ~~at issue~~. The term does not include a governmental entity.

(g) The term "real property" means land and includes any appurtenances and improvements to the land, including any other relevant real property in which the property owner has ~~had~~ a relevant interest. The term includes only parcels that are the subject of and directly impacted by the action of a governmental entity.

(4)

(b) Upon receipt of a written claim, a governmental entity may treat the claim as pending litigation for purposes of s. 286.011(8).

(c) ~~(b)~~ The governmental entity shall provide written notice of the claim to all parties to any administrative action that gave rise to the claim, and to owners of real property

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contiguous to the owner's property at the addresses listed on the most recent county tax rolls. Within 15 days after the claim is ~~being~~ presented, the governmental entity shall report the claim in writing to the Department of Legal Affairs, and shall provide the department with the name, address, and telephone number of the employee of the governmental entity from whom additional information may be obtained about the claim during the pendency of the claim and any subsequent judicial action.

(d) ~~(c)~~ During the 90-day-notice period or the 150-day-notice period, unless extended by agreement of the parties, the governmental entity shall make a written settlement offer to effectuate:

1. An adjustment of land development or permit standards or other provisions controlling the development or use of land.

2. Increases or modifications in the density, intensity, or use of areas of development.

3. The transfer of developmental rights.

4. Land swaps or exchanges.

5. Mitigation, including payments in lieu of onsite mitigation.

6. Location on the least sensitive portion of the property.

7. Conditioning the amount of development or use permitted.

8. A requirement that issues be addressed on a more comprehensive basis than a single proposed use or development.

9. Issuance of the development order, a variance, special exception, or other extraordinary relief.

10. Purchase of the real property, or an interest therein, by an appropriate governmental entity or payment of compensation.

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11. No changes to the action of the governmental entity.

If the property owner accepts a ~~the~~ settlement offer, either before or after filing an action, the governmental entity may implement the settlement offer by appropriate development agreement; by issuing a variance, special exception, or other extraordinary relief; or by other appropriate method, subject to paragraph (e) ~~(d)~~.

(e) ~~(d)~~1. When ~~Whenever~~ a governmental entity enters into a settlement agreement under this section which would have the effect of a modification, variance, or a special exception to the application of a rule, regulation, or ordinance as it would otherwise apply to the subject real property, the relief granted shall protect the public interest served by the regulations at issue and be the appropriate relief necessary to prevent the governmental regulatory effort from inordinately burdening the real property.

2. When ~~Whenever~~ a governmental entity enters into a settlement agreement under this section which would have the effect of contravening the application of a statute as it would otherwise apply to the subject real property, the governmental entity and the property owner shall jointly file an action in the circuit court where the real property is located for approval of the settlement agreement by the court to ensure that the relief granted protects the public interest served by the statute at issue and is the appropriate relief necessary to prevent the governmental regulatory effort from inordinately burdening the real property.

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115 This paragraph applies to any settlement reached between a
116 property owner and a governmental entity regardless of when the
117 settlement agreement was entered so long as the agreement fully
118 resolves all claims asserted under this section.
119 (10)(a) This section does not apply to any actions taken by
120 a governmental entity which relate to the operation,
121 maintenance, or expansion of transportation facilities, and this
122 section does not affect existing law regarding eminent domain
123 relating to transportation.
124 (b) This section does not apply to any actions taken by a
125 county with respect to the adoption of a Flood Insurance Rate
126 Map issued by the Federal Emergency Management Agency for the
127 purpose of participating in the National Flood Insurance
128 Program, unless such adoption incorrectly applies an aspect of
129 the Flood Insurance Rate Map to the property, in such a way as
130 to, but not limited to, incorrectly assess the elevation of the
131 property.
132 Section 2. Section 70.45, Florida Statutes, is created to
133 read:
134 70.45 Governmental exactions.—
135 (1) As used in this section, the term:
136 (a) "Damages" means, in addition to the right to injunctive
137 relief, the reduction in fair market value of the real property
138 or the amount of the fee or infrastructure cost that exceeds
139 what would be permitted under this section.
140 (b) "Governmental entity" has the same meaning as provided
141 in s. 70.001(3)(c).
142 (c) "Prohibited exaction" means any condition imposed by a
143 governmental entity on a property owner's proposed use of real

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144 property that lacks an essential nexus to a legitimate public
145 purpose and is not roughly proportionate to the impacts of the
146 proposed use that the governmental entity seeks to avoid,
147 minimize, or mitigate.
148 (d) "Property owner" has the same meaning as provided in s.
149 70.001(3)(f).
150 (e) "Real property" has the same meaning as provided in s.
151 70.001(3)(g).
152 (2) In addition to other remedies available in law or
153 equity, a property owner may bring an action in a court of
154 competent jurisdiction under this section to recover damages
155 caused by a prohibited exaction. Such action may not be brought
156 until a prohibited exaction is actually imposed or required in
157 writing as a final condition of approval for the requested use
158 of real property. The right to bring an action under this
159 section may not be waived. This section does not apply to impact
160 fees adopted under s. 163.31801 or non-ad valorem assessments as
161 defined in s. 197.3632.
162 (3) At least 90 days before filing an action under this
163 section, but no later than 180 days after imposition of the
164 prohibited exaction, the property owner shall provide to the
165 relevant governmental entity written notice of the proposed
166 action. This written notice shall identify the exaction that the
167 property owner believes is prohibited, briefly explain why the
168 property owner believes the exaction is prohibited, and provide
169 an estimate of the damages. Upon receipt of the property owner's
170 written notice, the governmental entity may treat the claim as
171 pending litigation for purposes of s. 286.011(8).
172 (a) Upon receipt of the written notice, the governmental

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173 entity shall review the notice of claim and respond in writing
174 to the property owner by identifying the basis for the exaction
175 and explaining why the governmental entity maintains that the
176 exaction is proportionate to the harm created by the proposed
177 use of real property, or by proposing to remove all or a portion
178 of the exaction.
179 (b) The written response may not be used against the
180 governmental entity in subsequent litigation other than for
181 purposes of assessing attorney fees and costs under subsection
182 (5).
183 (4) For each claim filed under this section, the
184 governmental entity has the burden of proving that the exaction
185 has an essential nexus to a legitimate public purpose and is
186 roughly proportionate to the impacts of the proposed use that
187 the governmental entity is seeking to avoid, minimize, or
188 mitigate. The property owner has the burden of proving damages
189 that result from a prohibited exaction.
190 (5) The court may award attorney fees and costs to the
191 prevailing party; however, if the court determines that the
192 exaction which is the subject of the claim lacks an essential
193 nexus to a legitimate public purpose and is not roughly
194 proportionate to the impacts of the proposed use, the court
195 shall award attorney fees and costs to the property owner.
196 (6) To ensure that courts may assess damages for claims
197 filed under this section in accordance with s. 13, Art. X of the
198 State Constitution, the state, for itself and its agencies or
199 political subdivisions, waives sovereign immunity for causes of
200 action based upon the application of this section. Such waiver
201 is limited only to actions brought under this section.

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202 (7) This section applies to any prohibited exaction imposed
203 or required in writing on or after October 1, 2015, as a final
204 condition of approval for the requested use of real property.
205 Section 3. Section 70.80, Florida Statutes, is amended to
206 read:
207 70.80 Construction of ss. 70.001, 70.45, and 70.51.—It is
208 the express declaration of the Legislature that ss. 70.001,
209 70.45, and 70.51 have separate and distinct bases, objectives,
210 applications, and processes. It is therefore the intent of the
211 Legislature that ss. 70.001, 70.45, and 70.51 are not to be
212 construed in pari materia.
213 Section 4. This act shall take effect October 1, 2015.

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 Appropriations

BILL: CS/CS/SB 284

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on General Government); Environmental Preservation and Conservation Committee; and Senator Diaz de la Portilla

SUBJECT: Private Property Rights

DATE: April 23, 2015 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hinton	Uchino	EP	**Fav/CS**
2.	Howard	DeLoach	AGG	**Recommend: Fav/CS**
3.	Howard	Kynoch	AP	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 284 creates a cause of action under chapter 70, Florida Statutes, and when claims may be brought and procedures for those claims. The bill provides that a governmental agency defending the claim has the burden of proof to defend the agency exaction. It authorizes awards of attorney fees and costs under certain circumstances. The bill provides that the state, its agencies, and political subdivisions waive sovereign immunity for causes of action under section 70.45, Florida Statutes, which is created by the bill. The bill prohibits sections 70.001, 70.45, and 70.51, Florida Statutes, from being construed together as parts of a common subject. The bill clarifies the terms "property owner" and "real property" and provides definitions for "damages," "governmental entity," "prohibited exaction," "property owner," and "real property" under chapter 70, Florida Statutes. It provides circumstances when a governmental entity may treat a claim as pending litigation and clarifies when a settlement offer may be accepted. It provides an exception for counties under certain circumstances and that the provisions of section 70.45, Florida Statutes, to not apply to impact fees or non-ad valorem assessments.

The bill could have a negative indeterminate fiscal impact on governmental entities due to limitations on conditions that might otherwise be imposed. Legal costs could increase but are estimated to be minimal since claims may be settled prior to a suit being brought by a private property owner.

The bill provides an effective date of October 1, 2015.

II. Present Situation:

The Fifth Amendment to the U.S. Constitution guarantees that citizens' private property will not be taken for public use without just compensation. The Takings Clause of the Fifth Amendment is applicable to the states through the Fourteenth Amendment to the U.S. Constitution, which provides, "[n]o State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States, nor shall any State deprive any person of life, liberty, or property, without due process of law…" The government may acquire private property through the power of eminent domain, provided the property owner is compensated.[1]

Article I, section 2 of the Florida Constitution also guarantees all natural persons the right to "acquire, possess and protect property" and further provides that no person will be deprived of property without due process of law.[2] Article X, section 6 of the Florida Constitution, which provides that private property cannot be taken except for a public purpose and with full compensation paid to each owner, is complimentary to the Fifth and Fourteenth Amendments to the U. S. Constitution.

In addition to physical infringement by a governmental entity upon a property, certain regulations on property can constitute a taking. When a governmental regulation results in a permanent, physical occupation of a property or deprives an owner of "all economically productive or beneficial uses" of the property, a "per se" taking is deemed to have occurred. Such actions require full compensation for the property.[3] Additionally, when the regulation does not substantially advance a legitimate state interest, it is invalid[4] and the property owner may recover compensation for the period during which the invalid regulation deprived all use of the property.[5]

In other takings cases, courts have used a multi-factor, "ad hoc" analysis to determine whether a regulation has adversely affected the property to such an extent as to require government compensation. The factors considered by the courts include:

- The economic impact of the regulation on the property owner;
- The extent to which the regulation interferes with the property owner's investment-backed expectations;
- Whether the regulation confers a public benefit or prevents a public harm, i.e., the nature of the regulation;
- Whether the regulation is arbitrarily and capriciously applied; and
- The history of the property, history of the development, and history of the zoning and regulation.[6]

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[1] Chapters 73 and 74, F.S.
[2] FLA. CONST. art. I, s. 9.
[3] *Lucas v. South Carolina Coastal Council*, 505 U.S. 1003 (1992).
[4] *See Nollan v. California Coastal Comm'n*, 483 U.S. 825 (1987).
[5] *See First English Evangelical Lutheran Church of Glendale v. County of Los Angeles*, 482 U.S. 304 (1987).
[6] *See Reahard v. Lee County*, 968 F.2d 1131, 1136 (11th Cir. 1992). *See also Keystone Bituminous Coal Assn. v. DeBenedictis*, 480 U.S. 470 (1987); *Penn Central Transportation Co. v. New York City*, 438 U.S. 104 (1978); *Graham v. Estuary Properties*, 399 So. 2d 1374 (Fla. 1981).

The U.S. Supreme Court, in *Tahoe-Sierra Preservation Council, Inc. v. Tahoe Regional Planning Agency*, rejected property owners' contentions that a three-year moratorium on development constituted a per se taking of property requiring compensation under the Takings Clause.[7] The Court recognized that there are a wide range of moratoria that occur as a regular part of land use regulation such as "normal delays in obtaining building permits, changes in zoning ordinances, variances, and the like."[8] The Court determined that the length of time a parcel of property was undevelopable was one of the many factors to be considered when determining whether a taking occurred.

Regulatory Takings Requiring Compensation

Nollan v. California Coastal Comm'n, 483 U.S. 825, and *Dolan v. City of Tigard*, 512 U.S. 374, established a two-prong test to determine if a landowner should receive compensation under a takings claim. In *Nollan*, the U.S. Supreme Court held that permit conditions that do not demonstrate an essential nexus between the conditions and the purpose served by those conditions constituted a regulatory taking. In *Dolan*, the Court adopted a "rough proportionality" test, requiring that a dedication of private property must also be roughly proportional in nature and extent to the impact, or social costs, of the proposed development.[9]

Lingle v. Chevron U.S.A., Inc., 544 U.S. 528, further clarified regulatory takings by limiting them to four situations:

- When there is a permanent physical invasion of property, however slight;
- When the regulation eliminates all economic value in the property;
- When the action is the imposition of a condition on the grant of a permit that does not serve a purpose related to the permitted activity or the condition was not roughly proportional to the impact of the development; and
- When the regulation involves a substantial economic impact on the owner and interferes with the owner's investment-backed expectations or imposes an undue burden on the owner.[10]

This line of jurisprudence concerns permits that have been granted. However, it does not address conditions imposed on permits that have been denied.

Unconstitutional Exactions

In *Koontz v. St. Johns River Water Management District*, 133 S.Ct 2586 (2013), the U.S. Supreme Court held that a government cannot deny a land-use permit based on the landowner's refusal to accede to the government's demands to either turn over property or pay money to the government unless there is a nexus and rough proportionality between the government's demand on the landowner and the effect of the proposed land use.[11]

The *Koontz* case arose from the denial of a permit by the St. Johns River Water Management District (district). Coy Koontz, Sr., sought to develop part of his property and applied for the

[7] *Tahoe-Sierra Preservation Council, Inc. v. Tahoe Regional Planning Agency*, 535 U.S. 302 (2002).
[8] *See id.* (quoting *First English Evangelical Lutheran Church of Glendale v. County of Los Angeles*, 482 U.S. 304 (1987)).
[9] *See Dolan v. City of Tigard*, 512 U.S. 374 (1994).
[10] *See Lingle v. Chevron U.S.A., Inc.*, 544 U.S. 528 (2005).
[11] *Koontz v. St. Johns River Water Management District*, 133 S.Ct. 2586 (2013).

necessary permit from the district, which was required due to the effect the development would have on wetlands. Mr. Koontz wanted to develop 3.7 acres of a 14.9 acre tract of land and offered to grant a conservation easement on most of the rest of the parcel. The district considered the conservation easement inadequate and, along with offering to entertain any other suggestions, gave Mr. Koontz two choices:

- He could reduce the size of the development to one acre and grant a conservation easement on the rest of the property and make other changes to his proposed development; or
- He could build on the full 3.7 acres if he deeded to the district a conservation easement on the rest of the property, and pay to enhance approximately 50 acres of district-owned wetlands, or an equivalent project proposed by Mr. Koontz.[12]

The U.S. Supreme Court heard the case in 2013 and decided later that year in favor of Mr. Koontz. The Court's decision was based on violation of the unconstitutional condition doctrine. The doctrine precludes the government from burdening the Constitution's enumerated rights by coercively withholding benefits from those who exercise them. The constitutional right burdened under the doctrine is the right to compensation when private property is taken for public use.[13] As explained by the Court, "[e]xtortionate demands for property in the land-use permitting context run afoul of the Takings Clause not because they take property but because they impermissibly burden the right not to have property taken without just compensation."[14]

The Court did not rule on state or federal remedies for violating the holdings of the case. "In cases where there is an excessive demand but no taking, whether money damages are available is not a question of federal constitutional law but of the cause of action – whether state or federal – on which the landowner relies."[15] The Court left unanswered the question of whether the landowner in *Koontz* could recover damages for unconstitutional conditions claims based on the Takings Clause because the landowner's claim was based on s. 373.617, F.S.[16] Because s. 373.617, F.S., allows for damages when a state agency's action is "an unreasonable exercise of the state's police power constituting a taking without just compensation," it is a question of state law as to whether that provision covers an unconstitutional conditions claim.[17]

Remedies for Unconstitutional Conditions Claims

Federal law provides a cause of action for unconstitutional conditions claims.[18] However, it is unclear what type of damages would be recoverable under federal law. Section 373.617, F.S., allows for monetary damages to be awarded to a landowner when a circuit court determines a state agency's action is "an unreasonable exercise of the State's police power constituting a taking without just compensation." However, because this provision applies to takings, it is unclear whether it provides a cause of action for monetary damages for unconstitutional conditions claims based on the Takings Clause where no taking has occurred.

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[12] *Id.* at 2593.
[13] U.S. CONST. amend. V.
[14] *Supra* note 11, at 2596.
[15] *Supra* note 11, at 2597.
[16] *Supra* note 11, at 2597.
[17] *Royal World Metropolitan, Inc. v. The City of Miami Beach,* 863 So. 2d 320 (Fla. 3d DCA 2003).
[18] See *O'Hare Truck Serv., Inc. v. City of Northlake,* 518 U.S. 712 (1996).

Bert J. Harris, Jr., Private Property Rights Protection Act

Limitation of Application of the Bert J. Harris, Jr., Private Property Rights Protection Act

In 1995, the Legislature enacted the Bert J. Harris, Jr., Private Property Rights Protection Act (Bert Harris Act)[19] to provide a new cause of action for private property owners whose real property has been inordinately burdened by a specific action of a governmental entity that may not rise to the level of a taking under the Florida or U.S. Constitutions.[20] The inordinate burden can apply to either an existing use of real property or a vested right to a specific use.[21]

For the purposes of the Bert Harris Act, the term "property owner" is defined as "the person who holds legal title to the real property at issue," but does not include a governmental entity. "Real property" is defined as "land and includes any appurtenances and improvements to the land, including any other relevant real property in which the property owner had a relevant interest."[22]

Safe Harbor Provisions for Settlement Agreements

The Bert Harris Act provides for a mandatory presuit procedure in which a property owner must present written notice of the claim to the governmental entity at least 150 days, or 90 days if the property in question is classified as agricultural, prior to filing a lawsuit. During that period, unless it is extended by agreement of the parties, the governmental entity must make a written settlement offer.[23]

If the parties enter into a settlement agreement that would have the effect of a modification, variance, or special exception to the application of a rule, regulation, or ordinance that would otherwise apply to the property, the agreement must protect the public interest served by the regulation at issue and be the appropriate relief necessary to prevent the regulation from inordinately burdening the property. If the settlement agreement would have the effect of contravening the application of a statute that would otherwise apply to the property, the parties must file an action in the circuit court seeking approval of the settlement agreement, "to ensure that the relief granted protects the public interest served by the statute…and is the appropriate relief necessary to prevent the governmental regulatory effort from inordinately burdening the real property." These safe harbor provisions allow settlement terms that provide for the property to be immune from the application of contrary statutes and local regulations.[24]

Recently, a Florida appellate court affirmed the denial of a settlement agreement between a property owner and a governmental entity on the grounds that the parties failed to enter into the settlement agreement within the period provided in the Bert Harris Act and after the property

[19] Chapter. 95-181, Laws of Fla.
[20] Section 70.001, F.S.
[21] Section 70.001(2), F.S.
[22] Section 70.001(2), F.S. As recently noted by a Florida appellate court, "[t]he expressed legislative intent, as well as numerous other sections of the Act, indicate the Harris Act only applies when rules, ordinances, or regulations are actually applied to the property in question." *City of Jacksonville v. R. Lee Smith and Christy Smith*, Fla. 1st DCA, Case No. 1D14-2192 (Feb. 26, 2015). *See also* Op. Att'y Gen. Fla. 95-78 (1995), stating that the act "does not provide recovery of damages to property that is not the subject of governmental action or regulation, but which may have incidentally suffered a diminution in value or other loss as a result of the regulation of the subject property."
[23] Section 70.001(4)(c), F.S.
[24] Section 70.001(4)(d), F.S.

owner had filed a lawsuit under the Bert Harris Act.[25] The court's ruling, in effect, limits the safe harbor provision in the Bert Harris Act to only those settlement agreements made within the time-frame specified in the Bert Harris Act.

The National Flood Insurance Program

The National Flood Insurance Program (NFIP) is a federal program created by Congress with the passage of the National Flood Insurance Act of 1968.[26] The NFIP was created to mitigate future flood losses nationwide through sound, community-enforced building and zoning ordinances and to provide access to affordable, federally-backed flood insurance protection for property owners. The NFIP is designed to provide an insurance alternative to disaster assistance to meet the escalating costs of repairing damage to buildings and their contents caused by floods.[27] Community participation in the NFIP is voluntary, although some states require NFIP participation as part of their floodplain management program. Each identified flood-prone community must assess its flood hazard and determine whether flood insurance and floodplain management would benefit the community's residents and economy.[28] Participation in the NFIP is based on an agreement between local communities and the federal government, which states if a community will adopt and enforce a floodplain management ordinance to reduce future flood risks to new construction in Special Flood Hazard Areas, the federal government will make flood insurance available within the community as a financial protection against flood losses.[29] The Federal Emergency Management Agency (FEMA) identifies flood hazard areas throughout the United States and its territories. Areas of flood hazard are commonly identified on an official map of a community, referred to as a Flood Insurance Rate Map.[30]

Some Florida counties implementing updated Flood Insurance Rate Maps required by FEMA have received claims under the Bert Harris Act for the alleged impacts to property caused by the maps. For example, Lee County's 2015 State Legislative Agenda indicates the county has received 18 claims under the Bert Harris Act due to adopting Flood Insurance Rate Maps.[31]

III. Effect of Proposed Changes:

Section 1 amends s. 70.001, F.S., to clarify that the term "property owner" means the person who holds legal title to the real property that is the subject of and directly impacted by the action of a governmental entity.

The bill clarifies that the term "real property" includes only parcels that are the subject of and directly impacted by the action of a governmental entity.

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[25] *Collier County v. Hussey*, 147 So. 3d 35 (Fla. 2d DCA 2014).
[26] Federal Emergency Management Agency, *National Flood Insurance Program – Answers to Questions About the NFIP, FEMA F-084*, 1 (Mar. 2011), *available at* http://www.fema.gov/media-library-data/20130726-1438-20490-1905/f084_atq_11aug11.pdf (last visited Mar. 25, 2015).
[27] *Id.*
[28] *Id.* at 4.
[29] *Id.* at 4.
[30] *Id.* at 2.
[31] Lee County, *State Legislative Agenda*, (Dec. 16, 2014), *available at* http://www.leegov.com/gov/BoardofCountyCommissioners/Documents/2015%20State%20Agenda_7JAN2015.pdf (last visited Mar. 25, 2015).

The bill allows a governmental entity to treat a claim as pending litigation for the purposes of s. 286.011(8), F.S., which concerns discussions between a governmental entity and a private entity's attorney.

The bill allows a settlement agreement to be reached between a property owner and a governmental entity regardless of when the settlement agreement is entered into if the agreement fully resolves all claims.

The bill exempts counties from claims regarding the adoption of a Flood Insurance Rate Map issued by FEMA for the purpose of participating in the NFIP, unless the map incorrectly applies an aspect of the map to the property in such a way, but not limited to, incorrectly assessing the elevation of the property.

Section 2 creates s. 70.45, F.S. regarding governmental exactions.

The bill defines "damages" as meaning, "in addition to the right to injunctive relief, the reduction in fair market value of the real property or the amount of the fee or infrastructure cost that exceeds what would be permitted under this section".

The bill defines "prohibited exaction" as any condition imposed by a governmental entity on a property owner's proposed use of real property which lacks an essential nexus to a legitimate public purpose and is not roughly proportionate to the impacts of the proposed use that the governmental entity is seeking to avoid, minimize, or mitigate.

The bill defines "governmental entity," "property owner," and "real property" as having the same meaning as provided in s. 70.001(3), F.S.

The bill provides that a property owner may bring an action for injunctive relief or to recover damages caused by a prohibited exaction. Further, it provides that the action may not be brought until a prohibited exaction is actually imposed or required in written form as a final condition of approval for the requested use of real property, and that the right to bring the action may not be waived. The bill provides that the section does not apply to impact fees or non-ad valorem assessments.

The bill requires a property owner to provide written notice of proposed action to the relevant governmental entity at least 90 days before filing the action, but no later than 180 days after the imposition of the prohibited exaction. The notice must identify the exaction the property owner believes is prohibited and include a brief explanation of why the property owner believes the exaction is prohibited and include an estimate of the damages. When the governmental entity receives the notice, it may treat the claim as pending litigation for the purposes of s. 286.011(8), F.S., which allows for a governmental entity or its representative to discuss pending litigation with the affected party and its representative.

The bill provides that when a governmental entity receives the written notice, the governmental entity must review the notice and identify the basis for the exaction and explain why it maintains that the exaction is proportionate to the harm created by the proposed use of real property, or

remove all or a portion of the exaction. The governmental entity must provide this information in writing.

The bill provides that the written response may not be used against the governmental entity in subsequent litigation other than for purposes of assessing attorney fees and costs.

The bill requires the governmental entity to prove an exaction at issue has an essential nexus to a legitimate public purpose and is roughly proportionate to the impacts of the proposed use that the governmental entity is seeking to avoid, minimize, or mitigate. It requires the property owner to prove damages resulting from a prohibited exaction.

The bill allows the court to award attorney fees and costs to the prevailing party, but requires the court to award attorney fees and costs to the property owner if it determines that the exaction lacks an essential nexus to a legitimate public purpose and is not roughly proportionate to the impacts of the proposed use.

The bill waives sovereign immunity for causes of action brought under this section of the bill. It limits the waiver to claims brought under this section.

The bill provides that the section only applies to prohibited exactions imposed or required in writing on or after October 1, 2015, as a final condition of approval for the requested use of real property.

Section 3 amends s. 70.80, F.S., to clarify that s. 70.45, F.S., has a separate and distinct basis, objective, application, and process from ss. 70.001 and 70.51, F.S., and that it may not be construed in pari materia with those two sections, meaning that it may not interpreted in light of those sections though they have a common purpose.

The bill provides an effective date of October 1, 2015.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues

The bill waives sovereign immunity protection for the state, its agencies, and political subdivisions for causes of action based on governmental exactions. The bill provides no

limitation on the liability of political entities found to be in violation of the provisions of the bill.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

CS/CS/SB 284 could potentially limit expenditures required of people or entities seeking a permit by preventing a governmental entity from imposing any conditions that are deemed to be prohibited exactions.

C. Government Sector Impact:

This bill could have an indeterminate negative effect due to limitations on conditions that might otherwise have been imposed by governmental entities.

The bill could have a positive impact on counties that would otherwise be subject to suits based on the effects of adopting required Flood Insurance Rate Map.

This bill could result in an increase in legal costs for governmental entities due to the potential for increased litigation under the new cause of action provided for in the bill. However, legal costs are likely to be minimal since claims may be settled prior to a suit being brought by a private property owner.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 70.001 and 70.80.

The bill creates section 70.45 of the Florida Statutes.

IX. Additional Information:

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

CS/CS by Appropriations on April 21, 2015:
The committee substitute:
- Amends the definition of "damages";
- Provides that the cause of action provided by the bill does not apply to impact fees or non-ad valorem assessments;
- Limits the time frame for filing an action to no later than 180 days after imposition of a prohibited exaction;
- Provides actions to be taken by a governmental entity upon receipt of a notice of claim;
- Provides that a written response by the governmental entity may only be used for purposes of assessing attorney fees and costs;
- Provides guidance for awarding fees and costs; and
- Provides that the section only applies to any prohibited exaction imposed or required in writing on or after October 1, 2015.

CS by Environmental Preservation and Conservation on March 24, 2015:
- Deletes references to ss. 253.763, 373.617, and 403.90, F.S., which were amended by the original bill to provide a cause of action for exactions takings as a result of extortionate demands as conditions of permits;
- Clarifies terms for "property owner," "real property," and "governmental entity" under ch. 70, F.S.;
- Defines "damages" and "prohibited exaction";
- Clarifies that upon receipt of a written claim, a governmental entity may treat the claim as pending litigation for the purposes of s. 286.011(8), F.S.;
- Clarifies that a settlement offer may be accepted either before or after filing an action so long as it fully resolves all claims;
- Exempts claims under the Bert Harris Act against a county for adopting a Flood Insurance Rate Map issued by FEMA for the purpose of participating in the NFIP, unless the adoption incorrectly applies an aspect of the Flood Insurance Rate Map;
- Provides a cause of action under ch. 70, F.S., for a property owner for injunctive relief or to recover damages caused by a prohibited exaction;
- Provides the cause of action may not be brought until a prohibited exaction is actually imposed or required in written form as a final condition of approval for the requested use of real property, and that the right to bring such an action may not be waived;
- Provides that a property owner must provide a written notice of the action 90 days before filing the action;
- Provides that the notice must identify the exaction the property owner believes is prohibited and include a brief explanation of why the owner believes the exaction is prohibited and an estimate of the damages;
- Provides that upon receipt of the property owner's notice, the governmental entity may treat the claim as pending litigation;

- Assigns the burden of proof to the governmental entity that the exaction has an essential nexus to a legitimate public purpose and is roughly proportionate to the impacts of the proposed use that the governmental entity is seeking to avoid, minimize, or mitigate;
- Assigns the burden of proving damages resulting from a prohibited exaction on the property owner;
- Requires the court to award prejudgment interest and reasonable attorney fees and costs to a prevailing property owner;
- Provides the court with the option of awarding reasonable attorney fees and costs to the governmental entity if the court finds that the property owner filed the action in bad faith and absent a colorable basis for relief;
- Waives sovereign immunity for the state and its agencies or political subdivisions for causes of action brought under s. 70.45, F.S., created by the bill; and
- Provides that s. 70.45, F.S., has separate and distinct bases, objectives, applications, and processes from ss. 70.001 and 70.51, F.S.

B. Amendments:

None.

By the Committee on Environmental Preservation and Conservation; and Senator Diaz de la Portilla

A bill to be entitled

An act relating to private property rights; amending s. 70.001, F.S.; revising the terms "property owner" and "real property"; authorizing a governmental entity to treat a written claim as pending litigation for purposes of holding certain meetings privately; providing that any settlement agreement reached between an owner and a governmental entity applies so long as the agreement resolves all issues; providing exceptions to the applicability of the Bert J. Harris, Jr., Private Property Rights Protection Act; creating s. 70.45, F.S.; defining terms; authorizing a property owner to bring an action for injunctive relief or the recovery of damages caused by a prohibited exaction; requiring a property owner to provide written notice of such action to the relevant governmental entity; authorizing the governmental entity to treat such claim as pending litigation for purposes of holding certain meetings privately; specifying the burdens of proof imposed on the governmental entity and the property owner in such action; authorizing the award of prejudgment interest and reasonable attorney fees and costs under specified circumstances; waiving the state's sovereign immunity for certain causes of action; amending s. 70.80, F.S.; specifying that an action for a prohibited exaction is not to be construed in pari materia with certain other actions; providing an effective date.

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

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

Section 1. Paragraphs (f) and (g) of subsection (3), paragraphs (b), (c), and (d) of subsection (4), and subsection (10) of section 70.001, Florida Statutes, are amended, and a new paragraph (b) is added to subsection (4) of that section, to read:

70.001 Private property rights protection.—

(3) For purposes of this section:

(f) The term "property owner" means the person who holds legal title to the real property that is the subject of and directly impacted by the action of a governmental entity ~~at issue~~. The term does not include a governmental entity.

(g) The term "real property" means land and includes any appurtenances and improvements to the land, including any other relevant real property in which the property owner has ~~had~~ a relevant interest. The term includes only parcels that are the subject of and directly impacted by the action of a governmental entity.

(4)

(b) Upon receipt of a written claim, a governmental entity may treat the claim as pending litigation for purposes of s. 286.011(8).

(c) ~~(b)~~ The governmental entity shall provide written notice of the claim to all parties to any administrative action that gave rise to the claim, and to owners of real property contiguous to the owner's property at the addresses listed on the most recent county tax rolls. Within 15 days after the claim is ~~being~~ presented, the governmental entity shall report the

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

59 claim in writing to the Department of Legal Affairs, and shall
60 provide the department with the name, address, and telephone
61 number of the employee of the governmental entity from whom
62 additional information may be obtained about the claim during
63 the pendency of the claim and any subsequent judicial action.
64 (d) ~~(c)~~ During the 90-day-notice period or the 150-day-
65 notice period, unless extended by agreement of the parties, the
66 governmental entity shall make a written settlement offer to
67 effectuate:
68 1. An adjustment of land development or permit standards or
69 other provisions controlling the development or use of land.
70 2. Increases or modifications in the density, intensity, or
71 use of areas of development.
72 3. The transfer of developmental rights.
73 4. Land swaps or exchanges.
74 5. Mitigation, including payments in lieu of onsite
75 mitigation.
76 6. Location on the least sensitive portion of the property.
77 7. Conditioning the amount of development or use permitted.
78 8. A requirement that issues be addressed on a more
79 comprehensive basis than a single proposed use or development.
80 9. Issuance of the development order, a variance, special
81 exception, or other extraordinary relief.
82 10. Purchase of the real property, or an interest therein,
83 by an appropriate governmental entity or payment of
84 compensation.
85 11. No changes to the action of the governmental entity.
86
87 If the property owner accepts a ~~the~~ settlement offer either

88 before or after filing an action, the governmental entity may
89 implement the settlement offer by appropriate development
90 agreement; by issuing a variance, special exception, or other
91 extraordinary relief; or by other appropriate method, subject to
92 paragraph (e) ~~(d)~~.
93 (e) ~~(d)~~1. When ~~Whenever~~ a governmental entity enters into a
94 settlement agreement under this section which would have the
95 effect of a modification, variance, or a special exception to
96 the application of a rule, regulation, or ordinance as it would
97 otherwise apply to the subject real property, the relief granted
98 shall protect the public interest served by the regulations at
99 issue and be the appropriate relief necessary to prevent the
100 governmental regulatory effort from inordinately burdening the
101 real property.
102 2. When ~~Whenever~~ a governmental entity enters into a
103 settlement agreement under this section which would have the
104 effect of contravening the application of a statute as it would
105 otherwise apply to the subject real property, the governmental
106 entity and the property owner shall jointly file an action in
107 the circuit court where the real property is located for
108 approval of the settlement agreement by the court to ensure that
109 the relief granted protects the public interest served by the
110 statute at issue and is the appropriate relief necessary to
111 prevent the governmental regulatory effort from inordinately
112 burdening the real property.
113
114 This paragraph applies to any settlement agreement reached
115 between a property owner and a governmental entity regardless of
116 when the settlement agreement was entered into so long as the

117 agreement fully resolves all claims asserted under this section.
118 (10)(a) This section does not apply to any actions taken by
119 a governmental entity which relate to the operation,
120 maintenance, or expansion of transportation facilities, and this
121 section does not affect existing law regarding eminent domain
122 relating to transportation.
123 (b) This section does not apply to any actions taken by a
124 county with respect to the adoption of a Flood Insurance Rate
125 Map issued by the Federal Emergency Management Agency for the
126 purpose of participating in the National Flood Insurance
127 Program, unless such adoption incorrectly applies an aspect of
128 the Flood Insurance Rate Map to the property in such a way as
129 to, but not limited to, incorrectly assess the elevation of the
130 property.
131 Section 2. Section 70.45, Florida Statutes, is created to
132 read:
133 70.45 Governmental exactions.—
134 (1) As used in this section, the term:
135 (a) "Damages" means the monetary amount necessary to fully
136 and fairly compensate the property owner for harm caused by an
137 exaction prohibited by this section. The term includes a
138 reduction in the fair market value of the real property, a
139 refund of excessive fees charged or infrastructure costs
140 incurred, or such other actual damages as may be proven at
141 trial.
142 (b) "Governmental entity" has the same meaning as in s.
143 70.001(3)(c).
144 (c) "Prohibited exaction" means any condition imposed by a
145 governmental entity on a property owner's proposed use of real

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

146 property which lacks an essential nexus to a legitimate public
147 purpose and is not roughly proportionate to the impacts of the
148 proposed use that the governmental entity is seeking to avoid,
149 minimize, or mitigate.
150 (d) "Property owner" has the same meaning as in s.
151 70.001(3)(f).
152 (e) "Real property" has the same meaning as in s.
153 70.001(3)(g).
154 (2) In addition to other remedies available in law or
155 equity, a property owner may bring an action in a court of
156 competent jurisdiction under this section for injunctive relief
157 or to recover damages caused by a prohibited exaction. Such
158 action may not be brought until a prohibited exaction is
159 actually imposed or required in written form as a final
160 condition of approval for the requested use of real property.
161 The right to bring an action under this section may not be
162 waived.
163 (3) At least 90 days before filing an action under this
164 section, a property owner shall provide to the relevant
165 governmental entity written notice of the action. This written
166 notice must identify the exaction that the property owner
167 believes is prohibited and include a brief explanation of why
168 the property owner believes the exaction is prohibited and an
169 estimate of the damages. Upon receipt of the property owner's
170 written notice, the governmental entity may treat the claim as
171 pending litigation for purposes of s. 286.011(8).
172 (4) For each claim filed under this section, the
173 governmental entity has the burden of proving that the exaction
174 at issue has an essential nexus to a legitimate public purpose

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

175 and is roughly proportionate to the impacts of the proposed use
176 that the governmental entity is seeking to avoid, minimize or
177 mitigate. The property owner has the burden of proving damages
178 that result from a prohibited exaction.
179 (5) In addition to the damages provided for in this
180 section, the court shall award prejudgment interest and
181 reasonable attorney fees and costs to a property owner who
182 prevails in an action under this section. The court may award
183 reasonable attorney fees and costs to the governmental entity if
184 the court finds that the property owner filed the action in bad
185 faith and absent a colorable basis for relief.
186 (6) To ensure that courts may assess damages for claims
187 filed under this section, in accordance with s. 13, Art. X of
188 the State Constitution, the state for itself and for its
189 agencies or political subdivisions waives sovereign immunity for
190 causes of action based upon the application of this section. The
191 waiver is limited only to claims brought under this section.
192 Section 3. Section 70.80, Florida Statutes, is amended to
193 read:
194 70.80 Construction of ss. 70.001, 70.45, and 70.51.—It is
195 the express declaration of the Legislature that ss. 70.001,
196 70.45, and 70.51 have separate and distinct bases, objectives,
197 applications, and processes. It is therefore the intent of the
198 Legislature that ss. 70.001, 70.45, and 70.51 are not to be
199 construed in pari materia.
200 Section 4. This act shall take effect October 1, 2015.

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

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Judiciary, *Chair*
Appropriations Subcommittee on Transportation, Tourism, and Economic Development
Community Affairs
Finance and Tax
Regulated Industries
Rules

SENATOR MIGUEL DIAZ de la PORTILLA
40th District

April 14, 2015

The Honorable Tom Lee
Chair
Appropriations Committee

Via Email

Dear Chairman Lee:

My Senate Bill CS/SB 284 passed out of the Appropriations Subcommittee on General Government today. The next referenced committee is Appropriations.

I respectfully request that you agenda the bill at your next opportunity.

Thank you.

Sincerely,

Senator Diaz de la Portilla
Senator, District 40

REPLY TO:
❒ 2100 Coral Way, Suite 505, Miami, Florida 33145 (305) 643-7200
❒ 406 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5040

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

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/21/15
Meeting Date

284
Bill Number (if applicable)

412730 - Smith
Amendment Barcode (if applicable)

Topic: Private Property Rights - Opposing Smith Amendment

Name: Gary Hunter

Job Title: Attorney

Address: 119 S. Monroe St, Suite 1900
Street

Tallahassee, FL 32301
City, State, Zip

Phone: 850-222-7500

Email: garyh@hgslaw.com

Speaking: ☐ For ☑ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing: Property Rights Coalition

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 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/21/15
Meeting Date

284
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic: Property Rights

Name: Dan Peterson

Job Title: Director - Center for Property Rights

Address: 2878 S Orange Ave
Street

Orlando FL 32806
City State Zip

Phone: 407-758-2491

Email: dpeterson@jamesmadison.org

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

Waive Speaking: [ ] In Support [ ] Against
(The Chair will read this information into the record.)

Representing: JAMES MADISON INSTITUTE

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

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

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/21/15
Meeting Date

284
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic: Private Property Rights

Name: Gary Hunter

Job Title: Attorney

Address: 119 S. Monroe Street, Suite 1900
Street

Tallahassee, FL 32301
City, State, Zip

Phone: 850-222-7500

Email: garyh@hgslaw.com

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

Waive Speaking: [ ] In Support [ ] Against
(The Chair will read this information into the record.)

Representing: Property Rights Coalition

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

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

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/21/15
Meeting Date

SB 284
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic: Private Property Rights

Name: David Cruz

Job Title: Assistant General Counsel

Address: P. O. Box 1757
Street

Tallahassee FL 32302
City State Zip

Phone: 701-3076

Email: DCRUZ@flcities.com

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

Waive Speaking: [ ] In Support [ ] Against
(The Chair will read this information into the record.)

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 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/21/15
Meeting Date

284
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic: Private property Rights

Name: Kate Kelly

Job Title:

Address: Street

City State Zip

Phone:

Email:

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

Waive Speaking: [x] In Support [ ] Against
(The Chair will read this information into the record.)

Representing: Fla Chamber of Commerce

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 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/21/15
Meeting Date

284
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic PRIVATE PROPERTY RIGHTS

Name LANCE PIERCE

Job Title ASST. DIRECTOR OF STATE LEGISLATIVE AFFAIRS

Address 315 S. CALHOUN ST
Street

TALLAHASSEE FL 32301
City State Zip

Phone 222-2557

Email

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☑ In Support ☐ Against
(The Chair will read this information into the record.)

Representing FLORIDA FARM BUREAU

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 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4.21.15
Meeting Date

284
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic: Private Property Rights

Name: Sarah Busk

Job Title:

Address: 215 S. Monroe St #602
Street

TLH, FL 32301
City, State, Zip

Phone: 222.8900

Email: sjb@cardenasparthe.com

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

Waive Speaking: [✓] In Support [ ] Against
(The Chair will read this information into the record.)

Representing: Associated Industries of Florida

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

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

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

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

S-001 (10/14/14)

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 Appropriations

BILL: PCS/CS/SB 318 (769056)

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Criminal and Civil Justice); Judiciary Committee; and Senators Diaz de la Portilla and Detert

SUBJECT: Guardianship Proceedings

DATE: April 20, 2015 REVISED: _____ _____ _____ _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Davis	Cibula	JU	**Fav/CS**
2.	Harkness	Sadberry	ACJ	**Recommend: Fav/CS**
3.	Harkness	Kynoch	AP	**Pre-Meeting**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/CS/SB 318 amends the power of attorney and guardianship statutes to:

- Provide that a power of attorney remains in effect for a close relative when incapacity is alleged unless a petitioner makes a showing of wrongdoing or neglect by the principal;
- Permit a court to appoint the office of criminal conflict and civil regional counsel to serve as a court monitor or emergency court monitor if a ward is indigent;
- Clarify that attorneys for a ward are entitled to compensation from the guardianship estate;
- Require that an alleged incapacitated person and his or her attorney given at least 24-hours advance notice of a hearing alleging incapacity unless the petitioner demonstrates that substantial harm will occur if notice is given;
- Provide that a court may not authorize final payment for an emergency temporary guardian's fee or fees of his or her attorney until a final report is filed;
- Require a court, when modifying the authority of a health care surrogate in an advance directive, to specify in its orders to what extent a guardian's authority will supersede a health care surrogate and base that decision on findings of fact;
- Revise considerations that a court must consider when appointing a guardian;
- Authorize the use of corporate structures for public guardians who provide services to indigent and non-indigent wards, and requires that they maintain a bond or liability insurance in the amount of $250,000;

- Clarify that expert testimony is not necessary to establish compensation for a guardian or guardian's attorney;
- Provide that when an alleged incapacitated person is determined not to be incapacitated, the examining committee will be paid from court funds for expert witnesses, not the individual's funds;
- Directs a court to remove only the rights that an alleged incapacitated person does not have the ability to exercise when delegating rights to a guardian;
- Provide a code of conduct or ethical standards for a guardian and requires the reporting of abuse of a ward to the Department of Children and Families;
- Authorize family members of wards to challenge a decision by a guardian which denies visitation to family members;
- Provide that the results of a court-ordered medical exam after a suggestion of capacity is filed is evidence that a court can use for determining capacity or restoring rights; and
- Require a court to give priority to scheduling restoration of capacity proceedings

This bill does not have a discernable fiscal impact.

This bill provides an effective date of July 1, 2015.

II. Present Situation:

Power of Attorney

A power of attorney is an instrument that grants someone authority to act as an agent for the grantor.[1] The "principal" is the individual who grants authority to the agent who then acts in place of the principal, whether the term "agent" is actually used in the writing or not.[2] Under existing law, an alleged incapacitated person's power of attorney is automatically suspended upon the filing of a petition to determine incapacity of the principal. The result is that the agent then loses the ability to act on behalf of the principal.

Guardianship

Background

A guardianship is a relationship based upon trust in which one person, a guardian, has the legal duty and authority to care for the person or property of another person, who is referred to as a ward. A guardianship is established because a court has determined that the ward is not capable of managing his or her affairs, generally due to infancy, incapacity, or disability.[3] A guardian may be appointed over the person, over the property, or both.

[1] BLACK'S LAW DICTIONARY 1191 (7th ed. 1999).
[2] Sections 709.2102 (1), (9), and (11), F.S.
[3] BLACK'S LAW DICTIONARY 712 (9th ed. 2009).

When a court determines that someone is incapacitated,[4] it must consider whether there is an alternative to guardianship which will sufficiently meet the person's needs. If no alternative can be found, then a guardian[5] must be appointed.[6] The Legislature has stated, however, that the form of assistance be chosen in each situation that least interferes with the legal capacity of someone to act on his or her behalf.[7]

Guardianship Proceedings

A guardianship proceeding is initiated in circuit court when an adult files a petition to determine incapacity and alleges specifically the factual information on which the petitioner believes the incapacity is based.[8] Within 5 days after the petition is filed, the court must appoint a three member examining committee[9] to examine the allegedly incapacitated person to determine his or her incapacity. The members have 15 days[10] after their appointment to submit a written report to the court which sets an adjudicatory hearing to be held within 14 days[11] after the examining members' reports are filed. If the court finds on the basis of clear and convincing evidence that the person is incapacitated, the court must enter a written order determining the incapacity, but only with respect to those rights specified in the order.[12]

Powers and Duties of a Guardian

A guardian has a fiduciary relationship with a ward and is bound to act in good faith and trust on the ward's behalf. The guardian may not use that relationship for private gain except for the reimbursement of fees and expenses provided by law.[13] The guardian of an incapacitated person may only exercise the rights that have been removed from the ward and delegated to the guardian. In addition to performing all duties required of him or her by law, a guardian is required to file an initial guardianship report and an annual guardianship report, implement the guardianship plan, and at the termination of the guardianship, deliver the property of the ward to the person lawfully entitled to the property.[14] If the guardian breaches the fiduciary duty owed to the ward, the court is obligated to take the steps necessary to protect the ward and the ward's assets.[15]

---

[4] An "incapacitated person" is a person who has been judicially determined to lack the capacity to manage at least some of his or her property or to meet at least some of his or her essential health and safety requirements. Section 744.102(12), F.S.
[5] Various provisions in ch. 744, F.S., provide for a guardian ad litem, limited guardian, plenary guardian, standby guardian, foreign guardian, corporate guardian, nonprofit corporate guardian, preneed guardian, professional guardian, surrogate, and public guardian.
[6] Section 744.331(6)(b), F.S.
[7] Section 744.1012, F.S.
[8] Section 744.3201, F.S.
[9] One member must be a psychiatrist or other physician and the remaining members must be a psychologist, gerontologist, another psychiatrist, or other physician, a registered nurse, nurse practitioner, licensed social worker, a person with an advanced degree in gerontology, or other person who has special skill, training, or education to advise the court in the form of an expert opinion.
[10] Section 744.331(3), F.S.
[11] Section 744.331(5), F.S.
[12] Section 744.331(6), F.S.
[13] Section 744.446, F.S.
[14] Section 744.361, F.S.
[15] Section 744.446, F.S.

Responsibilities of the Clerk of Court and Judicial Review

The clerk of the circuit court, as custodian of the guardianship files, must review each initial and annual guardianship report, which is later reviewed by the circuit court. The court retains jurisdiction over all guardianships and must review the appropriateness and extent of a guardianship annually.[16]

Termination of a Guardianship

The relationship between a guardian and ward is terminated when a ward is restored to capacity, the guardian has been unable to find the ward after a diligent search, or for a guardian of the property, when the property subject to the guardianship has been exhausted.[17] The relationship is also terminated upon the death of the guardian or ward, by resignation[18] or removal of the guardian,[19] or by a change or domicile to a foreign jurisdiction.[20]

Resolution of Disputes Involving Guardianships

Disputes often arise in guardianship matters and involve issues such as visitation, care plans, the ward's range of choices, medical care, whether less restrictive options are available to the ward, property issues, and financial decisions. These issues are litigated, often at great expense to the ward, and burden court calendars.

Court Monitors and Emergency Court Monitors

A court is authorized under the guardianship chapter to appoint a court monitor over a matter under its jurisdiction, when an interested person inquires or upon its own motion. The order of appointment is served upon the guardian, the ward, and other interested persons as the court decides. The monitor serves to investigate, seek information, examine documents, or interview the ward and report his or her findings to the court in a report. The report is also served on the guardian, the ward, and any other person as the court decides. If the monitor's report indicates that the court needs to take action to protect the ward's interest, the court, after a hearing with notice, enters any necessary order to protect the ward or his or her estate. A court monitor may not be a family member or someone with a personal interest in the proceedings but may be allowed a reasonable fee for his or her services from the ward's property.[21]

Similarly, a court may appoint a court monitor on an emergency basis without notice. To do so, the court must find that there appears to be imminent danger that the physical or mental health or safety of the ward will be impaired, or the ward's property is in danger of being wasted or lost unless immediate action is taken. The emergency court monitor's authority expires 60 days after appointment or upon a finding of no probable cause, whichever occurs first, but may be extended for an additional 30 days upon a showing that the emergency condition still exists. The monitor

[16] Sections 744.368 and 744.372, F.S.
[17] Section 744.521, F.S.
[18] Section 744.467, F.S.
[19] Section 744.474, F.S.
[20] Section 744.524, F.S.
[21] Section 744.107, F.S.

has 15 days to file a report of findings and recommendation to the court after his or her appointment. As with a court monitor, the emergency monitor may be allowed a reasonable fee that is paid from the ward's property.[22]

Guardian and Attorney Fees and Expenses in Guardianship Proceedings

Section 744.108, F.S., establishes that a guardian or attorney who has rendered services to the ward or the guardian on the ward's behalf is entitled to reasonable fees for those services and reimbursement for those costs. The court is given a list of factors to consider in awarding those fees. It is not clear whether s. 744.108(8), F.S., covers all requests for attorney fees or is limited to only fees for the guardian's attorney. It is also unclear whether expert testimony is required to establish a reasonable fee for a guardian or an attorney.

Claims of Minors

Section 744.3025(1)(a), F.S., provides that a court may appoint a guardian ad litem before approving a settlement of a claim for a minor when the gross settlement exceeds $15,000. The statute does not specify criteria for the court to rely upon in determining whether there is a need for the appointment of a guardian ad litem.

Emergency Temporary Guardianship

The process of appointing a guardian may take up to 34 days or longer, upon a showing of good cause. The statutes, however, provide a more timely remedy through an additional type of guardianship in an emergency situation. A court may appoint an emergency temporary guardian[23] for an allegedly incapacitated person upon a finding that there appears to be an imminent danger that:

- The physical or mental health or safety of the person will be seriously impaired; or
- The person's property is in danger of being wasted, misappropriated, or lost unless immediate action is taken.

Under those circumstances, a court may appoint an emergency temporary guardian after the filing of a petition for determination of incapacity and before the appointment of a guardian. The court must appoint counsel to represent the alleged incapacitated person during the proceedings. Further, the court may appoint an emergency temporary guardian on its own motion if no petition for appointment of guardian has been filed when the order determining incapacity is entered.[24]

The emergency temporary guardian's authority expires 90 days after the appointment or when a guardian is appointed, whichever occurs first. The authority may be extended for 90 additional days upon a showing that the emergency conditions continue to exist.[25] The emergency temporary guardian's authority and responsibility begin when the letters of emergency temporary

[22] Section 744.1075, F.S.
[23] Section 744.3031(1), F.S.
[24] Section 744.3031(2), F.S.
[25] Section 744.3031(3), F.S.

guardian are issued. He or she must file a final report no later than 30 days after the emergency temporary guardianship expires[26] and the final report must be served on the successor guardian and the ward.[27]

Advance Directives

An "advance directive" is a written document or oral statement that is witnessed in which a person states his or her desires regarding health care and includes, but is not limited to, the designation of a health care surrogate, a living will, or an anatomical gift.[28] An advance directive permits a competent adult to express his or her wishes regarding decisions relating to his or her own health, particularly the right to choose or refuse medical treatment.

Considerations When Appointing a Guardian

The statutes provide a list of factors that a court must consider when appointing a guardian.[29] The court must give preference to a person who:

- Is related by blood or marriage;
- Has educational, professional, or business experience that is relevant to the services needed for the ward;
- Has the capacity to manage the ward's financial resources; or
- Has the ability to meet the law's requirements and unique needs of the case at hand.

The court must also consider:

- The wishes expressed by the incapacitated person as to who the guardian should be;
- The preferences of a minor who is over the age of 14 years as to who the guardian should be;
- Any person designated as a guardian in a will under which the ward is a beneficiary.

The court shall appoint the standby guardian or preneed guardian, unless that is contrary to the best interests of the ward.[30]

Guardianship Plans and Reports

For a court to monitor and supervise a guardian's compliance, the guardian must file reports and plans for review. A guardian of the person must file an annual plan which updates information about the ward's condition, specifying the ward's needs and how those needs should be met in the upcoming year.[31] If the court requires calendar year planning, the plan must be filed by April 1 of that plan year. If not, the plan must be filed within 90 days after the anniversary month that the letters of guardianship were filed.[32] The approved report authorizes the guardian the

[26] Section 744.3031(7) and (8)(a), F.S.
[27] Section 744.3031(8)(d), F.S.
[28] Section 765.101, F.S.
[29] Section 744.312, F.S.
[30] Section 744.312(4), F.S.
[31] Section 744.3675, F.S.
[32] Section 744.367(1), F.S.

necessary power to act within the terms of the plan and limits the powers of the guardian to those terms.[33]

Restoration to Capacity

An incapacitated person retains the right to be restored to capacity at the earliest possible time.[34] The procedure for restoration is described in s. 744.464, F.S. Any interested person or the ward may file a suggestion of capacity stating that the ward is currently capable of exercising some or all or the rights which were removed. The statute is silent on what the evidentiary standard is that is used to determine restoration of capacity. Clear guidance is needed in the statute to remove this uncertainty.

III. Effect of Proposed Changes:

Suspension of a Power of Attorney (Sections 1, and 10)

This bill creates s. 744.3203, F.S., to address the suspension of a power of attorney when the incapacity of the principal is alleged and the authority is granted to a parent, spouse, child, or grandchild. However, the power of attorney will remain in effect pursuant to s. 709.210, F.S., for these groups unless the petitioner files a verified motion that includes specific statements of fact showing wrongdoing or neglect by the principal. When someone files a petition to determine incapacity but before the order is entered, the alleged incapacitated person's power of attorney is suspended when the petitioner files a motion stating that a power of attorney should be suspended or modified for any of the following reasons:

- The agent's decision are not consistent with the alleged incapacitated person's known desires;
- The power of attorney is invalid;
- The agent has not discharged his or her duties or incapacity or illness renders him or her incapable of discharging those duties;
- The agent has abused powers; or
- There is a danger that the property of the alleged incapacitated person may be wasted, misappropriated, or lost unless the authority is suspended.

It is not grounds to suspend a power of attorney if a dispute exists between the agent and the petitioner and the matter is appropriately resolved in a different forum or a legal proceeding other than a guardianship proceeding.

The petitioner's motion must identify one of the five grounds listed above and allege specific statements of fact demonstrating that there are grounds to justify the suspension of the power of attorney. The petitioner must sign the petition and declare that he or she has read the motion and that the facts stated in it are true to the best of his or her knowledge and belief.

The court must schedule an expedited hearing for the motion when the agent files a response. The court order must set forth what powers the agent is permitted to exercise, if any, pending the

[33] Section 744.369(8), F.S.
[34] Section 744.3215(1)(c), F.S.

outcome of the petition to determine the principal's incapacity. The intent appears to be that, in an emergency situation, a specific power can be reinstated without a hearing and without notice to all interested persons.

Sections 709.2109(3) and 709.2119(2), F.S., are amended to conform to the changes created by s. 744.3203, F.S.

Court Monitors and Emergency Court Monitors (Sections 2 and 3)

The bill provides that a court may appoint the office of criminal conflict and civil regional counsel to serve as a court monitor or emergency court monitor if a ward is indigent.

Guardian and Attorney Fees and Expenses in Guardianship Proceedings (Section 4)

This bill amends s. 744.108, F.S., to clarify that attorneys for the ward, whether court appointed or otherwise, are entitled to compensation from the guardianship estate. Language is created to clarify that expert testimony is not necessary to establish compensation for the guardian or the guardian's attorney. This change will benefit wards in many instances by eliminating charges for expert witness fees.

Claims of Minors (Section 5)

The bill amends s. 744.3025(1)(a), F.S., to provide that a court may appoint a guardian ad litem only if the court believes a guardian ad litem is necessary to protect the minor's interest in a claim that exceeds $15,000. A new subsection (3) is created and states that the settlement of a claim under this section is subject to the confidentiality provisions of the guardianship chapter.[35]

Emergency Temporary Guardian (Section 6)

Notice Provisions

The bill amends s. 744.3031, F.S., relating to emergency temporary guardianships. The existing law provides that a court can appoint an emergency temporary guardian for an alleged incapacitated person before the person has notice of the proceeding. Under the bill, the alleged incapacitated person and his or her attorney must be given at least 24-hours advance notice of the hearing, unless the petitioner demonstrates that substantial harm will occur if notice is given.

Filing of a Final Report

Currently, an emergency temporary guardian must file a final report within 30 days after the emergency temporary guardianship expires.[36] Under this bill, a court may not authorize final payment for the emergency temporary guardian's fee or the fees of his or her attorney until the final report is filed.

[35] This language links this bill to SB 360 which creates a public records exemption to protect the confidentiality of records relating to the settlement of a claim on behalf of a minor or ward.
[36] Section 744.3031(8), F.S.

For Profit Corporation as Guardian (Section 7)

This bill amends s. 744.309, F.S., regarding who may be appointed guardian of a resident ward. Generally, there is one public guardian who handles guardianships for indigent cases in each county or each judicial circuit. The public guardian is subject to a significant amount of oversight by the state. These public guardians, however, sometimes structure their businesses in corporate forms and provide services to indigent and non-indigent wards using the same staff. The bill validates these existing practices, but limits the use of corporate structures to public guardians and requires them to maintain a bond or liability insurance in the amount of $250,000.

Advance Directives (Section 8)

This bill amends s. 744.3115, F.S., to provide that, in circumstances in which the ward executed any advance directive before his or her incapacity, the court must specify in the order and letters of guardianship what authority the guardian may exercise over the ward regarding health care decisions and what authority, if any, the surrogate shall continue to exercise over the ward regarding health care decisions. Any order revoking or modifying the authority of the surrogate must be supported by specific written findings of fact. If the court determines that the guardian will be responsible for making health care decisions for the ward, the guardian will assume the surrogate's responsibilities. These changes are designed to strengthen a person's choice regarding who should make medical decisions on his or her behalf.

Considerations When Appointing a Guardian (Section 9)

This bill amends the existing group of factors a court must consider when determining who to appoint as a guardian for an incapacitated person. The court must now also consider the wishes of close relatives if the person cannot express a preference.

Unless a standby or preneed guardian is appointed and a court does not use a rotation system for the appointment, the court must make specific findings of fact and state why the person was selected.

Additionally, an emergency temporary guardian who is a professional guardian may not be appointed as the permanent guardian unless that person's appointment is requested by the ward's next of kin. This limitation may be waived if the guardianship has special requirements that demand that the court appoint a guardian because of his or her special talent or specific prior experience. However, the court is required to make specific findings of fact justify waiving the limitation.

Order Determining Incapacity (Section 11)

Examining Committee Fees

In guardianship proceedings, generally the participating professionals are paid from the assets of the ward or alleged incapacitated person, including the examining committee of medical professionals. In some instances, courts have required the alleged incapacitated person who was determined to have capacity to pay the examining committee. The bill provides that when an

alleged incapacitated person is determined not to be incapacitated, the examining committee will be paid from court funds for expert witnesses, not from the alleged incapacitated person's funds.

Limitation on the Removal of Rights

Guardianship law allows a court to remove an incapacitated person's rights and delegate them to a guardian. The bill directs courts to consider an incapacitated person's unique needs and abilities and remove only the right the person does not have the capacity to exercise.

Order of Appointment of Guardian (Section 12)

The bill amends s. 744.344(4), F.S., to provide that, if a petition for the appointment of a guardian has not been ruled upon when the hearing to determine capacity is held, the court may appoint an emergency temporary guardian in the same manner and for the same purposes as the appointment of an emergency temporary guardian.

Letters of Guardianship (Section 13)

This section provides that letters of guardianship for all guardianships, not just limited guardianships, must specify the authority of a guardian with respect to a ward's advance directive. In a sense, this is a conforming change to reflect the amendment made to s. 744.3115, F.S., relating to advance directives.

Abuse, Neglect, or Exploitation by a Guardian (Section 14)

The bill creates a code of conduct or ethical standards for guardians and requires a person to report abuse, neglect, or exploitation of a ward by a guardian to the Department of Children and Families. The section must be interpreted in conformity with. s. 825.103, F.S., pertaining to the exploitation of an elderly person or disabled adult.

Powers and Duties of a Guardian (Section 15)

The bill amends s. 744.361(1), F.S., to confirm that a guardian of an incapacitated person is a fiduciary who may exercise only those rights removed from the ward and delegated to the guardian. That section is further amended to provide that a guardian:

- Shall act within the scope of the authority granted and as provided by law;
- Shall act in good faith;
- May not act in a manner contrary to the ward's best interests; and
- Shall use certain special skills or expertise, if any, when acting on the ward's behalf.

The bill also requires that a guardian over the property keep clear, distinct, and accurate records of the property.

Additional responsibilities of a guardian of a ward's person are enumerated. A professional guardian must also assess the nature and extent of visitation and communication with the ward's family and friends during a personal visit.

Annual Guardianship Reports (Section 16)

Existing law allows annual guardianship plans to be filed well after the plan year has begun. The changes under this bill require guardianship plans to be filed in advance.

Judicial Review of Guardianship Reports (Section 17)

The bill amends this section to provide that a guardian may continue to act under the authority of the last approved guardianship report until the next year's report is approved.

Petition for Interim Judicial Review (Section 18)

The bill amends this section to provide that at any time, an interested person may petition the court for review that the guardian is acting in a manner contrary to the power and duties of a guardian or is denying visitation between the ward and his or her relatives.

Restoration to Capacity (Section 19)

The bill amends s. 744.464(3), F.S., to establish a "preponderance of the evidence" burden of proof for the restoration of all or some of the ward's rights and requires the court to make specific findings of fact. The bill also provides that the ward has the burden of proving that the restoration of capacity is warranted. A new provision is added stating that a court must give priority to any suggestion of capacity and must advance the cause on the calendar.[37]

Effective Date (Section 20 and 21)

The bill takes effect July 1, 2015. The amendments made in the bill to s. 709.2109, F.S., and s. 744.3203, F.S., pertaining to terminations or suspensions of the powers of attorney, apply to all proceedings filed on or after July 1, 2015. The amendments made to other provisions of the bill apply to all proceedings pending on July 1, 2015.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

This bill does not appear to affect the spending, revenues, or tax authority of cities or counties. As such, the bill does not appear to be a mandate.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

[37] Section 744.464(4), F.S.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None

C. Government Sector Impact:

None

VI. Technical Deficiencies:

Section 744.3203(3), F.S., suspension of a power of attorney before an incapacity determination, could be drafted more precisely for clarity. The intent appears to be that, in an emergency situation, a specific power can be reinstated without a hearing and notice being served on all interested persons. Perhaps an amendment could be developed to clarify the meaning of this subsection.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 709.2109, 709.2119, 744.107, 744.1075, 744.108, 744.3025, 744.3031, 744.309, 744.3115, 744.312, 744.331, 744.344, 744.345, 744.361, 744.367, 744.369, 744.3715, and 744.464.

This bill creates the following sections of the Florida Statutes: 744.3203 and 744.359.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

Recommended CS by Appropriations Subcommittee on Criminal and Civil Justice on April 2, 2015:

The committee substitute**:**

- Provides that a power of attorney granted to a close relative remains in effect unless the petitioner makes a showing of wrongdoing or neglect by the principal;
- Deletes provisions limiting an emergency temporary guardian's authority to 60 days and leaves in force the current 90 day authority of the emergency temporary guardian;
- Limits the use of certain guardian structures involving public and private guardianships and requires them to maintain a bond or liability insurance in the amount of $250,000;

- Requires the court to make specific findings when selecting a professional guardian; and
- Provides that the fees of a medical examining committee, when an alleged incapacitated person is found not to be incapacitated, shall be paid by the expert witness fees of the court.

CS by Judiciary on March 10, 2015:
The committee substitute differs from the original bill in the following ways:

- A power of attorney may be suspended automatically during guardianship proceedings but only if the petitioner specifically requests the suspension and states facts under oath supporting the suspension.
- Courts may refer guardianship matters to mediation or alternative dispute resolution.
- Courts may appoint the office of criminal conflict counsel as court monitors and emergency court monitors for indigent wards.
- Attorneys for the ward, whether court appointed or otherwise, are entitled to compensation from the guardianship estate.
- Expert testimony is not necessary to establish compensation for the guardian or the guardian's attorney.
- If a court has already appointed a guardian to represent a minor, an additional appointment of a guardian ad litem is not necessary to represent a minor's interest in the settlement of a claim.
- Advance notice is not necessary to the alleged incapacitated person and his or her attorney before appointing an emergency temporary guardian if a petitioner demonstrates that substantial harm will occur if notice is given.
- A nonprofit charitable corporation is expressly authorized to serve as a guardian.
- If a court modifies the authority of a health care surrogate in an advance directive, the modification must be based on findings of fact.
- The factors a court must consider in determining who to appoint as guardian are revised. A court is discouraged from appointing as a permanent guardian a professional guardian who has served as an emergency temporary guardian.
- A code of conduct or ethical standards for guardians is established. A person is required to report abuse, neglect, or exploitation of a ward by a guardian to the Department of Children and Families.
- Guardianship plans are required to be filed in advance of the plan year.
- Family members of wards are authorized to challenge a decision by a guardian which denies visitation to family members.
- The results of a court-ordered medical exam after a suggestion of capacity is filed is evidence that may be used for determining capacity or restoring rights. Courts must give priority to scheduling restoration of capacity proceedings.

B. Amendments:

None.

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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/22/2015	.	
	.	
	.	
	.	

The Committee on Appropriations (Lee) recommended the following:

Senate Amendment (with title amendment)

Before line 87
insert:
Section 1. Section 709.2105, Florida Statutes, is amended to read:
709.2105 Qualifications of agent; execution of power of attorney.—
(1) The agent must be one of the following:
(a) A natural person who is 18 years of age or older. ~~or~~
(b) A financial institution that has trust powers and~~, has~~

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12 a place of business in this state~~,~~ and is authorized to conduct
13 trust business in this state.
14 (c) A not-for-profit corporation that:
15 1. Is organized for charitable or religious purposes in
16 this state;
17 2. Was qualified as a court-appointed guardian before
18 January 1, 1996; and
19 3. Is a tax-exempt organization under s. 501(c)(3) of the
20 Internal Revenue Code. However, this subparagraph applies only
21 to a corporation that acts through an individual listed in the
22 records of the Division of Corporations of the Department of
23 State as a current officer of the corporation and only upon the
24 occurrence of any of the following events:
25 a. Posting and maintenance by the corporation of a blanket
26 fiduciary bond of at least $250,000 with the clerk of the
27 circuit court in the county in which the corporation's primary
28 place of business is located. The corporation shall provide
29 proof of the fiduciary bond to the clerk of each additional
30 circuit court in which the corporation is serving as agent for a
31 resident of that circuit. The bond must cover all principals for
32 whom the corporation has been appointed as an agent at any given
33 time. The liability of the provider of the bond is limited to
34 the face value of the bond, regardless of the number of
35 principals for whom the corporation is acting as an agent. The
36 terms of the bond must cover the acts or omissions of each agent
37 or employee of the corporation who has direct contact with the
38 principal or access to the principal's assets. The bond must be
39 payable to the Governor and his or her successors in office and
40 be conditioned on the faithful performance of all duties of an

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41 agent under this chapter.
42 b. Maintenance by the corporation of a liability insurance
43 policy that covers any losses sustained by the principal caused
44 by errors, omissions, or any intentional misconduct committed by
45 the corporation's officers or agents. The policy must cover all
46 principals for whom the corporation is acting as an agent for
47 losses up to $250,000. The terms of the policy must cover acts
48 or omissions of each agent or employee of the corporation who
49 has direct contact with the principal or access to the
50 principal's assets.
51 c. Signing by the principal of a separate written
52 instrument containing the following language in 14-point
53 uppercase type:
54
55 I HAVE BEEN ADVISED THAT OFFICERS OF THE NOT-FOR-PROFIT
56 CORPORATION HAVE DECLINED TO AGREE TO BE JOINTLY AND SEVERALLY
57 LIABLE WITH THE NOT-FOR-PROFIT CORPORATION FOR ACTS OR OMISSIONS
58 OCCURRING IN THE EXERCISE OF THE POWER OF ATTORNEY EXECUTED
59 UNDER CHAPTER 709, FLORIDA STATUTES.
60
61 I HAVE ALSO BEEN ADVISED THAT THE NOT-FOR-PROFIT CORPORATION
62 THAT I HAVE NAMED AS MY AGENT UNDER MY POWER OF ATTORNEY HAS
63 ELECTED NOT TO POST AND MAINTAIN A FIDUCIARY BOND OR MAINTAIN
64 INSURANCE IN ACCORDANCE WITH SECTION 709.2105(1)(c), FLORIDA
65 STATUTES.
66
67 I UNDERSTAND THAT THE ASSETS OF THE NOT-FOR-PROFIT CORPORATION
68 MAY NOT BE SUFFICIENT TO COVER LIABILITY ARISING FROM AN ERROR,
69 AN OMISSION, OR ANY INTENTIONAL MISCONDUCT COMMITTED BY AN

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70 EMPLOYEE OR AGENT OF THE CORPORATION.
71
72 d. Designation of the corporation by a principal as an
73 agent under a power of attorney and the corporation acts as an
74 agent for the principal. However, each officer of the
75 corporation is jointly and severally liable with the corporation
76 for acts and omissions under the power of attorney and this
77 chapter which occur when there is no fiduciary bond as provided
78 in sub-subparagraph a., liability insurance as provided in sub-
79 subparagraph b., or signed acknowledgement as provided in sub-
80 subparagraph c.
81 (2) A power of attorney must be signed by the principal and
82 by two subscribing witnesses and be acknowledged by the
83 principal before a notary public or as otherwise provided in s.
84 695.03.
85 (3) If the principal is physically unable to sign the power
86 of attorney, the notary public before whom the principal's oath
87 or acknowledgment is made may sign the principal's name on the
88 power of attorney pursuant to s. 117.05(14).
89
90 ========== T I T L E A M E N D M E N T ==========
91 And the title is amended as follows:
92 Between lines 2 and 3
93 insert:
94 s. 709.2105, F.S.; revising the qualifications of an
95 agent in the execution of power of attorney to include
96 certain not-for-profit corporations; providing
97 criteria for such corporations; amending

769056

576-03376A-15

Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on Criminal and Civil Justice)

A bill to be entitled

An act relating to guardianship proceedings; amending s. 709.2109, F.S.; requiring the filing of a motion before termination or suspension of a power of attorney in proceedings to determine a principal's incapacity or for appointment of a guardian advocate under certain circumstances; amending ss. 744.107 and 744.1075, F.S.; authorizing a court to appoint the office of criminal conflict and civil regional counsel as a court monitor in guardianship proceedings; amending s. 744.108, F.S.; providing that fees and costs incurred by an attorney who has rendered services to a ward in compensation proceedings are payable from guardianship assets; providing that expert testimony is not required in proceedings to determine compensation for an attorney or guardian; requiring a person offering expert testimony to provide notice to interested persons; providing that reasonable expert witness fees are recoverable; amending s. 744.3025, F.S.; providing that a court may appoint a guardian ad litem to represent a minor if necessary to protect the minor's interest in a settlement; providing that a settlement of a minor's claim is subject to certain confidentiality provisions; amending s. 744.3031, F.S.; requiring notification of an alleged incapacitated person and such person's attorney of a petition for appointment

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of an emergency temporary guardian before a hearing on the petition commences; prohibiting the final payment of the emergency temporary guardian fees and his or her attorney fees until the final report is filed; amending s. 744.309, F.S.; providing that certain for-profit corporations may act as guardian of a person; providing conditions; requiring the posting and maintenance of a fiduciary bond; limiting liability; requiring the corporation to maintain certain insurance coverage; providing for certain grandfathered guardianships; amending s. 744.3115, F.S.; directing the court to specify authority for health care decisions with respect to a ward's advance directive; amending s. 744.312, F.S.; requiring a court to consider the wishes of the ward's relatives when appointing a guardian; prohibiting a court from giving preference to the appointment of certain persons as guardians; providing requirements for the appointment of professional guardians; amending s. 744.3203, F.S.; providing grounds for filing a motion for suspension of a power of attorney before determination of incapacity; providing criteria for such motion; requiring a hearing under certain conditions; providing for the award of attorney fees and costs; amending s. 744.331, F.S.; directing the court to consider certain factors when determining incapacity; requiring that the examining committee be paid from state funds as court-appointed expert witnesses if a petition for incapacity is dismissed;

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requiring that a petitioner reimburse the state for such expert witness fees if the court finds the petition to have been filed in bad faith; amending s. 744.344, F.S.; providing conditions under which the court is authorized to appoint an emergency temporary guardian; amending s. 744.345, F.S.; revising provisions relating to letters of guardianship; creating s. 744.359, F.S.; prohibiting abuse, neglect, or exploitation of a ward by a guardian; requiring reporting thereof to the Department of Children and Families central abuse hotline; providing for interpretation; amending s. 744.361, F.S.; providing additional powers and duties of a guardian; amending s. 744.367, F.S.; revising the period during which a guardian must file an annual guardianship plan with the court; amending s. 744.369, F.S.; providing for the continuance of a guardian's authority to act under an expired annual report under certain circumstances; amending s. 744.3715, F.S.; providing that an interested party may petition the court regarding a guardian's failure to comply with the duties of a guardian; amending s. 744.464, F.S.; establishing the burden of proof for determining restoration of capacity of a ward in pending guardianship cases; requiring a court to advance such cases on the calendar; providing applicability; providing an effective date.

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

769056

576-03376A-15

Section 1. Subsection (3) of section 709.2109, Florida Statutes, is amended to read:

709.2109 Termination or suspension of power of attorney or agent's authority.—

(3) If any person initiates judicial proceedings to determine the principal's incapacity or for the appointment of a guardian advocate, the authority granted under the power of attorney is suspended until the petition is dismissed or withdrawn or the court enters an order authorizing the agent to exercise one or more powers granted under the power of attorney. <u>However, if the agent named in the power of attorney is the principal's parent, spouse, child, or grandchild, the authority under the power of attorney is not suspended unless a verified motion in accordance with s. 744.3203 is also filed.</u>

(a) If an emergency arises after initiation of proceedings to determine incapacity and before adjudication regarding the principal's capacity, the agent may petition the court in which the proceeding is pending for authorization to exercise a power granted under the power of attorney. The petition must set forth the nature of the emergency, the property or matter involved, and the power to be exercised by the agent.

(b) Notwithstanding the provisions of this section, unless otherwise ordered by the court, a proceeding to determine incapacity does not affect the authority of the agent to make health care decisions for the principal, including, but not limited to, those provided in chapter 765. If the principal has executed a health care advance directive designating a health care surrogate, the terms of the directive control if the

115 directive and the power of attorney are in conflict unless the
116 power of attorney is later executed and expressly states
117 otherwise.
118 Section 2. Subsection (5) is added to section 744.107,
119 Florida Statutes, to read:
120 744.107 Court monitors.—
121 (5) The court may appoint the office of criminal conflict
122 and civil regional counsel as monitor if the ward is indigent.
123 Section 3. Subsection (6) is added to section 744.1075,
124 Florida Statutes, to read:
125 744.1075 Emergency court monitor.—
126 (6) The court may appoint the office of criminal conflict
127 and civil regional counsel as monitor if the ward is indigent.
128 Section 4. Subsections (5) and (8) of section 744.108,
129 Florida Statutes, are amended, and subsection (9) is added to
130 that section, to read:
131 744.108 Guardian ~~Guardian's~~ and attorney ~~attorney's~~ fees
132 and expenses.—
133 (5) All petitions for guardian ~~guardian's~~ and attorney
134 ~~attorney's~~ fees and expenses must be accompanied by an itemized
135 description of the services performed for the fees and expenses
136 sought to be recovered.
137 (8) When court proceedings are instituted to review or
138 determine a guardian's or an attorney's fees under subsection
139 (2), such proceedings are part of the guardianship
140 administration process and the costs, including costs and
141 attorney fees for the guardian's attorney, an attorney appointed
142 under s. 744.331(2), or an attorney who has rendered services to
143 the ward, shall be determined by the court and paid from the

144 assets of the guardianship estate unless the court finds the
145 requested compensation under subsection (2) to be substantially
146 unreasonable.
147 (9) The court may determine that a request for compensation
148 by the guardian, the guardian's attorney, a person employed by
149 the guardian, an attorney appointed under s. 744.331(2), or an
150 attorney who has rendered services to the ward, is reasonable
151 without receiving expert testimony. A person or party may offer
152 expert testimony for or against a request for compensation after
153 giving notice to interested persons. Reasonable expert witness
154 fees shall be awarded by the court and paid from the assets of
155 the guardianship estate using the standards in subsection (8).
156 Section 5. Section 744.3025, Florida Statutes, is amended
157 to read:
158 744.3025 Claims of minors.—
159 (1)(a) The court may appoint a guardian ad litem to
160 represent the minor's interest before approving a settlement of
161 the minor's portion of the claim in a ~~any~~ case in which a minor
162 has a claim for personal injury, property damage, wrongful
163 death, or other cause of action in which the gross settlement of
164 the claim exceeds $15,000 if the court believes a guardian ad
165 litem is necessary to protect the minor's interest.
166 (b) Except as provided in paragraph (e), the court shall
167 appoint a guardian ad litem to represent the minor's interest
168 before approving a settlement of the minor's claim in a ~~any~~ case
169 in which the gross settlement involving a minor equals or
170 exceeds $50,000.
171 (c) The appointment of the guardian ad litem must be
172 without the necessity of bond or notice.

173 (d) The duty of the guardian ad litem is to protect the
174 minor's interests as described in the Florida Probate Rules.
175 (e) A court need not appoint a guardian ad litem for the
176 minor if a guardian of the minor has previously been appointed
177 and that guardian has no potential adverse interest to the
178 minor. ~~A court may appoint a guardian ad litem if the court~~
179 ~~believes a guardian ad litem is necessary to protect the~~
180 ~~interests of the minor.~~
181 (2) Unless waived, the court shall award reasonable fees
182 and costs to the guardian ad litem to be paid out of the gross
183 proceeds of the settlement.
184 (3) A settlement of a claim pursuant to this section is
185 subject to the confidentiality provisions of this chapter.
186 Section 6. Subsections (2) through (8) of section 744.3031,
187 Florida Statutes, are renumbered as subsections (3) through (9),
188 respectively, and a new subsection (2) is added to that section,
189 and present subsection (8) of that section is amended, to read:
190 744.3031 Emergency temporary guardianship.—
191 (2) Notice of filing of the petition for appointment of an
192 emergency temporary guardian and a hearing on the petition must
193 be served on the alleged incapacitated person and on the alleged
194 incapacitated person's attorney at least 24 hours before the
195 hearing on the petition is commenced, unless the petitioner
196 demonstrates that substantial harm to the alleged incapacitated
197 person would occur if the 24-hour notice is given.
198 (9) ~~(8)~~ (a) An emergency temporary guardian shall file a
199 final report no later than 30 days after the expiration of the
200 emergency temporary guardianship.
201 (b) A court may not authorize any final payment of the

202 emergency temporary guardian fees or the fees of his or her
203 attorney until the final report is filed.
204 (c) ~~(b)~~ If an emergency temporary guardian is a guardian for
205 the property, the final report must consist of a verified
206 inventory of the property, as provided in s. 744.365, as of the
207 date the letters of emergency temporary guardianship were
208 issued, a final accounting that gives a full and correct account
209 of the receipts and disbursements of all the property of the
210 ward over which the guardian had control, and a statement of the
211 property of the ward on hand at the end of the emergency
212 temporary guardianship. If the emergency temporary guardian
213 becomes the successor guardian of the property, the final report
214 must satisfy the requirements of the initial guardianship report
215 for the guardian of the property as provided in s. 744.362.
216 (d) ~~(c)~~ If the emergency temporary guardian is a guardian of
217 the person, the final report must summarize the activities of
218 the temporary guardian with regard to residential placement,
219 medical condition, mental health and rehabilitative services,
220 and the social condition of the ward to the extent of the
221 authority granted to the temporary guardian in the letters of
222 guardianship. If the emergency temporary guardian becomes the
223 successor guardian of the person, the report must satisfy the
224 requirements of the initial report for a guardian of the person
225 as stated in s. 744.362.
226 (e) ~~(d)~~ A copy of the final report of the emergency
227 temporary guardianship shall be served on the successor guardian
228 and the ward.
229 Section 7. Subsection (7) is added to section 744.309,
230 Florida Statutes, to read:

744.309 Who may be appointed guardian of a resident ward.—

(7) FOR-PROFIT CORPORATE GUARDIAN.—A for-profit corporate guardian existing under the laws of this state is qualified to act as guardian of a ward if the entity is qualified to do business in the state, is wholly owned by the person who is the circuit's public guardian in the circuit where the corporate guardian is appointed, has met the registration requirements of s. 744.1083, and posts and maintains a bond or insurance policy under paragraph (a).

(a) The for-profit corporate guardian must meet one of the following requirements:

1. Post and maintain a blanket fiduciary bond of at least $250,000 with the clerk of the circuit court in the county in which the corporate guardian has its principal place of business. The corporate guardian shall provide proof of the fiduciary bond to the clerks of each additional circuit court in which he or she is serving as a guardian. The bond must cover all wards for whom the corporation has been appointed as a guardian at any given time. The liability of the provider of the bond is limited to the face value of the bond, regardless of the number of wards for whom the corporation is acting as a guardian. The terms of the bond must cover the acts or omissions of each agent or employee of the corporation who has direct contact with the ward or access to the assets of the guardianship. The bond must be payable to the Governor and his or her successors in office and be conditioned on the faithful performance of all duties of a guardian under this chapter. The bond is in lieu of and not in addition to the bond required under s. 744.1085 but is in addition to any bonds required under

s. 744.351. The expenses incurred to satisfy the bonding requirements of this section may not be paid with the assets of any ward; or

2. Maintain a liability insurance policy that covers any losses sustained by the guardianship caused by errors, omissions, or any intentional misconduct committed by the corporation's officers or agents. The policy must cover all wards for whom the corporation is acting as a guardian for losses up to $250,000. The terms of the policy must cover acts or omissions of each agent or employee of the corporation who has direct contact with the ward or access to the assets of the guardianship. The corporate guardian shall provide proof of the fiduciary bond to the clerk of each circuit court in which he or she is serving as a guardian.

(b) A for-profit corporation appointed as guardian before July 1, 2015, is also qualified to serve as a guardian in the particular guardianships in which the corporation has already been appointed as guardian.

Section 8. Section 744.3115, Florida Statutes, is amended to read:

744.3115 Advance directives for health care.—In each proceeding in which a guardian is appointed under this chapter, the court shall determine whether the ward, prior to incapacity, has executed any valid advance directive under chapter 765. If any advance directive exists, the court shall specify in its order and letters of guardianship what authority, if any, the guardian shall exercise over the ward with regard to health care decisions and what authority, if any, the surrogate shall continue to exercise over the ward with regard to health care

289 decisions ~~surrogate~~. Pursuant to the grounds listed in s.
290 765.105, the court, upon its own motion, may, with notice to the
291 surrogate and any other appropriate parties, modify or revoke
292 the authority of the surrogate to make health care decisions for
293 the ward. Any order revoking or modifying the authority of the
294 surrogate must be supported by specific written findings of
295 fact. If the court order provides that the guardian is
296 responsible for making health care decisions for the ward, the
297 guardian shall assume the responsibilities of the surrogate
298 which are provided in s. 765.205. For purposes of this section,
299 the term "health care decision" has the same meaning as in s.
300 765.101.
301 Section 9. Section 744.312, Florida Statutes, is reordered
302 and amended to read:
303 744.312 Considerations in appointment of guardian.—
304 (2) ~~(1)~~ If a guardian cannot be appointed under subsection
305 (1) ~~Subject to the provisions of subsection (4)~~, the court may
306 appoint any person who is fit and proper and qualified to act as
307 guardian, whether related to the ward or not.
308 ~~(2)~~ The court shall give preference to the appointment of a
309 person who:
310 (a) Is related by blood or marriage to the ward;
311 (b) Has educational, professional, or business experience
312 relevant to the nature of the services sought to be provided;
313 (c) Has the capacity to manage the financial resources
314 involved; or
315 (d) Has the ability to meet the requirements of the law and
316 the unique needs of the individual case.
317 (3) The court shall also:

318 (a) Consider the wishes expressed by an incapacitated
319 person as to who shall be appointed guardian. ~~;~~
320 (b) Consider the preference of a minor who is age 14 or
321 over as to who should be appointed guardian. ~~;~~
322 (c) Consider any person designated as guardian in any will
323 in which the ward is a beneficiary.
324 (d) Consider the wishes of the ward's next of kin, when the
325 ward cannot express a preference.
326 (1) ~~(4)~~ If the person designated is qualified to serve
327 pursuant to s. 744.309, the court shall appoint any standby
328 guardian or preneed guardian, unless the court determines that
329 appointing such person is contrary to the best interests of the
330 ward.
331 (4) Except when a standby guardian or a preneed guardian is
332 appointed by the court:
333 (a) In each case when a court appoints a professional
334 guardian and does not use a rotation system for such
335 appointment, the court must make specific findings of fact
336 stating why the person was selected as guardian in the
337 particular matter involved. The findings must reference each of
338 the factors listed in subsections (2) and (3).
339 (b) An emergency temporary guardian who is a professional
340 guardian may not be appointed as the permanent guardian of a
341 ward unless one of the next of kin of the alleged incapacitated
342 person or the ward requests that the professional guardian be
343 appointed as permanent guardian. The court may waive the
344 limitations of this paragraph if the special requirements of the
345 guardianship demand that the court appoint a guardian because he
346 or she has special talent or specific prior experience. The

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347 court must make specific findings of fact that justify waiving
348 the limitations of this paragraph.
349 (5) The court may not give preference to the appointment of
350 a person under subsection (2) based solely on the fact that such
351 person was appointed by the court to serve as an emergency
352 temporary guardian.
353 Section 10. Section 744.3203, Florida Statutes, is created
354 to read:
355 744.3203 Suspension of power of attorney before incapacity
356 determination.—
357 (1) At any time during proceedings to determine incapacity
358 but before the entry of an order determining incapacity, the
359 authority granted under an alleged incapacitated person's power
360 of attorney to a parent, spouse, child, or grandchild is
361 suspended when the petitioner files a motion stating that a
362 specific power of attorney should be suspended for any of the
363 following grounds:
364 (a) The agent's decisions are not in accord with the
365 alleged incapacitated person's known desires.
366 (b) The power of attorney is invalid.
367 (c) The agent has failed to discharge his or her duties or
368 incapacity or illness renders the agent incapable of discharging
369 duties.
370 (d) The agent has abused powers.
371 (e) There is a danger that the property of the alleged
372 incapacitated person may be wasted, misappropriated, or lost
373 unless the authority under the power of attorney is suspended.
374
375 Grounds for suspending a power of attorney do not include the

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376 existence of a dispute between the agent and the petitioner
377 which is more appropriate for resolution in some other forum or
378 a legal proceeding other than a guardianship proceeding.
379 (2) The motion must:
380 (a) Identify one or more of the grounds in subsection (1);
381 (b) Include specific statements of fact showing that
382 grounds exist to justify the relief sought; and
383 (c) Include the following statement: "Under penalties of
384 perjury, I declare that I have read the foregoing motion and
385 that the facts stated in it are true to the best of my knowledge
386 and belief," followed by the signature of the petitioner.
387 (3) Upon the filing of a response to the motion by the
388 agent under the power of attorney, the court shall schedule the
389 motion for an expedited hearing. Unless an emergency arises and
390 the agent's response sets forth the nature of the emergency, the
391 property or matter involved, and the power to be exercised by
392 the agent, notice must be given to all interested persons, the
393 alleged incapacitated person, and the alleged incapacitated
394 person's attorney. The court order following the hearing must
395 set forth what powers the agent is permitted to exercise, if
396 any, pending the outcome of the petition to determine
397 incapacity.
398 (4) In addition to any other remedy authorized by law, a
399 court may award reasonable attorney fees and costs to an agent
400 who successfully challenges the suspension of the power of
401 attorney if the petitioner's motion was made in bad faith.
402 (5) The suspension of authority granted to persons other
403 than a parent, spouse, child, or grandchild shall be as provided
404 in s. 709.2109.

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Section 11. Subsection (6) and paragraph (c) of subsection (7) of section 744.331, Florida Statutes, are amended to read:

744.331 Procedures to determine incapacity.—

(6) ORDER DETERMINING INCAPACITY.—If, after making findings of fact on the basis of clear and convincing evidence, the court finds that a person is incapacitated with respect to the exercise of a particular right, or all rights, the court shall enter a written order determining such incapacity. In determining incapacity, the court shall consider the person's unique needs and abilities and may only remove those rights that the court finds the person does not have the capacity to exercise. A person is determined to be incapacitated only with respect to those rights specified in the order.

(a) The court shall make the following findings:

1. The exact nature and scope of the person's incapacities;

2. The exact areas in which the person lacks capacity to make informed decisions about care and treatment services or to meet the essential requirements for her or his physical or mental health or safety;

3. The specific legal disabilities to which the person is subject; and

4. The specific rights that the person is incapable of exercising.

(b) When an order determines that a person is incapable of exercising delegable rights, the court must consider and find whether there is an alternative to guardianship that will sufficiently address the problems of the incapacitated person. ~~A guardian must be appointed to exercise the incapacitated person's delegable rights unless the court finds there is an~~

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~~alternative.~~ A guardian may not be appointed if the court finds there is an alternative to guardianship which will sufficiently address the problems of the incapacitated person. If the court finds there is not an alternative to guardianship that sufficiently addresses the problems of the incapacitated person, a guardian must be appointed to exercise the incapacitated person's delegable rights.

(c) In determining that a person is totally incapacitated, the order must contain findings of fact demonstrating that the individual is totally without capacity to care for herself or himself or her or his property.

(d) An order adjudicating a person to be incapacitated constitutes proof of such incapacity until further order of the court.

(e) After the order determining that the person is incapacitated has been filed with the clerk, it must be served on the incapacitated person. The person is deemed incapacitated only to the extent of the findings of the court. The filing of the order is notice of the incapacity. An incapacitated person retains all rights not specifically removed by the court.

(f) Upon the filing of a verified statement by an interested person stating:

1. That he or she has a good faith belief that the alleged incapacitated person's trust, trust amendment, or durable power of attorney is invalid; and

2. A reasonable factual basis for that belief,

the trust, trust amendment, or durable power of attorney shall not be deemed to be an alternative to the appointment of a

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463 guardian. The appointment of a guardian does not limit the
464 court's power to determine that certain authority granted by a
465 durable power of attorney is to remain exercisable by the agent
466 ~~attorney in fact~~.
467 (7) FEES.—
468 (c) If the petition is dismissed or denied:~~,~~
469 1. The fees of the examining committee shall be paid upon
470 court order as expert witness fees under s. 29.004(6).
471 2. Costs and attorney ~~attorney's~~ fees of the proceeding may
472 be assessed against the petitioner if the court finds the
473 petition to have been filed in bad faith. The petitioner shall
474 also reimburse the state courts system for any amounts paid
475 under subparagraph 1. upon such a finding.
476 Section 12. Subsection (4) of section 744.344, Florida
477 Statutes, is amended to read:
478 744.344 Order of appointment.—
479 (4) If a petition for the appointment of a guardian has not
480 been filed or ruled upon at the time of the hearing on the
481 petition to determine capacity, the court may appoint an
482 emergency temporary guardian in the manner and for the purposes
483 specified in s. 744.3031.
484 Section 13. Section 744.345, Florida Statutes, is amended
485 to read:
486 744.345 Letters of guardianship.—Letters of guardianship
487 shall be issued to the guardian and shall specify whether the
488 guardianship pertains to the person, or the property, or both,
489 of the ward. The letters must state whether the guardianship is
490 plenary or limited, and, if limited, the letters must state the
491 powers and duties of the guardian. ~~If the guardianship is~~

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492 ~~limited,~~ The letters shall state whether or not and to what
493 extent the guardian is authorized to act on behalf of the ward
494 with regard to any advance directive previously executed by the
495 ward.
496 Section 14. Section 744.359, Florida Statutes, is created
497 to read:
498 744.359 Abuse, neglect, or exploitation by a guardian.—
499 (1) A guardian may not abuse, neglect, or exploit a ward.
500 (2) A guardian has committed exploitation when the
501 guardian:
502 (a) Commits fraud in obtaining appointment as a guardian;
503 (b) Abuses his or her powers; or
504 (c) Wastes, embezzles, or intentionally mismanages the
505 assets of the ward.
506 (3) A person who believes that a guardian is abusing,
507 neglecting, or exploiting a ward shall report the incident to
508 the central abuse hotline of the Department of Children and
509 Families.
510 (4) This section shall be interpreted in conformity with s.
511 825.103.
512 Section 15. Section 744.361, Florida Statutes, is amended
513 to read:
514 744.361 Powers and duties of guardian.—
515 (1) The guardian of an incapacitated person is a fiduciary
516 and may exercise only those rights that have been removed from
517 the ward and delegated to the guardian. The guardian of a minor
518 shall exercise the powers of a plenary guardian.
519 (2) The guardian shall act within the scope of the
520 authority granted by the court and as provided by law.

(3) The guardian shall act in good faith.

(4) A guardian may not act in a manner that is contrary to the ward's best interests under the circumstances.

(5) A guardian who has special skills or expertise, or is appointed in reliance upon the guardian's representation that the guardian has special skills or expertise, shall use those special skills or expertise when acting on behalf of the ward.

(6) ~~(2)~~ The guardian shall file an initial guardianship report in accordance with s. 744.362.

(7) ~~(3)~~ The guardian shall file a guardianship report annually in accordance with s. 744.367.

(8) ~~(4)~~ The guardian of the person shall implement the guardianship plan.

(9) ~~(5)~~ When two or more guardians have been appointed, the guardians shall consult with each other.

(10) ~~(6)~~ A guardian who is given authority over any property of the ward shall:

(a) Protect and preserve the property and invest it prudently as provided in chapter 518, apply it as provided in s. 744.397, and keep clear, distinct, and accurate records of the administration of the ward's property ~~account for it faithfully~~.

(b) Perform all other duties required of him or her by law.

(c) At the termination of the guardianship, deliver the property of the ward to the person lawfully entitled to it.

(11) ~~(7)~~ The guardian shall observe the standards in dealing with the guardianship property that would be observed by a prudent person dealing with the property of another~~, and, if the guardian has special skills or is named guardian on the basis of representations of special skills or expertise, he or she is~~

~~under a duty to use those skills~~.

(12) ~~(8)~~ The guardian, if authorized by the court, shall take possession of all of the ward's property and of the rents, income, issues, and profits from it, whether accruing before or after the guardian's appointment, and of the proceeds arising from the sale, lease, or mortgage of the property or of any part. All of the property and the rents, income, issues, and profits from it are assets in the hands of the guardian for the payment of debts, taxes, claims, charges, and expenses of the guardianship and for the care, support, maintenance, and education of the ward or the ward's dependents, as provided for under the terms of the guardianship plan or by law.

(13) Recognizing that every individual has unique needs and abilities, a guardian who is given authority over a ward's person shall, as appropriate under the circumstances:

(a) Consider the expressed desires of the ward as known by the guardian when making decisions that affect the ward.

(b) Allow the ward to maintain contact with family and friends unless the guardian believes that such contact may cause harm to the ward.

(c) Not restrict the physical liberty of the ward more than reasonably necessary to protect the ward or another person from serious physical injury, illness, or disease.

(d) Assist the ward in developing or regaining capacity, if medically possible.

(e) Notify the court if the guardian believes that the ward has regained capacity and that one or more of the rights that have been removed should be restored to the ward.

(f) To the extent applicable, make provision for the

579 medical, mental, rehabilitative, or personal care services for
580 the welfare of the ward.
581 (g) To the extent applicable, acquire a clear understanding
582 of the risks and benefits of a recommended course of health care
583 treatment before making a health care decision.
584 (h) Evaluate the ward's medical and health care options,
585 financial resources, and desires when making residential
586 decisions that are best suited for the current needs of the
587 ward.
588 (i) Advocate on behalf of the ward in institutional and
589 other residential settings and regarding access to home and
590 community-based services.
591 (j) Acquire an understanding of the available residential
592 options and give priority to home and other community-based
593 services and settings when not inconsistent with the person's
594 goals, needs, and preferences.
595 (14) ~~(9)~~ A professional guardian must ensure that each of
596 the guardian's wards is personally visited by the guardian or
597 one of the guardian's professional staff at least once each
598 calendar quarter. During the personal visit, the guardian or the
599 guardian's professional staff person shall assess:
600 (a) The ward's physical appearance and condition.
601 (b) The appropriateness of the ward's current living
602 situation.
603 (c) The need for any additional services and the necessity
604 for continuation of existing services, taking into consideration
605 all aspects of social, psychological, educational, direct
606 service, health, and personal care needs.
607 (d) The nature and extent of visitation and communication

608 with the ward's family and friends.
609
610 This subsection does not apply to a professional guardian who
611 has been appointed only as guardian of the property.
612 Section 16. Subsection (1) of section 744.367, Florida
613 Statutes, is amended to read:
614 744.367 Duty to file annual guardianship report.—
615 (1) Unless the court requires filing on a calendar-year
616 basis, each guardian of the person shall file with the court an
617 annual guardianship plan at least 60 days, but no more than
618 ~~within~~ 90 days, before ~~after~~ the last day of the anniversary
619 month that the letters of guardianship were signed, and the plan
620 must cover the coming fiscal year, ending on the last day in
621 such anniversary month. If the court requires calendar-year
622 filing, the guardianship plan for the forthcoming calendar year
623 must be filed on or after September 1 but no later than December
624 1 of the current year ~~before April 1 of each year~~.
625 Section 17. Subsection (8) of section 744.369, Florida
626 Statutes, is amended to read:
627 744.369 Judicial review of guardianship reports.—
628 (8) The approved report constitutes the authority for the
629 guardian to act in the forthcoming year. The powers of the
630 guardian are limited by the terms of the report. The annual
631 report may not grant additional authority to the guardian
632 without a hearing, as provided for in s. 744.331, to determine
633 that the ward is incapacitated to act in that matter. Unless the
634 court orders otherwise, the guardian may continue to act under
635 authority of the last-approved report until the forthcoming
636 year's report is approved.

Section 18. Subsection (1) of section 744.3715, Florida Statutes, is amended to read:

744.3715 Petition for interim judicial review.—

(1) At any time, any interested person, including the ward, may petition the court for review alleging that the guardian is not complying with the guardianship plan, ~~or~~ is exceeding his or her authority under the guardianship plan, is acting in a manner contrary to s. 744.361, is denying visitation between the ward and his or her relatives in violation of s. 744.361(13), or ~~and the guardian~~ is not acting in the best interest of the ward. The petition for review must state the nature of the objection to the guardian's action or proposed action. Upon the filing of any such petition, the court shall review the petition and act upon it expeditiously.

Section 19. Paragraphs (a) and (b) of subsection (3) of section 744.464, Florida Statutes, are amended, and subsection (4) is added to that section, to read:

744.464 Restoration to capacity.—

(3) ORDER OF RESTORATION.—

(a) If no objections are filed, and the court is satisfied that ~~with~~ the medical examination establishes by a preponderance of the evidence that restoration of all or some of the ward's rights is appropriate, the court shall enter an order of restoration of capacity, restoring all or some of the rights which were removed from the ward in accordance with those findings. ~~The order must be issued within 30 days after the medical report is filed.~~

(b) At the conclusion of a hearing, conducted pursuant to s. 744.1095, the court shall make specific findings of fact and,

based on a preponderance of the evidence, enter an order either denying the suggestion of capacity or restoring all or some of the rights which were removed from the ward. The ward has the burden of proving by a preponderance of the evidence that the restoration of capacity is warranted.

(4) TIMELINESS OF HEARING.—The court shall give priority to any suggestion of capacity and shall advance the cause on the calendar.

Section 20. Sections 709.2109 and 744.3203, Florida Statutes, as created by this act, apply to all proceedings filed on or after July 1, 2015. The amendments made by this act to ss. 744.107, 744.1075, 744.108, 744.3025, 744.3031, 744.309, 744.3115, 744.312, 744.331, 744.344, 744.345, 744.359, 744.361, 744.367, 744.369, 744.3715, and 744.464, Florida Statutes, apply to all proceedings pending on July 1, 2015.

Section 21. This act shall take effect July 1, 2015.

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 Appropriations

BILL: CS/CS/SB 318

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Criminal and Civil Justice); Judiciary Committee; and Senators Diaz de la Portilla and Detert

SUBJECT: Guardianship Proceedings

DATE: April 23, 2015 REVISED: _____ _____ _____ _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Davis	Cibula	JU	**Fav/CS**
2.	Harkness/Davis	Sadberry	ACJ	**Recommend: Fav/CS**
3.	Harkness/Cibula	Kynoch	AP	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 318 amends the power of attorney and guardianship statutes to:

- Provide that a power of attorney remains in effect for a close relative when incapacity is alleged unless a petitioner makes a showing of wrongdoing or neglect by the principal;
- Permit a court to appoint the office of criminal conflict and civil regional counsel to serve as a court monitor or emergency court monitor if a ward is indigent;
- Clarify that attorneys for a ward are entitled to compensation from the guardianship estate;
- Require that an alleged incapacitated person and his or her attorney given at least 24-hours advance notice of a hearing alleging incapacity unless the petitioner demonstrates that substantial harm will occur if notice is given;
- Provide that a court may not authorize final payment for an emergency temporary guardian's fee or fees of his or her attorney until a final report is filed;
- Require a court, when modifying the authority of a health care surrogate in an advance directive, to specify in its orders to what extent a guardian's authority will supersede a health care surrogate and base that decision on findings of fact;
- Revise considerations that a court must consider when appointing a guardian;
- Authorize the use of corporate structures for public guardians who provide services to indigent and non-indigent wards, and requires that they maintain a bond or liability insurance in the amount of $250,000;

- Clarify that expert testimony is not necessary to establish compensation for a guardian or guardian's attorney;
- Provide that when an alleged incapacitated person is determined not to be incapacitated, the examining committee will be paid from court funds for expert witnesses, not the individual's funds;
- Directs a court to remove only the rights that an alleged incapacitated person does not have the ability to exercise when delegating rights to a guardian;
- Provide a code of conduct or ethical standards for a guardian and requires the reporting of abuse of a ward to the Department of Children and Families;
- Authorize family members of wards to challenge a decision by a guardian which denies visitation to family members;
- Provide that the results of a court-ordered medical exam after a suggestion of capacity is filed is evidence that a court can use for determining capacity or restoring rights; and
- Require a court to give priority to scheduling restoration of capacity proceedings

This bill does not have a discernable fiscal impact.

This bill provides an effective date of July 1, 2015.

II. Present Situation:

Power of Attorney

A power of attorney is an instrument that grants someone authority to act as an agent for the grantor.[1] The "principal" is the individual who grants authority to the agent who then acts in place of the principal, whether the term "agent" is actually used in the writing or not.[2] A power of attorney that continues after the principal's incapacity is a durable power of attorney.[3] Powers of attorney are often used by elderly persons to designate someone to handle their financial matters in anticipation of becoming incapacitated.[4] A power of attorney is a low cost alternative to guardianship.

Under existing law, an alleged incapacitated person's power of attorney is automatically suspended upon the filing of a petition to determine incapacity of the principal. The result is that the agent then loses the ability to act on behalf of the principal.

Qualifications of Agents

Chapter 709, F.S., governs the creation and use of powers of attorney. Who the chapter has authorized to serve as an agent has changed over time. Before 1995, chapter 709, F.S., did not expressly limit who could serve as an agent. After the chapter was amended in 1990, agents were limited to natural persons who were at least 18 years of age and certain financial institutions

[1] BLACK'S LAW DICTIONARY 1191 (7th ed. 1999).
[2] Sections 709.2102 (1), (9), and (11), F.S.
[3] Section 709.2014, F.S.
[4] Donna Fuscaldo, *Why You Need a Financial Power of Attorney*, Fox Bus. News, (Jul. 16, 2013) http://www.foxbusiness.com/personal-finance/2013/07/16/why-need-financial-power-attorney/.

having trust powers.[5] In 1997, the chapter was amended to authorize a narrow category of not-for-profit corporations to serve as agents. The specific 1997 authorization stated:

> A not-for-profit corporation, organized for charitable or religious purposes in this state, which has qualified as a court-appointed guardian prior to January 1, 1996, and which is a tax-exempt organization under 26 U.S.C. s. 501(c)(3), may also act as an attorney in fact. Notwithstanding any contrary clause in the written power of attorney, no assets of the principal may be used for the benefit of the corporate attorney in fact,[6] or its officers or directors.[7]

In 2011, Florida's power of attorney law was rewritten and largely conformed to the Uniform Power of Attorney Act by the National Conference of Commissioners on Uniform State Laws.[8] As adopted in Florida, the new power of attorney law did not carry forward the provision that authorized not-for-profit corporations to serve as agents. The 2011 law, which to date remains substantially unchanged, limited those who may serve as an agent to natural persons and financial institutions. This limitation was a deviation from the uniform act, which places no limits on who may serve as an agent. However, the 2011 law allowed preexisting powers of attorney to continue in effect.[9] As such, not-for-profit corporations may continue to serve as agents under powers of attorney executed before the October 1, 2011, effective date of the 2011 law.

Power of Attorney v. Guardianship

Under current law, not-for-profit corporations that wish to manage a person's finances must be appointed as a guardian to handle a person's financial matters. A guardianship provides for supervision of the actions of a guardian by a court. But the additional oversight comes with additional costs. The additional costs may result from attorney fees for making court filings, fees to prepare annual accountings and annual guardianship plans, and the guardian's fees.[10]

The major similarities and differences between a power of attorney and a guardianship are shown in the table below.

[5] Section 708.08(2), F.S. (1995).
[6] Under current law, attorneys in fact are known as agents.
[7] Chapter 97-240, s. 2, Laws of Fla.
[8] Comm. on Judiciary, The Florida Senate, *Bill Analysis and Fiscal Impact Statement for CS/SB 670* (Mar. 6, 2011), *available at* http://www.flsenate.gov/Session/Bill/2011/0670/Analyses/2011s0670.ju.PDF.
[9] Section 709.2106(2), F.S.
[10] See s. 744.108, F.S.

Power of Attorney	Guardianship
The principal selects an agent.[11]	A court appoints a guardian.[12]
No similar requirement.	A guardian must pass a background check.[13]
No similar requirement.	A guardian must have several hours of training.[14]
An agent has fiduciary obligations to the principal.[15]	A guardian has fiduciary responsibilities to a ward.[16]
Unless otherwise provided in a power of attorney, an agent who is a "qualified agent" is entitled to reasonable compensation and reimbursement for reasonable expenses.[17]	Fees for a guardian or attorney must be approved by a court.[18]
An agent must: • Keep a record of all receipts, disbursements, and transactions; and • Maintain an inventory of the principal's safe-deposit box.[19]	A guardian must prepare: • An inventory of a ward's property;[20] • Annual guardianship plans;[21] and • Annual accountings of a ward's property.[22]
The actions of an agent will not be reviewed by a court unless a person petitions a court for review of the agent's actions.[23]	The actions of a guardian will be reviewed by a court or clerk at least on an annual basis.[24]
An agent is liable for the misuse of a principal's property,[25] but agents are not required to maintain a bond.	A guardian generally must maintain a bond to ensure the faithful performance of his or her duties.[26]

Guardianship

Background

A guardianship is a relationship based upon trust in which one person, a guardian, has the legal duty and authority to care for the person or property of another person, who is referred to as a ward. A guardianship is established because a court has determined that the ward is not capable

[11] Section 709.2102(11), F.S.
[12] Sections 744.3031 and 744.334, F.S.
[13] Section 744.3135, F.S.
[14] Sections 744.1085 and 744.3145, F.S.
[15] Section 709.2114(1), F.S.
[16] Section 744.446, F.S.
[17] Section 709.2112, F.S. A qualified agent is an agent who is the principal's spouse, or heir, a financial institution, a certified public accountant, or a natural person who has never served as an agent for more than three principals at the same time.
[18] Section 744.108, F.S.
[19] Section 709.2114(1)(c) and (d), F.S.
[20] Section 744.362(1), F.S.
[21] Section 744.367, F.S.
[22] Section 744.367, F.S.
[23] Section 709.2116, F.S.
[24] Sections 744.3125(1), 744.367, and 744.3678, F.S.
[25] Section 709.2117, F.S.
[26] Sections 744.1085 and 744.351, F.S.

of managing his or her affairs, generally due to infancy, incapacity, or disability.[27] A guardian may be appointed over the person, over the property, or both.

When a court determines that someone is incapacitated,[28] it must consider whether there is an alternative to guardianship which will sufficiently meet the person's needs. If no alternative can be found, then a guardian[29] must be appointed.[30] The Legislature has stated, however, that the form of assistance be chosen in each situation that least interferes with the legal capacity of someone to act on his or her behalf.[31]

Guardianship Proceedings

A guardianship proceeding is initiated in circuit court when an adult files a petition to determine incapacity and alleges specifically the factual information on which the petitioner believes the incapacity is based.[32] Within 5 days after the petition is filed, the court must appoint a three member examining committee[33] to examine the allegedly incapacitated person to determine his or her incapacity. The members have 15 days[34] after their appointment to submit a written report to the court which sets an adjudicatory hearing to be held within 14 days[35] after the examining members' reports are filed. If the court finds on the basis of clear and convincing evidence that the person is incapacitated, the court must enter a written order determining the incapacity, but only with respect to those rights specified in the order.[36]

Powers and Duties of a Guardian

A guardian has a fiduciary relationship with a ward and is bound to act in good faith and trust on the ward's behalf. The guardian may not use that relationship for private gain except for the reimbursement of fees and expenses provided by law.[37] The guardian of an incapacitated person may only exercise the rights that have been removed from the ward and delegated to the guardian. In addition to performing all duties required of him or her by law, a guardian is required to file an initial guardianship report and an annual guardianship report, implement the guardianship plan, and at the termination of the guardianship, deliver the property of the ward to the person lawfully entitled to the property.[38] If the guardian breaches the fiduciary duty owed to

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[27] BLACK'S LAW DICTIONARY 712 (9th ed. 2009).
[28] An "incapacitated person" is a person who has been judicially determined to lack the capacity to manage at least some of his or her property or to meet at least some of his or her essential health and safety requirements. Section 744.102(12), F.S.
[29] Various provisions in ch. 744, F.S., provide for a guardian ad litem, limited guardian, plenary guardian, standby guardian, foreign guardian, corporate guardian, nonprofit corporate guardian, preneed guardian, professional guardian, surrogate, and public guardian.
[30] Section 744.331(6)(b), F.S.
[31] Section 744.1012, F.S.
[32] Section 744.3201, F.S.
[33] One member must be a psychiatrist or other physician and the remaining members must be a psychologist, gerontologist, another psychiatrist, or other physician, a registered nurse, nurse practitioner, licensed social worker, a person with an advanced degree in gerontology, or other person who has special skill, training, or education to advise the court in the form of an expert opinion.
[34] Section 744.331(3), F.S.
[35] Section 744.331(5), F.S.
[36] Section 744.331(6), F.S.
[37] Section 744.446, F.S.
[38] Section 744.361, F.S.

the ward, the court is obligated to take the steps necessary to protect the ward and the ward's assets.[39]

Responsibilities of the Clerk of Court and Judicial Review

The clerk of the circuit court, as custodian of the guardianship files, must review each initial and annual guardianship report, which is later reviewed by the circuit court. The court retains jurisdiction over all guardianships and must review the appropriateness and extent of a guardianship annually.[40]

Termination of a Guardianship

The relationship between a guardian and ward is terminated when a ward is restored to capacity, the guardian has been unable to find the ward after a diligent search, or for a guardian of the property, when the property subject to the guardianship has been exhausted.[41] The relationship is also terminated upon the death of the guardian or ward, by resignation[42] or removal of the guardian,[43] or by a change or domicile to a foreign jurisdiction.[44]

Resolution of Disputes Involving Guardianships

Disputes often arise in guardianship matters and involve issues such as visitation, care plans, the ward's range of choices, medical care, whether less restrictive options are available to the ward, property issues, and financial decisions. These issues are litigated, often at great expense to the ward, and burden court calendars.

Court Monitors and Emergency Court Monitors

A court is authorized under the guardianship chapter to appoint a court monitor over a matter under its jurisdiction, when an interested person inquires or upon its own motion. The order of appointment is served upon the guardian, the ward, and other interested persons as the court decides. The monitor serves to investigate, seek information, examine documents, or interview the ward and report his or her findings to the court in a report. The report is also served on the guardian, the ward, and any other person as the court decides. If the monitor's report indicates that the court needs to take action to protect the ward's interest, the court, after a hearing with notice, enters any necessary order to protect the ward or his or her estate. A court monitor may not be a family member or someone with a personal interest in the proceedings but may be allowed a reasonable fee for his or her services from the ward's property.[45]

Similarly, a court may appoint a court monitor on an emergency basis without notice. To do so, the court must find that there appears to be imminent danger that the physical or mental health or

[39] Section 744.446, F.S.
[40] Sections 744.368 and 744.372, F.S.
[41] Section 744.521, F.S.
[42] Section 744.467, F.S.
[43] Section 744.474, F.S.
[44] Section 744.524, F.S.
[45] Section 744.107, F.S.

safety of the ward will be impaired, or the ward's property is in danger of being wasted or lost unless immediate action is taken. The emergency court monitor's authority expires 60 days after appointment or upon a finding of no probable cause, whichever occurs first, but may be extended for an additional 30 days upon a showing that the emergency condition still exists. The monitor has 15 days to file a report of findings and recommendation to the court after his or her appointment. As with a court monitor, the emergency monitor may be allowed a reasonable fee that is paid from the ward's property.[46]

Guardian and Attorney Fees and Expenses in Guardianship Proceedings

Section 744.108, F.S., establishes that a guardian or attorney who has rendered services to the ward or the guardian on the ward's behalf is entitled to reasonable fees for those services and reimbursement for those costs. The court is given a list of factors to consider in awarding those fees. It is not clear whether s. 744.108(8), F.S., covers all requests for attorney fees or is limited to only fees for the guardian's attorney. It is also unclear whether expert testimony is required to establish a reasonable fee for a guardian or an attorney.

Claims of Minors

Section 744.3025(1)(a), F.S., provides that a court may appoint a guardian ad litem before approving a settlement of a claim for a minor when the gross settlement exceeds $15,000. The statute does not specify criteria for the court to rely upon in determining whether there is a need for the appointment of a guardian ad litem.

Emergency Temporary Guardianship

The process of appointing a guardian may take up to 34 days or longer, upon a showing of good cause. The statutes, however, provide a more timely remedy through an additional type of guardianship in an emergency situation. A court may appoint an emergency temporary guardian[47] for an allegedly incapacitated person upon a finding that there appears to be an imminent danger that:

- The physical or mental health or safety of the person will be seriously impaired; or
- The person's property is in danger of being wasted, misappropriated, or lost unless immediate action is taken.

Under those circumstances, a court may appoint an emergency temporary guardian after the filing of a petition for determination of incapacity and before the appointment of a guardian. The court must appoint counsel to represent the alleged incapacitated person during the proceedings. Further, the court may appoint an emergency temporary guardian on its own motion if no petition for appointment of guardian has been filed when the order determining incapacity is entered.[48]

[46] Section 744.1075, F.S.
[47] Section 744.3031(1), F.S.
[48] Section 744.3031(2), F.S.

The emergency temporary guardian's authority expires 90 days after the appointment or when a guardian is appointed, whichever occurs first. The authority may be extended for 90 additional days upon a showing that the emergency conditions continue to exist.[49] The emergency temporary guardian's authority and responsibility begin when the letters of emergency temporary guardian are issued. He or she must file a final report no later than 30 days after the emergency temporary guardianship expires[50] and the final report must be served on the successor guardian and the ward.[51]

Advance Directives

An "advance directive" is a written document or oral statement that is witnessed in which a person states his or her desires regarding health care and includes, but is not limited to, the designation of a health care surrogate, a living will, or an anatomical gift.[52] An advance directive permits a competent adult to express his or her wishes regarding decisions relating to his or her own health, particularly the right to choose or refuse medical treatment.

Considerations When Appointing a Guardian

The statutes provide a list of factors that a court must consider when appointing a guardian.[53] The court must give preference to a person who:

- Is related by blood or marriage;
- Has educational, professional, or business experience that is relevant to the services needed for the ward;
- Has the capacity to manage the ward's financial resources; or
- Has the ability to meet the law's requirements and unique needs of the case at hand.

The court must also consider:

- The wishes expressed by the incapacitated person as to who the guardian should be;
- The preferences of a minor who is over the age of 14 years as to who the guardian should be;
- Any person designated as a guardian in a will under which the ward is a beneficiary.

The court shall appoint the standby guardian or preneed guardian, unless that is contrary to the best interests of the ward.[54]

Guardianship Plans and Reports

For a court to monitor and supervise a guardian's compliance, the guardian must file reports and plans for review. A guardian of the person must file an annual plan which updates information about the ward's condition, specifying the ward's needs and how those needs should be met in

[49] Section 744.3031(3), F.S.
[50] Section 744.3031(7) and (8)(a), F.S.
[51] Section 744.3031(8)(d), F.S.
[52] Section 765.101, F.S.
[53] Section 744.312, F.S.
[54] Section 744.312(4), F.S.

the upcoming year.[55] If the court requires calendar year planning, the plan must be filed by April 1 of that plan year. If not, the plan must be filed within 90 days after the anniversary month that the letters of guardianship were filed.[56] The approved report authorizes the guardian the necessary power to act within the terms of the plan and limits the powers of the guardian to those terms.[57]

Restoration to Capacity

An incapacitated person retains the right to be restored to capacity at the earliest possible time.[58] The procedure for restoration is described in s. 744.464, F.S. Any interested person or the ward may file a suggestion of capacity stating that the ward is currently capable of exercising some or all or the rights which were removed. The statute is silent on what the evidentiary standard is that is used to determine restoration of capacity. Clear guidance is needed in the statute to remove this uncertainty.

III. Effect of Proposed Changes:

Not-For-Profit Corporations as an Agent under a Power of Attorney (Section 1)

The bill essentially reinstates the authority that certain not-for-profit corporations had to serve as agents under a power of attorney before the power of attorney laws were rewritten in 2011.

Under the bill, certain not-for-profit corporations may serve as an agent for a principal under a power of attorney. A not-for-profit corporation may serve as an agent if, most significantly, the corporation was qualified as a court appointed guardian before 1996 and if the corporation:

- Maintains a fiduciary bond in the amount of $250,000 which covers the acts or omissions of each agent or employee of the corporation who has direct contact with the principal or access to the principal's assets;
- Maintains a liability insurance policy in the amount of $250,000 which covers any losses sustained by the principal caused by errors, omissions, or intentional misconduct committed by the corporation's officers or directors; or
- Discloses that the principal will have limited recourse against the corporation for losses caused by errors, omissions, or intentional misconduct of an employee or agent of the corporation.

The disclosure of the limited recourse available is accomplished by the principal signing a statement mandated by the bill which must be written in 14-point uppercase type. In detail, the disclosure statement advises that:

- The officers of the not-for-profit corporation are not liable for the acts of the corporation.
- The corporation does not maintain insurance or a bond to cover any losses incurred by the principle.

[55] Section 744.3675, F.S.
[56] Section 744.367(1), F.S.
[57] Section 744.369(8), F.S.
[58] Section 744.3215(1)(c), F.S.

- The assets of the corporation may not be sufficient to cover any of the principal's losses resulting from an error, omission, or intentional misconduct by an employee or agent of the corporation.

The bill further provides that if a not-for-profit corporation acting as an agent fails to maintain insurance or a bond or fails to make the required disclosure, the officers of the corporation are jointly and severally liable with the corporation for acts and omissions under a power of attorney. However, the bill does not provide liability protection to an individual who is directly responsible for an error, omission, or intentional misconduct.

By operation of existing s. 709.2112, F.S., a not-for-profit corporation that qualifies as an agent under this bill is not entitled to compensation for serving as an agent.[59]

Suspension of a Power of Attorney (Sections 2, and 11)

This bill creates s. 744.3203, F.S., to address the suspension of a power of attorney when the incapacity of the principal is alleged and the authority is granted to a parent, spouse, child, or grandchild. However, the power of attorney will remain in effect pursuant to s. 709.210, F.S., for these groups unless the petitioner files a verified motion that includes specific statements of fact showing wrongdoing or neglect by the principal. When someone files a petition to determine incapacity but before the order is entered, the alleged incapacitated person's power of attorney is suspended when the petitioner files a motion stating that a power of attorney should be suspended or modified for any of the following reasons:

- The agent's decision are not consistent with the alleged incapacitated person's known desires;
- The power of attorney is invalid;
- The agent has not discharged his or her duties or incapacity or illness renders him or her incapable of discharging those duties;
- The agent has abused powers; or
- There is a danger that the property of the alleged incapacitated person may be wasted, misappropriated, or lost unless the authority is suspended.

It is not grounds to suspend a power of attorney if a dispute exists between the agent and the petitioner and the matter is appropriately resolved in a different forum or a legal proceeding other than a guardianship proceeding.

The petitioner's motion must identify one of the five grounds listed above and allege specific statements of fact demonstrating that there are grounds to justify the suspension of the power of attorney. The petitioner must sign the petition and declare that he or she has read the motion and that the facts stated in it are true to the best of his or her knowledge and belief.

The court must schedule an expedited hearing for the motion when the agent files a response. The court order must set forth what powers the agent is permitted to exercise, if any, pending the outcome of the petition to determine the principal's incapacity. The intent appears to be that, in

[59] See note 17.

an emergency situation, a specific power can be reinstated without a hearing and without notice to all interested persons.

Sections 709.2109(3) and 709.2119(2), F.S., are amended to conform to the changes created by s. 744.3203, F.S.

Court Monitors and Emergency Court Monitors (Sections 3 and 4)

The bill provides that a court may appoint the office of criminal conflict and civil regional counsel to serve as a court monitor or emergency court monitor if a ward is indigent.

Guardian and Attorney Fees and Expenses in Guardianship Proceedings (Section 5)

This bill amends s. 744.108, F.S., to clarify that attorneys for the ward, whether court appointed or otherwise, are entitled to compensation from the guardianship estate. Language is created to clarify that expert testimony is not necessary to establish compensation for the guardian or the guardian's attorney. This change will benefit wards in many instances by eliminating charges for expert witness fees.

Claims of Minors (Section 6)

The bill amends s. 744.3025(1)(a), F.S., to provide that a court may appoint a guardian ad litem only if the court believes a guardian ad litem is necessary to protect the minor's interest in a claim that exceeds $15,000. A new subsection (3) is created and states that the settlement of a claim under this section is subject to the confidentiality provisions of the guardianship chapter.[60]

Emergency Temporary Guardian (Section 7)

Notice Provisions

The bill amends s. 744.3031, F.S., relating to emergency temporary guardianships. The existing law provides that a court can appoint an emergency temporary guardian for an alleged incapacitated person before the person has notice of the proceeding. Under the bill, the alleged incapacitated person and his or her attorney must be given at least 24-hours advance notice of the hearing, unless the petitioner demonstrates that substantial harm will occur if notice is given.

Filing of a Final Report

Currently, an emergency temporary guardian must file a final report within 30 days after the emergency temporary guardianship expires.[61] Under this bill, a court may not authorize final payment for the emergency temporary guardian's fee or the fees of his or her attorney until the final report is filed.

[60] This language links this bill to SB 360 which creates a public records exemption to protect the confidentiality of records relating to the settlement of a claim on behalf of a minor or ward.
[61] Section 744.3031(8), F.S.

For Profit Corporation as Guardian (Section 8)

This bill amends s. 744.309, F.S., regarding who may be appointed guardian of a resident ward. Generally, there is one public guardian who handles guardianships for indigent cases in each county or each judicial circuit. The public guardian is subject to a significant amount of oversight by the state. These public guardians, however, sometimes structure their businesses in corporate forms and provide services to indigent and non-indigent wards using the same staff. The bill validates these existing practices, but limits the use of corporate structures to public guardians and requires them to maintain a bond or liability insurance in the amount of $250,000.

Advance Directives (Section 9)

This bill amends s. 744.3115, F.S., to provide that, in circumstances in which the ward executed any advance directive before his or her incapacity, the court must specify in the order and letters of guardianship what authority the guardian may exercise over the ward regarding health care decisions and what authority, if any, the surrogate shall continue to exercise over the ward regarding health care decisions. Any order revoking or modifying the authority of the surrogate must be supported by specific written findings of fact. If the court determines that the guardian will be responsible for making health care decisions for the ward, the guardian will assume the surrogate's responsibilities. These changes are designed to strengthen a person's choice regarding who should make medical decisions on his or her behalf.

Considerations When Appointing a Guardian (Section 10)

This bill amends the existing group of factors a court must consider when determining who to appoint as a guardian for an incapacitated person. The court must now also consider the wishes of close relatives if the person cannot express a preference.

Unless a standby or preneed guardian is appointed and a court does not use a rotation system for the appointment, the court must make specific findings of fact and state why the person was selected.

Additionally, an emergency temporary guardian who is a professional guardian may not be appointed as the permanent guardian unless that person's appointment is requested by the ward's next of kin. This limitation may be waived if the guardianship has special requirements that demand that the court appoint a guardian because of his or her special talent or specific prior experience. However, the court is required to make specific findings of fact justify waiving the limitation.

Order Determining Incapacity (Section 12)

Examining Committee Fees

In guardianship proceedings, generally the participating professionals are paid from the assets of the ward or alleged incapacitated person, including the examining committee of medical professionals. In some instances, courts have required the alleged incapacitated person who was determined to have capacity to pay the examining committee. The bill provides that when an

alleged incapacitated person is determined not to be incapacitated, the examining committee will be paid from court funds for expert witnesses, not from the alleged incapacitated person's funds.

Limitation on the Removal of Rights

Guardianship law allows a court to remove an incapacitated person's rights and delegate them to a guardian. The bill directs courts to consider an incapacitated person's unique needs and abilities and remove only the right the person does not have the capacity to exercise.

Order of Appointment of Guardian (Section 13)

The bill amends s. 744.344(4), F.S., to provide that, if a petition for the appointment of a guardian has not been ruled upon when the hearing to determine capacity is held, the court may appoint an emergency temporary guardian in the same manner and for the same purposes as the appointment of an emergency temporary guardian.

Letters of Guardianship (Section 14)

This section provides that letters of guardianship for all guardianships, not just limited guardianships, must specify the authority of a guardian with respect to a ward's advance directive. In a sense, this is a conforming change to reflect the amendment made to s. 744.3115, F.S., relating to advance directives.

Abuse, Neglect, or Exploitation by a Guardian (Section 15)

The bill creates a code of conduct or ethical standards for guardians and requires a person to report abuse, neglect, or exploitation of a ward by a guardian to the Department of Children and Families. The section must be interpreted in conformity with. s. 825.103, F.S., pertaining to the exploitation of an elderly person or disabled adult.

Powers and Duties of a Guardian (Section 16)

The bill amends s. 744.361(1), F.S., to confirm that a guardian of an incapacitated person is a fiduciary who may exercise only those rights removed from the ward and delegated to the guardian. That section is further amended to provide that a guardian:

- Shall act within the scope of the authority granted and as provided by law;
- Shall act in good faith;
- May not act in a manner contrary to the ward's best interests; and
- Shall use certain special skills or expertise, if any, when acting on the ward's behalf.

The bill also requires that a guardian over the property keep clear, distinct, and accurate records of the property.

Additional responsibilities of a guardian of a ward's person are enumerated. A professional guardian must also assess the nature and extent of visitation and communication with the ward's family and friends during a personal visit.

Annual Guardianship Reports (Section 17)

Existing law allows annual guardianship plans to be filed well after the plan year has begun. The changes under this bill require guardianship plans to be filed in advance.

Judicial Review of Guardianship Reports (Section 18)

The bill amends this section to provide that a guardian may continue to act under the authority of the last approved guardianship report until the next year's report is approved.

Petition for Interim Judicial Review (Section 19)

The bill amends this section to provide that at any time, an interested person may petition the court for review that the guardian is acting in a manner contrary to the power and duties of a guardian or is denying visitation between the ward and his or her relatives.

Restoration to Capacity (Section 20)

The bill amends s. 744.464(3), F.S., to establish a "preponderance of the evidence" burden of proof for the restoration of all or some of the ward's rights and requires the court to make specific findings of fact. The bill also provides that the ward has the burden of proving that the restoration of capacity is warranted. A new provision is added stating that a court must give priority to any suggestion of capacity and must advance the cause on the calendar.[62]

Effective Date (Section 21 and 22)

The bill takes effect July 1, 2015. The amendments made in the bill to s. 709.2109, F.S., and s. 744.3203, F.S., pertaining to terminations or suspensions of the powers of attorney, apply to all proceedings filed on or after July 1, 2015. The amendments made to other provisions of the bill apply to all proceedings pending on July 1, 2015.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

This bill does not appear to affect the spending, revenues, or tax authority of cities or counties. As such, the bill does not appear to be a mandate.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

[62] Section 744.464(4), F.S.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

Section 744.3203(3), F.S., suspension of a power of attorney before an incapacity determination, could be drafted more precisely for clarity. The intent appears to be that, in an emergency situation, a specific power can be reinstated without a hearing and notice being served on all interested persons. Perhaps an amendment could be developed to clarify the meaning of this subsection.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 709.2105, 709.2109, 709.2119, 744.107, 744.1075, 744.108, 744.3025, 744.3031, 744.309, 744.3115, 744.312, 744.331, 744.344, 744.345, 744.361, 744.367, 744.369, 744.3715, and 744.464.

This bill creates the following sections of the Florida Statutes: 744.3203 and 744.359.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS by Appropriations on April 21, 2015:
The committee substitute**:**

- Provides that a power of attorney granted to a close relative remains in effect unless the petitioner makes a showing of wrongdoing or neglect by the principal;
- Deletes provisions limiting an emergency temporary guardian's authority to 60 days and leaves in force the current 90 day authority of the emergency temporary guardian;
- Limits the use of certain guardian structures involving public and private guardianships and requires them to maintain a bond or liability insurance in the amount of $250,000;
- Requires the court to make specific findings when selecting a professional guardian;

- Provides that the fees of a medical examining committee, when an alleged incapacitated person is found not to be incapacitated, shall be paid by the expert witness fees of the court; and
- Includes the substance of CS/SB 362, which authorizes not-for-profit corporations to serve as an agent for a principal under a power of attorney if certain conditions are satisfied.

CS by Judiciary on March 10, 2015:
The committee substitute differs from the original bill in the following ways:

- A power of attorney may be suspended automatically during guardianship proceedings but only if the petitioner specifically requests the suspension and states facts under oath supporting the suspension.
- Courts may refer guardianship matters to mediation or alternative dispute resolution.
- Courts may appoint the office of criminal conflict counsel as court monitors and emergency court monitors for indigent wards.
- Attorneys for the ward, whether court appointed or otherwise, are entitled to compensation from the guardianship estate.
- Expert testimony is not necessary to establish compensation for the guardian or the guardian's attorney.
- If a court has already appointed a guardian to represent a minor, an additional appointment of a guardian ad litem is not necessary to represent a minor's interest in the settlement of a claim.
- Advance notice is not necessary to the alleged incapacitated person and his or her attorney before appointing an emergency temporary guardian if a petitioner demonstrates that substantial harm will occur if notice is given.
- A nonprofit charitable corporation is expressly authorized to serve as a guardian.
- If a court modifies the authority of a health care surrogate in an advance directive, the modification must be based on findings of fact.
- The factors a court must consider in determining who to appoint as guardian are revised. A court is discouraged from appointing as a permanent guardian a professional guardian who has served as an emergency temporary guardian.
- A code of conduct or ethical standards for guardians is established. A person is required to report abuse, neglect, or exploitation of a ward by a guardian to the Department of Children and Families.
- Guardianship plans are required to be filed in advance of the plan year.
- Family members of wards are authorized to challenge a decision by a guardian which denies visitation to family members.
- The results of a court-ordered medical exam after a suggestion of capacity is filed is evidence that may be used for determining capacity or restoring rights. Courts must give priority to scheduling restoration of capacity proceedings.

B. Amendments:

None.

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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/20/2015	.	
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The Committee on Appropriations (Latvala) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. The Division of Law Revision and Information is directed to add ss. 744.1096-744.1098, Florida Statutes, created by this act, to part I of chapter 744, Florida Statutes.

Section 2. The Division of Law Revision and Information is directed to retitle part II of chapter 744, Florida Statutes, consisting of ss. 744.2001-744.2109, Florida Statutes, as

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11 "PUBLIC AND PROFESSIONAL GUARDIANS."
12 Section 3. The Division of Law Revision and Information is
13 directed to remove part IX of chapter 744, Florida Statutes,
14 consisting of ss. 744.701-744.715.
15 Section 4. Subsection (3) of section 709.2109, Florida
16 Statutes, is amended to read:
17 709.2109 Termination or suspension of power of attorney or
18 agent's authority.—
19 (3) If any person initiates judicial proceedings to
20 determine the principal's incapacity or for the appointment of a
21 guardian advocate, the authority granted under the power of
22 attorney is suspended until the petition is dismissed or
23 withdrawn or the court enters an order authorizing the agent to
24 exercise one or more powers granted under the power of attorney.
25 However, if the agent named in the power of attorney is the
26 principal's parent, spouse, child, or grandchild, the authority
27 under the power of attorney is not suspended unless a verified
28 motion in accordance with s. 744.3203 is also filed.
29 (a) If an emergency arises after initiation of proceedings
30 to determine incapacity and before adjudication regarding the
31 principal's capacity, the agent may petition the court in which
32 the proceeding is pending for authorization to exercise a power
33 granted under the power of attorney. The petition must set forth
34 the nature of the emergency, the property or matter involved,
35 and the power to be exercised by the agent.
36 (b) Notwithstanding the provisions of this section, unless
37 otherwise ordered by the court, a proceeding to determine
38 incapacity does not affect the authority of the agent to make
39 health care decisions for the principal, including, but not

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40 limited to, those provided in chapter 765. If the principal has
41 executed a health care advance directive designating a health
42 care surrogate, the terms of the directive control if the
43 directive and the power of attorney are in conflict unless the
44 power of attorney is later executed and expressly states
45 otherwise.
46 Section 5. Effective January 1, 2016, section 744.1012,
47 Florida Statutes, is amended to read:
48 744.1012 Legislative intent.—The Legislature: ~~finds~~
49 (1) Finds that adjudicating a person totally incapacitated
50 and in need of a guardian deprives such person of all her or his
51 civil and legal rights and that such deprivation may be
52 unnecessary.
53 (2) Finds ~~The Legislature further finds~~ that it is
54 desirable to make available the least restrictive form of
55 guardianship to assist persons who are only partially incapable
56 of caring for their needs and that alternatives to guardianship
57 and less intrusive means of assistance should always be
58 explored, including, but not limited to, guardian advocates,
59 before an individual's rights are removed through an
60 adjudication of incapacity.
61 (3) Finds that by recognizing that every individual has
62 unique needs and differing abilities, the Legislature declares
63 that it is the purpose of this act to promote the public welfare
64 by establishing a system that permits incapacitated persons to
65 participate as fully as possible in all decisions affecting
66 them; that assists such persons in meeting the essential
67 requirements for their physical health and safety, in protecting
68 their rights, in managing their financial resources, and in

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69 developing or regaining their abilities to the maximum extent
70 possible; and that accomplishes these objectives through
71 providing, in each case, the form of assistance that least
72 interferes with the legal capacity of a person to act in her or
73 his own behalf. This act shall be liberally construed to
74 accomplish this purpose.
75 (4) Finds that private guardianship is inadequate when
76 there is no willing and responsible family member or friend,
77 other person, bank, or corporation available to serve as
78 guardian for an incapacitated person, and such person does not
79 have adequate income or wealth for the compensation of a private
80 guardian.
81 (5) Intends, through the establishment of the Office of
82 Public and Professional Guardians, to permit the establishment
83 of offices of public guardians for the purpose of providing
84 guardianship services for incapacitated persons when no private
85 guardian is available.
86 (6) Intends that a public guardian be provided only to
87 those persons whose needs cannot be met through less drastic
88 means of intervention.
89 Section 6. Subsection (5) is added to section 744.107,
90 Florida Statutes, to read:
91 744.107 Court monitors.—
92 (5) The court may appoint the office of criminal conflict
93 and civil regional counsel as monitor if the ward is indigent.
94 Section 7. Subsection (6) is added to section 744.1075,
95 Florida Statutes, to read:
96 744.1075 Emergency court monitor.—
97 (6) The court may appoint the office of criminal conflict

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98 and civil regional counsel as monitor if the ward is indigent.
99 Section 8. Subsections (5) and (8) of section 744.108,
100 Florida Statutes, are amended, and subsection (9) is added to
101 that section, to read:
102 744.108 Guardian ~~Guardian's~~ and attorney ~~attorney's~~ fees
103 and expenses.—
104 (5) All petitions for guardian ~~guardian's~~ and attorney
105 ~~attorney's~~ fees and expenses must be accompanied by an itemized
106 description of the services performed for the fees and expenses
107 sought to be recovered.
108 (8) When court proceedings are instituted to review or
109 determine a guardian's or an attorney's fees under subsection
110 (2), such proceedings are part of the guardianship
111 administration process and the costs, including costs and
112 attorney fees for the guardian's attorney, an attorney appointed
113 under s. 744.331(2), or an attorney who has rendered services to
114 the ward, shall be determined by the court and paid from the
115 assets of the guardianship estate unless the court finds the
116 requested compensation under subsection (2) to be substantially
117 unreasonable.
118 (9) The court may determine that a request for compensation
119 by the guardian, the guardian's attorney, a person employed by
120 the guardian, an attorney appointed under s. 744.331(2), or an
121 attorney who has rendered services to the ward, is reasonable
122 without receiving expert testimony. A person or party may offer
123 expert testimony for or against a request for compensation after
124 giving notice to interested persons. Reasonable expert witness
125 fees shall be awarded by the court and paid from the assets of
126 the guardianship estate using the standards in subsection (8).

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127 Section 9. Effective January 1, 2016, section 744.201,
128 Florida Statutes, is renumbered as section 744.1096, Florida
129 Statutes.
130 Section 10. Effective January 1, 2016, section 744.202,
131 Florida Statutes, is renumbered as section 744.1097, Florida
132 Statutes, and subsection (3) of that section is amended to read:
133 744.1097~~744.202~~ Venue.—
134 (3) When the residence of an incapacitated person is
135 changed to another county, the guardian shall petition to have
136 the venue of the guardianship changed to the county of the
137 acquired residence, except as provided in s. 744.1098 ~~s.~~
138 ~~744.2025~~.
139 Section 11. Effective January 1, 2016, section 744.2025,
140 Florida Statutes, is renumbered as section 744.1098, Florida
141 Statutes.
142 Section 12. Section 744.3025, Florida Statutes, is amended
143 to read:
144 744.3025 Claims of minors.—
145 (1)(a) The court may appoint a guardian ad litem to
146 represent the minor's interest before approving a settlement of
147 the minor's portion of the claim in a ~~any~~ case in which a minor
148 has a claim for personal injury, property damage, wrongful
149 death, or other cause of action in which the gross settlement of
150 the claim exceeds $15,000 if the court believes a guardian ad
151 litem is necessary to protect the minor's interest.
152 (b) Except as provided in paragraph (e), the court shall
153 appoint a guardian ad litem to represent the minor's interest
154 before approving a settlement of the minor's claim in a ~~any~~ case
155 in which the gross settlement involving a minor equals or

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156 exceeds $50,000.
157 (c) The appointment of the guardian ad litem must be
158 without the necessity of bond or notice.
159 (d) The duty of the guardian ad litem is to protect the
160 minor’s interests as described in the Florida Probate Rules.
161 (e) A court need not appoint a guardian ad litem for the
162 minor if a guardian of the minor has previously been appointed
163 and that guardian has no potential adverse interest to the
164 minor. ~~A court may appoint a guardian ad litem if the court~~
165 ~~believes a guardian ad litem is necessary to protect the~~
166 ~~interests of the minor.~~
167 (2) Unless waived, the court shall award reasonable fees
168 and costs to the guardian ad litem to be paid out of the gross
169 proceeds of the settlement.
170 (3) A settlement of a claim pursuant to this section is
171 subject to the confidentiality provisions of this chapter.
172 Section 13. Present subsections (2) through (8) of section
173 744.3031, Florida Statutes, are redesignated as subsections (3)
174 through (9), respectively, and a new subsection (2) is added to
175 that section, and present subsection (8) of that section is
176 amended, to read:
177 744.3031 Emergency temporary guardianship.—
178 (2) Notice of filing of the petition for appointment of an
179 emergency temporary guardian and a hearing on the petition must
180 be served on the alleged incapacitated person and on the alleged
181 incapacitated person’s attorney at least 24 hours before the
182 hearing on the petition is commenced, unless the petitioner
183 demonstrates that substantial harm to the alleged incapacitated
184 person would occur if the 24-hour notice is given.

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185 (9) ~~(8)~~ (a) An emergency temporary guardian shall file a
186 final report no later than 30 days after the expiration of the
187 emergency temporary guardianship.
188 (b) A court may not authorize any payment of the emergency
189 temporary guardian's final fees or the final fees of his or her
190 attorney until the final report is filed.
191 (c) ~~(b)~~ If an emergency temporary guardian is a guardian for
192 the property, the final report must consist of a verified
193 inventory of the property, as provided in s. 744.365, as of the
194 date the letters of emergency temporary guardianship were
195 issued, a final accounting that gives a full and correct account
196 of the receipts and disbursements of all the property of the
197 ward over which the guardian had control, and a statement of the
198 property of the ward on hand at the end of the emergency
199 temporary guardianship. If the emergency temporary guardian
200 becomes the successor guardian of the property, the final report
201 must satisfy the requirements of the initial guardianship report
202 for the guardian of the property as provided in s. 744.362.
203 (d) ~~(c)~~ If the emergency temporary guardian is a guardian of
204 the person, the final report must summarize the activities of
205 the temporary guardian with regard to residential placement,
206 medical condition, mental health and rehabilitative services,
207 and the social condition of the ward to the extent of the
208 authority granted to the temporary guardian in the letters of
209 guardianship. If the emergency temporary guardian becomes the
210 successor guardian of the person, the report must satisfy the
211 requirements of the initial report for a guardian of the person
212 as stated in s. 744.362.
213 (e) ~~(d)~~ A copy of the final report of the emergency

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214 temporary guardianship shall be served on the successor guardian
215 and the ward.
216 Section 14. Subsection (7) is added to section 744.309,
217 Florida Statutes, to read:
218 744.309 Who may be appointed guardian of a resident ward.—
219 (7) FOR-PROFIT CORPORATE GUARDIAN.—A for-profit corporate
220 guardian existing under the laws of this state is qualified to
221 act as guardian of a ward if the corporation is qualified to do
222 business in the state, is wholly owned by the person who is the
223 public guardian in the circuit in which the corporate guardian
224 is appointed, has met the registration requirements of s.
225 744.1083, and posts and maintains a bond or insurance policy
226 under paragraph (a).
227 (a) The for-profit corporate guardian must meet one of the
228 following requirements:
229 1. Post and maintain a blanket fiduciary bond of at least
230 $250,000 with the clerk of the circuit court in the county in
231 which the corporate guardian has its principal place of
232 business. The corporate guardian shall provide proof of the
233 fiduciary bond to the clerks of each additional circuit court in
234 which he or she is serving as a guardian. The bond must cover
235 all wards for whom the corporation has been appointed as a
236 guardian at any given time. The liability of the provider of the
237 bond is limited to the face value of the bond, regardless of the
238 number of wards for whom the corporation is acting as a
239 guardian. The terms of the bond must cover the acts or omissions
240 of each agent or employee of the corporation who has direct
241 contact with the ward or access to the assets of the
242 guardianship. The bond must be payable to the Governor and his

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243 or her successors in office and be conditioned on the faithful
244 performance of all duties of a guardian under this chapter. The
245 bond is in lieu of and not in addition to the bond required
246 under s. 744.1085 but is in addition to any bonds required under
247 s. 744.351. The expenses incurred in satisfying the bonding
248 requirements of this section may not be paid with the assets of
249 any ward; or
250 2. Maintain a liability insurance policy that covers any
251 losses sustained by the guardianship caused by errors,
252 omissions, or any intentional misconduct committed by the
253 corporation's officers or agents. The policy must cover all
254 wards for whom the corporation is acting as a guardian for
255 losses up to $250,000. The terms of the policy must cover acts
256 or omissions of each agent or employee of the corporation who
257 has direct contact with the ward or access to the assets of the
258 guardianship. The corporate guardian shall provide proof of the
259 policy to the clerk of each circuit court in which he or she is
260 serving as a guardian.
261 (b) A for-profit corporation appointed as guardian before
262 July 1, 2015, is also qualified to serve as a guardian in the
263 particular guardianships in which the corporation has already
264 been appointed as guardian.
265 Section 15. Section 744.3115, Florida Statutes, is amended
266 to read:
267 744.3115 Advance directives for health care.—In each
268 proceeding in which a guardian is appointed under this chapter,
269 the court shall determine whether the ward, prior to incapacity,
270 has executed any valid advance directive under chapter 765. If
271 any advance directive exists, the court shall specify in its

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272 order and letters of guardianship what authority, if any, the
273 guardian shall exercise over the ward with regard to health care
274 decisions and what authority, if any, the surrogate shall
275 continue to exercise over the ward with regard to health care
276 decisions ~~surrogate~~. Pursuant to the grounds listed in s.
277 765.105, the court, upon its own motion, may, with notice to the
278 surrogate and any other appropriate parties, modify or revoke
279 the authority of the surrogate to make health care decisions for
280 the ward. Any order revoking or modifying the authority of the
281 surrogate must be supported by specific written findings of
282 fact. If the court order provides that the guardian is
283 responsible for making health care decisions for the ward, the
284 guardian shall assume the responsibilities of the surrogate
285 which are provided in s. 765.205. For purposes of this section,
286 the term "health care decision" has the same meaning as in s.
287 765.101.
288 Section 16. Section 744.312, Florida Statutes, is reordered
289 and amended to read:
290 744.312 Considerations in appointment of guardian.—
291 (2)~~(1)~~ If a guardian cannot be appointed under subsection
292 (1) ~~Subject to the provisions of subsection (4)~~, the court may
293 appoint any person who is fit and proper and qualified to act as
294 guardian, regardless of whether he or she is related to the ward
295 ~~or not~~.
296 ~~(2)~~ The court shall give preference to the appointment of a
297 person who:
298 (a) Is related by blood or marriage to the ward;
299 (b) Has educational, professional, or business experience
300 relevant to the nature of the services sought to be provided;

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301 (c) Has the capacity to manage the financial resources
302 involved; or
303 (d) Has the ability to meet the requirements of the law and
304 the unique needs of the individual case.
305 (3) The court shall also:
306 (a) Consider the wishes expressed by an incapacitated
307 person as to who shall be appointed guardian.~~;~~
308 (b) Consider the preference of a minor who is age 14 or
309 over as to who should be appointed guardian.~~;~~
310 (c) Consider any person designated as guardian in any will
311 in which the ward is a beneficiary.
312 (d) Consider the wishes of the ward's next of kin, when the
313 ward cannot express a preference.
314 (1)~~(4)~~ If the person designated is qualified to serve
315 pursuant to s. 744.309, the court shall appoint any standby
316 guardian or preneed guardian, unless the court determines that
317 appointing such person is contrary to the best interests of the
318 ward.
319 (4) Except when a standby guardian or a preneed guardian is
320 appointed by the court:
321 (a) In each case when a court appoints a professional
322 guardian and does not use a rotation system for such
323 appointment, the court must make specific findings of fact
324 stating why the person was selected as guardian in the
325 particular matter involved. The findings must reference each of
326 the factors listed in subsections (2) and (3).
327 (b) An emergency temporary guardian who is a professional
328 guardian may not be appointed as the permanent guardian of a
329 ward unless one of the next of kin of the alleged incapacitated

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330 person or the ward requests that the professional guardian be
331 appointed as permanent guardian. The court may waive the
332 limitations of this paragraph if the special requirements of the
333 guardianship demand that the court appoint a guardian because he
334 or she has special talent or specific prior experience. The
335 court must make specific findings of fact that justify waiving
336 the limitations of this paragraph.
337 (5) The court may not give preference to the appointment of
338 a person under subsection (2) based solely on the fact that such
339 person was appointed by the court to serve as an emergency
340 temporary guardian.
341 Section 17. Section 744.3203, Florida Statutes, is created
342 to read:
343 744.3203 Suspension of power of attorney before incapacity
344 determination.—
345 (1) At any time during proceedings to determine incapacity
346 but before the entry of an order determining incapacity, the
347 authority granted under an alleged incapacitated person's power
348 of attorney to a parent, spouse, child, or grandchild is
349 suspended when the petitioner files a motion stating that a
350 specific power of attorney should be suspended for any of the
351 following grounds:
352 (a) The agent's decisions are not in accord with the
353 alleged incapacitated person's known desires.
354 (b) The power of attorney is invalid.
355 (c) The agent has failed to discharge his or her duties or
356 incapacity or illness renders the agent incapable of discharging
357 duties.
358 (d) The agent has abused powers.

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359 (e) There is a danger that the property of the alleged
360 incapacitated person may be wasted, misappropriated, or lost
361 unless the authority under the power of attorney is suspended.
362
363 Grounds for suspending a power of attorney do not include the
364 existence of a dispute between the agent and the petitioner
365 which is more appropriate for resolution in some other forum or
366 a legal proceeding other than a guardianship proceeding.
367 (2) The motion must:
368 (a) Identify one or more of the grounds in subsection (1);
369 (b) Include specific statements of fact showing that
370 grounds exist to justify the relief sought; and
371 (c) Include the following statement: "Under penalties of
372 perjury, I declare that I have read the foregoing motion and
373 that the facts stated in it are true to the best of my knowledge
374 and belief," followed by the signature of the petitioner.
375 (3) Upon the filing of a response to the motion by the
376 agent under the power of attorney, the court shall schedule the
377 motion for an expedited hearing. Unless an emergency arises and
378 the agent's response sets forth the nature of the emergency, the
379 property or matter involved, and the power to be exercised by
380 the agent, notice must be given to all interested persons, the
381 alleged incapacitated person, and the alleged incapacitated
382 person's attorney. The court order following the hearing must
383 set forth what powers the agent is permitted to exercise, if
384 any, pending the outcome of the petition to determine
385 incapacity.
386 (4) In addition to any other remedy authorized by law, a
387 court may award reasonable attorney fees and costs to an agent

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388 who successfully challenges the suspension of the power of
389 attorney if the petitioner's motion was made in bad faith.
390 (5) The suspension of authority granted to persons other
391 than a parent, spouse, child, or grandchild shall be as provided
392 in s. 709.2109.
393 Section 18. Effective January 1, 2016, paragraph (d) of
394 subsection (3), subsection (6), and paragraph (c) of subsection
395 (7) of section 744.331, Florida Statutes, are amended to read:
396 744.331 Procedures to determine incapacity.—
397 (3) EXAMINING COMMITTEE.—
398 (d) A member of an examining committee must complete a
399 minimum of 4 hours of initial training. The person must complete
400 2 hours of continuing education during each 2-year period after
401 the initial training. The initial training and continuing
402 education program must be developed under the supervision of the
403 ~~Statewide Public Guardianship~~ Office of Public and Professional
404 Guardians, in consultation with the Florida Conference of
405 Circuit Court Judges; the Elder Law and the Real Property,
406 Probate and Trust Law sections of The Florida Bar; the Florida
407 State Guardianship Association; and the Florida Guardianship
408 Foundation. The court may waive the initial training requirement
409 for a person who has served for not less than 5 years on
410 examining committees. If a person wishes to obtain his or her
411 continuing education on the Internet or by watching a video
412 course, the person must first obtain the approval of the chief
413 judge before taking an Internet or video course.
414 (6) ORDER DETERMINING INCAPACITY.—If, after making findings
415 of fact on the basis of clear and convincing evidence, the court
416 finds that a person is incapacitated with respect to the

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417 exercise of a particular right, or all rights, the court shall
418 enter a written order determining such incapacity. In
419 determining incapacity, the court shall consider the person's
420 unique needs and abilities and may only remove those rights that
421 the court finds the person does not have the capacity to
422 exercise. A person is determined to be incapacitated only with
423 respect to those rights specified in the order.
424 (a) The court shall make the following findings:
425 1. The exact nature and scope of the person's incapacities;
426 2. The exact areas in which the person lacks capacity to
427 make informed decisions about care and treatment services or to
428 meet the essential requirements for her or his physical or
429 mental health or safety;
430 3. The specific legal disabilities to which the person is
431 subject; and
432 4. The specific rights that the person is incapable of
433 exercising.
434 (b) When an order determines that a person is incapable of
435 exercising delegable rights, the court must consider and find
436 whether there is an alternative to guardianship that will
437 sufficiently address the problems of the incapacitated person. ~~A~~
438 ~~guardian must be appointed to exercise the incapacitated~~
439 ~~person's delegable rights unless the court finds there is an~~
440 ~~alternative.~~ A guardian may not be appointed if the court finds
441 there is an alternative to guardianship which will sufficiently
442 address the problems of the incapacitated person. If the court
443 finds there is not an alternative to guardianship that
444 sufficiently addresses the problems of the incapacitated person,
445 a guardian must be appointed to exercise the incapacitated

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446 person's delegable rights.
447 (c) In determining that a person is totally incapacitated,
448 the order must contain findings of fact demonstrating that the
449 individual is totally without capacity to care for herself or
450 himself or her or his property.
451 (d) An order adjudicating a person to be incapacitated
452 constitutes proof of such incapacity until further order of the
453 court.
454 (e) After the order determining that the person is
455 incapacitated has been filed with the clerk, it must be served
456 on the incapacitated person. The person is deemed incapacitated
457 only to the extent of the findings of the court. The filing of
458 the order is notice of the incapacity. An incapacitated person
459 retains all rights not specifically removed by the court.
460 (f) Upon the filing of a verified statement by an
461 interested person stating:
462 1. That he or she has a good faith belief that the alleged
463 incapacitated person's trust, trust amendment, or durable power
464 of attorney is invalid; and
465 2. A reasonable factual basis for that belief,
466
467 the trust, trust amendment, or durable power of attorney shall
468 not be deemed to be an alternative to the appointment of a
469 guardian. The appointment of a guardian does not limit the
470 court's power to determine that certain authority granted by a
471 durable power of attorney is to remain exercisable by the agent
472 ~~attorney in fact~~.
473 (7) FEES.—
474 (c) If the petition is dismissed or denied:~~,~~

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475 1. The fees of the examining committee shall be paid upon
476 court order as expert witness fees under s. 29.004(6).
477 2. Costs and attorney ~~attorney's~~ fees of the proceeding may
478 be assessed against the petitioner if the court finds the
479 petition to have been filed in bad faith. The petitioner shall
480 also reimburse the state courts system for any amounts paid
481 under subparagraph 1. upon such a finding.
482 Section 19. Effective January 1, 2016, section 744.344,
483 Florida Statutes, is renumbered as section 744.2005, Florida
484 Statutes, and amended to read:
485 744.2005~~744.344~~ Order of appointment.—
486 (1) A professional guardian appointed by the court to
487 provide representation of an alleged incapacitated person must
488 be selected from a registry of professional guardians.
489 (2) In using a registry, the chief judge of the judicial
490 circuit shall compile a list of professional guardians by county
491 and provide the list to the clerk of court in each county. To be
492 included on a registry, the professional guardian must be
493 certified by the Office of Public and Professional Guardians.
494 (3)~~(1)~~ The court may hear testimony on the question of who
495 is entitled to preference in the appointment of a guardian. Any
496 interested person may intervene in the proceedings.
497 (4) The order appointing a guardian must state the nature
498 of the guardianship as either plenary or limited. If limited,
499 the order must state that the guardian may exercise only those
500 delegable rights which have been removed from the incapacitated
501 person and specifically delegated to the guardian. The order
502 shall state the specific powers and duties of the guardian.
503 (5)~~(2)~~ The order appointing a guardian must be consistent

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504 with the incapacitated person's welfare and safety, must be the
505 least restrictive appropriate alternative, and must reserve to
506 the incapacitated person the right to make decisions in all
507 matters commensurate with the person's ability to do so.
508 (6) ~~(3)~~ If a petition for appointment of guardian has been
509 filed, an order appointing a guardian must be issued
510 contemporaneously with the order adjudicating the person
511 incapacitated. The order must specify the amount of the bond to
512 be given by the guardian and must state specifically whether the
513 guardian must place all, or part, of the property of the ward in
514 a restricted account in a financial institution designated
515 pursuant to s. 69.031.
516 (7) ~~(4)~~ If a petition for the appointment of a guardian has
517 not been filed or ruled upon at the time of the hearing on the
518 petition to determine capacity, the court may appoint an
519 emergency temporary guardian in the manner and for the purposes
520 specified in s. 744.3031.
521 (8) ~~(5)~~ A plenary guardian shall exercise all delegable
522 rights and powers of the incapacitated person.
523 (9) ~~(6)~~ A person for whom a limited guardian has been
524 appointed retains all legal rights except those which have been
525 specifically granted to the guardian in the court's written
526 order.
527 Section 20. Section 744.345, Florida Statutes, is amended
528 to read:
529 744.345 Letters of guardianship.—Letters of guardianship
530 shall be issued to the guardian and shall specify whether the
531 guardianship pertains to the person, or the property, or both,
532 of the ward. The letters must state whether the guardianship is

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533 plenary or limited, and, if limited, the letters must state the
534 powers and duties of the guardian. ~~If the guardianship is~~
535 ~~limited,~~ The letters shall state whether ~~or not~~ and to what
536 extent the guardian is authorized to act on behalf of the ward
537 with regard to any advance directive previously executed by the
538 ward.
539 Section 21. Section 744.359, Florida Statutes, is created
540 to read:
541 744.359 Abuse, neglect, or exploitation by a guardian.—
542 (1) A guardian may not abuse, neglect, or exploit a ward.
543 (2) A guardian has committed exploitation when the
544 guardian:
545 (a) Commits fraud in obtaining appointment as a guardian;
546 (b) Abuses his or her powers; or
547 (c) Wastes, embezzles, or intentionally mismanages the
548 assets of the ward.
549 (3) A person who believes that a guardian is abusing,
550 neglecting, or exploiting a ward shall report the incident to
551 the central abuse hotline of the Department of Children and
552 Families.
553 (4) This section shall be interpreted in conformity with s.
554 825.103.
555 Section 22. Section 744.361, Florida Statutes, is amended
556 to read:
557 744.361 Powers and duties of guardian.—
558 (1) The guardian of an incapacitated person is a fiduciary
559 and may exercise only those rights that have been removed from
560 the ward and delegated to the guardian. The guardian of a minor
561 shall exercise the powers of a plenary guardian.

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562 (2) The guardian shall act within the scope of the
563 authority granted by the court and as provided by law.
564 (3) The guardian shall act in good faith.
565 (4) A guardian may not act in a manner that is contrary to
566 the ward's best interests under the circumstances.
567 (5) A guardian who has special skills or expertise, or is
568 appointed in reliance upon the guardian's representation that
569 the guardian has special skills or expertise, shall use those
570 special skills or expertise when acting on behalf of the ward.
571 (6) ~~(2)~~ The guardian shall file an initial guardianship
572 report in accordance with s. 744.362.
573 (7) ~~(3)~~ The guardian shall file a guardianship report
574 annually in accordance with s. 744.367.
575 (8) ~~(4)~~ The guardian of the person shall implement the
576 guardianship plan.
577 (9) ~~(5)~~ When two or more guardians have been appointed, the
578 guardians shall consult with each other.
579 (10) ~~(6)~~ A guardian who is given authority over any property
580 of the ward shall:
581 (a) Protect and preserve the property and invest it
582 prudently as provided in chapter 518, apply it as provided in s.
583 744.397, and keep clear, distinct, and accurate records of the
584 administration of the ward's property ~~account for it faithfully~~.
585 (b) Perform all other duties required of him or her by law.
586 (c) At the termination of the guardianship, deliver the
587 property of the ward to the person lawfully entitled to it.
588 (11) ~~(7)~~ The guardian shall observe the standards in dealing
589 with the guardianship property that would be observed by a
590 prudent person dealing with the property of another~~, and, if the~~

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591 ~~guardian has special skills or is named guardian on the basis of~~
592 ~~representations of special skills or expertise, he or she is~~
593 ~~under a duty to use those skills~~.
594 (12) ~~(8)~~ The guardian, if authorized by the court, shall
595 take possession of all of the ward's property and of the rents,
596 income, issues, and profits from it, whether accruing before or
597 after the guardian's appointment, and of the proceeds arising
598 from the sale, lease, or mortgage of the property or of any
599 part. All of the property and the rents, income, issues, and
600 profits from it are assets in the hands of the guardian for the
601 payment of debts, taxes, claims, charges, and expenses of the
602 guardianship and for the care, support, maintenance, and
603 education of the ward or the ward's dependents, as provided for
604 under the terms of the guardianship plan or by law.
605 (13) Recognizing that every individual has unique needs and
606 abilities, a guardian who is given authority over a ward's
607 person shall, as appropriate under the circumstances:
608 (a) Consider the expressed desires of the ward as known by
609 the guardian when making decisions that affect the ward.
610 (b) Allow the ward to maintain contact with family and
611 friends unless the guardian believes that such contact may cause
612 harm to the ward.
613 (c) Not restrict the physical liberty of the ward more than
614 reasonably necessary to protect the ward or another person from
615 serious physical injury, illness, or disease.
616 (d) Assist the ward in developing or regaining capacity, if
617 medically possible.
618 (e) Notify the court if the guardian believes that the ward
619 has regained capacity and that one or more of the rights that

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620 have been removed should be restored to the ward.
621 (f) To the extent applicable, make provision for the
622 medical, mental, rehabilitative, or personal care services for
623 the welfare of the ward.
624 (g) To the extent applicable, acquire a clear understanding
625 of the risks and benefits of a recommended course of health care
626 treatment before making a health care decision.
627 (h) Evaluate the ward's medical and health care options,
628 financial resources, and desires when making residential
629 decisions that are best suited for the current needs of the
630 ward.
631 (i) Advocate on behalf of the ward in institutional and
632 other residential settings and regarding access to home and
633 community-based services.
634 (j) When not inconsistent with the person's goals, needs,
635 and preferences, acquire an understanding of the available
636 residential options and give priority to home and other
637 community-based services and settings.
638 (14) ~~(9)~~ A professional guardian must ensure that each of
639 the guardian's wards is personally visited by the guardian or
640 one of the guardian's professional staff at least once each
641 calendar quarter. During the personal visit, the guardian or the
642 guardian's professional staff person shall assess:
643 (a) The ward's physical appearance and condition.
644 (b) The appropriateness of the ward's current living
645 situation.
646 (c) The need for any additional services and the necessity
647 for continuation of existing services, taking into consideration
648 all aspects of social, psychological, educational, direct

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649 service, health, and personal care needs.
650 (d) The nature and extent of visitation and communication
651 with the ward's family and friends.
652
653 This subsection does not apply to a professional guardian who
654 has been appointed only as guardian of the property.
655 Section 23. Subsection (1) of section 744.367, Florida
656 Statutes, is amended to read:
657 744.367 Duty to file annual guardianship report.—
658 (1) Unless the court requires filing on a calendar-year
659 basis, each guardian of the person shall file with the court an
660 annual guardianship plan at least 60 days, but no more than
661 ~~within~~ 90 days, before ~~after~~ the last day of the anniversary
662 month that the letters of guardianship were signed, and the plan
663 must cover the coming fiscal year, ending on the last day in
664 such anniversary month. If the court requires calendar-year
665 filing, the guardianship plan for the forthcoming calendar year
666 must be filed on or after September 1 but no later than December
667 1 of the current year ~~before April 1 of each year~~.
668 Section 24. Subsection (8) of section 744.369, Florida
669 Statutes, is amended to read:
670 744.369 Judicial review of guardianship reports.—
671 (8) The approved report constitutes the authority for the
672 guardian to act in the forthcoming year. The powers of the
673 guardian are limited by the terms of the report. The annual
674 report may not grant additional authority to the guardian
675 without a hearing, as provided for in s. 744.331, to determine
676 that the ward is incapacitated to act in that matter. Unless the
677 court orders otherwise, the guardian may continue to act under

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678 authority of the last-approved report until the forthcoming
679 year's report is approved.
680 Section 25. Subsection (1) of section 744.3715, Florida
681 Statutes, is amended to read:
682 744.3715 Petition for interim judicial review.—
683 (1) At any time, any interested person, including the ward,
684 may petition the court for review alleging that the guardian is
685 not complying with the guardianship plan, ~~or~~ is exceeding his or
686 her authority under the guardianship plan, is acting in a manner
687 contrary to s. 744.361, is denying visitation between the ward
688 and his or her relatives in violation of s. 744.361(13), or ~~and~~
689 ~~the guardian~~ is not acting in the best interest of the ward. The
690 petition for review must state the nature of the objection to
691 the guardian's action or proposed action. Upon the filing of any
692 such petition, the court shall review the petition and act upon
693 it expeditiously.
694 Section 26. Paragraphs (a) and (b) of subsection (3) of
695 section 744.464, Florida Statutes, are amended, and subsection
696 (4) is added to that section, to read:
697 744.464 Restoration to capacity.—
698 (3) ORDER OF RESTORATION.—
699 (a) If no objections are filed, and the court is satisfied
700 that ~~with~~ the medical examination establishes by a preponderance
701 of the evidence that restoration of all or some of the ward's
702 rights is appropriate, the court shall enter an order of
703 restoration of capacity, restoring all or some of the rights
704 which were removed from the ward in accordance with those
705 findings. ~~The order must be issued within 30 days after the~~
706 ~~medical report is filed.~~

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707 (b) At the conclusion of a hearing, conducted pursuant to
708 s. 744.1095, the court shall make specific findings of fact and,
709 based on a preponderance of the evidence, enter an order either
710 denying the suggestion of capacity or restoring all or some of
711 the rights which were removed from the ward. The ward has the
712 burden of proving by a preponderance of the evidence that the
713 restoration of capacity is warranted.
714 (4) TIMELINESS OF HEARING.—The court shall give priority to
715 any suggestion of capacity and shall advance the cause on the
716 calendar.
717 Section 27. Effective January 1, 2016, section 744.7021,
718 Florida Statutes, is renumbered as section 744.2001, Florida
719 Statutes, and amended to read:
720 744.2001~~744.7021~~ ~~Statewide Public Guardianship~~ Office of
721 Public and Professional Guardians.—There is hereby created the
722 ~~Statewide Public Guardianship~~ Office of Public and Professional
723 Guardians within the Department of Elderly Affairs.
724 (1) The Secretary of Elderly Affairs shall appoint the
725 executive director, who shall be the head of the ~~Statewide~~
726 ~~Public Guardianship~~ Office of Public and Professional Guardians.
727 The executive director must be a member of The Florida Bar,
728 knowledgeable of guardianship law and of the social services
729 available to meet the needs of incapacitated persons, shall
730 serve on a full-time basis, and shall personally, or through a
731 representative ~~representatives~~ of the office, carry out the
732 purposes and functions of the ~~Statewide Public Guardianship~~
733 Office of Public and Professional Guardians in accordance with
734 state and federal law. The executive director shall serve at the
735 pleasure of and report to the secretary.

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736 (2) The executive director shall, within available
737 resources:~~,~~
738 (a) Have oversight responsibilities for all public and
739 professional guardians.
740 (b) Review the standards and criteria for the education,
741 registration, and certification of public and professional
742 guardians in Florida.
743 (3) The executive director's oversight responsibilities of
744 professional guardians shall include, but not be limited to:
745 (a) The development and implementation of a monitoring tool
746 to be used for regular monitoring activities of professional
747 guardians related to the management of each ward and his or her
748 personal affairs. This monitoring may not include a financial
749 audit as required by the clerk of the circuit court under s.
750 744.368.
751 (b) The development of procedures, in consultation with
752 professional guardianship associations, for the review of an
753 allegation that a professional guardian has violated an
754 applicable statute, fiduciary duty, standard of practice, rule,
755 regulation, or other requirement governing the conduct of
756 professional guardians.
757 (c) The establishment of disciplinary proceedings,
758 including the authority to conduct investigations and take
759 appropriate administrative action pursuant to chapter 120.
760 (d) Assist the chief judge in each judicial circuit to
761 establish a registry to allow for the appointment of
762 professional guardians as provided in s. 744.2005.
763 (4) The executive director's oversight responsibilities of
764 public guardians shall include, but not be limited to:

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765 (a) The ~~executive director shall~~ review of the current
766 public guardian programs in Florida and other states.
767 (b) The development ~~executive director~~, in consultation
768 with local guardianship offices, of ~~shall develop~~ statewide
769 performance measures and standards.
770 (c) The ~~executive director shall~~ review of ~~the~~ various
771 methods of funding public guardianship programs, the kinds of
772 services being provided by such programs, and the demographics
773 of the wards. In addition, the executive director shall review
774 and make recommendations regarding the feasibility of recovering
775 a portion or all of the costs of providing public guardianship
776 services from the assets or income of the wards.
777 (d) By January 1 of each year, providing ~~the executive~~
778 ~~director shall provide~~ a status report and providing ~~provide~~
779 further recommendations to the secretary that address the need
780 for public guardianship services and related issues.
781 (e) In consultation with the Florida Guardianship
782 Foundation, the development of a guardianship training program
783 curriculum that may be offered to all guardians, whether public
784 or private.
785 (5) The executive director may provide assistance to local
786 governments or entities in pursuing grant opportunities. The
787 executive director shall review and make recommendations in the
788 annual report on the availability and efficacy of seeking
789 Medicaid matching funds. The executive director shall diligently
790 seek ways to use existing programs and services to meet the
791 needs of public wards.
792 ~~(f) The executive director, in consultation with the~~
793 ~~Florida Guardianship Foundation, shall develop a guardianship~~

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794 ~~training program curriculum that may be offered to all guardians~~
795 ~~whether public or private.~~
796 (6)~~(3)~~ The executive director may conduct or contract for
797 demonstration projects authorized by the Department of Elderly
798 Affairs, within funds appropriated or through gifts, grants, or
799 contributions for such purposes, to determine the feasibility or
800 desirability of new concepts of organization, administration,
801 financing, or service delivery designed to preserve the civil
802 and constitutional rights of persons of marginal or diminished
803 capacity. Any gifts, grants, or contributions for such purposes
804 shall be deposited in the Department of Elderly Affairs
805 Administrative Trust Fund.
806 Section 28. Effective January 1, 2016, section 744.1083,
807 Florida Statutes, is renumbered as section 744.2002, Florida
808 Statutes, subsections (1) through (5) of that section are
809 amended, and subsections (7) and (10) of that section are
810 republished, to read:
811 744.2002~~744.1083~~ Professional guardian registration.—
812 (1) A professional guardian must register with the
813 ~~Statewide Public Guardianship~~ Office of Public and Professional
814 Guardians established in part II ~~IX~~ of this chapter.
815 (2) Annual registration shall be made on forms furnished by
816 the ~~Statewide Public Guardianship~~ Office of Public and
817 Professional Guardians and accompanied by the applicable
818 registration fee as determined by rule. The fee may not exceed
819 $100.
820 (3) Registration must include the following:
821 (a) Sufficient information to identify the professional
822 guardian, as follows:

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823 1. If the professional guardian is a natural person, the
824 name, address, date of birth, and employer identification or
825 social security number of the person.
826 2. If the professional guardian is a partnership or
827 association, the name, address, and employer identification
828 number of the entity.
829 (b) Documentation that the bonding and educational
830 requirements of s. 744.2003 ~~s. 744.1085~~ have been met.
831 (c) Sufficient information to distinguish a guardian
832 providing guardianship services as a public guardian,
833 individually, through partnership, corporation, or any other
834 business organization.
835 (4) Prior to registering a professional guardian, the
836 ~~Statewide Public Guardianship~~ Office of Public and Professional
837 Guardians must receive and review copies of the credit and
838 criminal investigations conducted under s. 744.3135. The credit
839 and criminal investigations must have been completed within the
840 previous 2 years.
841 (5) The executive director of the office may deny
842 registration to a professional guardian if the executive
843 director determines that the guardian's proposed registration,
844 including the guardian's credit or criminal investigations,
845 indicates that registering the professional guardian would
846 violate any provision of this chapter. ~~If a guardian who is~~
847 ~~currently registered with the office violates a provision of~~
848 ~~this chapter, the executive director of the office may suspend~~
849 ~~or revoke the guardian's registration. If the executive director~~
850 ~~denies registration to a professional guardian or suspends or~~
851 ~~revokes a professional guardian's registration, the Statewide~~

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852 ~~Public Guardianship Office must send written notification of the~~
853 ~~denial, suspension, or revocation to the chief judge of each~~
854 ~~judicial circuit in which the guardian was serving on the day of~~
855 ~~the office's decision to deny, suspend, or revoke the~~
856 ~~registration.~~
857 (7) A trust company, a state banking corporation or state
858 savings association authorized and qualified to exercise
859 fiduciary powers in this state, or a national banking
860 association or federal savings and loan association authorized
861 and qualified to exercise fiduciary powers in this state, may,
862 but is not required to, register as a professional guardian
863 under this section. If a trust company, state banking
864 corporation, state savings association, national banking
865 association, or federal savings and loan association described
866 in this subsection elects to register as a professional guardian
867 under this subsection, the requirements of subsections (3) and
868 (4) do not apply and the registration must include only the
869 name, address, and employer identification number of the
870 registrant, the name and address of its registered agent, if
871 any, and the documentation described in paragraph (3)(b).
872 (10) A state college or university or an independent
873 college or university that is located and chartered in Florida,
874 that is accredited by the Commission on Colleges of the Southern
875 Association of Colleges and Schools or the Accrediting Council
876 for Independent Colleges and Schools, and that confers degrees
877 as defined in s. 1005.02(7) may, but is not required to,
878 register as a professional guardian under this section. If a
879 state college or university or independent college or university
880 elects to register as a professional guardian under this

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881 subsection, the requirements of subsections (3) and (4) do not
882 apply and the registration must include only the name, address,
883 and employer identification number of the registrant.
884 Section 29. Effective January 1, 2016, section 744.1085,
885 Florida Statutes, is renumbered as section 744.2003, Florida
886 Statutes, subsections (3), (6), and (9) of that section are
887 amended, and subsection (8) of that section is republished, to
888 read:
889 744.2003~~744.1085~~ Regulation of professional guardians;
890 application; bond required; educational requirements.—
891 (3) Each professional guardian defined in s. 744.102(17)
892 and public guardian must receive a minimum of 40 hours of
893 instruction and training. Each professional guardian must
894 receive a minimum of 16 hours of continuing education every 2
895 calendar years after the year in which the initial 40-hour
896 educational requirement is met. The instruction and education
897 must be completed through a course approved or offered by the
898 ~~Statewide Public Guardianship~~ Office of Public and Professional
899 Guardians. The expenses incurred to satisfy the educational
900 requirements prescribed in this section may not be paid with the
901 assets of any ward. This subsection does not apply to any
902 attorney who is licensed to practice law in this state.
903 (6) ~~After July 1, 2005,~~ Each professional guardian is ~~shall~~
904 ~~be~~ required to demonstrate competency to act as a professional
905 guardian by taking an examination approved by the Department of
906 Elderly Affairs.
907 (a) The Department of Elderly Affairs shall determine the
908 minimum examination score necessary for passage of guardianship
909 examinations.

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910 (b) The Department of Elderly Affairs shall determine the
911 procedure for administration of the examination.
912 (c) The Department of Elderly Affairs or its contractor
913 shall charge an examination fee for the actual costs of the
914 development and the administration of the examination. The fee
915 for registration and licensing of a professional guardian may
916 not~~, not to~~ exceed $500.
917 (d) The Department of Elderly Affairs may recognize passage
918 of a national guardianship examination in lieu of all or part of
919 the examination approved by the Department of Elderly Affairs,
920 except that all professional guardians must take and pass an
921 approved examination section related to Florida law and
922 procedure.
923 (8) The Department of Elderly Affairs shall waive the
924 examination requirement in subsection (6) if a professional
925 guardian can provide:
926 (a) Proof that the guardian has actively acted as a
927 professional guardian for 5 years or more; and
928 (b) A letter from a circuit judge before whom the
929 professional guardian practiced at least 1 year which states
930 that the professional guardian had demonstrated to the court
931 competency as a professional guardian.
932 (9) ~~After July 1, 2004,~~ The court may ~~shall~~ not appoint any
933 professional guardian who has not met the requirements of this
934 section and s. 744.2002 ~~s. 744.1083~~.
935 Section 30. Effective January 1, 2016, section 744.2004,
936 Florida Statutes, is created to read:
937 744.2004 Complaints; disciplinary proceedings; penalties;
938 enforcement.—

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939 (1) The Office of Public and Professional Guardians shall
940 adopt rules to:
941 (a) Review, and if determined appropriate, investigate an
942 allegation that a professional guardian has violated an
943 applicable statute, fiduciary duty, standard of practice, rule,
944 regulation, or other requirement governing the conduct of
945 professional guardians.
946 (b) Establish disciplinary proceedings, conduct hearings,
947 and take administrative action pursuant to chapter 120.
948 Disciplinary actions include, but are not limited to, requiring
949 a professional guardian to participate in additional educational
950 courses provided by the Office of Public and Professional
951 Guardians, imposing additional monitoring by the office of the
952 guardianships to which the professional guardian is appointed,
953 and suspension or revocation of a professional guardian's
954 license.
955 (2) If the office makes a final recommendation for the
956 suspension or revocation of a professional guardian's license,
957 it must provide the recommendation to the court of competent
958 jurisdiction for any guardianship case to which the professional
959 guardian is currently appointed.
960 Section 31. Effective January 1, 2016, section 744.703,
961 Florida Statutes, is renumbered as 744.2006, Florida Statutes,
962 and subsections (1) and (6) of that section are amended, to
963 read:
964 744.2006~~744.703~~ Office of public and professional guardians
965 ~~guardian~~; appointment, notification.—
966 (1) The executive director of the ~~Statewide Public~~
967 ~~Guardianship~~ Office of Public and Professional Guardians, after

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968 consultation with the chief judge and other circuit judges
969 within the judicial circuit and with appropriate advocacy groups
970 and individuals and organizations who are knowledgeable about
971 the needs of incapacitated persons, may establish, within a
972 county in the judicial circuit or within the judicial circuit,
973 one or more offices of public and professional guardian and if
974 so established, shall create a list of persons best qualified to
975 serve as the public guardian, who have been investigated
976 pursuant to s. 744.3135. The public guardian must have knowledge
977 of the legal process and knowledge of social services available
978 to meet the needs of incapacitated persons. The public guardian
979 shall maintain a staff or contract with professionally qualified
980 individuals to carry out the guardianship functions, including
981 an attorney who has experience in probate areas and another
982 person who has a master's degree in social work, or a
983 gerontologist, psychologist, registered nurse, or nurse
984 practitioner. A public guardian that is a nonprofit corporate
985 guardian under s. 744.309(5) must receive tax-exempt status from
986 the United States Internal Revenue Service.
987 (6) Public guardians who have been previously appointed by
988 a chief judge prior to the effective date of this act pursuant
989 to this section may continue in their positions until the
990 expiration of their term pursuant to their agreement. However,
991 oversight of all public guardians shall transfer to the
992 ~~Statewide Public Guardianship~~ Office of Public and Professional
993 Guardians upon the effective date of this act. The executive
994 director of the ~~Statewide Public Guardianship~~ Office of Public
995 and Professional Guardians shall be responsible for all future
996 appointments of public guardians pursuant to this act.

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997 Section 32. Section 744.704, Florida Statutes, is
998 renumbered as section 744.2007, Florida Statutes.
999 Section 33. Effective January 1, 2016, section 744.705,
1000 Florida Statutes, is renumbered as section 744.2008, Florida
1001 Statutes.
1002 Section 34. Effective January 1, 2016, section 744.706,
1003 Florida Statutes, is renumbered as section 744.2009, Florida
1004 Statutes, and amended to read:
1005 744.2009~~744.706~~ Preparation of budget.—Each public
1006 guardian, whether funded in whole or in part by money raised
1007 through local efforts, grants, or any other source or whether
1008 funded in whole or in part by the state, shall prepare a budget
1009 for the operation of the office of public guardian to be
1010 submitted to the ~~Statewide Public Guardianship~~ Office of Public
1011 and Professional Guardians. As appropriate, the ~~Statewide Public~~
1012 ~~Guardianship~~ Office of Public and Professional Guardians will
1013 include such budgetary information in the Department of Elderly
1014 Affairs' legislative budget request. The office of public
1015 guardian shall be operated within the limitations of the General
1016 Appropriations Act and any other funds appropriated by the
1017 Legislature to that particular judicial circuit, subject to the
1018 provisions of chapter 216. The Department of Elderly Affairs
1019 shall make a separate and distinct request for an appropriation
1020 for the ~~Statewide Public Guardianship~~ Office of Public and
1021 Professional Guardians. However, this section may ~~shall~~ not be
1022 construed to preclude the financing of any operations of the
1023 office of the public guardian by moneys raised through local
1024 effort or through the efforts of the ~~Statewide Public~~
1025 ~~Guardianship~~ Office of Public and Professional Guardians.

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1026 Section 35. Effective January 1, 2016, section 744.707,
1027 Florida Statutes, is renumbered as section 744.2101, Florida
1028 Statutes, and amended to read:
1029 744.2101~~744.707~~ Procedures and rules.—The public guardian,
1030 subject to the oversight of the ~~Statewide Public Guardianship~~
1031 Office of Public and Professional Guardians, is authorized to:
1032 (1) Formulate and adopt necessary procedures to assure the
1033 efficient conduct of the affairs of the ward and general
1034 administration of the office and staff.
1035 (2) Contract for services necessary to discharge the duties
1036 of the office.
1037 (3) Accept the services of volunteer persons or
1038 organizations and provide reimbursement for proper and necessary
1039 expenses.
1040 Section 36. Effective January 1, 2016, section 744.709,
1041 Florida Statutes, is renumbered as section 744.2102, Florida
1042 Statutes.
1043 Section 37. Effective January 1, 2016, section 744.708,
1044 Florida Statutes, is renumbered as section 744.2103, Florida
1045 Statutes, and subsections (3), (4), (5), and (7) of that section
1046 are amended, to read:
1047 744.2103~~744.708~~ Reports and standards.—
1048 (3) A public guardian shall file an annual report on the
1049 operations of the office of public guardian, in writing, by
1050 September 1 for the preceding fiscal year with the ~~Statewide~~
1051 ~~Public Guardianship~~ Office of Public and Professional Guardians,
1052 which shall have responsibility for supervision of the
1053 operations of the office of public guardian.
1054 (4) Within 6 months of his or her appointment as guardian

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1055 of a ward, the public guardian shall submit to the clerk of the
1056 court for placement in the ward's guardianship file and to the
1057 executive director of the ~~Statewide Public Guardianship~~ Office
1058 of Public and Professional Guardians a report on his or her
1059 efforts to locate a family member or friend, other person, bank,
1060 or corporation to act as guardian of the ward and a report on
1061 the ward's potential to be restored to capacity.
1062 (5)(a) Each office of public guardian shall undergo an
1063 independent audit by a qualified certified public accountant at
1064 least once every 2 years. A copy of the audit report shall be
1065 submitted to the ~~Statewide Public Guardianship~~ Office of Public
1066 and Professional Guardians.
1067 (b) In addition to regular monitoring activities, the
1068 ~~Statewide Public Guardianship~~ Office of Public and Professional
1069 Guardians shall conduct an investigation into the practices of
1070 each office of public guardian related to the managing of each
1071 ward's personal affairs and property. If feasible, the
1072 investigation shall be conducted in conjunction with the
1073 financial audit of each office of public guardian under
1074 paragraph (a).
1075 (7) The ratio for professional staff to wards shall be 1
1076 professional to 40 wards. The ~~Statewide Public Guardianship~~
1077 Office of Public and Professional Guardians may increase or
1078 decrease the ratio after consultation with the local public
1079 guardian and the chief judge of the circuit court. The basis for
1080 the decision to increase or decrease the prescribed ratio must
1081 be included in the annual report to the secretary.
1082 Section 38. Effective January 1, 2016, section 744.7081,
1083 Florida Statutes, is renumbered as section 744.2104, Florida

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1084 Statutes, and amended to read:
1085 744.2104~~744.7081~~ Access to records by the ~~Statewide Public~~
1086 ~~Guardianship~~ Office of Public and Professional Guardians;
1087 confidentiality.—Notwithstanding any other provision of law to
1088 the contrary, any medical, financial, or mental health records
1089 held by an agency, or the court and its agencies, which are
1090 necessary to evaluate the public guardianship system, to assess
1091 the need for additional public guardianship, or to develop
1092 required reports, shall be provided to the ~~Statewide Public~~
1093 ~~Guardianship~~ Office of Public and Professional Guardians upon
1094 that office's request. Any confidential or exempt information
1095 provided to the ~~Statewide Public Guardianship~~ Office of Public
1096 and Professional Guardians shall continue to be held
1097 confidential or exempt as otherwise provided by law. All records
1098 held by the ~~Statewide Public Guardianship~~ Office of Public and
1099 Professional Guardians relating to the medical, financial, or
1100 mental health of vulnerable adults as defined in chapter 415,
1101 persons with a developmental disability as defined in chapter
1102 393, or persons with a mental illness as defined in chapter 394,
1103 shall be confidential and exempt from s. 119.07(1) and s. 24(a),
1104 Art. I of the State Constitution.
1105 Section 39. Effective January 1, 2016, section 744.7082,
1106 Florida Statutes, is renumbered as section 744.2105, Florida
1107 Statutes, and subsections (1) through (5) and (8) of that
1108 section are amended, to read:
1109 744.2105~~744.7082~~ Direct-support organization; definition;
1110 use of property; board of directors; audit; dissolution.—
1111 (1) DEFINITION.—As used in this section, the term "direct-
1112 support organization" means an organization whose sole purpose

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1113 is to support the ~~Statewide Public Guardianship~~ Office of Public
1114 and Professional Guardians and is:
1115 (a) A not-for-profit corporation incorporated under chapter
1116 617 and approved by the Department of State;
1117 (b) Organized and operated to conduct programs and
1118 activities; to raise funds; to request and receive grants,
1119 gifts, and bequests of moneys; to acquire, receive, hold,
1120 invest, and administer, in its own name, securities, funds,
1121 objects of value, or other property, real or personal; and to
1122 make expenditures to or for the direct or indirect benefit of
1123 the ~~Statewide Public Guardianship~~ Office of Public and
1124 Professional Guardians; and
1125 (c) Determined by the ~~Statewide Public Guardianship~~ Office
1126 of Public and Professional Guardians to be consistent with the
1127 goals of the office, in the best interests of the state, and in
1128 accordance with the adopted goals and mission of the Department
1129 of Elderly Affairs and the ~~Statewide Public Guardianship~~ Office
1130 of Public and Professional Guardians.
1131 (2) CONTRACT.—The direct-support organization shall operate
1132 under a written contract with the ~~Statewide Public Guardianship~~
1133 Office of Public and Professional Guardians. The written
1134 contract must provide for:
1135 (a) Certification by the ~~Statewide Public Guardianship~~
1136 Office of Public and Professional Guardians that the direct-
1137 support organization is complying with the terms of the contract
1138 and is doing so consistent with the goals and purposes of the
1139 office and in the best interests of the state. This
1140 certification must be made annually and reported in the official
1141 minutes of a meeting of the direct-support organization.

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1142 (b) The reversion of moneys and property held in trust by
1143 the direct-support organization:
1144 1. To the ~~Statewide Public Guardianship~~ Office of Public
1145 and Professional Guardians if the direct-support organization is
1146 no longer approved to operate for the office;
1147 2. To the ~~Statewide Public Guardianship~~ Office of Public
1148 and Professional Guardians if the direct-support organization
1149 ceases to exist;
1150 3. To the Department of Elderly Affairs if the ~~Statewide~~
1151 ~~Public Guardianship~~ Office of Public and Professional Guardians
1152 ceases to exist; or
1153 4. To the state if the Department of Elderly Affairs ceases
1154 to exist.
1155
1156 The fiscal year of the direct-support organization shall begin
1157 on July 1 of each year and end on June 30 of the following year.
1158 (c) The disclosure of the material provisions of the
1159 contract, and the distinction between the ~~Statewide Public~~
1160 ~~Guardianship~~ Office of Public and Professional Guardians and the
1161 direct-support organization, to donors of gifts, contributions,
1162 or bequests, including such disclosure on all promotional and
1163 fundraising publications.
1164 (3) BOARD OF DIRECTORS.—The Secretary of Elderly Affairs
1165 shall appoint a board of directors for the direct-support
1166 organization from a list of nominees submitted by the executive
1167 director of the ~~Statewide Public Guardianship~~ Office of Public
1168 and Professional Guardians.
1169 (4) USE OF PROPERTY.—The Department of Elderly Affairs may
1170 permit, without charge, appropriate use of fixed property and

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1171 facilities of the department or the ~~Statewide Public~~
1172 ~~Guardianship~~ Office of Public and Professional Guardians by the
1173 direct-support organization. The department may prescribe any
1174 condition with which the direct-support organization must comply
1175 in order to use fixed property or facilities of the department
1176 or the ~~Statewide Public Guardianship~~ Office of Public and
1177 Professional Guardians.
1178 (5) MONEYS.—Any moneys may be held in a separate depository
1179 account in the name of the direct-support organization and
1180 subject to the provisions of the written contract with the
1181 ~~Statewide Public Guardianship~~ Office of Public and Professional
1182 Guardians. Expenditures of the direct-support organization shall
1183 be expressly used to support the ~~Statewide Public Guardianship~~
1184 Office of Public and Professional Guardians. The expenditures of
1185 the direct-support organization may not be used for the purpose
1186 of lobbying as defined in s. 11.045.
1187 (8) DISSOLUTION.—A ~~After July 1, 2004, any~~ not-for-profit
1188 corporation incorporated under chapter 617 that is determined by
1189 a circuit court to be representing itself as a direct-support
1190 organization created under this section, but that does not have
1191 a written contract with the ~~Statewide Public Guardianship~~ Office
1192 of Public and Professional Guardians in compliance with this
1193 section, is considered to meet the grounds for a judicial
1194 dissolution described in s. 617.1430(1)(a). The ~~Statewide Public~~
1195 ~~Guardianship~~ Office of Public and Professional Guardians shall
1196 be the recipient for all assets held by the dissolved
1197 corporation which accrued during the period that the dissolved
1198 corporation represented itself as a direct-support organization
1199 created under this section.

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1200 Section 40. Effective January 1, 2016, section 744.712,
1201 Florida Statutes, is renumbered as section 744.2106, Florida
1202 Statutes, and amended to read:
1203 744.2106~~744.712~~ Joining Forces for Public Guardianship
1204 grant program; purpose.—The Legislature intends to establish the
1205 Joining Forces for Public Guardianship matching grant program
1206 for the purpose of assisting counties to establish and fund
1207 community-supported public guardianship programs. The Joining
1208 Forces for Public Guardianship matching grant program shall be
1209 established and administered by the ~~Statewide Public~~
1210 ~~Guardianship~~ Office of Public and Professional Guardians within
1211 the Department of Elderly Affairs. The purpose of the program is
1212 to provide startup funding to encourage communities to develop
1213 and administer locally funded and supported public guardianship
1214 programs to address the needs of indigent and incapacitated
1215 residents.
1216 (1) The ~~Statewide Public Guardianship~~ Office of Public and
1217 Professional Guardians may distribute the grant funds as
1218 follows:
1219 (a) As initial startup funding to encourage counties that
1220 have no office of public guardian to establish an office, or as
1221 initial startup funding to open an additional office of public
1222 guardian within a county whose public guardianship needs require
1223 more than one office of public guardian.
1224 (b) As support funding to operational offices of public
1225 guardian that demonstrate a necessity for funds to meet the
1226 public guardianship needs of a particular geographic area in the
1227 state which the office serves.
1228 (c) To assist counties that have an operating public

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1229 guardianship program but that propose to expand the geographic
1230 area or population of persons they serve, or to develop and
1231 administer innovative programs to increase access to public
1232 guardianship in this state.
1233
1234 Notwithstanding this subsection, the executive director of the
1235 office may award emergency grants if he or she determines that
1236 the award is in the best interests of public guardianship in
1237 this state. Before making an emergency grant, the executive
1238 director must obtain the written approval of the Secretary of
1239 Elderly Affairs. Subsections (2), (3), and (4) do not apply to
1240 the distribution of emergency grant funds.
1241 (2) One or more grants may be awarded within a county.
1242 However, a county may not receive an award that equals, or
1243 multiple awards that cumulatively equal, more than 20 percent of
1244 the total amount of grant funds appropriated during any fiscal
1245 year.
1246 (3) If an applicant is eligible and meets the requirements
1247 to receive grant funds more than once, the ~~Statewide Public~~
1248 ~~Guardianship~~ Office of Public and Professional Guardians shall
1249 award funds to prior awardees in the following manner:
1250 (a) In the second year that grant funds are awarded, the
1251 cumulative sum of the award provided to one or more applicants
1252 within the same county may not exceed 75 percent of the total
1253 amount of grant funds awarded within that county in year one.
1254 (b) In the third year that grant funds are awarded, the
1255 cumulative sum of the award provided to one or more applicants
1256 within the same county may not exceed 60 percent of the total
1257 amount of grant funds awarded within that county in year one.

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1258 (c) In the fourth year that grant funds are awarded, the
1259 cumulative sum of the award provided to one or more applicants
1260 within the same county may not exceed 45 percent of the total
1261 amount of grant funds awarded within that county in year one.
1262 (d) In the fifth year that grant funds are awarded, the
1263 cumulative sum of the award provided to one or more applicants
1264 within the same county may not exceed 30 percent of the total
1265 amount of grant funds awarded within that county in year one.
1266 (e) In the sixth year that grant funds are awarded, the
1267 cumulative sum of the award provided to one or more applicants
1268 within the same county may not exceed 15 percent of the total
1269 amount of grant funds awarded within that county in year one.
1270
1271 The ~~Statewide Public Guardianship~~ Office of Public and
1272 Professional Guardians may not award grant funds to any
1273 applicant within a county that has received grant funds for more
1274 than 6 years.
1275 (4) Grant funds shall be used only to provide direct
1276 services to indigent wards, except that up to 10 percent of the
1277 grant funds may be retained by the awardee for administrative
1278 expenses.
1279 (5) Implementation of the program is subject to a specific
1280 appropriation by the Legislature in the General Appropriations
1281 Act.
1282 Section 41. Effective January 1, 2016, section 744.713,
1283 Florida Statutes, is renumbered as section 744.2107, Florida
1284 Statutes, and amended to read:
1285 744.2107~~744.713~~ Program administration; duties of the
1286 ~~Statewide Public Guardianship~~ Office of Public and Professional

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1287 Guardians.—The ~~Statewide Public Guardianship~~ Office of Public
1288 and Professional Guardians shall administer the grant program.
1289 The office shall:
1290 (1) Publicize the availability of grant funds to entities
1291 that may be eligible for the funds.
1292 (2) Establish an application process for submitting a grant
1293 proposal.
1294 (3) Request, receive, and review proposals from applicants
1295 seeking grant funds.
1296 (4) Determine the amount of grant funds each awardee may
1297 receive and award grant funds to applicants.
1298 (5) Develop a monitoring process to evaluate grant
1299 awardees, which may include an annual monitoring visit to each
1300 awardee's local office.
1301 (6) Ensure that persons or organizations awarded grant
1302 funds meet and adhere to the requirements of this act.
1303 Section 42. Effective January 1, 2016, section 744.714,
1304 Florida Statutes, is renumbered as section 744.2108, Florida
1305 Statutes, and paragraph (b) of subsection (1) and paragraph (b)
1306 of subsection (2) of that section are amended, to read:
1307 744.2108~~744.714~~ Eligibility.—
1308 (1) Any person or organization that has not been awarded a
1309 grant must meet all of the following conditions to be eligible
1310 to receive a grant:
1311 (b) The applicant must have already been appointed by, or
1312 is pending appointment by, the ~~Statewide Public Guardianship~~
1313 Office of Public and Professional Guardians to become an office
1314 of public guardian in this state.
1315 (2) Any person or organization that has been awarded a

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1316 grant must meet all of the following conditions to be eligible
1317 to receive another grant:
1318 (b) The applicant must have been appointed by, or is
1319 pending reappointment by, the ~~Statewide Public Guardianship~~
1320 Office of Public and Professional Guardians to be an office of
1321 public guardian in this state.
1322 Section 43. Section 744.715, Florida Statutes, is
1323 renumbered as section 744.2109, Florida Statutes, and
1324 subsections (2) and (4) of that section are amended, to read:
1325 744.2109 ~~744.715~~ Grant application requirements; review
1326 criteria; awards process.—Grant applications must be submitted
1327 to the ~~Statewide Public Guardianship~~ Office of Public and
1328 Professional Guardians for review and approval.
1329 (2) If the ~~Statewide Public Guardianship~~ Office of Public
1330 and Professional Guardians determines that an applicant meets
1331 the requirements for an award of grant funds, the office may
1332 award the applicant any amount of grant funds the executive
1333 director deems appropriate, if the amount awarded meets the
1334 requirements of this act. The office may adopt a rule allocating
1335 the maximum allowable amount of grant funds which may be
1336 expended on any ward.
1337 (4)(a) In the first year of the Joining Forces for Public
1338 Guardianship program's existence, the ~~Statewide Public~~
1339 ~~Guardianship~~ Office of Public and Professional Guardians shall
1340 give priority in awarding grant funds to those entities that:
1341 1. Are operating as appointed offices of public guardians
1342 in this state;
1343 2. Meet all of the requirements for being awarded a grant
1344 under this act; and

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1345 3. Demonstrate a need for grant funds during the current
1346 fiscal year due to a loss of local funding formerly raised
1347 through court filing fees.
1348 (b) In each fiscal year after the first year that grant
1349 funds are distributed, the ~~Statewide Public Guardianship~~ Office
1350 of Public and Professional Guardians may give priority to
1351 awarding grant funds to those entities that:
1352 1. Meet all of the requirements of this act for being
1353 awarded grant funds; and
1354 2. Submit with their application an agreement or
1355 confirmation from a local funding source, such as a county,
1356 municipality, or any other public or private organization, that
1357 the local funding source will contribute matching funds totaling
1358 an amount equal to or exceeding $2 for every $1 of grant funds
1359 awarded by the office. An entity may submit with its application
1360 agreements or confirmations from multiple local funding sources
1361 showing that the local funding sources will pool their
1362 contributed matching funds to the public guardianship program
1363 for a combined total of not less than $2 for every $1 of grant
1364 funds awarded. In-kind contributions allowable under this
1365 section shall be evaluated by the ~~Statewide Public Guardianship~~
1366 Office of Public and Professional Guardians and may be counted
1367 as part or all of the local matching funds.
1368 Section 44. Effective January 1, 2016, section 744.701,
1369 Florida Statutes, is repealed.
1370 Section 45. Effective January 1, 2016, section 744.702,
1371 Florida Statutes, is repealed.
1372 Section 46. Effective January 1, 2016, section 744.7101,
1373 Florida Statutes, is repealed.

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1374 Section 47. Effective January 1, 2016, section 744.711,
1375 Florida Statutes, is repealed.
1376 Section 48. Effective January 1, 2016, subsection (5) of
1377 section 400.148, Florida Statutes, is amended to read:
1378 400.148 Medicaid "Up-or-Out" Quality of Care Contract
1379 Management Program.—
1380 (5) The agency shall, jointly with the ~~Statewide Public~~
1381 ~~Guardianship~~ Office of Public and Professional Guardians,
1382 develop a system in the pilot project areas to identify Medicaid
1383 recipients who are residents of a participating nursing home or
1384 assisted living facility who have diminished ability to make
1385 their own decisions and who do not have relatives or family
1386 available to act as guardians in nursing homes listed on the
1387 Nursing Home Guide Watch List. The agency and the ~~Statewide~~
1388 ~~Public Guardianship~~ Office of Public and Professional Guardians
1389 shall give such residents priority for publicly funded
1390 guardianship services.
1391 Section 49. Effective January 1, 2016, subsection (3),
1392 paragraph (c) of subsection (4), and subsections (5) and (6) of
1393 section 744.3135, Florida Statutes, are amended to read:
1394 744.3135 Credit and criminal investigation.—
1395 (3) For professional guardians, the court and the ~~Statewide~~
1396 ~~Public Guardianship~~ Office of Public and Professional Guardians
1397 shall accept the satisfactory completion of a criminal history
1398 record check by any method described in this subsection. A
1399 professional guardian satisfies the requirements of this section
1400 by undergoing an electronic fingerprint criminal history record
1401 check. A professional guardian may use any electronic
1402 fingerprinting equipment used for criminal history record

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1403 checks. The ~~Statewide Public Guardianship~~ Office of Public and
1404 Professional Guardians shall adopt a rule detailing the
1405 acceptable methods for completing an electronic fingerprint
1406 criminal history record check under this section. The
1407 professional guardian shall pay the actual costs incurred by the
1408 Federal Bureau of Investigation and the Department of Law
1409 Enforcement for the criminal history record check. The entity
1410 completing the record check must immediately send the results of
1411 the criminal history record check to the clerk of the court and
1412 the ~~Statewide Public Guardianship~~ Office of Public and
1413 Professional Guardians. The clerk of the court shall maintain
1414 the results in the professional guardian's file and shall make
1415 the results available to the court.
1416 (4)
1417 (c) The Department of Law Enforcement shall search all
1418 arrest fingerprints received under s. 943.051 against the
1419 fingerprints retained in the statewide automated biometric
1420 identification system under paragraph (b). Any arrest record
1421 that is identified with the fingerprints of a person described
1422 in this paragraph must be reported to the clerk of court. The
1423 clerk of court must forward any arrest record received for a
1424 professional guardian to the ~~Statewide Public Guardianship~~
1425 Office of Public and Professional Guardians within 5 days. Each
1426 professional guardian who elects to submit fingerprint
1427 information electronically shall participate in this search
1428 process by paying an annual fee to the ~~Statewide Public~~
1429 ~~Guardianship~~ Office of Public and Professional Guardians of the
1430 Department of Elderly Affairs and by informing the clerk of
1431 court and the ~~Statewide Public Guardianship~~ Office of Public and

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1432 Professional Guardians of any change in the status of his or her
1433 guardianship appointment. The amount of the annual fee to be
1434 imposed for performing these searches and the procedures for the
1435 retention of professional guardian fingerprints and the
1436 dissemination of search results shall be established by rule of
1437 the Department of Law Enforcement. At least once every 5 years,
1438 the ~~Statewide Public Guardianship~~ Office of Public and
1439 Professional Guardians must request that the Department of Law
1440 Enforcement forward the fingerprints maintained under this
1441 section to the Federal Bureau of Investigation.
1442 (5)(a) A professional guardian, and each employee of a
1443 professional guardian who has a fiduciary responsibility to a
1444 ward, must complete, at his or her own expense, an investigation
1445 of his or her credit history before and at least once every 2
1446 years after the date of the guardian's registration with the
1447 ~~Statewide Public Guardianship~~ Office of Public and Professional
1448 Guardians.
1449 (b) The ~~Statewide Public Guardianship~~ Office of Public and
1450 Professional Guardians shall adopt a rule detailing the
1451 acceptable methods for completing a credit investigation under
1452 this section. If appropriate, the ~~Statewide Public Guardianship~~
1453 Office of Public and Professional Guardians may administer
1454 credit investigations. If the office chooses to administer the
1455 credit investigation, the office may adopt a rule setting a fee,
1456 not to exceed $25, to reimburse the costs associated with the
1457 administration of a credit investigation.
1458 (6) The ~~Statewide Public Guardianship~~ Office of Public and
1459 Professional Guardians may inspect at any time the results of
1460 any credit or criminal history record check of a public or

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1461 professional guardian conducted under this section. The office
1462 shall maintain copies of the credit or criminal history record
1463 check results in the guardian's registration file. If the
1464 results of a credit or criminal investigation of a public or
1465 professional guardian have not been forwarded to the ~~Statewide~~
1466 ~~Public Guardianship~~ Office of Public and Professional Guardians
1467 by the investigating agency, the clerk of the court shall
1468 forward copies of the results of the investigations to the
1469 office upon receiving them.
1470 Section 50. Effective January 1, 2016, paragraph (a) of
1471 subsection (1) of section 20.415, Florida Statutes, is amended
1472 to read:
1473 20.415 Department of Elderly Affairs; trust funds.—The
1474 following trust funds shall be administered by the Department of
1475 Elderly Affairs:
1476 (1) Administrative Trust Fund.
1477 (a) Funds to be credited to and uses of the trust fund
1478 shall be administered in accordance with ss. 215.32, 744.534,
1479 and 744.2001 ~~744.7021~~.
1480 Section 51. Effective January 1, 2016, paragraph (e) of
1481 subsection (2) of section 415.1102, Florida Statutes, is amended
1482 to read:
1483 415.1102 Adult protection teams.—
1484 (2) Such teams may be composed of, but need not be limited
1485 to:
1486 (e) Public and professional guardians as described in part
1487 II ~~IX~~ of chapter 744.
1488 Section 52. Effective January 1, 2016, section 744.524,
1489 Florida Statutes, is amended to read:

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1490 744.524 Termination of guardianship on change of domicile
1491 of resident ward.—When the domicile of a resident ward has
1492 changed as provided in s. 744.1098 ~~s. 744.2025~~, and the foreign
1493 court having jurisdiction over the ward at the ward's new
1494 domicile has appointed a guardian and that guardian has
1495 qualified and posted a bond in an amount required by the foreign
1496 court, the guardian in this state may file her or his final
1497 report and close the guardianship in this state. The guardian of
1498 the property in this state shall cause a notice to be published
1499 once a week for 2 consecutive weeks, in a newspaper of general
1500 circulation published in the county, that she or he has filed
1501 her or his accounting and will apply for discharge on a day
1502 certain and that jurisdiction of the ward will be transferred to
1503 the state of foreign jurisdiction. If an objection is filed to
1504 the termination of the guardianship in this state, the court
1505 shall hear the objection and enter an order either sustaining or
1506 overruling the objection. Upon the disposition of all objections
1507 filed, or if no objection is filed, final settlement shall be
1508 made by the Florida guardian. On proof that the remaining
1509 property in the guardianship has been received by the foreign
1510 guardian, the guardian of the property in this state shall be
1511 discharged. The entry of the order terminating the guardianship
1512 in this state shall not exonerate the guardian or the guardian's
1513 surety from any liability previously incurred.
1514 Section 53. Sections 709.2109 and 744.3203, Florida
1515 Statutes, as created by this act, apply to all proceedings filed
1516 on or after July 1, 2015. The amendments made by this act to ss.
1517 744.107, 744.1075, 744.108, 744.3025, 744.3031, 744.309,
1518 744.3115, 744.312, 744.345, 744.359, 744.361, 744.367, 744.369,

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1519 744.3715, and 744.464, Florida Statutes, apply to all
1520 proceedings pending on July 1, 2015.
1521 Section 54. Except as otherwise expressly provided in this
1522 act, this act shall take effect July 1, 2015.
1523
1524 ========== T I T L E A M E N D M E N T ==========
1525 And the title is amended as follows:
1526 Delete everything before the enacting clause
1527 and insert:
1528 A bill to be entitled
1529 An act relating to guardianship; providing directives
1530 to the Division of Law Revision and Information;
1531 amending s. 709.2109, F.S.; requiring the filing of a
1532 motion before termination or suspension of a power of
1533 attorney in proceedings to determine a principal's
1534 incapacity or for appointment of a guardian advocate
1535 under certain circumstances; amending s. 744.1012,
1536 F.S.; revising legislative intent; amending ss.
1537 744.107 and 744.1075, F.S.; authorizing a court to
1538 appoint the office of criminal conflict and civil
1539 regional counsel as a court monitor in certain
1540 guardianship proceedings; amending s. 744.108, F.S.;
1541 providing that fees and costs incurred by an attorney
1542 who has rendered services to a ward in compensation
1543 proceedings are payable from guardianship assets;
1544 providing that expert testimony is not required in
1545 proceedings to determine compensation for an attorney
1546 or guardian; requiring a person offering expert
1547 testimony to provide notice to interested persons;

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1548 providing that expert witness fees are recoverable by
1549 the prevailing interested person; renumbering s.
1550 744.201, F.S.; renumbering and amending s. 744.202,
1551 F.S.; conforming a cross-reference; renumbering s.
1552 744.2025, F.S.; amending s. 744.3025, F.S.; providing
1553 that a court may appoint a guardian ad litem to
1554 represent a minor if necessary to protect the minor’s
1555 interest in a settlement; providing that a settlement
1556 of a minor’s claim is subject to certain
1557 confidentiality provisions; removing an obsolete
1558 provision; amending s. 744.3031, F.S.; requiring
1559 notification of an alleged incapacitated person and
1560 such person’s attorney of a petition for appointment
1561 of an emergency temporary guardian before a hearing on
1562 the petition commences; prohibiting the payment of the
1563 emergency temporary guardian’s final fees and his or
1564 her final attorney fees until a final report is filed;
1565 amending s. 744.309, F.S.; providing that certain for-
1566 profit corporations may act as the guardian of a
1567 person; providing conditions; requiring the posting
1568 and maintenance of a fiduciary bond; limiting
1569 liability; requiring the corporation to maintain
1570 certain insurance coverage; providing for certain
1571 grandfathered guardianships; amending s. 744.3115,
1572 F.S.; directing the court to specify authority for
1573 health care decisions with respect to a ward’s advance
1574 directive; amending s. 744.312, F.S.; prohibiting a
1575 court from giving preference to the appointment of
1576 certain persons as guardians; providing requirements

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1577 for the appointment of professional guardians;
1578 creating s. 744.3203, F.S.; providing grounds for
1579 filing a motion for suspension of a power of attorney
1580 before determination of incapacity; providing criteria
1581 for such motion; requiring a hearing under certain
1582 conditions; providing for the award of attorney fees
1583 and costs; amending s. 744.331, F.S.; directing the
1584 court to consider certain factors when determining
1585 incapacity; requiring that the examining committee be
1586 paid from state funds as court-appointed expert
1587 witnesses if a petition for incapacity is dismissed;
1588 requiring that a petitioner reimburse the state for
1589 such expert witness fees if the court finds the
1590 petition to have been filed in bad faith; conforming a
1591 provision to changes made by the act; renumbering and
1592 amending s. 744.344, F.S.; requiring that a
1593 professional guardian appointed by a court to
1594 represent an allegedly incapacitated person be
1595 selected from a registry of professional guardians;
1596 requiring the chief judge of a circuit court to
1597 compile a list of professional guardians by county and
1598 provide the list to the clerk of court in each county;
1599 providing conditions under which the court is
1600 authorized to appoint an emergency temporary guardian;
1601 amending s. 744.345, F.S.; requiring that all letters
1602 of guardianship state the extent to which the guardian
1603 is authorized to act on behalf of the ward; creating
1604 s. 744.359, F.S.; prohibiting abuse, neglect, or
1605 exploitation of a ward by a guardian; requiring

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1606 reporting thereof to the central abuse hotline of the
1607 Department of Children and Families; providing for
1608 interpretation; amending s. 744.361, F.S.; providing
1609 additional powers and duties of a guardian; amending
1610 s. 744.367, F.S.; revising the period during which a
1611 guardian must file an annual guardianship plan with
1612 the court; amending s. 744.369, F.S.; providing for
1613 the continuance of a guardian’s authority to act under
1614 an expired annual report under certain circumstances;
1615 amending s. 744.3715, F.S.; providing that an
1616 interested party may petition the court regarding a
1617 guardian’s failure to comply with the duties of a
1618 guardian; amending s. 744.464, F.S.; establishing the
1619 burden of proof for determining restoration of
1620 capacity of a ward in pending guardianship cases;
1621 requiring a court to advance such cases on the
1622 calendar; renumbering and amending s. 744.7021, F.S.;
1623 revising the responsibilities of the executive
1624 director for the Office of Public and Professional
1625 Guardians; conforming provisions to changes made by
1626 the act; renumbering and amending s. 744.1083, F.S.;
1627 deleting a provision authorizing the executive
1628 director to suspend or revoke the registration of a
1629 guardian who commits certain violations; removing the
1630 requirement of written notification to the chief judge
1631 of the judicial circuit upon the executive director’s
1632 denial, suspension, or revocation of a registration;
1633 conforming provisions to changes made by the act;
1634 conforming a cross-reference; renumbering and amending

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1635 s. 744.1085, F.S.; removing an obsolete provision;
1636 conforming provisions to changes made by the act;
1637 conforming a cross-reference; creating s. 744.2004,
1638 F.S.; requiring the Office of Public and Professional
1639 Guardians to adopt rules; requiring the office, under
1640 certain circumstances, to make a specified
1641 recommendation to a court of competent jurisdiction;
1642 renumbering and amending s. 744.703, F.S.; conforming
1643 provisions to changes made by the act; renumbering ss.
1644 744.704 and 744.705, F.S.; renumbering and amending
1645 ss. 744.706 and 744.707, F.S.; conforming provisions
1646 to changes made by the act; renumbering s. 744.709,
1647 F.S.; renumbering and amending ss. 744.708, 744.7081,
1648 and 744.7082, F.S.; conforming provisions to changes
1649 made by the act; renumbering and amending s. 744.712,
1650 F.S.; providing legislative intent; conforming
1651 provisions; renumbering and amending ss. 744.713,
1652 744.714, and 744.715, F.S.; conforming provisions to
1653 changes made by the act; repealing s. 744.701, F.S.;
1654 relating to a short title; repealing s. 744.702, F.S.;
1655 relating to legislative intent; repealing s. 744.7101,
1656 F.S.; relating to a short title; repealing s. 744.711,
1657 F.S.; relating to legislative findings and intent;
1658 amending ss. 400.148 and 744.3135, F.S.; conforming
1659 provisions to changes made by the act; amending ss.
1660 20.415, 415.1102, and 744.524, F.S.; conforming cross-
1661 references; making technical changes; providing
1662 applicability; providing effective dates.

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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/21/2015	.	
	.	
	.	
	.	

The Committee on Appropriations (Lee) recommended the following:

Senate Amendment (with title amendment)

Before line 103
insert:
Section 1. Section 709.2105, Florida Statutes, is amended to read:
709.2105 Qualifications of agent; execution of power of attorney.—
(1) The agent must be one of the following:
(a) A natural person who is 18 years of age or older. ~~or~~
(b) A financial institution that has trust powers and~~, has~~

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12 a place of business in this state~~,~~ and is authorized to conduct
13 trust business in this state.
14 (c) A not-for-profit corporation that:
15 1. Is organized for charitable or religious purposes in
16 this state;
17 2. Was qualified as a court-appointed guardian before
18 January 1, 1996; and
19 3. Is a tax-exempt organization under s. 501(c)(3) of the
20 Internal Revenue Code. However, this subparagraph applies only
21 to a corporation that acts through an individual listed in the
22 records of the Division of Corporations of the Department of
23 State as a current officer of the corporation and only upon the
24 occurrence of any of the following events:
25 a. Posting and maintenance by the corporation of a blanket
26 fiduciary bond of at least $250,000 with the clerk of the
27 circuit court in the county in which the corporation's primary
28 place of business is located. The corporation shall provide
29 proof of the fiduciary bond to the clerk of each additional
30 circuit court in which the corporation is serving as agent for a
31 resident of that circuit. The bond must cover all principals for
32 whom the corporation has been appointed as an agent at any given
33 time. The liability of the provider of the bond is limited to
34 the face value of the bond, regardless of the number of
35 principals for whom the corporation is acting as an agent. The
36 terms of the bond must cover the acts or omissions of each agent
37 or employee of the corporation who has direct contact with the
38 principal or access to the principal's assets. The bond must be
39 payable to the Governor and his or her successors in office and
40 be conditioned on the faithful performance of all duties of an

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41 agent under this chapter.
42 b. Maintenance by the corporation of a liability insurance
43 policy that covers any losses sustained by the principal caused
44 by errors, omissions, or any intentional misconduct committed by
45 the corporation's officers or agents. The policy must cover all
46 principals for whom the corporation is acting as an agent for
47 losses up to $250,000. The terms of the policy must cover acts
48 or omissions of each agent or employee of the corporation who
49 has direct contact with the principal or access to the
50 principal's assets.
51 c. Signing by the principal of a separate written
52 instrument containing the following language in 14-point
53 uppercase type:
54
55 I HAVE BEEN ADVISED THAT OFFICERS OF THE NOT-FOR-PROFIT
56 CORPORATION HAVE DECLINED TO AGREE TO BE JOINTLY AND SEVERALLY
57 LIABLE WITH THE NOT-FOR-PROFIT CORPORATION FOR ACTS OR OMISSIONS
58 OCCURRING IN THE EXERCISE OF THE POWER OF ATTORNEY EXECUTED
59 UNDER CHAPTER 709, FLORIDA STATUTES.
60
61 I HAVE ALSO BEEN ADVISED THAT THE NOT-FOR-PROFIT CORPORATION
62 THAT I HAVE NAMED AS MY AGENT UNDER MY POWER OF ATTORNEY HAS
63 ELECTED NOT TO POST AND MAINTAIN A FIDUCIARY BOND OR MAINTAIN
64 INSURANCE IN ACCORDANCE WITH SECTION 709.2105(1)(c), FLORIDA
65 STATUTES.
66
67 I UNDERSTAND THAT THE ASSETS OF THE NOT-FOR-PROFIT CORPORATION
68 MAY NOT BE SUFFICIENT TO COVER LIABILITY ARISING FROM AN ERROR,
69 AN OMISSION, OR ANY INTENTIONAL MISCONDUCT COMMITTED BY AN

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70 EMPLOYEE OR AGENT OF THE CORPORATION.
71
72 d. Designation of the corporation by a principal as an
73 agent under a power of attorney and the corporation acts as an
74 agent for the principal. However, each officer of the
75 corporation is jointly and severally liable with the corporation
76 for acts and omissions under the power of attorney and this
77 chapter which occur when there is no fiduciary bond as provided
78 in sub-subparagraph a., liability insurance as provided in sub-
79 subparagraph b., or signed acknowledgement as provided in sub-
80 subparagraph c.
81 (2) A power of attorney must be signed by the principal and
82 by two subscribing witnesses and be acknowledged by the
83 principal before a notary public or as otherwise provided in s.
84 695.03.
85 (3) If the principal is physically unable to sign the power
86 of attorney, the notary public before whom the principal's oath
87 or acknowledgment is made may sign the principal's name on the
88 power of attorney pursuant to s. 117.05(14).
89
90 ========== T I T L E A M E N D M E N T ==========
91 And the title is amended as follows:
92 Between lines 2 and 3
93 insert:
94 s. 709.2105, F.S.; revising the qualifications of an
95 agent in the execution of power of attorney to include
96 certain not-for-profit corporations; providing
97 criteria for such corporations; amending

By the Committee on Judiciary; and Senators Diaz de la Portilla and Detert

A bill to be entitled

An act relating to guardianship proceedings; amending s. 709.2109, F.S.; revising the conditions under which an agent's power of attorney is terminated or suspended or continues; amending s. 709.2119, F.S.; revising the contents of an affidavit by an agent to a third person; creating s. 744.1065, F.S.; authorizing a court to refer guardianship matters to mediation or alternative dispute resolution under certain circumstances; amending ss. 744.107 and 744.1075, F.S.; authorizing a court to appoint the office of criminal conflict and civil regional counsel as a court monitor in guardianship proceedings under certain circumstances; amending s. 744.108, F.S.; providing that fees and costs incurred by specified attorneys in compensation proceedings are payable from the assets of the guardianship estate; providing that expert testimony is not required in proceedings to determine compensation for an attorney or guardian; providing that expert witness fees are payable from the assets of the guardianship estate under certain circumstances; amending s. 744.3025, F.S.; clarifying the circumstances under which a court may appoint a guardian ad litem to represent a minor; clarifying the circumstances under which a court must appoint a guardian ad litem; providing that a settlement of a minor's claim is subject to certain confidentiality provisions; amending s. 744.3031, F.S.; requiring that a duly noticed hearing be held before the appointment

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of an emergency temporary guardian; requiring a notice of filing of a petition for appointment of an emergency temporary guardian and a notice for any hearing on the petition to be served on certain persons before a hearing on the petition commences; revising the period for which an emergency temporary guardian may be appointed; prohibiting the final payment of the emergency temporary guardian fees and his or her attorney fees until the final report is filed; requiring a court to issue an order to show cause to an emergency temporary guardian who fails to timely file his or her final report; authorizing a court to take certain actions to protect the ward before a hearing on an order to show cause; requiring a copy of such order to be transmitted to certain parties; authorizing the court to impose sanctions on the emergency temporary guardian or take certain other actions after a show cause hearing; amending s. 744.309, F.S.; providing that certain corporations not for profit may act as guardians of a ward; amending s. 744.3115, F.S.; requiring the court to specify authority for health care decisions with respect to a ward's advance directive; requiring a court order revoking or modifying the authority of a health care surrogate to be supported by written findings of fact; amending s. 744.312, F.S.; requiring a court, in determining whom to appoint as a guardian, to consider the wishes of the close relatives of the incapacitated person under certain circumstances; limiting the

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authority of a court to appoint guardians under certain circumstances; authorizing the court to waive the limitations under certain circumstances; prohibiting the court from appointing a professional guardian as a permanent guardian under certain circumstances; creating s. 744.3203, F.S.; providing for the suspension of a power of attorney during guardianship proceedings under certain circumstances; requiring an expedited hearing on the motion to suspend a power of attorney under certain circumstances; authorizing a court to award reasonable attorney fees and costs to an agent who challenges the suspension of the power of attorney under certain circumstances; amending s. 744.345, F.S.; revising the circumstances under which letters of guardianship must describe the extent to which a guardian is authorized to act on behalf of the ward with regard to an advance directive; creating s. 744.359, F.S.; prohibiting abuse, neglect, or exploitation of a ward by a guardian; requiring the report of abuse, neglect, or exploitation to the Department of Children and Families central abuse hotline; amending s. 744.361, F.S.; revising the powers and duties of a guardian; amending s. 744.367, F.S.; revising the period during which a guardian must file an annual guardianship plan with the court; amending s. 744.369, F.S.; providing for the continuance of a guardian's authority to act under a last approved annual report under certain circumstances; amending s. 744.3715, F.S.; providing

an additional circumstance under which an interested person may petition the court regarding a guardian's failure to comply with the duties of a guardian; amending s. 744.464, F.S.; establishing the burden of proof for determining restoration of capacity of a ward in pending guardianship cases; requiring the court to make findings of fact in its determination to restore or deny capacity; providing that the ward has the burden of proving by a preponderance of the evidence; requiring a court to advance such cases on the calendar; providing applicability; providing an effective date.

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

Section 1. Subsection (3) of section 709.2109, Florida Statutes, is amended to read:

709.2109 Termination or suspension of power of attorney or agent's authority.—

(3)(a) If a power of attorney is suspended during ~~any person initiates~~ judicial proceedings to determine the principal's incapacity or for the appointment of a guardian advocate, the authority granted under the power of attorney is suspended until the petition is dismissed or withdrawn or the court enters an order authorizing the agent to exercise one or more powers granted under the power of attorney.

~~(a) If an emergency arises after initiation of proceedings to determine incapacity and before adjudication regarding the principal's capacity, the agent may petition the court in which~~

117 ~~the proceeding is pending for authorization to exercise a power~~
118 ~~granted under the power of attorney. The petition must set forth~~
119 ~~the nature of the emergency, the property or matter involved,~~
120 ~~and the power to be exercised by the agent.~~
121 (b) Notwithstanding the provisions of this section, unless
122 otherwise ordered by the court, a proceeding to determine
123 incapacity does not affect the authority of the agent to make
124 health care decisions for the principal, including, but not
125 limited to, those provided in chapter 765. If the principal has
126 executed a health care advance directive designating a health
127 care surrogate, the terms of the directive control if the
128 directive and the power of attorney are in conflict unless the
129 power of attorney is later executed and expressly states
130 otherwise.
131 Section 2. Paragraphs (a) and (c) of subsection (2) of
132 section 709.2119, Florida Statutes, are amended, and subsection
133 (3) of that section is republished, to read:
134 709.2119 Acceptance of and reliance upon power of
135 attorney.—
136 (2) A third person may require:
137 (a) An agent to execute an affidavit stating where the
138 principal is domiciled; that the principal is not deceased; that
139 there has been no revocation, or partial or complete termination
140 by adjudication of incapacity or by the occurrence of an event
141 referenced in the power of attorney; that the power of attorney
142 is not under a suspension as the result ~~there has been no~~
143 ~~suspension by initiation~~ of proceedings to determine incapacity,
144 or to appoint a guardian, of the principal; that the agent's
145 authority has not been terminated by the filing of an action for

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146 dissolution or annulment of marriage or legal separation of the
147 agent and principal; and, if the affiant is a successor agent,
148 the reasons for the unavailability of the predecessor agents, if
149 any, at the time the authority is exercised.
150 (c) A written affidavit executed by the agent under this
151 subsection may, but need not, be in the following form:
152
153 STATE OF.....
154 COUNTY OF.....
155
156 Before me, the undersigned authority, personally appeared
157 ...(agent)... ("Affiant"), who swore or affirmed that:
158 1. Affiant is the agent named in the Power of Attorney
159 executed by ...(principal)... ("Principal") on ...(date)....
160 2. This Power of Attorney is currently exercisable by
161 Affiant. The principal is domiciled in ...(insert name of state,
162 territory, or foreign country)....
163 3. To the best of Affiant's knowledge after diligent search
164 and inquiry:
165 a. The Principal is not deceased;
166 b. Affiant's authority for the specific transaction has not
167 been suspended during ~~by initiation of~~ proceedings to determine
168 incapacity or to appoint a guardian or a guardian advocate;
169 c. Affiant's authority has not been terminated by the
170 filing of an action for dissolution or annulment of Affiant's
171 marriage to the principal, or their legal separation; and
172 d. There has been no revocation, or partial or complete
173 termination, of the power of attorney or of Affiant's authority.
174 4. Affiant is acting within the scope of authority granted

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175 in the power of attorney.
176 5. Affiant is the successor to ...(insert name of
177 predecessor agent)..., who has resigned, died, become
178 incapacitated, is no longer qualified to serve, has declined to
179 serve as agent, or is otherwise unable to act, if applicable.
180 6. Affiant agrees not to exercise any powers granted by the
181 Power of Attorney if Affiant attains knowledge that the power of
182 attorney has been revoked, has been partially or completely
183 terminated or suspended, or is no longer valid because of the
184 death or adjudication of incapacity of the Principal.
185
186 .....
187 ...(Affiant)...
188
189 Sworn to (or affirmed) and subscribed before me this ....
190 day of ...(month)..., ...(year)..., by ...(name of person making
191 statement)...
192
193 ...(Signature of Notary Public-State of Florida)...
194
195 ...(Print, Type, or Stamp Commissioned Name of Notary Public)...
196
197 Personally Known OR Produced Identification
198 ...(Type of Identification Produced)...
199 (3) A third person who is asked to accept a power of
200 attorney that appears to be executed in accordance with s.
201 709.2105 may in good faith request, and rely upon, without
202 further investigation:
203 (a) A certified English translation of the power of

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204 attorney if the power of attorney contains, in whole or in part,
205 language other than English;
206 (b) An opinion of counsel as to any matter of law
207 concerning the power of attorney if the third person making the
208 request provides in a writing or other record the reason for the
209 request; or
210 (c) The affidavit described in subsection (2).
211 Section 3. Section 744.1065, Florida Statutes, is created
212 to read:
213 744.1065 Mediation; alternative dispute resolution.—At any
214 time, the court may, upon its own motion or the motion of an
215 interested person, refer a matter under the jurisdiction of this
216 chapter to mediation or alternative dispute resolution if the
217 court finds that mediation or alternative dispute resolution is
218 in the best interests of the alleged incapacitated person, ward,
219 or minor.
220 Section 4. Subsection (5) is added to section 744.107,
221 Florida Statutes, to read:
222 744.107 Court monitors.—
223 (5) The court may appoint the office of criminal conflict
224 and civil regional counsel as monitor if the ward is indigent.
225 Section 5. Subsection (6) is added to section 744.1075,
226 Florida Statutes, to read:
227 744.1075 Emergency court monitor.—
228 (6) The court may appoint the office of criminal conflict
229 and civil regional counsel as monitor if the ward is indigent.
230 Section 6. Subsections (5) and (8) of section 744.108,
231 Florida Statutes, are amended, and subsection (9) is added to
232 that section, to read:

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233 744.108 Guardian ~~Guardian's~~ and attorney ~~attorney's~~ fees
234 and expenses.—
235 (5) All petitions for guardian ~~guardian's~~ and attorney
236 ~~attorney's~~ fees and expenses must be accompanied by an itemized
237 description of the services performed for the fees and expenses
238 sought to be recovered.
239 (8) When court proceedings are instituted to review or
240 determine guardian ~~a guardian's~~ or attorney ~~an attorney's~~ fees
241 under subsection (2), such proceedings are part of the
242 guardianship administration process and the costs, including
243 costs and attorney fees for the guardian's attorney, an attorney
244 appointed under s. 744.331(2), or an attorney who has rendered
245 services to the ward, shall be determined by the court and paid
246 from the assets of the guardianship estate unless the court
247 finds the requested compensation under subsection (2) to be
248 substantially unreasonable.
249 (9) With respect to a request for compensation by the
250 guardian, the guardian's attorney, a person employed by the
251 guardian, an attorney appointed under s. 744.331(2), or an
252 attorney who has rendered services to the ward, the court may
253 determine the compensation to be reasonable without receiving
254 expert testimony. A person or party may offer expert testimony
255 for or against a request for compensation after giving notice to
256 interested persons. If expert testimony is offered, the court
257 shall award reasonable expert witness fees to the prevailing
258 interested person, which must be paid from the assets of the
259 guardianship estate.
260 Section 7. Section 744.3025, Florida Statutes, is amended
261 to read:

262 744.3025 Claims of minors.—
263 (1)(a) The court may appoint a guardian ad litem to
264 represent the minor's interest before approving a settlement of
265 the minor's portion of the claim in a ~~any~~ case in which a minor
266 has a claim for personal injury, property damage, wrongful
267 death, or other cause of action in which the gross settlement of
268 the claim exceeds $15,000 if the court believes a guardian ad
269 litem is necessary to protect the minor's interest.
270 (b) Except as provided in paragraph (e), the court shall
271 appoint a guardian ad litem to represent the minor's interest
272 before approving a settlement of the minor's claim in a ~~any~~ case
273 in which the gross settlement involving a minor equals or
274 exceeds $50,000.
275 (c) The appointment of the guardian ad litem must be
276 without the necessity of bond or notice.
277 (d) The duty of the guardian ad litem is to protect the
278 minor's interests as described in the Florida Probate Rules.
279 (e) A court need not appoint a guardian ad litem for the
280 minor if a guardian of the minor has previously been appointed
281 and that guardian has no potential adverse interest to the
282 minor. ~~A court may appoint a guardian ad litem if the court~~
283 ~~believes a guardian ad litem is necessary to protect the~~
284 ~~interests of the minor.~~
285 (2) Unless waived, the court shall award reasonable fees
286 and costs to the guardian ad litem to be paid out of the gross
287 proceeds of the settlement.
288 (3) A settlement of a claim pursuant to this section is
289 subject to the confidentiality provisions of this chapter.
290 Section 8. Section 744.3031, Florida Statutes, is amended

291 to read:
292 744.3031 Emergency temporary guardianship.—
293 (1) A court, prior to appointment of a guardian but after a
294 petition for determination of incapacity has been filed pursuant
295 to this chapter, and after a duly noticed hearing has been held,
296 may appoint an emergency temporary guardian for the person or
297 property, or both, of an alleged incapacitated person. The court
298 must specifically find that there appears to be imminent danger
299 that the physical or mental health or safety of the person will
300 be seriously impaired or that the person's property is in danger
301 of being wasted, misappropriated, or lost unless immediate
302 action is taken. The subject of the proceeding or any adult
303 interested in the welfare of that person may apply to the court
304 in which the proceeding is pending for the emergency appointment
305 of a temporary guardian. The powers and duties of the emergency
306 temporary guardian must be specifically enumerated by court
307 order. The court shall appoint counsel to represent the alleged
308 incapacitated person during any such summary proceedings, and
309 such appointed counsel may request that the proceeding be
310 recorded and transcribed.
311 (2) The court may appoint an emergency temporary guardian
312 on its own motion if no petition for appointment of guardian has
313 been filed at the time of entry of an order determining
314 incapacity.
315 (3) Notice of filing of a petition for appointment of an
316 emergency temporary guardian and notice of any hearing on the
317 petition must be served on the alleged incapacitated person and
318 on the alleged incapacitated person's attorney at least 24 hours
319 before a hearing is held on the petition unless the petitioner

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320 demonstrates that substantial harm to the alleged incapacitated
321 person will occur if the 24-hour notice is given.
322 (4) ~~(3)~~ The authority of an emergency temporary guardian
323 expires 60 ~~90~~ days after the date of appointment or when a
324 guardian is appointed, whichever occurs first. The authority of
325 the emergency temporary guardian may be extended for an
326 additional 60 ~~90~~ days after a hearing is held and upon a showing
327 that the emergency conditions still exist.
328 (5) ~~(4)~~ The court may issue an injunction, restraining
329 order, or other appropriate writ to protect the physical or
330 mental health or safety of the person who is the ward of the
331 emergency temporary guardianship.
332 (6) ~~(5)~~ The emergency temporary guardian shall take an oath
333 to faithfully perform the duties of a guardian before letters of
334 emergency temporary guardianship are issued.
335 (7) ~~(6)~~ The court may require that, before exercising
336 authority as guardian, the emergency temporary guardian of the
337 property ~~may be required to~~ file a bond in accordance with s.
338 744.351.
339 (8) ~~(7)~~ An emergency temporary guardian's authority and
340 responsibility begins upon issuance of letters of emergency
341 temporary guardianship in accordance with s. 744.345.
342 (9) ~~(8)~~(a) An emergency temporary guardian shall file a
343 final report no later than 30 days after the expiration of the
344 emergency temporary guardianship.
345 (b) A court may not authorize any final payment of the
346 emergency temporary guardian fees or the fees of his or her
347 attorney until the final report is filed.
348 (c)1. If the final report is not timely filed, the court

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349 shall issue to the emergency temporary guardian an order to show
350 cause which requires the emergency temporary guardian to appear
351 before the court and explain why the court should not take
352 further action. The order must specify the time and place of the
353 hearing within a reasonable time after service of the order to
354 allow for the preparation of a defense.
355 2. At any time before the hearing on the order to show
356 cause, the court may suspend the emergency temporary guardian if
357 he or she has become a successor guardian, appoint a guardian ad
358 litem, or issue any other appropriate order to protect the
359 physical or mental health, safety, or property of the ward. A
360 copy of any such order shall be transmitted by the court or
361 under its direction to all parties at the time of entry of the
362 order or injunction.
363 3. After the hearing on the order to show cause, the court
364 may impose sanctions on the emergency temporary guardian or take
365 any other action authorized by law, including, but not limited
366 to, entering a judgment of contempt; ordering an accounting;
367 freezing assets; referring the case to local law enforcement
368 agencies or the state attorney; filing an abuse, neglect, or
369 exploitation complaint with the Department of Children and
370 Families; and initiating proceedings to remove the emergency
371 temporary guardian if he or she has become a successor guardian.
372 (d) ~~(b)~~ If an emergency temporary guardian is a guardian for
373 the property, the final report must consist of a verified
374 inventory of the property, as provided in s. 744.365, as of the
375 date the letters of emergency temporary guardianship were
376 issued, a final accounting that gives a full and correct account
377 of the receipts and disbursements of all the property of the

378 ward over which the guardian had control, and a statement of the
379 property of the ward on hand at the end of the emergency
380 temporary guardianship. If the emergency temporary guardian
381 becomes the successor guardian of the property, the final report
382 must satisfy the requirements of the initial guardianship report
383 for the guardian of the property as provided in s. 744.362.
384 (e) ~~(c)~~ If the emergency temporary guardian is a guardian of
385 the person, the final report must summarize the activities of
386 the temporary guardian with regard to residential placement,
387 medical condition, mental health and rehabilitative services,
388 and the social condition of the ward to the extent of the
389 authority granted to the temporary guardian in the letters of
390 guardianship. If the emergency temporary guardian becomes the
391 successor guardian of the person, the report must satisfy the
392 requirements of the initial report for a guardian of the person
393 as stated in s. 744.362.
394 (f) ~~(d)~~ A copy of the final report of the emergency
395 temporary guardianship shall be served on the successor guardian
396 and the ward.
397 Section 9. Subsection (1) of section 744.309, Florida
398 Statutes, is amended to read:
399 744.309 Who may be appointed guardian of a resident ward.—
400 (1) RESIDENT.—
401 (a) Any resident of this state who is sui juris and is 18
402 years of age or older is qualified to act as guardian of a ward.
403 (b) A corporation not for profit incorporated pursuant to
404 chapter 617 is qualified to act as guardian of a ward if the
405 corporation is a charitable organization that is exempt from
406 taxation under s. 501(c)(3) of the Internal Revenue Code and the

corporation is registered as a professional guardian pursuant to s. 744.1083.

(c) A justice or ~~No~~ judge may not ~~shall~~ act as guardian unless ~~after this law becomes effective, except when~~ he or she is related to the ward by blood, marriage, or adoption, or has maintained a close relationship with the ward or the ward's family, and serves without compensation.

Section 10. Section 744.3115, Florida Statutes, is amended to read:

744.3115 Advance directives for health care.—In each proceeding in which a guardian is appointed under this chapter, the court shall determine whether the ward, prior to incapacity, has executed any valid advance directive under chapter 765. If any advance directive exists, the court shall specify in its order and letters of guardianship what authority, if any, the guardian shall exercise over the ward with regard to health care decisions and what authority, if any, the surrogate shall continue to exercise over the ward with regard to health care decisions ~~surrogate~~. Pursuant to the grounds listed in s. 765.105, the court, upon its own motion, may, with notice to the surrogate and any other appropriate parties, modify or revoke the authority of the surrogate to make health care decisions for the ward. Any order revoking or modifying the authority of the surrogate must be supported by specific written findings of fact. If the court order provides that the guardian is responsible for making health care decisions for the ward, the guardian shall assume the responsibilities of the surrogate which are provided in s. 765.205. For purposes of this section, the term "health care decision" has the same meaning as in s.

765.101.

Section 11. Section 744.312, Florida Statutes, is reordered and amended to read:

744.312 Considerations in appointment of guardian.—

(2)~~(1)~~ If a guardian cannot be appointed pursuant to subsection (1) ~~Subject to the provisions of subsection (4)~~, the court may appoint any person who is fit and proper and qualified to act as guardian, whether related to the ward or not.

~~(2)~~ The court shall give preference to the appointment of a person who:

(a) Is related by blood or marriage to the ward;

(b) Has educational, professional, or business experience relevant to the nature of the services sought to be provided;

(c) Has the capacity to manage the financial resources involved; or

(d) Has the ability to meet the requirements of the law and the unique needs of the individual case.

(3) The court shall also consider all of the following:

(a) ~~Consider~~ The wishes expressed by an incapacitated person as to who shall be appointed guardian.~~;~~

(b) ~~Consider~~ The preference of a minor who is at least ~~age~~ 14 years of age ~~or over~~ as to who should be appointed guardian.~~;~~

(c) ~~Consider~~ Any person designated as guardian in any will in which the ward is a beneficiary.

(d) The wishes of close relatives of the incapacitated person if the person cannot express a preference.

(4) Unless a court appoints a standby or preneed guardian, the court:

(a) Must use a rotation system for the appointment of the

465 guardian or support its order appointing a guardian with written
466 findings of fact for each factor in subsections (2) and (3).
467 (b) May not give preference to the appointment of a person
468 under subsection (2) solely based on the fact that the person
469 was appointed by the court to serve as an emergency temporary
470 guardian.
471 (c) May not appoint as the permanent guardian a
472 professional guardian who served as an emergency temporary
473 guardian for the incapacitated person.
474 (5) The limitations in paragraphs (4)(b) and (c) apply only
475 if an interested person objects to the appointment of the
476 guardian. However, the court may waive the limitations if the
477 special requirements of the guardianship demand that the court
478 appoint a guardian who has a special talent or specific prior
479 experience. The court must make specific findings of fact which
480 justify such special requirements, which require an appointment
481 without reference to the limitations in paragraphs (4)(b) and
482 (c).
483 (1)~~(4) If the person designated is qualified to serve~~
484 ~~pursuant to s. 744.309,~~ The court shall appoint as guardian any
485 standby guardian or preneed guardian who is qualified as
486 guardian under s. 744.309, unless the court determines that
487 appointing the ~~such~~ person is contrary to the best interests of
488 the ward.
489 Section 12. Section 744.3203, Florida Statutes, is created
490 to read:
491 744.3203 Suspension of power of attorney before incapacity
492 determination.—
493 (1) At any time during proceedings to determine incapacity

494 but before the entry of an order determining incapacity, an
495 alleged incapacitated person's power of attorney is suspended
496 when the petitioner files a motion stating that a specific power
497 of attorney should be suspended or modified for any of the
498 following grounds:
499 (a) The agent's decisions are not in accord with the
500 alleged incapacitated person's known desires.
501 (b) The power of attorney is invalid.
502 (c) The agent has failed to discharge duties, or incapacity
503 or illness renders the agent incapable of discharging duties.
504 (d) The agent has abused powers.
505
506 Grounds for suspending a power of attorney do not include the
507 existence of a dispute between the agent and the petitioner
508 which is more appropriate for resolution in some other forum or
509 a legal proceeding other than a guardianship proceeding.
510 (2) The motion must:
511 (a) Identify one or more of the grounds in subsection (1);
512 (b) Include specific statements of fact showing that
513 grounds exist to justify the relief sought; and
514 (c) Include the following statement: "Under penalties of
515 perjury, I declare that I have read the foregoing motion and
516 that the facts stated in it are true," followed by the signature
517 of the petitioner.
518 (3) Upon the filing of a response to the motion by the
519 agent under the power of attorney, the court shall schedule the
520 motion for an expedited hearing. Unless an emergency has arisen
521 and the agent's response sets forth the nature of the emergency,
522 the property or matter involved, and the power to be exercised

523 by the agent, notice must be given to all interested persons,
524 the alleged incapacitated person, and the alleged incapacitated
525 person's attorney. The court order following the hearing must
526 set forth what powers the agent is permitted to exercise, if
527 any, pending the outcome of the petition to determine
528 incapacity.
529 (4) In addition to any other remedy authorized by law, a
530 court may award reasonable attorney fees and costs to an agent
531 who successfully challenges the suspension of the power of
532 attorney if the petitioner's motion contains false or incomplete
533 statements, was made in bad faith, or fails to contain
534 sufficient factual allegations.
535 Section 13. Section 744.345, Florida Statutes, is amended
536 to read:
537 744.345 Letters of guardianship.—Letters of guardianship
538 shall be issued to the guardian and shall specify whether the
539 guardianship pertains to the person, or the property, or both,
540 of the ward. The letters must state whether the guardianship is
541 plenary or limited, and, if limited, the letters must state the
542 powers and duties of the guardian. ~~If the guardianship is~~
543 ~~limited,~~ The letters shall state whether or not and to what
544 extent the guardian is authorized to act on behalf of the ward
545 with regard to any advance directive previously executed by the
546 ward.
547 Section 14. Section 744.359, Florida Statutes, is created
548 to read:
549 744.359 Abuse, neglect, or exploitation by a guardian.—
550 (1) A guardian may not abuse, neglect, or exploit a ward.
551 (2) A guardian commits exploitation when the guardian:

552 (a) Commits fraud in obtaining appointment as a guardian.
553 (b) Abuses his or her powers.
554 (c) Wastes, embezzles, or intentionally mismanages the
555 assets of the ward.
556 (3) A person who believes that a guardian is abusing,
557 neglecting, or exploiting a ward, including criminal
558 exploitation of a ward as prohibited in s. 825.103, shall report
559 the conduct to the central abuse hotline of the Department of
560 Children and Families.
561 Section 15. Section 744.361, Florida Statutes, is amended
562 to read:
563 744.361 Powers and duties of guardian.—
564 (1) The guardian of an incapacitated person is a fiduciary
565 and may exercise only those rights that have been removed from
566 the ward and delegated to the guardian. The guardian of a minor
567 shall exercise the powers of a plenary guardian.
568 (2) The guardian shall act within the scope of the
569 authority granted by the court and as provided by law.
570 (3) The guardian shall act in good faith.
571 (4) The guardian may not act in a manner that is contrary
572 to the ward's best interests under the circumstances.
573 (5) A guardian who has special skills or expertise, or is
574 appointed in reliance upon the guardian's representation that
575 the guardian has special skills or expertise, shall use those
576 special skills or expertise when acting on behalf of the ward.
577 (6) ~~(2)~~ The guardian shall file an initial guardianship
578 report in accordance with s. 744.362.
579 (7) ~~(3)~~ The guardian shall file a guardianship report
580 annually in accordance with s. 744.367.

581 (8) ~~(4)~~ The guardian of the person shall implement the
582 guardianship plan.
583 (9) ~~(5)~~ When two or more guardians have been appointed, the
584 guardians shall consult with each other.
585 (10) ~~(6)~~ A guardian who is given authority over any property
586 of the ward shall:
587 (a) Protect and preserve the property and invest it
588 prudently as provided in chapter 518, apply it as provided in s.
589 744.397, and keep clear, distinct, and accurate records of the
590 administration of the ward's property ~~account for it faithfully~~.
591 (b) Perform all other duties required of him or her by law.
592 (c) At the termination of the guardianship, deliver the
593 property of the ward to the person lawfully entitled to it.
594 (11) ~~(7)~~ The guardian shall observe the standards in dealing
595 with the guardianship property that would be observed by a
596 prudent person dealing with the property of another~~, and, if the~~
597 ~~guardian has special skills or is named guardian on the basis of~~
598 ~~representations of special skills or expertise, he or she is~~
599 ~~under a duty to use those skills~~.
600 (12) ~~(8)~~ The guardian, if authorized by the court, shall
601 take possession of all of the ward's property and of the rents,
602 income, issues, and profits from it, whether accruing before or
603 after the guardian's appointment, and of the proceeds arising
604 from the sale, lease, or mortgage of the property or of any
605 part. All of the property and the rents, income, issues, and
606 profits from it are assets in the hands of the guardian for the
607 payment of debts, taxes, claims, charges, and expenses of the
608 guardianship and for the care, support, maintenance, and
609 education of the ward or the ward's dependents, as provided for

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

610 under the terms of the guardianship plan or by law.
611 (13) Recognizing that every individual has unique needs and
612 abilities, a guardian who is given authority over a ward's
613 person shall, as appropriate under the circumstances:
614 (a) Consider the expressed desires of the ward as known by
615 the guardian when making decisions that affect the ward.
616 (b) Allow the ward to maintain contact with family and
617 friends unless the guardian believes that such contact may cause
618 harm to the ward.
619 (c) Not restrict the physical liberty of the ward more than
620 reasonably necessary to protect the ward or another person from
621 serious physical injury, illness, or disease.
622 (d) Assist the ward in developing or regaining his or her
623 own capacity, if medically possible.
624 (e) Notify the court if the guardian believes that the ward
625 has regained capacity and that one or more of the rights that
626 have been removed should be restored to the ward.
627 (f) To the extent applicable, make provision for the
628 medical, mental, rehabilitative, or personal care services for
629 the welfare of the ward.
630 (g) To the extent applicable, acquire a clear understanding
631 of the risks and benefits of a recommended course of health care
632 treatment before making a health care decision.
633 (h) Evaluate the ward's medical and health care options,
634 financial resources, and desires when making residential
635 decisions that are best suited for the current needs of the
636 ward.
637 (i) Advocate on behalf of the ward in institutional and
638 other residential settings and regarding access to home and

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

639 community-based services.
640 (j) Acquire an understanding of the available residential
641 options and give priority to home and other community-based
642 services and settings when not inconsistent with the person's
643 goals, needs, and preferences.
644 (14) ~~(9)~~ A professional guardian must ensure that each of
645 the guardian's wards is personally visited by the guardian or
646 one of the guardian's professional staff at least once each
647 calendar quarter. During the personal visit, the guardian or the
648 guardian's professional staff person shall assess:
649 (a) The ward's physical appearance and condition.
650 (b) The appropriateness of the ward's current living
651 situation.
652 (c) The need for any additional services and the necessity
653 for continuation of existing services, taking into consideration
654 all aspects of social, psychological, educational, direct
655 service, health, and personal care needs.
656 (d) The nature and extent of visitation and communication
657 with the ward's family and friends.
658
659 This subsection does not apply to a professional guardian who
660 has been appointed only as guardian of the property.
661 Section 16. Subsection (1) of section 744.367, Florida
662 Statutes, is amended to read:
663 744.367 Duty to file annual guardianship report.—
664 (1) Unless the court requires filing on a calendar-year
665 basis, each guardian of the person shall file with the court an
666 annual guardianship plan at least 60 days, but no more than
667 ~~within~~ 90 days, before ~~after~~ the last day of the anniversary

668 month that the letters of guardianship were signed, and the plan
669 must cover the coming fiscal year, ending on the last day in
670 such anniversary month. If the court requires calendar-year
671 filing, the guardianship plan for the forthcoming calendar year
672 must be filed on or after September 1, but no later than
673 December 1, of the current year ~~before April 1 of each year~~.
674 Section 17. Subsection (8) of section 744.369, Florida
675 Statutes, is amended to read:
676 744.369 Judicial review of guardianship reports.—
677 (8) The approved report constitutes the authority for the
678 guardian to act in the forthcoming year. The powers of the
679 guardian are limited by the terms of the report. The annual
680 report may not grant additional authority to the guardian
681 without a hearing, as provided for in s. 744.331, to determine
682 that the ward is incapacitated to act in that matter. Unless the
683 court orders otherwise, the guardian may continue to act under
684 authority of the last approved report until the forthcoming
685 year's report is approved.
686 Section 18. Subsection (1) of section 744.3715, Florida
687 Statutes, is amended to read:
688 744.3715 Petition for interim judicial review.—
689 (1) At any time, any interested person, including the ward,
690 may petition the court for review alleging that the guardian is
691 not complying with the guardianship plan, ~~or~~ is exceeding his or
692 her authority under the guardianship plan, is acting in manner
693 contrary to s. 744.361, is denying visitation between the ward
694 and his or her relatives in violation of s. 744.361(13), or ~~and~~
695 ~~the guardian~~ is not acting in the best interest of the ward. The
696 petition for review must state the nature of the objection to

697 the guardian's action or proposed action. Upon the filing of any
698 such petition, the court shall review the petition and act upon
699 it expeditiously.
700 Section 19. Paragraphs (a) and (b) of subsection (3) of
701 section 744.464, Florida Statutes, are amended, and subsection
702 (4) is added to that section, to read:
703 744.464 Restoration to capacity.—
704 (3) ORDER OF RESTORATION.—
705 (a) If no objections are filed~~,~~ and the court is satisfied
706 that ~~with~~ the medical examination establishes by a preponderance
707 of the evidence that restoration of all or some of the ward's
708 rights is appropriate, the court shall enter an order of
709 restoration of capacity, restoring all or some of the rights
710 that ~~which~~ were removed from the ward in accordance with those
711 findings. ~~The order must be issued within 30 days after the~~
712 ~~medical report is filed.~~
713 (b) At the conclusion of a hearing, conducted pursuant to
714 s. 744.1095, the court shall make specific findings of fact and,
715 based on a preponderance of the evidence, enter an order either
716 denying the suggestion of capacity or restoring all or some of
717 the rights that ~~which~~ were removed from the ward. The ward has
718 the burden of proving by a preponderance of the evidence that
719 the restoration of capacity is warranted.
720 (4) TIMELINESS OF HEARING.—The court shall give priority to
721 any suggestion of capacity and shall advance the cause on the
722 calendar.
723 Section 20. The amendments made by this act apply to all
724 proceedings pending on the effective date of this act.
725 Section 21. This act shall take effect upon becoming a law.

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THE FLORIDA SENATE

APPEARANCE RECORD

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

4/21/2015
Meeting Date

Topic _____ Bill Number 318 *(if applicable)*

Name BRIAN PITTS Amendment Barcode _____ *(if applicable)*

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH
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SAINT PETERSBURG FLORIDA 33705
City *State* *Zip*

Phone 727-897-9291

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)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/21/15
Meeting Date

318
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic: Guardianship

Name: Zayne Smith

Job Title: Associate State Director

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Tallahassee, FL 32301
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Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☑ In Support ☐ Against
(The Chair will read this information into the record.)

Representing: AARP

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 (10/14/14)

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 Appropriations

BILL: CS/CS/CS/SB 532

INTRODUCER: Appropriations Committee; Finance and Tax Committee; Health Policy Committee; and Senator Grimsley

SUBJECT: Access to Health Care Services

DATE: April 24, 2015 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Harper/Stovall	Stovall	HP	**Fav/CS**
2.	Gross	Diez-Arguelles	FT	**Fav/CS**
3.	Gross	Kynoch	AP	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/CS/SB 532 provides express authority for an advanced registered nurse practitioner to order any medication for administration to a patient in a hospital, ambulatory surgical center, or mobile surgical facility within the framework of an established protocol. The bill provides express authority in chapter 893, Florida Statutes, the Florida Comprehensive Drug Abuse Prevention and Control Act, for a supervisory physician to authorize a physician assistant or an advanced registered nurse practitioner to order controlled substances for administration to a patient in a hospital, ambulatory surgical center, or mobile surgical facility.

The bill makes changes to chapter 465, Florida Statutes, relating to pharmacy, and chapter 893, Florida Statutes, relating to drug abuse prevention and control, to clarify the distinction between a prescription and an order for administration.

The bill creates a site selection process for new state veterans' nursing homes to be administered by the Florida Department of Veterans' Affairs (FDVA).

The bill provides that a direct primary care agreement is not insurance and is not subject to the Florida Insurance Code.

The bill authorizes a free clinic to receive and use appropriations or grants from a governmental entity or nonprofit corporation to support the delivery of the contracted services by volunteer

health care providers, which may include employing providers to supplement, coordinate, or support the volunteers.

The bill also clarifies that employees and agents of a health care provider fall within the sovereign immunity protections of the contracted health care provider when providing health care services pursuant to the Access to Health Care Act.

The bill provides for an effective date of July 1, 2015.

II. Present Situation:

Regulation of Physician Assistants in Florida

Chapter 458, F.S., sets forth the provisions for the regulation of the practice of medicine by the Board of Medicine. Chapter 459, F.S., similarly sets forth the provisions for the regulation of the practice of osteopathic medicine by the Board of Osteopathic Medicine. Physician assistants (PAs) are regulated by both boards. Licensure of PAs is overseen jointly by the boards through the Council on Physician Assistants.[1]

Physician assistants are required by statute to work under the supervision and control of medical physicians or osteopathic physicians.[2] The Board of Medicine and the Board of Osteopathic Medicine have adopted rules that set out the general principles a supervising physician must use in developing the scope of practice of the PA under both direct[3] and indirect[4] supervision. A supervising physician's decision to permit a PA to perform a task or procedure under direct or indirect supervision must be based on reasonable medical judgment regarding the probability of morbidity and mortality to the patient. The supervising physician must be certain that the PA is knowledgeable and skilled in performing the tasks and procedures assigned.[5] Each physician or group of physicians supervising a licensed PA must be qualified in the medical areas in which the PA is to perform and must be individually or collectively responsible and liable for the performance and the acts and omissions of the PA.[6]

Current law allows a supervisory physician to delegate to a licensed PA the authority to prescribe or dispense any medication used in the physician's practice, except controlled substances, general anesthetics, and radiographic contrast materials.[7] However, Florida law does allow a supervisory physician to delegate to a licensed PA the authority to order any medication, which

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[1] The council consists of three physicians who are members of the Board of Medicine; one physician who is a member of the Board of Osteopathic Medicine; and a physician assistant appointed by the State Surgeon General. (*See* ss. 458.347(9) and 459.022(9), F.S.)
[2] Sections 458.347 and 459.022, F.S.
[3] "Direct supervision" requires the physician to be on the premises and immediately available. (*See* Rules 64B8-30.001(4) and 64B15-6.001(4), F.A.C.)
[4] "Indirect supervision" refers to the easy availability of the supervising physician to the physician assistant, which includes the ability to communicate by telecommunications, and requires the physician to be within reasonable physical proximity. (*See* Rules 64B8-30.001(5) and 64B15-6.001(5), F.A.C.)
[5] Rules 64B8-30.012(2) and 64B15-6.010(2), F.A.C.
[6] Sections 458.347(3) and 459.022(3), F.S.
[7] Sections 458.347(4)(e) and (f)1. and 459.022(4)(e)., F.S.

would include controlled substances, general anesthetics, and radiographic contrast materials, for a patient of the physician during the patient's stay in a facility licensed under ch. 395, F.S.[8,9]

Regulation of Advanced Registered Nurse Practitioners in Florida

Chapter 464, F.S., governs the licensure and regulation of nurses in Florida. Nurses are licensed by the Department of Health and are regulated by the Board of Nursing.[10] An advanced registered nurse practitioner (ARNP) is a licensed nurse who is certified in advanced or specialized nursing.[11] Florida recognizes three types of ARNPs: nurse practitioner (NP), certified registered nurse anesthetist (CRNA), and certified nurse midwife (CNM).[12] To be certified as an ARNP, a nurse must hold a current license as a registered nurse[13] and submit proof to the Board of Nursing that he or she meets one of the following requirements:[14]

- Satisfactory completion of a formal postbasic educational program of specialized or advanced nursing practice;
- Certification by an appropriate specialty board;[15] or
- Graduation from a master's degree program in a nursing clinical specialty area with preparation in specialized practitioner skills.

Advanced or specialized nursing acts may only be performed under protocol of a supervising physician. Within the established framework of the protocol, an ARNP may:[16]

- Monitor and alter drug therapies.
- Initiate appropriate therapies for certain conditions.
- Order diagnostic tests and physical and occupational therapy.

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[8] Section 458.347(4)(g)

[9] *See* s. 395.002(16), F.S. The facilities licensed under ch. 395, F.S., are hospitals, ambulatory surgical centers, and mobile surgical facilities.

[10] The Board of Nursing is comprised of 13 members appointed by the Governor and confirmed by the Senate who serve 4-year terms. Seven of the 13 members must be nurses who reside in Florida and have been engaged in the practice of professional nursing for at least 4 years. Of those seven members, one must be an advanced registered nurse practitioner, one a nurse educator at an approved nursing program, and one a nurse executive. Three members of the BON must be licensed practical nurses who reside in the state and have engaged in the practice of practical nursing for at least 4 years. The remaining three members must be Florida residents who have never been licensed as nurses and are in no way connected to the practice of nursing, any health care facility, agency, or insurer. Additionally, one member must be 60 years of age or older. (*See* s. 464.004(2), F.S.)

[11] "Advanced or specialized nursing practice" is defined as the performance of advanced-level nursing acts approved by the Board of Nursing which, by virtue of postbasic specialized education, training and experience, are appropriately performed by an advanced registered nurse practitioner. (*See* s. 464.003(2), F.S.)

[12] Section 464.003(3), F.S. Florida certifies clinical nurse specialists as a category distinct from advanced registered nurse practitioners. (*See* ss. 464.003(7) and 464.0115, F.S.)

[13] Practice of professional nursing. (See s. 464.003(20), F.S.)

[14] Section 464.012(1), F.S.

[15] Specialty boards expressly recognized by the Board of Nursing include: Council on Certification of Nurse Anesthetists, or Council on Recertification of Nurse Anesthetists; American College of Nurse Midwives; American Nurses Association (American Nurses Credentialing Center); National Certification Corporation for OB/GYN, Neonatal Nursing Specialties; National Board of Pediatric Nurse Practitioners and Associates; National Board for Certification of Hospice and Palliative Nurses; American Academy of Nurse Practitioners; Oncology Nursing Certification Corporation; American Association of Critical-Care Nurses Adult Acute Care Nurse Practitioner Certification. (*See* Rule 64B9-4.002(2), F.A.C.)

[16] Section 464.012(3), F.S.

The statute further describes additional acts that may be performed within an ARNP's specialty certification (CRNA, CNM, and NP).[17]

Advanced registered nurse practitioners must meet financial responsibility requirements, as determined by rule of the Board of Nursing, and the practitioner profiling requirements.[18] The Board of Nursing, currently, requires ARNPs to carry professional liability coverage of at least $100,000 per claim with a minimum annual aggregate of at least $300,000 or an unexpired irrevocable letter of credit in the same amounts payable to the ARNP.[19]

Florida does not allow ARNPs to prescribe controlled substances.[20] However, s. 464.012(4)(a), F.S., provides express authority for a CRNA to order certain controlled substances "to the extent authorized by established protocol approved by the medical staff of the facility in which the anesthetic service is performed."

Definitions related to the Ordering of Medicinal Drugs

Chapter 464, F.S., does not contain a definition of the terms "order" or "prescribe." Chapter 465, F.S., relating to pharmacy, defines "prescription" as "any order for drugs or medicinal supplies written or transmitted by any means of communication by a duly licensed practitioner authorized by the laws of the state to prescribe such drugs or medicinal supplies and intended to be dispensed by a pharmacist.[21] "Dispense" is defined as "the transfer of possession of one or more doses of a medicinal drug by a pharmacist to the ultimate consumer or her or his agent."[22] "Administration" is defined as "the obtaining and giving of a single dose of medicinal drugs by a legally authorized person to a patient for her or his consumption."[23] Chapter 893, F.S., relating to drug abuse prevention and control, contains similar definitions.[24]

ARNP Petition for Declaratory Statement

On January 22, 2014, a petition for declaratory statement[25] was filed with the Board of Nursing which asked "Can ARNPs legally order narcotics for patients we treat in the institution with written protocols from our attending Doctors [sic]?"[26] The petition noted that prior to January 1, 2014, ARNPs ordered controlled substances for patients. Effective January 1, 2014, the hospital disallowed the practice and required all ARNPs to get an order from a physician. The hospital cited passage of legislation in 2013 which clarified the authority of physician assistants to order controlled substances, but did not address the authority of ARNPs.[27] The Board of Nursing

[17] Section 464.012(4), F.S.
[18] Sections 456.0391 and 456.041, F.S.
[19] Rule 64B9-4.002(5), F.A.C.
[20] Sections 893.02(21) and 893.05(1), F.S.
[21] Section 465.003(14), F.S.
[22] Section 465.003(6), F.S.
[23] Section 465.003(1), F.S.
[24] See ss. 893.02(1), 893.02(7), and 893.02(22), F.S.
[25] A declaratory statement is an agency's opinion regarding the applicability of a statutory provision, rule, or agency order to a petitioner's set of circumstances. (*See* s. 120.565(1), F.S.)
[26] Petition for Declaratory Statement filed by Carolann Robley ARNP, MSN, BC, FNP (on file with the Senate Committee on Health Policy).
[27] *See* ch. 2013-127, Laws of Fla.

dismissed the petition finding that it failed to comply with the requirements of ch. 120, F.S., and that it sought an opinion regarding the scope of practice of a category of licensees based on an employer's policies.

Drug Enforcement Agency Registration

An individual practitioner[28] who is an agent or employee of another practitioner (other than a mid-level practitioner)[29] registered to dispense controlled substances, may, when acting in the normal course of business or employment, administer or dispense (other than by issuance of a prescription) controlled substances if and to the extent authorized by state law, under the registration of the employer or principal practitioner in lieu of being registered himself or herself.[30]

Health care practitioners who are agents or employees of a hospital or other institution, may, when acting in the usual course of business or employment, administer, dispense, or prescribe controlled substances under the registration of the hospital or other institution in which he or she is employed, in lieu of individual registration, provided that:

- The dispensing, administering, or prescribing is in the usual course of professional practice;
- The practitioner is authorized to do so by the state in which he or she practices;
- The hospital or other institution has verified that the practitioner is permitted to administer, dispense, or prescribe controlled substances within the state;
- The practitioner acts only within the scope of employment in the hospital or other institution;
- The hospital or other institution authorizes the practitioner to administer, dispense, or prescribe under its registration and assigns a specific internal code number for each practitioner; and
- The hospital or other institution maintains a current list of internal codes and the corresponding practitioner.[31]

State Veterans' Homes Program

The Florida Department of Veterans' Affairs (FDVA) operates the State Veterans' Homes Program (Program) as authorized by chs. 292 and 296, F.S.[32] The Program provides care to eligible veterans in need of either long-term skilled nursing care or assisted living services. Care is provided to veterans with qualifying war or peacetime service, who are residents of Florida

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[28] "Practitioner" means a physician, dentist, veterinarian, scientific investigator, pharmacy, hospital, or other person licensed, registered, or otherwise permitted, by the United States of the jurisdiction in which he practices or does research, to distribute, dispense, conduct research with respect to, administer, or use in teaching or chemical analysis, a controlled substance in the course of professional practice or research. (21 U.S.C. s.802(21))

[29] Examples of mid-level practitioners include, but are not limited to: nurse practitioners, nurse midwives, nurse anesthetists, clinical nurse specialists, and physician assistants.

[30] 21 C.F.R. 1301.22.

[31] *Id.*; *See also* U.S. Department of Justice, Drug Enforcement Administration, *Practitioner's Manual*, 27 (2006), *available at* http://www.deadiversion.usdoj.gov/pubs/manuals/pract/pract_manual012508.pdf (last visited Mar. 27, 2015).

[32] Section 292.05(7), F.S. "The Department shall administer this chapter and shall have the authority and responsibility to apply for and administer any federal programs and develop and coordinate such state programs as may be beneficial to the particular interests of the veterans of this state."; part II of ch. 296, F.S., titled "The Veterans' Nursing Home of Florida Act" provides for the establishment of basic standards by FDVA for the operation of veteran's nursing homes for eligible veterans in need of such services."

and who require skilled care as certified by a U.S. Department of Veterans' Affairs (USDVA) physician.[33] There are approximately 697,000 veterans aged 65 years and older in the state.[34]

Currently, there are six state veterans' nursing homes in Florida. The six nursing homes are located in Daytona Beach, Land O' Lakes, Pembroke Pines, Panama City, Port Charlotte, and St. Augustine with a total of 720 skilled-nursing beds and an average occupancy rate of 97.8 percent for FY 2013-14.[35] In 2014, St. Lucie County became the seventh site for a veterans' nursing home.

Veterans' Homes Funding

Construction of a new nursing home is subject to approval by the Governor and Cabinet and shall not exceed a federal-state funding ratio of 65 percent to 35 percent, respectively.[36] The state's cost will be paid from the FDVA Operations and Maintenance Trust Fund.

Site Selection Process for Recently Authorized State Veterans' Nursing Homes

In 2013, the Legislature appropriated funds for FDVA to contract with a private entity to conduct a Site Selection Study (Study). The purpose of the Study was to identify five communities, defined as single-county or multi-county areas, to be given priority for development of a new state veterans' nursing home.

The Study used the following criteria to score the counties, rank ordered from greatest to least value assigned:

- Number of elderly veterans in the county;
- Ratio of existing nursing home beds per/1,000 elderly male residents in the county;
- County poverty rate;
- Distance to an existing state veterans' nursing home;
- Presence of an existing veterans' health care facility in the county; and
- Presence of nursing education programs in the county.

St. Lucie County was selected as the site for the seventh nursing home, and approved by the Governor and Cabinet on September 23, 2014.

Direct Primary Care

Direct primary care (DPC) is a primary care medical practice model that eliminates third party payers from the primary care provider-patient relationship. Through a contractual agreement, a patient pays a monthly fee to the primary care provider for defined primary care services. These primary care services may include:

- Office visits;
- Annual physical examination;

[33] S. 296.36, F.S.
[34] Florida Department of Veterans' Affairs, Annual Report: Fiscal Year 2013-14, page 15, *available at* http://floridavets.org/about-us/annual-report/ (last visited Apr. 23, 2015).
[35] Id.
[36] 38 CFR §59.80

- Routine laboratory tests;
- Vaccinations;
- Wound care;
- Splinting or casting of fractured or broken bones;
- Other routine testing, e.g. echocardiogram and colon cancer screening; or
- Other medically necessary primary care procedures.

After paying the fee, a patient can utilize all services under the agreement at no extra charge. Some DPC practices also include routine preventative services, such as lab tests, mammograms, Pap screenings, and vaccinations. A primary care provider DPC model can be designed to address the large majority of health care issues, including women's health services, pediatric care, urgent care, wellness education, and chronic disease management.

The Patient Protection and Affordable Care Act (PPACA)[37] addresses the DPC practice model as part of health care reform. A qualified health plan under PPACA is permitted to offer coverage through a DPC medical home plan if it provides essential health benefits and meets all other criteria in the law.[38] Patients who are enrolled in a DPC medical home plan are exempt from the individual mandate if they have coverage for other services, such as a wraparound catastrophic health policy to cover treatment for serious illnesses, such as cancer, or severe injuries that require lengthy hospital stays and rehabilitation.[39]

Access to Health Care Act

The Access to Health Care Act (the act) was enacted in 1992 to encourage health care providers to provide care to low-income persons.[40] The act is administered by the Department of Health (department) through the Volunteer Health Services Program.[41]

The act extends sovereign immunity to health care providers who execute a contract with a governmental contractor and who, as agents of the state, provide volunteer, uncompensated health care services to low-income individuals. These health care providers are considered agents of the state under s. 768.28(9), F.S., for purposes of extending sovereign immunity while acting within the scope of duties required under the act.

A contract under the act must be for volunteer, uncompensated services. For services to qualify as volunteer, uncompensated services, the health care provider must receive no compensation from the governmental contractor for any services provided under the contract and must not bill

[37] Pub. L. No. 111-148, H.R. 3590, 111th Cong. (Mar. 23, 2010).
[38] 42 U.S.C. §1802 (a)(3); 45 C.F.R. §156.245
[39] 42 U.S.C. §18021(a)(3)
[40] Low-income persons are defined in the act as a person who is Medicaid-eligible, a person who is without health insurance and whose family income does not exceed 200 percent of the federal poverty level, or any eligible client of the Department of Health who voluntarily chooses to participate in a program offered or approved by the department. Section 766.1115(3)(e), F.S. A single individual whose annual income does not exceed $23,540 is at 200 percent of the federal poverty level using Medicaid data. *See 2015 Poverty Guidelines, Annual Guidelines, available at* http://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Eligibility/Downloads/2015-Federal-Poverty-level-charts.pdf (last visited Mar. 7, 2015).
[41] *See* Florida Department of Health, *Volunteerism Volunteer Opportunities*, (last visited Mar. 7, 2015) *available at* http://www.floridahealth.gov/provider-and-partner-resources/getting-involved-in-public-health/volunteerism-volunteer-opportunities/index.html; Rule Chapter 64I-2, F.A.C.

or accept compensation from the recipient or any public or private third-party payer for the specific services provided to the low-income recipients covered by the contract.[42]

A governmental contractor is defined in the act as the department, a county health department, a special taxing district having health care responsibilities, or a hospital owned and operated by a governmental entity.[43]

In 2014, the Legislature amended the act to authorize dentists providing services as an agent of the governmental contractor to allow a patient to voluntarily contribute a monetary amount to cover costs of dental laboratory work related to the services provided under the contract to the patient.[44]

Legislative Appropriation to Free and Charitable Clinics

The Florida Association of Free and Charitable Clinics received a $4.5 million appropriation in the 2014-2015 General Appropriations Act through the department.[45] The department restricted the use of these funds by free and charitable clinics that were health care providers under the act to clinic capacity building purposes in the contract. The clinic capacity building was limited to products or processes that increase professional skills, infrastructure and resources of clinics. The department did not authorize these funds to be used to build capacity through the employment of clinical personnel. The department cautiously interpreted the provision in the act relating to volunteer, uncompensated services, which states that a health care provider must receive no compensation from the governmental contractor for any services provided under the contract.

Sovereign Immunity

Article X, Section 13 of the Florida Constitution recognizes the concept of sovereign immunity and gives the Legislature the power to waive immunity in part or in full by general law. Section 768.28, F.S., contains the limited waiver of sovereign immunity applicable to the state. Under this statute, officers, employees, and agents of the state will not be held personally liable in tort or named as a defendant in any action for any injury or damage suffered as a result of any act, event, or omission of action in the scope of her or his employment or function.

However, personal liability may result from actions committed in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property.

The recovery by any one person is limited to $200,000 for one incident and the total for all recoveries related to one incident is limited to $300,000.[46] The sovereign immunity recovery caps do not prevent a plaintiff from obtaining a judgment in excess of the caps, but the plaintiff cannot recover the excess damages without action by the Legislature.[47]

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[42] Section 766.1115(3)(a), F.S.
[43] Section 766.1115(3)(c), F.S.
[44] Chapter 2014-108, s. 1, Laws of Fla.
[45] Chapter 2014-51, Laws of Fla., line item 461.
[46] Section 768.28(5), F.S.
[47] *Id.*

III. Effect of Proposed Changes:

Section 1 creates a site selection process for new state veterans' nursing homes to be administered by the Florida Department of Veterans' Affairs. The county with the highest ranking must be selected as the site for the new home, subject to approval by the Governor and the Cabinet. The bill requires the next highest ranked county to be selected if a higher ranked county cannot participate.

The bill also requires the FDVA to contract for a study to determine the most appropriate county for construction of a nursing home based on the greatest level of need. The study must be used to determine the site for any state veterans' nursing home authorized before July 1, 2020. For any veterans' nursing home authorized before November 1, 2015, the bill requires the FDVA to use the 2014 Site Selection Study.

Sections 2 and 3 make conforming changes to ss. 458.347(4)(g) and 459.022(4)(f), F.S., related to the authority of a PA to order medications, but does not alter the authority of supervisory physicians or PAs.

Sections 4 and 11 provide express authority for an ARNP to order any medication for administration to a patient in a hospital, ambulatory surgical center, or mobile surgical facility within the framework of an established protocol. The bill also provides express authority in ch. 893, F.S., for a supervisory physician to authorize a PA or ARNP to order controlled substances for administration to a patient in a hospital, ambulatory surgical center, or mobile surgical facility.

Sections 5, 9, and 10 clarify the distinction between a prescription and an order for administration by amending the definition of "prescription" in chs. 465 and 893, F.S., to exclude an order that is dispensed for administration and making conforming changes in s. 893.04, F.S. The bill also revises the definition of "administer" in ch. 893, F.S., to include the term "administration."

Section 6 creates s. 624.27, F.S., relating to the application of the Florida Insurance Code (Code) to direct primary care agreements. Several new definitions are created under this section:

- *Direct primary care agreement* means a contract between a primary care provider or a primary care group practice and a patient, the patient's legal representative, or an employer which must satisfy certain requirements within the bill and does not indemnify for services provided by a third party.
- *Primary care provider* means a licensed health care provider under ch. 458 (medical doctor), ch. 459 (osteopathic doctor), or ch. 464 (nurses) who provides medical services which are commonly provided without referral from another health care provider.
- *Primary care service* means the screening, assessment, diagnosis, and treatment of a patient for the purpose of promoting health or detecting and managing disease or injury within the competency and training of the primary care provider.

The bill provides that direct primary care agreements are not insurance products and are not subject to Code. The bill also exempts a primary care provider, or his or her agent, from

certification or licensing requirements under the Code to market, sell, or offer to sell a direct primary care agreement.

Section 7 authorizes a free clinic[48] to receive and use appropriations or grants from a governmental entity or nonprofit corporation to support the delivery of contracted services by volunteer health care providers under the Access to Health Care Act (the act) without those funds being deemed compensation which might jeopardize the sovereign immunity protections afforded in the act.

The bill states that the receipt and use of the appropriation or grant does not constitute the acceptance of compensation for the specific services provided to the low-income recipients covered by the contract.

The bill also authorizes a free clinic to allow a patient, or a parent or guardian of the patient, to pay a nominal fee for administrative costs related to the services provided to the patient under the contract without jeopardizing the sovereign immunity protections afforded in the act.

The bill inserts the phrase "employees or agents" in several provisions in the act to clarify that employees and agents of a health care provider, which typically are paid by a health care provider, fall within the sovereign immunity protections of the contracted health care provider when acting pursuant to the contract.

Section 8 amends the limited waiver of sovereign immunity to specifically include a health care provider's employees or agents.

Sections 12-17 reenact various sections of Florida law as required to incorporate amendments made thereto.

Section 18 provides a July 1, 2015, effective date.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

This bill does not appear to affect county or municipal governments.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

[48] A free clinic for purposes of this provision is a clinic that delivers only medical diagnostic services or nonsurgical medical treatment free of charge to all low-income recipients.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Under CS/CS/CS/SB 532, physicians who utilize advanced registered nurse practitioners to serve hospitalized patients, physicians who supervise ARNPs with a hospital practice, and hospitals that employ ARNPs, may see increased efficiencies if ARNPs can order controlled substances directly without the need for obtaining a physician's order. These efficiencies include time savings for the practitioners and better utilization of potentially limited space, such as emergency room beds where patients might otherwise wait while a supervising physician is located.

The bill removes regulatory uncertainty for health care providers as to whether the direct primary care agreement is insurance. Additional primary care providers may elect to pursue this option and establish direct primary care practices in this state which could increase access to affordable primary care services.

Contracted free clinics may receive or continue to receive governmental funding in the form of an appropriation or grant without being concerned that restrictions on such funding may be imposed by the Access to Health Care Act.

C. Government Sector Impact:

The impact described in Section V. B., above, would also apply to public hospitals and physicians employed in public hospitals.

The bill requires the Florida Department of Veterans' Affairs to contract for a study to rank each county according to greatest need to determine the most appropriate site for a new veterans' nursing home.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates the following sections of the Florida Statutes: 296.42 and 624.27.

This bill substantially amends the following sections of the Florida Statutes: 458.347, 459.022, 464.012, 465.003, 766.1115, 768.28, 893.02, 893.04, and 893.05.

This bill reenacts the following sections of the Florida Statutes: 112.0455(5)(i), 381.986(7)(b), 400.462(26), 401.445(1), 409.906(18), 409.9201(1)(a), 440.102(1)(l), 458.331(1)(pp), 459.015(1)(rr), 465.014(1), 465.015(2)(c), 465.015(3), 465.016(1)(s), 465.022(5)(j), 465.023(1)(h), 465.1901, 499.003(43), 499.0121(14), 766.103(3), 768.36(1)(b), 810.02(3)(f), 812.014(2)(c), 831.30(1), 856.015(1)(c), 893.0551(3)(d), 893.0551(3)(e), 944.47(1)(a), 951.22(1), 985.711(1)(a), 1003.57(1)(i), and 1006.09(8).

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

CS/CS/CS by Appropriations on April 23, 2015:
The CS/CS/CS creates a site selection process for new state veterans' nursing homes to be administered by the Florida Department of Veterans' Affairs. The bill also requires FDVA to contract for a study to determine the most appropriate county for construction of a nursing home.

The committee substitute provides that direct primary care agreements are not insurance products and are not subject to the Florida Insurance Code.

The committee substitute expands sovereign immunity protections currently afforded to free clinics under certain circumstances and clarifies that certain employees and agents of health care providers operating pursuant to contracts with free clinics are also afforded those sovereign immunity protections under certain conditions.

CS/CS by Finance and Tax on April 13, 2015:
The CS/CS deletes Section 1 of the bill to remove changes made to the sales and use tax exemption for medication.

CS by Health Policy on March 31, 2015:
The committee substitute amends s. 212.08, F.S., related to medical sales tax exemptions, to conform to changes made elsewhere in the bill. The CS revises the definition of "prescription" and clarifies that any medical products and supplies or medicine dispensed according to "an order for administration" are exempt from sales tax under ch. 212, F.S.

B. Amendments:

None.

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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/23/2015	.	
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The Committee on Appropriations (Grimsley) recommended the following:

Senate Amendment (with title amendment)

Between lines 232 and 233
insert:
Section 8. Section 296.42, Florida Statutes, is created to read:
296.42 Site selection process for state veterans' nursing homes.—
(1) The department shall contract for a study to determine the need for new state veterans' nursing homes and the most

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11 appropriate counties in which to locate the homes based on the
12 greatest level of need. The department shall submit the study to
13 the Governor, the President of the Senate, and the Speaker of
14 the House of Representatives by November 1, 2015.
15 (2) The study shall use the following criteria to rank each
16 county according to need:
17 (a) The distance from the geographic center of the county
18 to the nearest existing state veterans' nursing home.
19 (b) The number of veterans age 65 years or older residing
20 in the county.
21 (c) The presence of an existing federal Veterans' Health
22 Administration medical center or outpatient clinic in the
23 county.
24 (d) Elements of emergency health care in the county, as
25 determined by:
26 1. The number of general hospitals.
27 2. The number of emergency room holding beds per hospital.
28 The term "emergency room holding bed" means a bed located in the
29 emergency room of a hospital licensed under ch. 395 which is
30 used for a patient admitted to the hospital through the
31 emergency room, but is waiting for an available bed in an
32 inpatient unit of the hospital.
33 3. The number of employed physicians per hospital in the
34 emergency room 24 hours per day.
35 (e) The number of existing community nursing home beds per
36 1,000 males age 65 years or older residing in the county.
37 (f) The presence of an accredited educational institution
38 offering health care programs in the county.
39 (g) The county poverty rate.

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40 (3) For each new nursing home, the department shall select
41 the highest-ranked county in the applicable study under this
42 section which does not have a veterans' nursing home. If the
43 highest-ranked county cannot serve as the site, the department
44 shall select the next-highest ranked county. The selection is
45 subject to the approval of the Governor and Cabinet.
46 (4) The department shall use the 2014 site selection study
47 to select a county for any new state veterans' nursing home
48 authorized before November 1, 2015.
49 (5) The department shall use the November 2015 site
50 selection study ranking to select each new state veterans'
51 nursing home site authorized before July 1, 2020.
52 (6) The department shall contract for and submit a new site
53 selection study to the Governor, the President of the Senate,
54 and the Speaker of the House of Representatives using the county
55 ranking criteria in paragraph (3) by November 1, 2019 for site
56 selections on or after July 1, 2020. The department must conduct
57 new site selection studies every 4 years using the county
58 ranking criteria under paragraph (3) with each report due by
59 November 1st for the selection period that begins the following
60 July 1st.
61 Section 9. Section 624.27, Florida Statutes, is created to
62 read:
63 624.27 Application of code as to direct primary care
64 agreements.—
65 (1) As used in this section, the term:
66 (a) "Direct primary care agreement" means a contract
67 between a primary care provider or primary care group practice
68 and a patient, the patient's legal representative, or an

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69 employer which must satisfy the criteria in subsection (4) and
70 does not indemnify for services provided by a third party.
71 (b) "Primary care provider" means a health care provider
72 licensed under chapter 458, chapter 459, or chapter 464 who
73 provides medical services to patients which are commonly
74 provided without referral from another health care provider.
75 (c) "Primary care service" means the screening, assessment,
76 diagnosis, and treatment of a patient for the purpose of
77 promoting health or detecting and managing disease or injury
78 within the competency and training of the primary care provider.
79 (2) A direct primary care agreement does not constitute
80 insurance and is not subject to this code. The act of entering
81 into a direct primary care agreement does not constitute the
82 business of insurance and is not subject to this code.
83 (3) A primary care provider or an agent of a primary care
84 provider is not required to obtain a certificate of authority or
85 license under this code to market, sell, or offer to sell a
86 direct primary care agreement.
87 (4) For purposes of this section, a direct primary care
88 agreement must:
89 (a) Be in writing.
90 (b) Be signed by the primary care provider or an agent of
91 the primary care provider and the patient or the patient's legal
92 representative.
93 (c) Allow a party to terminate the agreement by written
94 notice to the other party after a period specified in the
95 agreement.
96 (d) Describe the scope of the primary care services that
97 are covered by the monthly fee.

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98 (e) Specify the monthly fee and any fees for primary care
99 services not covered by the monthly fee.
100 (f) Specify the duration of the agreement and any automatic
101 renewal provisions.
102 (g) Offer a refund to the patient of monthly fees paid in
103 advance if the primary care provider ceases to offer primary
104 care services for any reason.
105 (h) State that the agreement is not health insurance.
106 Section 10. Paragraphs (a) and (d) of subsection (3) and
107 subsections (4) and (5) of section 766.1115, Florida Statutes,
108 are amended to read:
109 766.1115 Health care providers; creation of agency
110 relationship with governmental contractors.—
111 (3) DEFINITIONS.—As used in this section, the term:
112 (a) "Contract" means an agreement executed in compliance
113 with this section between a health care provider and a
114 governmental contractor which allows the health care provider,
115 or any employee or agent of the health care provider, to deliver
116 health care services to low-income recipients as an agent of the
117 governmental contractor. The contract must be for volunteer,
118 uncompensated services~~, except as provided in paragraph (4)(g).~~
119 For services to qualify as volunteer, uncompensated services
120 under this section, the health care provider must receive no
121 compensation from the governmental contractor for any services
122 provided under the contract and must not bill or accept
123 compensation from the recipient, or a public or private third-
124 party payor, for the specific services provided to the low-
125 income recipients covered by the contract except as provided in
126 paragraph (4)(g). A free clinic as described in subparagraph

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127 (3)(d)14. may receive a legislative appropriation, a grant
128 through a legislative appropriation, or a grant from a
129 governmental entity or nonprofit corporation to support the
130 delivery of such contracted services by volunteer health care
131 providers, including the employment of health care providers to
132 supplement, coordinate, or support the delivery of services by
133 volunteer health care providers. Such an appropriation or grant
134 does not constitute compensation under this paragraph from the
135 governmental contractor for services provided under the
136 contract, nor does receipt and use of the appropriation or grant
137 constitute the acceptance of compensation under this paragraph
138 for the specific services provided to the low-income recipients
139 covered by the contract.
140 (d) "Health care provider" or "provider" means:
141 1. A birth center licensed under chapter 383.
142 2. An ambulatory surgical center licensed under chapter
143 395.
144 3. A hospital licensed under chapter 395.
145 4. A physician or physician assistant licensed under
146 chapter 458.
147 5. An osteopathic physician or osteopathic physician
148 assistant licensed under chapter 459.
149 6. A chiropractic physician licensed under chapter 460.
150 7. A podiatric physician licensed under chapter 461.
151 8. A registered nurse, nurse midwife, licensed practical
152 nurse, or advanced registered nurse practitioner licensed or
153 registered under part I of chapter 464 or any facility which
154 employs nurses licensed or registered under part I of chapter
155 464 to supply all or part of the care delivered under this

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156 section.
157 9. A midwife licensed under chapter 467.
158 10. A health maintenance organization certificated under
159 part I of chapter 641.
160 11. A health care professional association ~~and its~~
161 ~~employees~~ or a corporate medical group ~~and its employees~~.
162 12. Any other medical facility the primary purpose of which
163 is to deliver human medical diagnostic services or which
164 delivers nonsurgical human medical treatment, and which includes
165 an office maintained by a provider.
166 13. A dentist or dental hygienist licensed under chapter
167 466.
168 14. A free clinic that delivers only medical diagnostic
169 services or nonsurgical medical treatment free of charge to all
170 low-income recipients.
171 15. Any other health care professional, practitioner,
172 provider, or facility under contract with a governmental
173 contractor, including a student enrolled in an accredited
174 program that prepares the student for licensure as any one of
175 the professionals listed in subparagraphs 4.-9.
176
177 The term includes any nonprofit corporation qualified as exempt
178 from federal income taxation under s. 501(a) of the Internal
179 Revenue Code, and described in s. 501(c) of the Internal Revenue
180 Code, which delivers health care services provided by licensed
181 professionals listed in this paragraph, any federally funded
182 community health center, and any volunteer corporation or
183 volunteer health care provider that delivers health care
184 services.

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185 (4) CONTRACT REQUIREMENTS.—A health care provider that
186 executes a contract with a governmental contractor to deliver
187 health care services ~~on or after April 17, 1992,~~ as an agent of
188 the governmental contractor, or any employee or agent of such
189 health care provider, is an agent for purposes of s. 768.28(9),
190 while acting within the scope of duties under the contract, if
191 the contract complies with the requirements of this section and
192 regardless of whether the individual treated is later found to
193 be ineligible. A health care provider, or any employee or agent
194 of such health care provider, shall continue to be an agent for
195 purposes of s. 768.28(9) for 30 days after a determination of
196 ineligibility to allow for treatment until the individual
197 transitions to treatment by another health care provider. A
198 health care provider under contract with the state, or any
199 employee or agent of such health care provider, may not be named
200 as a defendant in any action arising out of medical care or
201 treatment ~~provided on or after April 17, 1992,~~ under contracts
202 entered into under this section. The contract must provide that:
203 (a) The right of dismissal or termination of any health
204 care provider delivering services under the contract is retained
205 by the governmental contractor.
206 (b) The governmental contractor has access to the patient
207 records of any health care provider delivering services under
208 the contract.
209 (c) Adverse incidents and information on treatment outcomes
210 must be reported by any health care provider to the governmental
211 contractor if the incidents and information pertain to a patient
212 treated under the contract. The health care provider shall
213 submit the reports required by s. 395.0197. If an incident

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214 involves a professional licensed by the Department of Health or
215 a facility licensed by the Agency for Health Care
216 Administration, the governmental contractor shall submit such
217 incident reports to the appropriate department or agency, which
218 shall review each incident and determine whether it involves
219 conduct by the licensee that is subject to disciplinary action.
220 All patient medical records and any identifying information
221 contained in adverse incident reports and treatment outcomes
222 which are obtained by governmental entities under this paragraph
223 are confidential and exempt from the provisions of s. 119.07(1)
224 and s. 24(a), Art. I of the State Constitution.
225 (d) Patient selection and initial referral must be made by
226 the governmental contractor or the provider. Patients may not be
227 transferred to the provider based on a violation of the
228 antidumping provisions of the Omnibus Budget Reconciliation Act
229 of 1989, the Omnibus Budget Reconciliation Act of 1990, or
230 chapter 395.
231 (e) If emergency care is required, the patient need not be
232 referred before receiving treatment, but must be referred within
233 48 hours after treatment is commenced or within 48 hours after
234 the patient has the mental capacity to consent to treatment,
235 whichever occurs later.
236 (f) The provider is subject to supervision and regular
237 inspection by the governmental contractor.
238 (g) ~~As an agent of the governmental contractor for purposes~~
239 ~~of s. 768.28(9), while acting within the scope of duties under~~
240 ~~the contract,~~ A health care provider licensed under chapter 466,
241 as an agent of the governmental contractor for purposes of
242 s.768.28(9), may allow a patient, or a parent or guardian of the

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243 patient, to voluntarily contribute a monetary amount to cover
244 costs of dental laboratory work related to the services provided
245 to the patient within the scope of duties under the contract.
246 This contribution may not exceed the actual cost of the dental
247 laboratory charges.
248
249 A governmental contractor that is also a health care provider is
250 not required to enter into a contract under this section with
251 respect to the health care services delivered by its employees.
252 (5) NOTICE OF AGENCY RELATIONSHIP.—The governmental
253 contractor must provide written notice to each patient, or the
254 patient's legal representative, receipt of which must be
255 acknowledged in writing at the initial visit, that the provider
256 is an agent of the governmental contractor and that the
257 exclusive remedy for injury or damage suffered as the result of
258 any act or omission of the provider or of any employee or agent
259 thereof acting within the scope of duties pursuant to the
260 contract is by commencement of an action pursuant to the
261 ~~provisions of~~ s. 768.28. Thereafter, and with respect to any
262 federally funded community health center, the notice
263 requirements may be met by posting in a place conspicuous to all
264 persons a notice that the health care provider ~~federally funded~~
265 ~~community health center~~ is an agent of the governmental
266 contractor and that the exclusive remedy for injury or damage
267 suffered as the result of any act or omission of the provider or
268 of any employee or agent thereof acting within the scope of
269 duties pursuant to the contract is by commencement of an action
270 pursuant to ~~the provisions of~~ s. 768.28.
271 Section 11. Paragraph (b) of subsection (9) of section

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272 768.28, Florida Statutes, is amended to read:
273 768.28 Waiver of sovereign immunity in tort actions;
274 recovery limits; limitation on attorney fees; statute of
275 limitations; exclusions; indemnification; risk management
276 programs.—
277 (9)
278 (b) As used in this subsection, the term:
279 1. "Employee" includes any volunteer firefighter.
280 2. "Officer, employee, or agent" includes, but is not
281 limited to, any health care provider, and its employees or
282 agents, when providing services pursuant to s. 766.1115; any
283 nonprofit independent college or university located and
284 chartered in this state which owns or operates an accredited
285 medical school, and its employees or agents, when providing
286 patient services pursuant to paragraph (10)(f); and any public
287 defender or her or his employee or agent, including, among
288 others, an assistant public defender and an investigator.
289
290 ========== T I T L E A M E N D M E N T ==========
291 And the title is amended as follows:
292 Delete lines 2 - 24
293 and insert:
294 An act relating to the access to health care services;
295 amending ss. 458.347 and 459.022, F.S.; revising the
296 authority of a licensed physician assistant to order
297 medication under the direction of a supervisory
298 physician for a specified patient; amending s.
299 464.012, F.S.; authorizing an advanced registered
300 nurse practitioner to order medication for

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301 administration to a specified patient; amending s.
302 465.003, F.S.; revising the term “prescription” to
303 exclude an order for drugs or medicinal supplies by a
304 licensed practitioner that is dispensed for certain
305 administration; amending s. 893.02, F.S.; revising the
306 term “administer” to include the term
307 “administration”; revising the term “prescription” to
308 exclude an order for drugs or medicinal supplies by a
309 licensed practitioner that is dispensed for certain
310 administration; amending s. 893.04, F.S.; conforming
311 provisions to changes made by act; amending s. 893.05,
312 F.S.; authorizing a licensed practitioner to authorize
313 a licensed physician assistant or advanced registered
314 nurse practitioner to order controlled substances for
315 a specified patient under certain circumstances;
316 creating s. 296.42, F.S.; directing the Department of
317 Veterans’ Affairs to contract for a study to determine
318 the need and location for additional state veterans’
319 nursing homes; directing the department to submit the
320 study to the Governor and Legislature; providing study
321 criteria for ranking each county according to need;
322 providing site selection criteria; requiring approval
323 of the Governor and Cabinet for site selection;
324 requiring the department to use specified studies to
325 select new nursing home sites; directing the
326 department to contract for subsequent studies and
327 submit the studies to the Governor and Legislature;
328 creating s. 624.27, F.S.; providing definitions;
329 specifying that a direct primary care agreement does

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330 not constitute insurance and is not subject to the
331 Florida Insurance Code; specifying that entering into
332 a direct primary care agreement does not constitute
333 the business of insurance and is not subject to the
334 code; providing that a health care provider is not
335 required to obtain a certificate of authority to
336 market, sell, or offer to sell a direct primary care
337 agreement; specifying criteria for a direct primary
338 care agreement; amending s. 766.1115, F.S.; redefining
339 terms relating to agency relationships with
340 governmental health care contractors; deleting an
341 obsolete date; extending sovereign immunity to
342 employees or agents of a health care provider that
343 executes a contract with a governmental contractor;
344 clarifying that a receipt of specified notice must be
345 acknowledged by a patient or the patient's
346 representative at the initial visit; requiring the
347 posting of notice that a specified health care
348 provider is an agent of a governmental contractor;
349 amending s. 768.28, F.S.; redefining the term
350 "officer, employee, or agent" to include employees or
351 agents of a health care provider;

By the Committees on Finance and Tax; and Health Policy; and Senator Grimsley

A bill to be entitled

An act relating to the ordering of medication; amending ss. 458.347 and 459.022, F.S.; revising the authority of a licensed physician assistant to order medication under the direction of a supervisory physician for a specified patient; amending s. 464.012, F.S.; authorizing an advanced registered nurse practitioner to order medication for administration to a specified patient; amending s. 465.003, F.S.; revising the term "prescription" to exclude an order for drugs or medicinal supplies by a licensed practitioner that is dispensed for certain administration; amending s. 893.02, F.S.; revising the term "administer" to include the term "administration"; revising the term "prescription" to exclude an order for drugs or medicinal supplies by a licensed practitioner that is dispensed for certain administration; amending s. 893.04, F.S.; conforming provisions to changes made by act; amending s. 893.05, F.S.; authorizing a licensed practitioner to authorize a licensed physician assistant or advanced registered nurse practitioner to order controlled substances for a specified patient under certain circumstances; reenacting ss. 400.462(26), 401.445(1), 409.906(18), and 766.103(3), F.S., to incorporate the amendments made to ss. 458.347 and 459.022, F.S., in references thereto; reenacting ss. 401.445(1) and 766.103(3), F.S., to incorporate the amendment made to s. 464.012, F.S., in references thereto; reenacting ss.

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

409.9201(1)(a), 458.331(1)(pp), 459.015(1)(rr), 465.014(1), 465.015(2)(c), 465.016(1)(s), 465.022(5)(j), 465.023(1)(h), 465.1901, 499.003(43), and 831.30(1), F.S., to incorporate the amendment made to s. 465.003, F.S., in references thereto; reenacting ss. 112.0455(5)(i), 381.986(7)(b), 440.102(1)(l), 458.331(1)(pp), 459.015(1)(rr), 465.015(3), 465.016(1)(s), 465.022(5)(j), 465.023(1)(h), 499.0121(14), 768.36(1)(b), 810.02(3)(f), 812.014(2)(c), 856.015(1)(c), 944.47(1)(a), 951.22(1), 985.711(1)(a), 1003.57(1)(i), and 1006.09(8), F.S., to incorporate the amendment made to s. 893.02, F.S., in references thereto; reenacting s. 893.0551(3)(e), F.S., to incorporate the amendment made to s. 893.04, F.S., in a reference thereto; reenacting s. 893.0551(3)(d), F.S., to incorporate the amendment made to s. 893.05, F.S., in a reference thereto; providing an effective date.

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

Section 1. Paragraph (g) of subsection (4) of section 458.347, Florida Statutes, is amended to read:

458.347 Physician assistants.—

(4) PERFORMANCE OF PHYSICIAN ASSISTANTS.—

(g) A supervisory physician may delegate to a licensed physician assistant the authority to, and the licensed physician assistant acting under the direction of the supervisory

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59 physician may, order any medication ~~medications~~ for
60 administration to the supervisory physician's patient ~~during his~~
61 ~~or her care~~ in a facility licensed under chapter 395~~,~~
62 ~~notwithstanding any provisions in chapter 465 or chapter 893~~
63 ~~which may prohibit this delegation~~. ~~For the purpose of this~~
64 ~~paragraph, an order is not considered a prescription. A licensed~~
65 ~~physician assistant working in a facility that is licensed under~~
66 ~~chapter 395 may order any medication under the direction of the~~
67 ~~supervisory physician.~~
68 Section 2. Paragraph (f) of subsection (4) of section
69 459.022, Florida Statutes, is amended to read:
70 459.022 Physician assistants.—
71 (4) PERFORMANCE OF PHYSICIAN ASSISTANTS.—
72 (f) A supervisory physician may delegate to a licensed
73 physician assistant the authority to, and the licensed physician
74 assistant acting under the direction of the supervisory
75 physician may, order any medication ~~medications~~ for
76 administration to the supervisory physician's patient ~~during his~~
77 ~~or her care~~ in a facility licensed under chapter 395~~,~~
78 ~~notwithstanding any provisions in chapter 465 or chapter 893~~
79 ~~which may prohibit this delegation~~. ~~For the purpose of this~~
80 ~~paragraph, an order is not considered a prescription. A licensed~~
81 ~~physician assistant working in a facility that is licensed under~~
82 ~~chapter 395 may order any medication under the direction of the~~
83 ~~supervisory physician.~~
84 Section 3. Paragraph (a) of subsection (3) of section
85 464.012, Florida Statutes, is amended to read:
86 464.012 Certification of advanced registered nurse
87 practitioners; fees.—

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88 (3) An advanced registered nurse practitioner shall perform
89 those functions authorized in this section within the framework
90 of an established protocol that is filed with the board upon
91 biennial license renewal and within 30 days after entering into
92 a supervisory relationship with a physician or changes to the
93 protocol. The board shall review the protocol to ensure
94 compliance with applicable regulatory standards for protocols.
95 The board shall refer to the department licensees submitting
96 protocols that are not compliant with the regulatory standards
97 for protocols. A practitioner currently licensed under chapter
98 458, chapter 459, or chapter 466 shall maintain supervision for
99 directing the specific course of medical treatment. Within the
100 established framework, an advanced registered nurse practitioner
101 may:
102 (a) Monitor and alter drug therapies and order any
103 medication for administration to a patient in a facility
104 licensed under chapter 395.
105 Section 4. Subsection (14) of section 465.003, Florida
106 Statutes, is amended to read:
107 465.003 Definitions.—As used in this chapter, the term:
108 (14) "Prescription" includes any order for drugs or
109 medicinal supplies written or transmitted by any means of
110 communication by a ~~duly~~ licensed practitioner authorized by the
111 laws of this ~~the~~ state to prescribe such drugs or medicinal
112 supplies and intended to be dispensed by a pharmacist, except
113 for an order that is dispensed for administration. The term also
114 includes an orally transmitted order by the lawfully designated
115 agent of such practitioner;~~. The term also includes~~ an order
116 written or transmitted by a practitioner licensed to practice in

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117 a jurisdiction other than this state, but only if the pharmacist
118 called upon to dispense such order determines, in the exercise
119 of her or his professional judgment, that the order is valid and
120 necessary for the treatment of a chronic or recurrent illness; and~~. The term "prescription" also includes~~ a pharmacist's order
122 for a product selected from the formulary created pursuant to s.
123 465.186. Prescriptions may be retained in written form or the
124 pharmacist may cause them to be recorded in a data processing
125 system, provided that such order can be produced in printed form
126 upon lawful request.
127 Section 5. Subsections (1) and (22) of section 893.02,
128 Florida Statutes, are amended to read:
129 893.02 Definitions.—The following words and phrases as used
130 in this chapter shall have the following meanings, unless the
131 context otherwise requires:
132 (1) "Administer" or "administration" means the direct
133 application of a controlled substance, whether by injection,
134 inhalation, ingestion, or any other means, to the body of a
135 person or animal.
136 (22) "Prescription" ~~means and~~ includes any ~~an~~ order for
137 drugs or medicinal supplies which is written~~, signed,~~ or
138 transmitted by any ~~word of mouth, telephone, telegram, or other~~
139 means of communication by a ~~duly~~ licensed practitioner
140 authorized ~~licensed~~ by the laws of this ~~the~~ state to prescribe
141 such drugs or medicinal supplies, is issued in good faith and in
142 the course of professional practice, is intended to be ~~filled,~~
143 ~~compounded, or~~ dispensed by a ~~another~~ person authorized ~~licensed~~
144 by the laws of this ~~the~~ state to do so, and meets ~~meeting~~ the
145 requirements of s. 893.04.

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146 (a) The term also includes an order for drugs or medicinal
147 supplies ~~so~~ transmitted or written by a physician, dentist,
148 veterinarian, or other practitioner licensed to practice in a
149 state other than Florida, but only if the pharmacist called upon
150 to fill such an order determines, in the exercise of his or her
151 professional judgment, that the order was issued pursuant to a
152 valid patient-physician relationship, that it is authentic, and
153 that the drugs or medicinal supplies ~~so~~ ordered are considered
154 necessary for the continuation of treatment of a chronic or
155 recurrent illness.
156 (b) The term does not include an order that is dispensed
157 for administration by a licensed practitioner authorized by the
158 laws of this state to administer such drugs or medicinal
159 supplies.
160 (c) ~~However,~~ If the physician writing the prescription is
161 not known to the pharmacist, the pharmacist shall obtain proof
162 to a reasonable certainty of the validity of the ~~said~~
163 prescription.
164 (d) A prescription ~~order~~ for a controlled substance may
165 ~~shall~~ not be issued on the same prescription blank with another
166 prescription ~~order~~ for a controlled substance that ~~which~~ is
167 named or described in a different schedule or with another~~, nor~~
168 ~~shall any prescription order for a controlled substance be~~
169 ~~issued on the same prescription blank as a~~ prescription ~~order~~
170 for a medicinal drug, as defined in s. 465.003(8), that is ~~which~~
171 ~~does~~ not ~~fall within the definition of~~ a controlled substance ~~as~~
172 ~~defined in this act~~.
173 Section 6. Paragraphs (a), (d), and (f) of subsection (2)
174 of section 893.04, Florida Statutes, are amended to read:

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175 893.04 Pharmacist and practitioner.—
176 (2)(a) A pharmacist may not dispense a controlled substance
177 listed in Schedule II, Schedule III, or Schedule IV to any
178 patient or patient's agent without first determining, in the
179 exercise of her or his professional judgment, that the
180 prescription ~~order~~ is valid. The pharmacist may dispense the
181 controlled substance, in the exercise of her or his professional
182 judgment, when the pharmacist or pharmacist's agent has obtained
183 satisfactory patient information from the patient or the
184 patient's agent.
185 (d) Each ~~written~~ prescription written ~~prescribed~~ by a
186 practitioner in this state for a controlled substance listed in
187 Schedule II, Schedule III, or Schedule IV must include ~~both~~ a
188 written and a numerical notation of the quantity of the
189 controlled substance prescribed and a notation of the date in
190 numerical, month/day/year format, or with the abbreviated month
191 written out, or the month written out in whole. A pharmacist
192 may, upon verification by the prescriber, document any
193 information required by this paragraph. If the prescriber is not
194 available to verify a prescription, the pharmacist may dispense
195 the controlled substance, but may insist that the person to whom
196 the controlled substance is dispensed provide valid photographic
197 identification. If a prescription includes a numerical notation
198 of the quantity of the controlled substance or date, but does
199 not include the quantity or date written out in textual format,
200 the pharmacist may dispense the controlled substance without
201 verification by the prescriber of the quantity or date if the
202 pharmacy previously dispensed another prescription for the
203 person to whom the prescription was written.

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

204 (f) A pharmacist may not knowingly dispense ~~fill~~ a
205 prescription that has been forged for a controlled substance
206 listed in Schedule II, Schedule III, or Schedule IV.
207 Section 7. Subsection (1) of section 893.05, Florida
208 Statutes, is amended to read:
209 893.05 Practitioners and persons administering controlled
210 substances in their absence.—
211 (1)(a) A practitioner, in good faith and in the course of
212 his or her professional practice only, may prescribe,
213 administer, dispense, mix, or otherwise prepare a controlled
214 substance, or the practitioner may cause the controlled
215 substance ~~same~~ to be administered by a licensed nurse or an
216 intern practitioner under his or her direction and supervision
217 only.
218 (b) Pursuant to s. 458.347(4)(g), s. 459.022(4)(f), or s.
219 464.012(3), as applicable, a practitioner who supervises a
220 licensed physician assistant or advanced registered nurse
221 practitioner may authorize the licensed physician assistant or
222 advanced registered nurse practitioner to order controlled
223 substances for administration to a patient in a facility
224 licensed under chapter 395.
225 (c) A veterinarian may ~~so~~ prescribe, administer, dispense,
226 mix, or prepare a controlled substance for use on animals only,
227 and may cause the controlled substance ~~it~~ to be administered by
228 an assistant or orderly under the veterinarian's direction and
229 supervision only.
230 (d) A certified optometrist licensed under chapter 463 may
231 not administer or prescribe a controlled substance listed in
232 Schedule I or Schedule II of s. 893.03.

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233 Section 8. Subsection (26) of s. 400.462, subsection (1) of
234 s. 401.445, subsection (18) of s. 409.906, and subsection (3) of
235 s. 766.103, Florida Statutes, are reenacted for the purpose of
236 incorporating the amendments made by this act to ss. 458.347 and
237 459.022, Florida Statutes, in references thereto.
238 Section 9. Subsection (1) of s. 401.445 and subsection (3)
239 of s. 766.103, Florida Statutes, are reenacted for the purpose
240 of incorporating the amendment made by this act to s. 464.012,
241 Florida Statutes, in references thereto.
242 Section 10. Paragraph (a) of subsection (1) of s. 409.9201,
243 paragraph (pp) of subsection (1) of s. 458.331, paragraph (rr)
244 of subsection (1) of s. 459.015, subsection (1) of s. 465.014,
245 paragraph (c) of subsection (2) of s. 465.015, paragraph (s) of
246 subsection (1) of s. 465.016, paragraph (j) of subsection (5) of
247 s. 465.022, paragraph (h) of subsection (1) of s. 465.023, s.
248 465.1901, subsection (43) of s. 499.003, and subsection (1) of
249 s. 831.30, Florida Statutes, are reenacted for the purpose of
250 incorporating the amendments made by this act to s. 465.003,
251 Florida Statutes, in references thereto.
252 Section 11. Paragraph (i) of subsection (5) of s. 112.0455,
253 paragraph (b) of subsection (7) of s. 381.986, paragraph (l) of
254 subsection (1) of s. 440.102, paragraph (pp) of subsection (1)
255 of s. 458.331, paragraph (rr) of subsection (1) of s. 459.015,
256 subsection (3) of s. 465.015, paragraph (s) of subsection (1) of
257 s. 465.016, paragraph (j) of subsection (5) of s. 465.022,
258 paragraph (h) of subsection (1) of s. 465.023, subsection (14)
259 of s. 499.0121, paragraph (b) of subsection (1) of s. 768.36,
260 paragraph (f) of subsection (3) of s. 810.02, paragraph (c) of
261 subsection (2) of s. 812.014, paragraph (c) of subsection (1) of

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262 s. 856.015, paragraph (a) of subsection (1) of s. 944.47,
263 subsection (1) of s. 951.22, paragraph (a) of subsection (1) of
264 s. 985.711, paragraph (i) of subsection (1) of s. 1003.57, and
265 subsection (8) of s. 1006.09, Florida Statutes, are reenacted
266 for the purpose of incorporating the amendments made by this act
267 to s. 893.02, Florida Statutes, in references thereto.
268 Section 12. Paragraph (e) of subsection (3) of s. 893.0551,
269 Florida Statutes, is reenacted for the purpose of incorporating
270 the amendments made by this act to s. 893.04, Florida Statutes,
271 in a reference thereto.
272 Section 13. Paragraph (d) of subsection (3) of s. 893.0551,
273 Florida Statutes, is reenacted for the purpose of incorporating
274 the amendments made by this act to s. 893.05, Florida Statutes,
275 in a reference thereto.
276 Section 14. This act shall take effect July 1, 2015.

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The Florida Senate

Committee Agenda Request

To: Senator Tom Lee, Chair
Committee on Appropriations

Subject: Committee Agenda Request

Date: April 9, 2015

I respectfully request that **Senate Bill #532**, relating to Ordering of Medication, be placed on the:

☐ committee agenda at your earliest possible convenience.

☒ next committee agenda.

Senator Denise Grimsley
Florida Senate, District 21

File signed original with committee office

S-020 (03/2004)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/21/2014
Meeting Date

532
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic

Name Stan Whittaker

Job Title Chairman Fl Assoc. of NPs

Address 6294 NW Torreyana Rd
Street

Bristol FL 32321
City State Zip

Phone 850-545-8301

Email stanwhitt@aol.com

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

Waive Speaking: [x] In Support [ ] Against
(The Chair will read this information into the record.)

Representing Florida Association of Nurse Practitioners

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

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

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/21/15
Meeting Date

532
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic: Ordering of Medication

Name: Brittney Burch

Job Title: Policy Director

Address: 136 S Bronough St
Street

Tallahassee
City State Zip

Phone: 521-1200

Email:

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing: FL Chamber of Commerce

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4-21-15
Meeting Date

532
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic: Ordering Medications

Name: Martha DeCastro

Job Title: VP for Nursing

Address: 3020 E College Ave
Street

TLH, FL 32301
City, State, Zip

Phone: 222 9800

Email: martha@fha.org

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☑ In Support ☐ Against
(The Chair will read this information into the record.)

Representing: Florida Hospital Association

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/21/2015
Meeting Date

532
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic: Ordering of Medication

Name: Chris Floyd

Job Title: Consultant

Address: Street

Tampa, FL 33606
City, State, Zip

Phone: 813-624-5117

Email:

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☑ In Support ☐ Against
(The Chair will read this information into the record.)

Representing: FL Assoc of Nurse Practitioners

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 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/21/15
Meeting Date

532
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic

Name Chris Nuland

Job Title

Address 1000 Riverside Ave #115
Street

Jacksonville, FL 32204
City State Zip

Phone 904-233-3051

Email nulandlaw@aol.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☑ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Florida Chapter, American College of Physicians

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 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/21/15
Meeting Date

532
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic: Ordering of Medication

Name: Zayne Smith

Job Title: ASD

Address: 200 W. College Ave.
Street

Tally, FL 32301
City, State, Zip

Phone: 850 577-5163

Email: zsmith@aarp.org

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☑ In Support ☐ Against
(The Chair will read this information into the record.)

Representing: AARP

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 (10/14/14)

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 Appropriations

BILL: PCS/CS/SB 714 (183530)

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on General Government); Environmental Preservation and Conservation Committee; and Senator Grimsley

SUBJECT: Environmental Control

DATE: April 20, 2015 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hinton	Uchino	EP	**Fav/CS**
2.	Howard	DeLoach	AGG	**Recommend: Fav/CS**
3.	Howard	Kynoch	AP	**Pre-meeting**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/CS/SB 714 related to environmental control provides the following:

- Revises requirements and necessary qualifications for membership on the Harris Chain of Lakes Restoration Council (council);
- Allows the Department of Environmental Protection (DEP) to authorize water quality credit trading for land set-asides and land-use modifications that reduce nutrient loads into nutrient impaired surface waters when they are not already required by state law or a permit;
- Provides that the provisions of s. 403.201, F.S., do not prohibit the issuance of moderating provisions or requirements under state law but are subject to approval by the U.S. Environmental Protection Agency, if necessary;
- Creates a solid waste landfill closure account and authorizes the DEP to use funds from the account to contract with a third party for the closing and long-term care of a solid waste management facilities under certain conditions;
- Incentivizes water conservation by prohibiting permitting agencies from modifying permitted water allocations during the term of the permit under certain conditions;
- Directs Water Management Districts (WMDs) to adopt rules providing water conservation incentives, including permit extensions;
- Prohibits WMDs from reducing consumptive use permitted allocation amounts during the term of the permit under certain conditions;

- Changes the requirement that water well contractor license applicants provide a letter from both a water well contractor and a water well inspector to just requiring a letter from either one;
- Requires WMDs to promote expanded cost share criteria for additional conservation practices;
- Revises a bonding requirement for clay settling areas so they can be consolidated and reduce construction impacts; and
- Clarifies a definition of resource recovery facilities to not include a landfill gas-to-energy system or facility for the purposes of exercising flow control authority.

The bill provides an appropriation of $2,339,764 from the Solid Waste Management Trust Fund within the DEP for the closing and long-term care of solid waste management facilities (see Section V, Fiscal Impact Statement).

The bill provides an effective date of July 1, 2015.

II. Present Situation:

The Harris Chain of Lakes Restoration Council

The Harris Chain of Lakes is located north and west of the Orlando metropolitan area and is in Lake and Orange counties.[1] It contains tens of thousands of acres of lakes and wetlands and is at the headwaters of the Ocklawaha River.[2]

The council was created by the Legislature in 2001 and consists of nine voting members. The members are:
- A representative of waterfront property owners;
- A representative of the sport fishing industry;
- An environmental engineer;
- A person with training in biology or another scientific discipline;
- A person with training as an attorney;
- A physician;
- A person with training as an engineer; and
- Two residents of Lake County appointed by the Lake County legislative delegation who do not meet any of the other qualifications for membership on the council.[3]

The council's duties are to:
- Review audits and all data related to lake restoration techniques and sport fish population recovery strategies;
- Evaluate whether additional studies are needed;
- Explore all possible sources of funding to conduct the restoration activities; and

[1] Harris Chain of Lakes Restoration Council, *Where is the Harris Chain of Lakes and What Does the Restoration Council Do?*, http://harrischainoflakescouncil.com/ (last visited Apr. 8, 2015).
[2] *Id*.
[3] Section 373.467, F.S.

- Report to the President of the Senate and the Speaker of the House of Representatives yearly before November 25 on the progress of the Harris Chain of Lakes restoration program and provide any recommendations for the next fiscal year.[4]

The council works with an advisory group composed of one representative from:
- The St. Johns River Water Management District, which also provides staff for the council;
- The DEP;
- The Department of Transportation;
- The Fish and Wildlife Conservation Commission;
- The Lake County Water Authority;
- The U.S. Army Corps of Engineers; and
- The University of Florida.[5]

Water Quality Credit Trading

Water quality credit trading provides a potentially less costly option for meeting the pollution limits for an impaired waterbody. It is a voluntary, market-based approach for reducing pollution to Florida's impaired rivers, lakes, streams, and estuaries.[6]

The underlying theory is that achieving pollution abatement at the lowest incremental cost at each additional increment reduced is the most cost effective means to achieve pollution abatement. Trading is based on the premise that different dischargers of a pollutant in a watershed can face substantially different costs to control that pollutant. Trading allows pollutant reduction activities to be environmentally valued in the form of credits that can then be traded on a local market to promote cost-effective water quality improvements.[7] Water quality credits are generated when a discharger reduces its loading of a given pollutant below the load allowable for the discharger.[8] Financial savings accrue to parties that buy credits (pollutant reductions) from others for less than the cost of implementing the reductions themselves. Those that sell credits will do so only if the value of the trade is equal to or higher than their investment in the facilities or activities necessary to achieve the pollutant reductions.[9]

Water quality credit trading can accelerate cleanup because potentially unaffordable costs for individual dischargers can be reduced and cooperative relationships built through trading agreements that foster shared responsibility and commitment. Trading can also accommodate new growth, including new pollutant loadings from urban stormwater, and domestic and industrial wastewater discharges. It offers the possibility for the owners of potential new or

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[4] *Id.*
[5] *Id.*
[6] DEP, *The Pilot Water Quality Credit Trading Program for the Lower St. Johns River: A Report to the Governor and Legislature*, 1 (Oct. 2010), *available at* http://www.dep.state.fl.us/water/wqssp/docs/WaterQualityCreditReport-101410.pdf (last visited Apr. 6, 2015).
[7] *Id.*
[8] Lower St. Johns River TMDL Executive Committee, *Basin Management Action Plan: For the Implementation of Total Maximum Daily Loads for Nutrients Adopted by the Florida Department of Environmental Protection for the Lower St. Johns River Basin Main Stem*, 53 (October 2008), *available at* http://www.dep.state.fl.us/water/watersheds/docs/bmap/adopted-lsjr-bmap.pdf (last visited Apr. 6, 2015).
[9] *Supra* note 6, at 2.

increased discharges to purchase credits from existing dischargers so that overall pollutant loads to a watershed are not increased and water quality is preserved.[10]

Trading is authorized pursuant to s. 403.067, F.S., The Department of Environmental Protection (DEP) is in the process of rulemaking to amend the water quality credit trading rule to implement statewide trading and detail precisely how trades are to be conducted and tracked in the future.[11] The DEP has conducted four public workshops on the rule, two in late August 2014 to review potential rule concepts, and two in mid-January 2015 to discuss draft rule language. The public comment period following the most recent workshops closed in early February, but the DEP has accepted some subsequent comments. The DEP will consider all comments received and produce a final proposed rule for adoption in the near future.[12]

Variances

The Florida and Water Pollution Control Act was enacted in 1967.[13] The legislative declaration states, "[t]he pollution of the air and waters of this state constitute a menace to the public health and welfare; create public nuisances; is harmful to wildlife and fish and other aquatic life; and impairs domestic, agricultural, industrial, recreational, and other beneficial uses of the air and water."[14]

The act provides the DEP with authority to control and prohibit the pollution of water and air and to establish rules to carry out the act. Section 403.201, F.S., allows the DEP to grant a variance from provisions of the act or adopted rules and regulations. A variance may be granted for any of the following reasons:

- There is no practicable means known or available for the adequate control of the pollution;
- Compliance with the requirements of the variance will require extensive cost and time, therefore, a variance may be issued with a timetable for the actions required; or
- To relieve or prevent hardship. The variances granted under this provision are limited to 24 months. A variance granted for electrical power plant and transmission line siting, as described in Part II of ch. 403, F.S., may be granted for the life of the permit.

A variance is prohibited for the discharge of waste into state waters or for hazardous waste management that would result in the requirement being less stringent than an applicable federal requirement. Research, development, and demonstration permits under s. 403.70715, F.S., are exempt from this provision.[15]

Relief mechanisms may be included in a permit when the natural conditions for the impacted area results in limits that exceed what is authorized in the permit. The relief mechanisms include:

- A site specific alternative criteria for each water quality criteria;
- A variance or exemption for each water quality criteria;

[10] *Supra* note 6, at 2.
[11] Fla. Admin. Code R. 62-306 (2010).
[12] DEP, *Senate Bill 714 Agency Analysis* (Feb. 13, 2015) (on file with the Senate Committee on Environmental Preservation and Conservation).
[13] Chapter 67-436, Laws of Fla.
[14] Section 403.21, F.S.
[15] Section 403.201, F.S.

- A variance or exemption for a public water system from the maximum contaminant level or treatments techniques;
- A variance from other permitting standards or conditions; or
- A major or minor exemption for an aquifer.[16]

Solid Waste Management Trust Fund

The DEP is responsible for implementing and enforcing the solid waste management program, which provides guidelines for the storage, separation, processing, recovery, recycling, and disposal of solid waste throughout the state.[17] Counties are responsible for operating solid waste disposal facilities, which are permitted through the DEP, in order to meet the needs of the incorporated and unincorporated areas of the county.[18]

Rule 62-701, F.A.C., establishes the standards for the construction, operation, and closure of a solid waste management facility. Landfills or solid waste disposal sites that close require a closure permit issued by the DEP or a closure plan approved by the DEP. The closure plan includes:

- A design plan;
- A closure operation plan;
- A long-term care plan; and
- Proof of financial assurance, which may include closure insurance, for long-term care and a cost estimate for closure pursuant to Rule 62-701.630, F.A.C.

Section 403.7125, F.S., provides the statutory requirement that the owner or operator of a landfill is responsible for the closure of the landfill and is liable for its improper closure. The owner or operator is required to establish a fee to ensure financial resources are available for the closure of the landfill. Section 403.707(9), F.S., requires the same financial assurance responsibilities for the owner or operator. Sections 403.7125 and 403.707(9), F.S., allow the DEP to establish acceptable financial mechanisms that cover the cost of closure; however, neither section specifies that closure insurance is allowed.

Section 403.709, F.S., creates the Solid Waste Management Trust Fund, which is administered by the DEP. The trust fund requires that, of the money deposited:

- Up to 40 percent must be used for solid waste activities;
- Up to 4.5 percent must be for research and training programs;
- Up to 11 percent must be used for mosquito control, administered by the Department of Agriculture and Consumer Services;
- Up to 4.5 percent for Department of Transportation litter prevention control programs; and
- A minimum of 40 percent for funding a solid waste management grant program for activities related to recycling and waste reduction.

[16] Fla. Admin. Code R. 62-4.050 (2014).
[17] See s. 403.705, F.S.
[18] See s. 403.706, F.S.

Water Conservation and Water Resource Development

A person must apply for and obtain a consumptive use permit (CUP) from the applicable water management district (WMD) or the Department of Environmental Protection (DEP) before using surface or groundwater of the state, unless the person is solely using the water for domestic use. To obtain a CUP, an applicant must satisfy three requirements, commonly referred to as the "the three-prong test."

To satisfy the test, an applicant must establish that the proposed use of the water:

- Is for a "reasonable-beneficial use," meaning the use of water in such quantity as is necessary for economic and efficient utilization for a purpose and in a manner which is both reasonable and consistent with the public interest;
- Will not interfere with any presently existing legal use of water; and
- Is consistent with the public interest.

Applicants may receive a CUP with duration of 20 years if there is sufficient data to provide reasonable assurance that the conditions for permit issuance will be met for the duration of the permit. Otherwise, the WMD or DEP may issue a CUP for a shorter duration which reflects the period for which such reasonable assurances can be provide.

When a CUP is issued for a 20 year duration, a WMD or DEP may require the permittee to provide a compliance report every ten years during the term of the permit to maintain reasonable assurance the conditions of the CUP continue to be met. Following review of a compliance report, the WMD or the DEP may modify the CUP to ensure that the use meets the conditions for issuance. Permit modifications resulting from review of the compliance report are not subject to competing applications, provided there is no increase in the permitted allocation or permit duration, and no change in source, except for changes in source requested by the district.

In several WMDs, when economic conditions or population growth rates result in the actual water use being lower than permitted water use, a modification to reduce the permitted allocation may be made by the WMD only when there is no reasonable likelihood that the allocation will be needed during the permit term. However, in order to incentivize conservation of water, if actual water use is less than permitted water use due to documented implementation of water conservation measures, the WMD may not modify the permitted allocation due to these circumstances during the term of the permit.

In addition, s. 373.227, F.S., requires the DEP, in cooperation with the WMDs, to develop a statewide water conservation program for public water supply that:

- Encourages utilities to implement water conservation programs that are economically efficient, effective, affordable, and appropriate;
- Allows no reduction in, and increase where possible, utility-specific water conservation effectiveness over current programs;
- Is goal-based, accountable, measurable, and implemented collaboratively with water suppliers, water users, and water management agencies;
- Includes cost and benefit data on individual water conservation practices to assist in tailoring practices to be effective for the unique characteristics of particular utility service areas, focusing upon cost-effective measures;

- Uses standardized public water supply conservation definitions and standardized quantitative and qualitative performance measures for an overall system of assessing and benchmarking the effectiveness of water conservation programs and practices;
- Creates a clearinghouse or inventory for water conservation programs and practices available to public water supply utilities;
- Develops a standardized water conservation planning process for utilities; and
- Develops and maintains a Florida-specific water conservation guidance document containing a menu of affordable and effective water conservation practices.

As part of an application for a CUP, a public water supply utility may propose a goal-based water conservation plan that is tailored to its individual circumstances. If the utility provides reasonable assurance that the plan will achieve effective water conservation at least as well as the water conservation requirements adopted by the appropriate WMD, the WMD must approve the plan. The approved plan will satisfy water conservation requirements imposed as a condition of obtaining a CUP.

Clay Settling Areas

In Florida, phosphate mining occurs primarily in central Florida. There are 27 phosphate mines in the state covering more than 491,900 acres. The Florida Legislature required the reclamation of lands mined for phosphate after July 1, 1975. Reclamation standards for phosphate lands include contouring to safe slopes, providing for acceptable water quality and quantity, vegetation, and the return of wetlands to pre-mining type, nature, function, and acreage.[19] A significant byproduct of phosphate mining is clay, which is deposited in clay settling areas. Mining areas, including clay settling areas, must be returned to their natural state after the completion of mining operations.[20]

Section 378.208, F.S., provides that an operator of a mine shall provide appropriate financial assurance to the state that the reclamation of lands subject to the mandatory reclamation obligation will be completed in a timely manner. Compliance with the rate of reclamation established in s. 378.209 is deemed to be appropriate financial assurance. Section 378.208, F.S., provides that mine operators who are not in compliance with the rate of reclamation established in s 378.209, F.S., must post one or more forms of security, which are listed in s. 378.209(a)-(f), F.S.

Water Well Contractors License

Each person who engages in the business of a water well contractor must obtain a license from a WMD. Persons must submit an application to the WMD in which they reside or in which his or her principal place of business is located. In order to take the licensure exam, an applicant must be 18 years old; have two years of experience in constructing, repairing, or abandoning water wells; complete the an application form; and pay a nonrefundable fee.

[19] DEP, *Mandatory Phosphate Program*, http://www.dep.state.fl.us/water/mines/manpho.htm (last visited Mar. 15, 2015).
[20] Section 378.209(1), F.S.

An applicant must submit a letter from a water well contactor and a letter from a water well inspector employed by a governmental agency in order to demonstrate two years of experience in constructing, repairing, or abandoning water wells. Further, an applicant must submit a list of at least ten water wells that the applicant has constructed, repaired, or abandoned within the preceding five years.

Resource Recovery

Resource recovery means "the process of recovering materials or energy from solid waste, excluding those materials or solid waste under control of the Nuclear Regulatory Commission."[21] Section 403.713, F.S., provides that local governments my control the collection and disposal of solid waste and may institute a flow control ordinance for the purpose of ensuring that a resource recovery facility receives and adequate quantity of solid waste.

III. Effect of Proposed Changes:

Section 1 creates s. 373.227(5), F.S., to incentivize water conservation by prohibiting permitting agencies from modifying permitted water allocations during the term of the permit if actual water use is less than permitted solely due to documented implementation of water conservation measures beyond what is required in consumptive use permit. Water conservation measures may include, but are not limited to, those measures identified in best management practices for agricultural activities. The bill directs the Water Management Districts (WMDs) to adopt rules providing water conservation incentives, including permit extensions. The bill also prohibits the WMDs from reducing consumptive use permitted allocation amounts during the term of the permit which are for agricultural irrigation, if actual water use is less than permitted water use due to weather events, crop diseases, nursery stock availability, market conditions, or changes in crop type.

Section 2 amends s. 373.323, F.S., relating to the requirements for water well contractor license applicants to demonstrate two years of experience in constructing, repairing, or abandoning water wells. The change requires applicants to provide a letter from a water well contractor <u>or</u> a letter from a water well inspector employed by a governmental agency. A letter from both will no longer be required.

Section 3 amends s. 373.467, F.S., to revise the membership requirements for the Harris Chain of Lakes Restoration Council. One member must have experience in environmental science or regulation, rather than an environmental engineer. The bill requires an attorney and an engineer, rather than people that have training in either discipline. It also clarifies that the two members, who are residents of the county, are not required to meet any of the other requirements of membership to be appointed to the council. As the statute is currently written, it appears those two members are prohibited from meeting any of the other requirements for membership. The bill provides that the Lake County legislative delegation may waive the qualifications for membership on a case-by-case basis for good cause. The bill provides that resignation by a council member or the failure of a member to attend three consecutive meetings without being excused by the chair of the committee results in a vacancy.

[21] Fla. Admin. Code R. 62-701.200 (2015).

Section 4 creates s. 373.705(5), F.S., to require the WMDs to promote expanded cost share criteria for additional conservation practices, such as soil and moisture sensors, and other irrigation improvements, water saving equipment, water-saving household fixtures, and software technologies that can achieve verifiable water conservation by providing water use information to utility customers.

Section 5 creates s. 378.209(4), F.S., amending the timing of land reclamations to exempt constructed clay settling areas where its beneficial use has been extended from the requirements in ss. 378.209(1)(a) through (e) and 378.208, F.S. This revises a bonding requirement for clay settling areas so they can be consolidated and reduce construction costs.

Section 6 amends s. 403.067, F.S., to allow the Department of Environmental Protection (DEP) to authorize water quality credit trading for land set-asides and land-use modifications, including constructed wetlands and other water quality improvement projects, which reduce nutrient loads into nutrient-impaired surface waters. Currently, land set-asides and land-use modifications may also include changes in crop type, conservation easements, term-limited contracts for environmental services, and other similar activities.

Section 7 amends s. 403.201, F.S., to provide that the issuance of moderating provisions or requirements under state law is not prohibited by s. 403.201(2), regarding the prohibition of variances from any provision or requirement concerning discharges of waste into state waters, or hazardous waste management.

Section 8 amends s. 403.709, F.S., creating a solid waste landfill closure account within the Solid Waste Management Trust Fund to provide funding for the closing and long-term care of solid waste management facilities. The bill authorizes the DEP to use funds from the account to contract with a third party for the closing and long-term care of a solid waste management facility if:

- The facility has or had a DEP permit to operate;
- The permittee provided proof of financial assurance for the closure in the form of an insurance certificate;
- The facility is deemed to be abandoned or was ordered to close by the DEP;
- Closure is accomplished in substantial accordance with the closure plan approved by the DEP; and
- The DEP has written documentation that the insurance company issuing the closure insurance policy will provide or reimburse the funds required to complete the closing and long-term care of the facility.

The bill requires the DEP to deposit funds received from an insurance company as reimbursement for the costs of closing or long-term care of the facility into the Solid Waste Landfill Closure account.

Section 9 provides an appropriation for the 2015-2016 fiscal year of $2,339,764 in nonrecurring funds from the Solid Waste Management Trust Fund within the DEP for the closing and long-term care of solid waste management facilities.

Section 10 creates s. 403.713(3), F.S., and clarifies that a resource recovery facilities does not include a landfill gas-to-energy system or facility for the purposes of exercising flow control authority.

Section 11 reenacts s. 373.414, F.S., for the purpose of incorporating the amendment to s. 403.201, F.S.

Section 12 provides an effective date of July 1, 2015.

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:

Under PCS/CS/SB 714, if the federal government rescinds a delegated authority from the state, a permittee may have to obtain both state and federal permits rather than only a state permit for certain activities. The fiscal impact and number or parties that may be affected is unknown.

C. Government Sector Impact:

The bill would require the Department of Environmental Protection (DEP) to establish a solid waste landfill closure account within the Solid Waste Management Trust Fund to provide funding for the closure and long-term care of solid waste management facilities. Funds for these closures would be reimbursed by insurance companies; however, in cases where the insurance company disputes actual expenses and does not reimburse the DEP for costs, the DEP Solid Waste Management Trust Fund would have incurred these costs.

Currently, there are five landfills that could be addressed related to the provisions of the bill. These include Coyote East in Walton County, Coyote Navarre in Santa Rosa County, Coyote West in Walton County, Cerny Road in Escambia County, and Williams Road in Hillsborough County. The DEP has estimated these closure costs to be $2,339,764 from

the Solid Waste Management Trust Fund and anticipates that these costs will be reimbursed.

The bill provides $2,339,764 in nonrecurring funds from the Solid Waste Management Trust Fund in the Fixed Capital Outlay-Agency Managed-Closing and Long-Term Care of Solid Waste Management Facilities appropriation category within the DEP for the closing and long-term care of solid waste management facilities.

VI. Technical Deficiencies:

On lines 56-57, the phrase "results in a vacancy on the council" may be misinterpreted and could be reworded to specify that resignation of a council member or the failure of a member to attend three consecutive meetings, without an excuse approved by the chair of the committee, results in the removal of the committee member.

VII. Related Issues:

According to the DEP:

- Section 1 of the bill does not expand or clarify the authority of existing law. Rules are under development that contain provisions allowed by the bill.
- Section 2 of the bill is ambiguous and could lead to an interpretation that a "moderating provision or requirement" could be granted from a state law, even when that law is necessary for the state's implementation of federally delegated or approved program. Such an interpretation could result in revocation of the state's approval to implement a federally delegated or approved program. In instances where a regulated entity's state approval operates as its federal license, such an interpretation could result in a regulated entity being unable to utilize state approval as a required federal license.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 373.227, 373.323, 373.705, 378.209, 403.067, 403.201, 403.709, and 403.713.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

Recommended CS/CS by Appropriations Subcommittee on General Government on April 14, 2015:

The committee substitute:

- Incentivizes water conservation by prohibiting permitting agencies from modifying permitted water allocations during the term of the permit under certain conditions;
- Directs Water Management Districts (WMDs) to adopt rules providing water conservation incentives, including permit extensions;
- Prohibits the WMDs from reducing consumptive use permitted allocation amounts during the term of the permit under certain conditions;

- Changes the requirement that water well contractor license applicants provide a letter from both a water well contractor and a water well inspector to just requiring a letter from either one;
- Requires the WMDs to promote expanded cost share criteria for additional conservation practices;
- Revises a bonding requirement for clay settling areas so they can be consolidated and reduce construction impacts;
- Provides an appropriation for the accelerated closure of solid waste management facilities; and
- Clarifies a definition of resource recovery facilities to not include a landfill gas-to-energy system or facility for the purposes of exercising flow control authority.

CS by Environmental Preservation and Conservation on April 8, 2015:
Provides that a member of the Harris Chain of Lakes Restoration Council must be a person with experience in environmental science or regulation, rather than an environmental engineer;

- Clarifies that one member must be an attorney, and another must be an engineer, rather than a person with training in either discipline;
- Clarifies that the two residents may, but are not required to, meet any of the other requirements for membership;
- Provides the Lake County legislative delegation with the authority to waive the qualifications for membership on the council on a case-by-case basis if good cause is shown;
- Provides that resignation by a council member, or failure by a council member to attend three consecutive meetings without an excuse approved by the chair of the council, will result in a vacancy;
- Clarifies that land set-asides and land-use modifications that may qualify for water quality credits must not otherwise be required by state law or a permit; and
- Clarifies that the issuance of any moderating provisions or requirements under state law, which are otherwise prohibited under s. 403.201, F.S., are subject to any necessary approval by the U.S. Environmental Protection Agency.

B. Amendments:

None.

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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/22/2015	.	
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	.	

The Committee on Appropriations (Grimsley) recommended the following:

Senate Amendment (with title amendment)

Between lines 39 and 40
insert:
Section 1. Paragraph (a) of subsection (2) and subsection (3) of section 20.255, Florida Statutes, are amended to read:
20.255 Department of Environmental Protection.—There is created a Department of Environmental Protection.
(2)(a) There shall be three deputy secretaries who are to be appointed by and shall serve at the pleasure of the

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secretary. The secretary may assign any deputy secretary the responsibility to supervise, coordinate, and formulate policy for any division, office, or district. The following special offices are established and headed by managers, each of whom is to be appointed by and serve at the pleasure of the secretary:

1. Office of Chief of Staff;

2. Office of General Counsel;

3. Office of Technology and Information Services ~~Inspector General~~;

4. Office of External Affairs;

5. Office of Legislative Affairs;

6. Office of Operations ~~Intergovernmental Programs~~; ~~and~~

7. Florida Coastal Office; ~~of Greenways and Trails.~~

8. Office Preparedness and ~~of~~ Emergency Response; ~~.~~

9. Office of the Florida Geological Survey; and

10. Office of Inspector General. The Inspector General is to be appointed by the Chief Inspector General of the Governor's office and is subject to the general supervision of the secretary.

The managers of all divisions and offices specifically named in this section and the directors of the six administrative districts are exempt from part II of chapter 110 and are included in the Senior Management Service in accordance with s. 110.205(2)(j).

(3) The following divisions of the Department of Environmental Protection are established:

(a) Division of Administrative Services.

(b) Division of Air Resource Management.

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40 (c) Division of Water Resource Management.
41 (d) Division of Environmental Assessment and Restoration.
42 (e) Division of Waste Management.
43 (f) Division of Recreation and Parks.
44 (g) Division of State Lands, the director of which is to be
45 appointed by the secretary of the department, subject to
46 confirmation by the Governor and Cabinet sitting as the Board of
47 Trustees of the Internal Improvement Trust Fund.
48 (h) Division of Water Restoration Assistance.
49
50 In order to ensure statewide and intradepartmental consistency,
51 the department's divisions shall direct the district offices and
52 bureaus on matters of interpretation and applicability of the
53 department's rules and programs.
54
55 ========== T I T L E A M E N D M E N T ==========
56 And the title is amended as follows:
57 Delete line 2
58 and insert:
59 An act relating to environmental control; amending s.
60 20.255, F.S.; revising the organizational structure of
61 the Department of Environmental Protection; amending
62 s.

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Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on General Government)

A bill to be entitled

An act relating to environmental control; amending s. 373.227, F.S.; prohibiting water management districts from modifying permitted allocation amounts under certain circumstances; requiring water management districts to adopt rules to promote water conservation incentives; amending s. 373.323, F.S.; revising eligibility requirements for taking the water well contractor licensure examination; amending s. 373.467, F.S.; revising the qualifications for membership on the Harris Chain of Lakes Restoration Council; authorizing the Lake County legislative delegation to waive such membership qualifications for good cause; providing for council vacancies; amending s. 373.705, F.S.; requiring water management districts to promote expanded cost-share criteria for additional conservation practices; amending s. 378.209, F.S.; excluding clay settling areas from reclamation rate requirements under certain circumstances; amending s. 403.067, F.S.; authorizing land set-asides and land-use modifications that reduce nutrient loads into nutrient-impaired surface waters to be used under the water quality credit trading program; amending s. 403.201, F.S.; providing applicability of prohibited variances relating to certain discharges of waste; amending s. 403.709, F.S.; establishing a solid waste landfill closure account within the Solid Waste

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Management Trust Fund to be used for specified purposes; providing for the deposit of certain funds into the account; providing an appropriation; amending s. 403.713, F.S.; providing a limit on the exercise of flow control authority for landfill gas-to-energy facilities; reenacting s. 373.414(17), F.S., relating to additional criteria for activities in surface waters and wetlands, to incorporate the amendment made to s. 403.201, F.S.; providing an effective date.

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

Section 1. Present subsection (5) of section 373.227, Florida Statutes, is redesignated as subsection (7), and a new subsection (5) and a subsection (6) are added to that section, to read:

373.227 Water conservation; legislative findings and intent; objectives; comprehensive statewide water conservation program requirements.—

(5) In order to incentivize water conservation, if actual water use is less than permitted water use due to documented implementation of water conservation measures beyond those required in the consumptive use permit, including, but not limited to, those measures identified in best management practices pursuant to s. 570.93, the permitted allocation may not be modified solely due to such water conservation during the term of the permit. In order to promote water conservation and the implementation of measures that produce significant water savings beyond what is required in a consumptive use permit,

each water management district shall adopt rules providing water conservation incentives, which may include permit extensions.

(6) For consumptive use permits for agricultural irrigation, if actual water use is less than permitted water use due to weather events, crop diseases, nursery stock availability, market conditions, or changes in crop type, a district may not, as a result, reduce permitted allocation amounts during the term of the permit.

Section 2. Paragraph (b) of subsection (3) of section 373.323, Florida Statutes, is amended to read:

373.323 Licensure of water well contractors; application, qualifications, and examinations; equipment identification.—

(3) An applicant who meets the following requirements shall be entitled to take the water well contractor licensure examination:

(b) Has at least 2 years of experience in constructing, repairing, or abandoning water wells. Satisfactory proof of such experience shall be demonstrated by providing:

1. Evidence of the length of time the applicant has been engaged in the business of the construction, repair, or abandonment of water wells as a major activity, as attested to by a letter from a water well contractor or ~~and~~ a letter from a water well inspector employed by a governmental agency.

2. A list of at least 10 water wells that the applicant has constructed, repaired, or abandoned within the preceding 5 years. Of these wells, at least seven must have been constructed, as defined in s. 373.303(2), by the applicant. The list shall also include:

a. The name and address of the owner or owners of each

well.

b. The location, primary use, and approximate depth and diameter of each well that the applicant has constructed, repaired, or abandoned.

c. The approximate date the construction, repair, or abandonment of each well was completed.

Section 3. Paragraph (a) of subsection (1) and subsection (3) of section 373.467, Florida Statutes, are amended, to read:

373.467 The Harris Chain of Lakes Restoration Council.—There is created within the St. Johns River Water Management District, with assistance from the Fish and Wildlife Conservation Commission and the Lake County Water Authority, the Harris Chain of Lakes Restoration Council.

(1)(a) The council shall consist of nine voting members~~,~~ which shall include~~:~~ a representative of waterfront property owners, a representative of the sport fishing industry, a person with experience in ~~an~~ environmental science or regulation ~~engineer~~, a person with training in biology or another scientific discipline, ~~a person with training as~~ an attorney, a physician, ~~a person with training as~~ an engineer, and two residents of the county who are ~~do~~ not required to meet any additional ~~of the other~~ qualifications for membership ~~enumerated in this paragraph~~, each to be appointed by the Lake County legislative delegation. The Lake County legislative delegation may waive the qualifications for membership on a case-by-case basis if good cause is shown. A ~~No~~ person serving on the council may not be appointed to a council, board, or commission of any council advisory group agency. The council members shall serve as advisors to the governing board of the St. Johns River Water

Management District. The council is subject to ~~the provisions of~~ chapters 119 and 120.

(3) The council shall meet at the call of its chair, at the request of six of its members, or at the request of the chair of the governing board of the St. Johns River Water Management District. Resignation by a council member, or failure by a council member to attend three consecutive meetings without an excuse approved by the chair, results in a vacancy on the council.

Section 4. Subsection (5) is added to section 373.705, Florida Statutes, to read:

373.705 Water resource development; water supply development.—

(5) The water management districts shall promote expanded cost-share criteria for additional conservation practices, such as soil and moisture sensors and other irrigation improvements, water-saving equipment, water-saving household fixtures, and software technologies that can achieve verifiable water conservation by providing water use information to utility customers.

Section 5. Subsection (4) is added to section 378.209, Florida Statutes, to read:

378.209 Timing of reclamation.—

(4) The rate of reclamation requirements in paragraphs (1)(a)-(e) and the requirements of s. 378.208 do not apply to constructed clay settling areas where its beneficial use has been extended.

Section 6. Paragraph (i) is added to subsection (8) of section 403.067, Florida Statutes, to read:

403.067 Establishment and implementation of total maximum daily loads.—

(8) WATER QUALITY CREDIT TRADING.—

(i) Land set-asides and land-use modifications not otherwise required by state law or a permit, including constructed wetlands and other water quality improvement projects that reduce nutrient loads into nutrient-impaired surface waters, may be used under this subsection.

Section 7. Subsection (2) of section 403.201, Florida Statutes, is amended to read:

403.201 Variances.—

(2) A ~~No~~ variance may not ~~shall~~ be granted from any provision or requirement concerning discharges of waste into waters of the state or hazardous waste management which would result in the provision or requirement being less stringent than a comparable federal provision or requirement, except as provided in s. 403.70715. However, this subsection does not prohibit the issuance of moderating provisions or requirements under state law, subject to any necessary approval by the United States Environmental Protection Agency.

Section 8. Subsection (5) is added to section 403.709, Florida Statutes, to read:

403.709 Solid Waste Management Trust Fund; use of waste tire fees.—There is created the Solid Waste Management Trust Fund, to be administered by the department.

(5)(a) Notwithstanding subsection (1), a solid waste landfill closure account is established within the Solid Waste Management Trust Fund to provide funding for the closing and long-term care of solid waste management facilities. The

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173 department may use funds from the account to contract with a
174 third party for the closing and long-term care of a solid waste
175 management facility if:
176 1. The facility operates or operated under a department
177 permit;
178 2. The permittee provides proof of financial assurance for
179 closure in the form of an insurance certificate;
180 3. The facility is deemed to be abandoned or was ordered to
181 be closed by the department;
182 4. Closure is accomplished in substantial accordance with a
183 closure plan approved by the department; and
184 5. The department has written documentation that the
185 insurance company issuing the closure insurance policy will
186 provide or reimburse the funds required to complete closing and
187 long-term care of the facility.
188 (b) The department shall deposit funds received from an
189 insurance company as reimbursement for the costs of closing or
190 long-term care of the facility into the solid waste landfill
191 closure account.
192 Section 9. For the 2015-2016 fiscal year, the sum of
193 $2,339,764 in nonrecurring funds from the Solid Waste Management
194 Trust Fund in the Fixed Capital Outlay-Agency Managed-Closing
195 and Long-Term Care of Solid Waste Management Facilities
196 appropriation category is appropriated to the Department of
197 Environmental Protection for the closing and long-term care of
198 solid waste management facilities pursuant to s. 403.709(5),
199 Florida Statutes.
200 Section 10. Subsection (3) is added to section 403.713,
201 Florida Statutes, to read:

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202 403.713 Ownership and control of solid waste and recovered
203 materials.—
204 (3) For the purposes of exercising flow control authority
205 under this section, a resource recovery facility does not
206 include a landfill gas-to-energy system or facility.
207 Section 11. For the purpose of incorporating the amendment
208 made by this act to section 403.201, Florida Statutes, in a
209 reference thereto, subsection (17) of section 373.414, Florida
210 Statutes, is reenacted to read:
211 373.414 Additional criteria for activities in surface
212 waters and wetlands.—
213 (17) The variance provisions of s. 403.201 are applicable
214 to the provisions of this section or any rule adopted pursuant
215 to this section. The governing boards and the department are
216 authorized to review and take final agency action on petitions
217 requesting such variances for those activities they regulate
218 under this part and s. 373.4145.
219 Section 12. This act shall take effect July 1, 2015.

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 Appropriations

BILL: CS/CS/SB 714

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on General Government); Environmental Preservation and Conservation Committee; and Senators Grimsley and Gaetz

SUBJECT: Environmental Control

DATE: April 23, 2015 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hinton	Uchino	EP	**Fav/CS**
2.	Howard	DeLoach	AGG	**Recommend: Fav/CS**
3.	Howard	Kynoch	AP	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 714 related to environmental control provides the following:

- Revises the organizational restructure of the Department of Environmental Protection (DEP) by eliminating two offices, creating four new offices, and creating a new division, the Division of Water Restoration Assistance;
- Revises requirements and necessary qualifications for membership on the Harris Chain of Lakes Restoration Council (council);
- Allows the DEP to authorize water quality credit trading for land set-asides and land-use modifications that reduce nutrient loads into nutrient impaired surface waters when they are not already required by state law or a permit;
- Provides that the provisions of s. 403.201, F.S., do not prohibit the issuance of moderating provisions or requirements under state law but are subject to approval by the U.S. Environmental Protection Agency, if necessary;
- Creates a solid waste landfill closure account and authorizes the DEP to use funds from the account to contract with a third party for the closing and long-term care of a solid waste management facilities under certain conditions;
- Incentivizes water conservation by prohibiting permitting agencies from modifying permitted water allocations during the term of the permit under certain conditions;
- Directs Water Management Districts (WMDs) to adopt rules providing water conservation incentives, including permit extensions;

- Prohibits WMDs from reducing consumptive use permitted allocation amounts during the term of the permit under certain conditions;
- Changes the requirement that water well contractor license applicants provide a letter from both a water well contractor and a water well inspector to just requiring a letter from either one;
- Requires WMDs to promote expanded cost share criteria for additional conservation practices;
- Revises a bonding requirement for clay settling areas so they can be consolidated and reduce construction impacts; and
- Clarifies a definition of resource recovery facilities to not include a landfill gas-to-energy system or facility for the purposes of exercising flow control authority.

The bill provides an appropriation of $2,339,764 from the Solid Waste Management Trust Fund within the DEP for the closing and long-term care of solid waste management facilities (see Section V, Fiscal Impact Statement).

The bill provides an effective date of July 1, 2015.

II. Present Situation:

Organization of the Department of Environmental Protection

In 1993, the Legislature created the Department of Environmental Protection (DEP).[1] The head of the DEP is a secretary who is appointed by the Governor and confirmed by the Senate.[2] The secretary must appoint three deputy secretaries who supervise, coordinate, and formulate policy from any division, office, or district as assigned by the secretary.[3]

Section 20.255, Florida Statutes, provides the DEP's organizational structure. This includes six administrative districts serving the northwest portion of the state, the northeast portion of the state, the central portion of the state, the southeast portion of the state, the southwest portion of the state, and the southern portion of the state.[4] In addition, there are special offices that are headed by managers appointed by the secretary. These offices include:

- Office of Chief of Staff;
- Office of General Counsel;
- Office of Inspector General;
- Office of External Affairs;
- Office of Legislative Affairs;
- Office of Intergovernmental Programs;
- Office of Greenways and Trails; and
- Office of Emergency Response.[5]

[1] Chapter 93-213, Laws of Fla.; Section 20.255, F.S.
[2] Section 20.255(1), F.S.
[3] Section 20.255(2)(a), F.S.
[4] Section 20.255(2)(b), F.S.; Department of Environmental Protection, District Offices, http://www.dep.state.fl.us/secretary/dist/default.htm (last visited April 22, 2015).
[5] Section 20.255(2)(a), F.S.

Finally, there are seven divisions within the DEP to implement the department's programs:

- Division of Administrative Services;
- Division of Air Resource Management;
- Division of Water Resource Management;
- Division of Environmental Assessment and Restoration;
- Division of Waste Management;
- Division of Recreation and Parks; and
- Division of State Lands.[6]

The Harris Chain of Lakes Restoration Council

The Harris Chain of Lakes is located north and west of the Orlando metropolitan area and is in Lake and Orange counties.[7] It contains tens of thousands of acres of lakes and wetlands and is at the headwaters of the Ocklawaha River.[8]

The council was created by the Legislature in 2001 and consists of nine voting members. The members are:

- A representative of waterfront property owners;
- A representative of the sport fishing industry;
- An environmental engineer;
- A person with training in biology or another scientific discipline;
- A person with training as an attorney;
- A physician;
- A person with training as an engineer; and
- Two residents of Lake County appointed by the Lake County legislative delegation who do not meet any of the other qualifications for membership on the council.[9]

The council's duties are to:

- Review audits and all data related to lake restoration techniques and sport fish population recovery strategies;
- Evaluate whether additional studies are needed;
- Explore all possible sources of funding to conduct the restoration activities; and
- Report to the President of the Senate and the Speaker of the House of Representatives yearly before November 25 on the progress of the Harris Chain of Lakes restoration program and provide any recommendations for the next fiscal year.[10]

The council works with an advisory group composed of one representative from:

- The St. Johns River Water Management District, which also provides staff for the council;
- The DEP;

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[6] Section 20.255(3), F.S.
[7] Harris Chain of Lakes Restoration Council, *Where is the Harris Chain of Lakes and What Does the Restoration Council Do?*, http://harrischainoflakescouncil.com/ (last visited Apr. 8, 2015).
[8] *Id*.
[9] Section 373.467, F.S.
[10] *Id*.

- The Department of Transportation;
- The Fish and Wildlife Conservation Commission;
- The Lake County Water Authority;
- The U.S. Army Corps of Engineers; and
- The University of Florida.[11]

Water Quality Credit Trading

Water quality credit trading provides a potentially less costly option for meeting the pollution limits for an impaired waterbody. It is a voluntary, market-based approach for reducing pollution to Florida's impaired rivers, lakes, streams, and estuaries.[12]

The underlying theory is that achieving pollution abatement at the lowest incremental cost at each additional increment reduced is the most cost effective means to achieve pollution abatement. Trading is based on the premise that different dischargers of a pollutant in a watershed can face substantially different costs to control that pollutant. Trading allows pollutant reduction activities to be environmentally valued in the form of credits that can then be traded on a local market to promote cost-effective water quality improvements.[13] Water quality credits are generated when a discharger reduces its loading of a given pollutant below the load allowable for the discharger.[14] Financial savings accrue to parties that buy credits (pollutant reductions) from others for less than the cost of implementing the reductions themselves. Those that sell credits will do so only if the value of the trade is equal to or higher than their investment in the facilities or activities necessary to achieve the pollutant reductions.[15]

Water quality credit trading can accelerate cleanup because potentially unaffordable costs for individual dischargers can be reduced and cooperative relationships built through trading agreements that foster shared responsibility and commitment. Trading can also accommodate new growth, including new pollutant loadings from urban stormwater, and domestic and industrial wastewater discharges. It offers the possibility for the owners of potential new or increased discharges to purchase credits from existing dischargers so that overall pollutant loads to a watershed are not increased and water quality is preserved.[16]

Trading is authorized pursuant to s. 403.067, F.S., The Department of Environmental Protection (DEP) is in the process of rulemaking to amend the water quality credit trading rule to implement statewide trading and detail precisely how trades are to be conducted and tracked in the future.[17] The DEP has conducted four public workshops on the rule, two in late August 2014 to review

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[11] *Id.*
[12] DEP, *The Pilot Water Quality Credit Trading Program for the Lower St. Johns River: A Report to the Governor and Legislature*, 1 (Oct. 2010), *available at* http://www.dep.state.fl.us/water/wqssp/docs/WaterQualityCreditReport-101410.pdf (last visited Apr. 6, 2015).
[13] *Id.*
[14] Lower St. Johns River TMDL Executive Committee, *Basin Management Action Plan: For the Implementation of Total Maximum Daily Loads for Nutrients Adopted by the Florida Department of Environmental Protection for the Lower St. Johns River Basin Main Stem*, 53 (October 2008), *available at* http://www.dep.state.fl.us/water/watersheds/docs/bmap/adopted-lsjr-bmap.pdf (last visited Apr. 6, 2015).
[15] *Supra* note 6, at 2.
[16] *Supra* note 6, at 2.
[17] Fla. Admin. Code R. 62-306 (2010).

potential rule concepts, and two in mid-January 2015 to discuss draft rule language. The public comment period following the most recent workshops closed in early February, but the DEP has accepted some subsequent comments. The DEP will consider all comments received and produce a final proposed rule for adoption in the near future.[18]

Variances

The Florida and Water Pollution Control Act was enacted in 1967.[19] The legislative declaration states, "[t]he pollution of the air and waters of this state constitute a menace to the public health and welfare; create public nuisances; is harmful to wildlife and fish and other aquatic life; and impairs domestic, agricultural, industrial, recreational, and other beneficial uses of the air and water."[20]

The act provides the DEP with authority to control and prohibit the pollution of water and air and to establish rules to carry out the act. Section 403.201, F.S., allows the DEP to grant a variance from provisions of the act or adopted rules and regulations. A variance may be granted for any of the following reasons:

- There is no practicable means known or available for the adequate control of the pollution;
- Compliance with the requirements of the variance will require extensive cost and time, therefore, a variance may be issued with a timetable for the actions required; or
- To relieve or prevent hardship. The variances granted under this provision are limited to 24 months. A variance granted for electrical power plant and transmission line siting, as described in Part II of ch. 403, F.S., may be granted for the life of the permit.

A variance is prohibited for the discharge of waste into state waters or for hazardous waste management that would result in the requirement being less stringent than an applicable federal requirement. Research, development, and demonstration permits under s. 403.70715, F.S., are exempt from this provision.[21]

Relief mechanisms may be included in a permit when the natural conditions for the impacted area results in limits that exceed what is authorized in the permit. The relief mechanisms include:

- A site specific alternative criteria for each water quality criteria;
- A variance or exemption for each water quality criteria;
- A variance or exemption for a public water system from the maximum contaminant level or treatments techniques;
- A variance from other permitting standards or conditions; or
- A major or minor exemption for an aquifer.[22]

[18] DEP, *Senate Bill 714 Agency Analysis* (Feb. 13, 2015) (on file with the Senate Committee on Environmental Preservation and Conservation).
[19] Chapter 67-436, Laws of Fla.
[20] Section 403.21, F.S.
[21] Section 403.201, F.S.
[22] Fla. Admin. Code R. 62-4.050 (2014).

Solid Waste Management Trust Fund

The DEP is responsible for implementing and enforcing the solid waste management program, which provides guidelines for the storage, separation, processing, recovery, recycling, and disposal of solid waste throughout the state.[23] Counties are responsible for operating solid waste disposal facilities, which are permitted through the DEP, in order to meet the needs of the incorporated and unincorporated areas of the county.[24]

Rule 62-701, F.A.C., establishes the standards for the construction, operation, and closure of a solid waste management facility. Landfills or solid waste disposal sites that close require a closure permit issued by the DEP or a closure plan approved by the DEP. The closure plan includes:

- A design plan;
- A closure operation plan;
- A long-term care plan; and
- Proof of financial assurance, which may include closure insurance, for long-term care and a cost estimate for closure pursuant to Rule 62-701.630, F.A.C.

Section 403.7125, F.S., provides the statutory requirement that the owner or operator of a landfill is responsible for the closure of the landfill and is liable for its improper closure. The owner or operator is required to establish a fee to ensure financial resources are available for the closure of the landfill. Section 403.707(9), F.S., requires the same financial assurance responsibilities for the owner or operator. Sections 403.7125 and 403.707(9), F.S., allow the DEP to establish acceptable financial mechanisms that cover the cost of closure; however, neither section specifies that closure insurance is allowed.

Section 403.709, F.S., creates the Solid Waste Management Trust Fund, which is administered by the DEP. The trust fund requires that, of the money deposited:

- Up to 40 percent must be used for solid waste activities;
- Up to 4.5 percent must be for research and training programs;
- Up to 11 percent must be used for mosquito control, administered by the Department of Agriculture and Consumer Services;
- Up to 4.5 percent for Department of Transportation litter prevention control programs; and
- A minimum of 40 percent for funding a solid waste management grant program for activities related to recycling and waste reduction.

Water Conservation and Water Resource Development

A person must apply for and obtain a consumptive use permit (CUP) from the applicable water management district (WMD) or the Department of Environmental Protection (DEP) before using surface or groundwater of the state, unless the person is solely using the water for domestic use. To obtain a CUP, an applicant must satisfy three requirements, commonly referred to as the "the three-prong test."

[23] See s. 403.705, F.S.
[24] See s. 403.706, F.S.

To satisfy the test, an applicant must establish that the proposed use of the water:

- Is for a "reasonable-beneficial use," meaning the use of water in such quantity as is necessary for economic and efficient utilization for a purpose and in a manner which is both reasonable and consistent with the public interest;
- Will not interfere with any presently existing legal use of water; and
- Is consistent with the public interest.

Applicants may receive a CUP with duration of 20 years if there is sufficient data to provide reasonable assurance that the conditions for permit issuance will be met for the duration of the permit. Otherwise, the WMD or DEP may issue a CUP for a shorter duration which reflects the period for which such reasonable assurances can be provide.

When a CUP is issued for a 20 year duration, a WMD or DEP may require the permittee to provide a compliance report every ten years during the term of the permit to maintain reasonable assurance the conditions of the CUP continue to be met. Following review of a compliance report, the WMD or the DEP may modify the CUP to ensure that the use meets the conditions for issuance. Permit modifications resulting from review of the compliance report are not subject to competing applications, provided there is no increase in the permitted allocation or permit duration, and no change in source, except for changes in source requested by the district.

In several WMDs, when economic conditions or population growth rates result in the actual water use being lower than permitted water use, a modification to reduce the permitted allocation may be made by the WMD only when there is no reasonable likelihood that the allocation will be needed during the permit term. However, in order to incentivize conservation of water, if actual water use is less than permitted water use due to documented implementation of water conservation measures, the WMD may not modify the permitted allocation due to these circumstances during the term of the permit.

In addition, s. 373.227, F.S., requires the DEP, in cooperation with the WMDs, to develop a statewide water conservation program for public water supply that:

- Encourages utilities to implement water conservation programs that are economically efficient, effective, affordable, and appropriate;
- Allows no reduction in, and increase where possible, utility-specific water conservation effectiveness over current programs;
- Is goal-based, accountable, measurable, and implemented collaboratively with water suppliers, water users, and water management agencies;
- Includes cost and benefit data on individual water conservation practices to assist in tailoring practices to be effective for the unique characteristics of particular utility service areas, focusing upon cost-effective measures;
- Uses standardized public water supply conservation definitions and standardized quantitative and qualitative performance measures for an overall system of assessing and benchmarking the effectiveness of water conservation programs and practices;
- Creates a clearinghouse or inventory for water conservation programs and practices available to public water supply utilities;
- Develops a standardized water conservation planning process for utilities; and

- Develops and maintains a Florida-specific water conservation guidance document containing a menu of affordable and effective water conservation practices.

As part of an application for a CUP, a public water supply utility may propose a goal-based water conservation plan that is tailored to its individual circumstances. If the utility provides reasonable assurance that the plan will achieve effective water conservation at least as well as the water conservation requirements adopted by the appropriate WMD, the WMD must approve the plan. The approved plan will satisfy water conservation requirements imposed as a condition of obtaining a CUP.

Clay Settling Areas

In Florida, phosphate mining occurs primarily in central Florida. There are 27 phosphate mines in the state covering more than 491,900 acres. The Florida Legislature required the reclamation of lands mined for phosphate after July 1, 1975. Reclamation standards for phosphate lands include contouring to safe slopes, providing for acceptable water quality and quantity, vegetation, and the return of wetlands to pre-mining type, nature, function, and acreage.[25] A significant byproduct of phosphate mining is clay, which is deposited in clay settling areas. Mining areas, including clay settling areas, must be returned to their natural state after the completion of mining operations.[26]

Section 378.208, F.S., provides that an operator of a mine shall provide appropriate financial assurance to the state that the reclamation of lands subject to the mandatory reclamation obligation will be completed in a timely manner. Compliance with the rate of reclamation established in s. 378.209 is deemed to be appropriate financial assurance. Section 378.208, F.S., provides that mine operators who are not in compliance with the rate of reclamation established in s 378.209, F.S., must post one or more forms of security, which are listed in s. 378.209(a)-(f), F.S.

Water Well Contractors License

Each person who engages in the business of a water well contractor must obtain a license from a WMD. Persons must submit an application to the WMD in which they reside or in which his or her principal place of business is located. In order to take the licensure exam, an applicant must be 18 years old; have two years of experience in constructing, repairing, or abandoning water wells; complete the an application form; and pay a nonrefundable fee.

An applicant must submit a letter from a water well contactor and a letter from a water well inspector employed by a governmental agency in order to demonstrate two years of experience in constructing, repairing, or abandoning water wells. Further, an applicant must submit a list of at least ten water wells that the applicant has constructed, repaired, or abandoned within the preceding five years.

[25] DEP, *Mandatory Phosphate Program*, http://www.dep.state.fl.us/water/mines/manpho.htm (last visited Mar. 15, 2015).
[26] Section 378.209(1), F.S.

Resource Recovery

Resource recovery means "the process of recovering materials or energy from solid waste, excluding those materials or solid waste under control of the Nuclear Regulatory Commission."[27] Section 403.713, F.S., provides that local governments my control the collection and disposal of solid waste and may institute a flow control ordinance for the purpose of ensuring that a resource recovery facility receives and adequate quantity of solid waste.

III. Effect of Proposed Changes:

Section 1 amends s. 20.255, F.S., to modify the organizational structure of the Department of Environmental Protection (DEP), by:

- Eliminating the Office of Intergovernmental Programs, which is responsible for three separate programs: the Clearinghouse, the Comprehensive Plan, and the Outer Continental Shelf Program. These programs will be implemented within the Florida Coastal Office, which is established by the bill.
- Eliminating the Office of Greenways and Trails which establishes and manages a statewide system of greenways and trails for recreational and conservation purposes. This program is currently administered by the Division of Recreation and Parks.
- Creating the Office of Technology and Information Services which is responsible for the management and security of information systems.
- Creating the Office of Operations that provides support services for the Division of State Lands and Division of Recreation and Parks.
- Creating the Florida Coastal Office which currently manages over four million acres of submerged lands and select coastal uplands in Florida, oversees the Florida Coastal Management Program, and oversees the Outer Continental Shelf Program. These programs currently exist under the Deputy Secretary of Ecosystem Restoration.
- Creating the Office of the Florida Geological Survey, which undertakes geoscience research and assessments. The Florida Geological Survey currently exists within the DEP under the Deputy Secretary of Regulatory Programs.
- Renaming the "Office of Emergency Response," which responds to environmental pollution threats, to the "Office of Preparedness and Emergency Response.
- Specifying that the Inspector General for the DEP is appointed by the Chief Inspector General of the Governor's Office and is subject to the general supervision of the secretary.
- Creating the Division of Water Restoration Assistance, which will enable the consolidation of seven state and federal funded programs under this division. The programs are the Deep Water Horizon response, Clean Water and Drinking Water State Revolving Funds, Beach Management Funding Assistance, Nonpoint Source Management, Total Maximum Daily Loads (TMDL) Grants, Springs funding, Water Project funding, and Alternative Water Supply funding.

Section 2 creates s. 373.227(5), F.S., to incentivize water conservation by prohibiting permitting agencies from modifying permitted water allocations during the term of the permit if actual water use is less than permitted solely due to documented implementation of water conservation measures beyond what is required in consumptive use permit. Water conservation measures may

[27] Fla. Admin. Code R. 62-701.200 (2015).

include, but are not limited to, those measures identified in best management practices for agricultural activities. The bill directs the Water Management Districts (WMDs) to adopt rules providing water conservation incentives, including permit extensions. The bill also prohibits the WMDs from reducing consumptive use permitted allocation amounts during the term of the permit which are for agricultural irrigation, if actual water use is less than permitted water use due to weather events, crop diseases, nursery stock availability, market conditions, or changes in crop type.

Section 3 amends s. 373.323, F.S., relating to the requirements for water well contractor license applicants to demonstrate two years of experience in constructing, repairing, or abandoning water wells. The change requires applicants to provide a letter from a water well contractor <u>or</u> a letter from a water well inspector employed by a governmental agency. A letter from both will no longer be required.

Section 4 amends s. 373.467, F.S., to revise the membership requirements for the Harris Chain of Lakes Restoration Council. One member must have experience in environmental science or regulation, rather than an environmental engineer. The bill requires an attorney and an engineer, rather than people that have training in either discipline. It also clarifies that the two members, who are residents of the county, are not required to meet any of the other requirements of membership to be appointed to the council. As the statute is currently written, it appears those two members are prohibited from meeting any of the other requirements for membership. The bill provides that the Lake County legislative delegation may waive the qualifications for membership on a case-by-case basis for good cause. The bill provides that resignation by a council member or the failure of a member to attend three consecutive meetings without being excused by the chair of the committee results in a vacancy.

Section 5 creates s. 373.705(5), F.S., to require the WMDs to promote expanded cost share criteria for additional conservation practices, such as soil and moisture sensors, and other irrigation improvements, water saving equipment, water-saving household fixtures, and software technologies that can achieve verifiable water conservation by providing water use information to utility customers.

Section 6 creates s. 378.209(4), F.S., amending the timing of land reclamations to exempt constructed clay settling areas where its beneficial use has been extended from the requirements in ss. 378.209(1)(a) through (e) and 378.208, F.S. This revises a bonding requirement for clay settling areas so they can be consolidated and reduce construction costs.

Section 7 amends s. 403.067, F.S., to allow the DEP to authorize water quality credit trading for land set-asides and land-use modifications, including constructed wetlands and other water quality improvement projects, which reduce nutrient loads into nutrient-impaired surface waters. Currently, land set-asides and land-use modifications may also include changes in crop type, conservation easements, term-limited contracts for environmental services, and other similar activities.

Section 8 amends s. 403.201, F.S., to provide that the issuance of moderating provisions or requirements under state law is not prohibited by s. 403.201(2), regarding the prohibition of

variances from any provision or requirement concerning discharges of waste into state waters, or hazardous waste management.

Section 9 amends s. 403.709, F.S., creating a solid waste landfill closure account within the Solid Waste Management Trust Fund to provide funding for the closing and long-term care of solid waste management facilities. The bill authorizes the DEP to use funds from the account to contract with a third party for the closing and long-term care of a solid waste management facility if:

- The facility has or had a DEP permit to operate;
- The permittee provided proof of financial assurance for the closure in the form of an insurance certificate;
- The facility is deemed to be abandoned or was ordered to close by the DEP;
- Closure is accomplished in substantial accordance with the closure plan approved by the DEP; and
- The DEP has written documentation that the insurance company issuing the closure insurance policy will provide or reimburse the funds required to complete the closing and long-term care of the facility.

The bill requires the DEP to deposit funds received from an insurance company as reimbursement for the costs of closing or long-term care of the facility into the Solid Waste Landfill Closure account.

Section 10 provides an appropriation for the 2015-2016 fiscal year of $2,339,764 in nonrecurring funds from the Solid Waste Management Trust Fund within the DEP for the closing and long-term care of solid waste management facilities.

Section 11 creates s. 403.713(3), F.S., and clarifies that a resource recovery facilities does not include a landfill gas-to-energy system or facility for the purposes of exercising flow control authority.

Section 12 reenacts s. 373.414, F.S., for the purpose of incorporating the amendment to s. 403.201, F.S.

Section 13 provides an effective date of July 1, 2015.

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:

Under CS/CS/SB 714, if the federal government rescinds a delegated authority from the state, a permittee may have to obtain both state and federal permits rather than only a state permit for certain activities. The fiscal impact and number or parties that may be affected is unknown.

C. Government Sector Impact:

CS/CS/SB 714 requires the Department of Environmental Protection (DEP) to establish a solid waste landfill closure account within the Solid Waste Management Trust Fund to provide funding for the closure and long-term care of solid waste management facilities. Funds for these closures would be reimbursed by insurance companies; however, in cases where the insurance company disputes actual expenses and does not reimburse the DEP for costs, the DEP Solid Waste Management Trust Fund would have incurred these costs.

Currently, there are five landfills that could be addressed related to the provisions of the bill. These include Coyote East in Walton County, Coyote Navarre in Santa Rosa County, Coyote West in Walton County, Cerny Road in Escambia County, and Williams Road in Hillsborough County. The DEP has estimated these closure costs to be $2,339,764 from the Solid Waste Management Trust Fund and anticipates that these costs will be reimbursed.

The bill provides $2,339,764 in nonrecurring funds from the Solid Waste Management Trust Fund in the Fixed Capital Outlay-Agency Managed-Closing and Long-Term Care of Solid Waste Management Facilities appropriation category within the DEP for the closing and long-term care of solid waste management facilities.

The bill also reorganizes DEP by eliminating two offices, creating four new offices, and creating a new division. The reorganization will be accomplished by reallocating current resources. There is no fiscal impact related to the reorganization.

VI. Technical Deficiencies:

On lines 173-174, the phrase “results in a vacancy on the council” may be misinterpreted and could be reworded to specify that resignation of a council member or the failure of a member to attend three consecutive meetings, without an excuse approved by the chair of the committee, results in the removal of the committee member.

VII. Related Issues:

According to the DEP:

- Section 2 of the bill does not expand or clarify the authority of existing law. Rules are under development that contain provisions allowed by the bill.
- Section 3 of the bill is ambiguous and could lead to an interpretation that a "moderating provision or requirement" could be granted from a state law, even when that law is necessary for the state's implementation of federally delegated or approved program. Such an interpretation could result in revocation of the state's approval to implement a federally delegated or approved program. In instances where a regulated entity's state approval operates as its federal license, such an interpretation could result in a regulated entity being unable to utilize state approval as a required federal license.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 20.255, 373.227, 373.323, 373.705, 378.209, 403.067, 403.201, 403.709, and 403.713.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS by Appropriations on April 21, 2015:

The committee substitute:

- Revises the organizational structure of the Department of Environmental Protection.
- Incentivizes water conservation by prohibiting permitting agencies from modifying permitted water allocations during the term of the permit under certain conditions;
- Directs Water Management Districts (WMDs) to adopt rules providing water conservation incentives, including permit extensions;
- Prohibits the WMDs from reducing consumptive use permitted allocation amounts during the term of the permit under certain conditions;
- Changes the requirement that water well contractor license applicants provide a letter from both a water well contractor and a water well inspector to just requiring a letter from either one;
- Requires the WMDs to promote expanded cost share criteria for additional conservation practices;
- Revises a bonding requirement for clay settling areas so they can be consolidated and reduce construction impacts;
- Provides an appropriation for the accelerated closure of solid waste management facilities; and
- Clarifies a definition of resource recovery facilities to not include a landfill gas-to-energy system or facility for the purposes of exercising flow control authority.

CS by Environmental Preservation and Conservation on April 8, 2015:

- Provides that a member of the Harris Chain of Lakes Restoration Council must be a person with experience in environmental science or regulation, rather than an environmental engineer;
- Clarifies that one member must be an attorney, and another must be an engineer, rather than a person with training in either discipline;
- Clarifies that the two residents may, but are not required to, meet any of the other requirements for membership;
- Provides the Lake County legislative delegation with the authority to waive the qualifications for membership on the council on a case-by-case basis if good cause is shown;
- Provides that resignation by a council member, or failure by a council member to attend three consecutive meetings without an excuse approved by the chair of the council, will result in a vacancy;
- Clarifies that land set-asides and land-use modifications that may qualify for water quality credits must not otherwise be required by state law or a permit; and
- Clarifies that the issuance of any moderating provisions or requirements under state law, which are otherwise prohibited under s. 403.201, F.S., are subject to any necessary approval by the U.S. Environmental Protection Agency.

B. Amendments:

None.

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

A bill to be entitled

An act relating to environmental control; amending s. 373.467, F.S.; revising the qualifications for membership on the Harris Chain of Lakes Restoration Council; authorizing the Lake County legislative delegation to waive such membership qualifications for good cause; providing for council vacancies; amending s. 403.067, F.S.; authorizing land set-asides and land-use modifications that reduce nutrient loads into nutrient-impaired surface waters to be used under the water quality credit trading program; amending s. 403.201, F.S.; providing applicability of prohibited variances relating to certain discharges of waste; amending s. 403.709, F.S.; establishing a solid waste landfill closure account within the Solid Waste Management Trust Fund to be used for specified purposes; providing for the deposit of certain funds into the account; reenacting s. 373.414(17), F.S., relating to additional criteria for activities in surface waters and wetlands, to incorporate the amendment made to s. 403.201, F.S.; providing an effective date.

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

Section 1. Paragraph (a) of subsection (1) and subsection (3) of section 373.467, Florida Statutes, are amended, to read:

373.467 The Harris Chain of Lakes Restoration Council.—There is created within the St. Johns River Water Management

District, with assistance from the Fish and Wildlife Conservation Commission and the Lake County Water Authority, the Harris Chain of Lakes Restoration Council.

(1)(a) The council shall consist of nine voting members~~,~~ which shall include~~:~~ a representative of waterfront property owners, a representative of the sport fishing industry, a person with experience in ~~an~~ environmental science or regulation ~~engineer~~, a person with training in biology or another scientific discipline, ~~a person with training as~~ an attorney, a physician, ~~a person with training as~~ an engineer, and two residents of the county who are ~~do~~ not required to meet any additional ~~of the other~~ qualifications for membership ~~enumerated in this paragraph~~, each to be appointed by the Lake County legislative delegation. The Lake County legislative delegation may waive the qualifications for membership on a case-by-case basis if good cause is shown. A ~~No~~ person serving on the council may not be appointed to a council, board, or commission of any council advisory group agency. The council members shall serve as advisors to the governing board of the St. Johns River Water Management District. The council is subject to ~~the provisions of~~ chapters 119 and 120.

(3) The council shall meet at the call of its chair, at the request of six of its members, or at the request of the chair of the governing board of the St. Johns River Water Management District. Resignation by a council member, or failure by a council member to attend three consecutive meetings without an excuse approved by the chair, results in a vacancy on the council.

Section 2. Paragraph (i) is added to subsection (8) of

59 section 403.067, Florida Statutes, to read:
60 403.067 Establishment and implementation of total maximum
61 daily loads.—
62 (8) WATER QUALITY CREDIT TRADING.—
63 (i) Land set-asides and land-use modifications not
64 otherwise required by state law or a permit, including
65 constructed wetlands and other water quality improvement
66 projects that reduce nutrient loads into nutrient-impaired
67 surface waters, may be used under this subsection.
68 Section 3. Subsection (2) of section 403.201, Florida
69 Statutes, is amended to read:
70 403.201 Variances.—
71 (2) A ~~No~~ variance may not ~~shall~~ be granted from any
72 provision or requirement concerning discharges of waste into
73 waters of the state or hazardous waste management which would
74 result in the provision or requirement being less stringent than
75 a comparable federal provision or requirement, except as
76 provided in s. 403.70715. However, this subsection does not
77 prohibit the issuance of moderating provisions or requirements
78 under state law, subject to any necessary approval by the United
79 States Environmental Protection Agency.
80 Section 4. Subsection (5) is added to section 403.709,
81 Florida Statutes, to read:
82 403.709 Solid Waste Management Trust Fund; use of waste
83 tire fees.—There is created the Solid Waste Management Trust
84 Fund, to be administered by the department.
85 (5)(a) Notwithstanding subsection (1), a solid waste
86 landfill closure account is established within the Solid Waste
87 Management Trust Fund to provide funding for the closing and

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

88 long-term care of solid waste management facilities. The
89 department may use funds from the account to contract with a
90 third party for the closing and long-term care of a solid waste
91 management facility if:
92 1. The facility operates or operated under a department
93 permit;
94 2. The permittee provides proof of financial assurance for
95 closure in the form of an insurance certificate;
96 3. The facility is deemed to be abandoned or was ordered to
97 be closed by the department;
98 4. Closure is accomplished in substantial accordance with a
99 closure plan approved by the department; and
100 5. The department has written documentation that the
101 insurance company issuing the closure insurance policy will
102 provide or reimburse the funds required to complete closing and
103 long-term care of the facility.
104 (b) The department shall deposit funds received from an
105 insurance company as reimbursement for the costs of closing or
106 long-term care of the facility into the solid waste landfill
107 closure account.
108 Section 5. For the purpose of incorporating the amendment
109 made by this act to section 403.201, Florida Statutes, in a
110 reference thereto, subsection (17) of section 373.414, Florida
111 Statutes, is reenacted to read:
112 373.414 Additional criteria for activities in surface
113 waters and wetlands.—
114 (17) The variance provisions of s. 403.201 are applicable
115 to the provisions of this section or any rule adopted pursuant
116 to this section. The governing boards and the department are

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

117 authorized to review and take final agency action on petitions
118 requesting such variances for those activities they regulate
119 under this part and s. 373.4145.
120 Section 6. This act shall take effect July 1, 2015.

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

The Florida Senate

Committee Agenda Request

To: Senator Tom Lee, Chair
Committee on Appropriations

Subject: Committee Agenda Request

Date: April 14, 2015

I respectfully request that **Senate Bill #714**, relating to Environmental Control, be placed on the:

☐ committee agenda at your earliest possible convenience.

☒ next committee agenda.

Sincerely,

Denise Grimsley

Senator Denise Grimsley
Florida Senate, District 21

File signed original with committee office

S-020 (03/2004)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/21/15
Meeting Date

714
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic ENVIRONMENTAL CONTROL

Name LANCE PIERCE

Job Title ASST. DIRECTOR OF STATE LEGISLATIVE AFFAIRS

Address 315 S. CALHOUN ST.
Street

TALLAHASSEE FL 32301
City State Zip

Phone 222-2557

Email

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☑ In Support ☐ Against
(The Chair will read this information into the record.)

Representing

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4 / 21 / 2015
Meeting Date

Topic _____ Bill Number 714 *(if applicable)*

Name BRIAN PITTS Amendment Barcode _____ *(if applicable)*

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH
Street

SAINT PETERSBURG FLORIDA 33705
City *State* *Zip*

Phone 727-897-9291

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)

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 Appropriations

BILL: CS/SB 718

INTRODUCER: Appropriations Committee and Senator Lee

SUBJECT: Administrative Procedures

DATE: April 24, 2015 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cibula	Cibula	JU	**Favorable**
2.	Davis	DeLoach	AGG	**Favorable**
3.	Davis	Kynoch	AP	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 718 makes a number of changes to the Administrative Procedure Act (APA), which relate to a state agency's reliance on unadopted or invalid rules and the provision of notices and information to the public. Among the most notable changes, the bill:

- Generally requires an agency that initiates rulemaking after a public hearing relating to an unadopted rule to file a notice of proposed rule within a time certain.
- Increases the amount of information relating to agency rulemaking which must be published in the Florida Administrative Register.
- Provides that the decision of an administrative law judge on the validity of the rule or unadopted rule is final agency action during a rule challenge that is asserted as a defense to agency action.
- Prohibits an administrative law judge from entering a summary final order with respect to rule challenges asserted as a defense to agency action.
- Authorizes the petitioner in a hearing that does not involve disputed facts to assert a rule challenge as a defense to agency action and have the rule challenge decided by an administrative law judge instead of the agency.
- Authorizes the rules ombudsman in the Executive Office of the Governor to require an agency to review and designate rules the violation of which would be a minor violation.

This bill has an indeterminate fiscal impact.

The bill provides an effective date of July 1, 2015.

II. Present Situation:

Rulemaking and the Administrative Procedure Act

The Administrative Procedure Act (APA) in ch. 120, F.S., sets forth uniform procedures that agencies must follow when exercising rulemaking authority. A rule is an agency statement of general applicability which interprets, implements, or prescribes law or policy, including the procedure and practice requirements of an agency.[1] Rulemaking authority is delegated by the Legislature[2] through statute and authorizes an agency to "adopt, develop, establish, or otherwise create"[3] a rule. Agencies do not have discretion whether to engage in rulemaking.[4] To adopt a rule, an agency must have a general grant of authority to implement a specific law through rulemaking.[5] The grant of rulemaking authority itself need not be detailed.[6] The specific statute being interpreted or implemented through rulemaking must provide specific standards and guidelines to preclude the administrative agency from exercising unbridled discretion in creating policy or applying the law.[7]

Notice of Rules

Under current law, the Department of State is required to publish the Florida Administrative Register on the Internet.[8] This document must contain:

- Notices relating to the adoption or repeal of a rule.
- Notices of public meetings, hearing, and workshops.
- Notices of requests for authorization to amend or repeal an existing rule or for the adoption of a new uniform rule.
- Notices of petitions for declaratory statements or administrative determinations.
- Summaries of objections to rules filed by the Administrative Procedures Committee.
- Other material required by law or deemed useful by the department.

Burden of Proof

In general, laws carry a presumption of validity, and those challenging the validity of a law carry the burden of proving invalidity. The APA retains this presumption of validity by requiring those challenging adopted rules to carry the burden of proving a rule's invalidity.[9] However, in the case of proposed rules, the APA places the burden on the agency to demonstrate the validity of the rule as proposed, once the challenger has raised specific objections to the rule's validity.[10] In addition, a rule may not be filed for adoption until any pending challenge is resolved.[11]

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[1] Section 120.52(16), F.S.; *Florida Dep't of Financial Services v. Capital Collateral Regional Counsel-Middle Region*, 969 So. 2d 527, 530 (Fla. 1st DCA 2007).
[2] *Southwest Fla. Water Mgmt. Dist. v. Save the Manatee Club, Inc.*, 773 So. 2d 594 (Fla. 1st DCA 2000).
[3] Section 120.52(17), F.S.
[4] Section 120.54(1)(a), F.S.
[5] Sections 120.52(8) and 120.536(1), F.S.
[6] *Southwest Fla. Water Mgmt. Dist. v. Save the Manatee Club, Inc.*, 773 So. 2d 594 at 599.
[7] *Sloban v. Fla. Bd. of Pharmacy*, 982 So. 2d 26, 29-30 (Fla. 1st DCA 2008) (internal citations omitted); *Bd. of Trustees of the Internal Improvement Trust Fund v. Day Cruise Assoc., Inc.*, 794 So. 2d 696, 704 (Fla. 1st DCA 2001).
[8] Section 120.55, F.S.
[9] Section 120.56(3), F.S.
[10] Section 120.56(2), F.S.
[11] Section 120.54(3)(e)2., F.S.

In the case of a statement or policy in force that was not adopted as a rule, a challenger must prove that the statement or policy meets the definition of a rule under the APA. If so, and if the statement or policy has not been validly adopted, the agency must prove that rulemaking is not feasible or practicable.[12]

Proceedings Involving Rule Challenges

The APA presently applies different procedures in rule challenges when proposed rules, existing rules, and unadopted rules are challenged by petition, compared to a challenge to the validity of an existing rule, or an unadopted rule defensively in a proceeding initiated by agency action. In addition to the attorney fees awardable to small businesses under the Equal Access to Justice Act, the APA provides attorney fee awards when a party petitions for the invalidation of a rule or unadopted rule, but not when the same successful legal case is made in defense of an enforcement action or grant or denial of a permit or license.

The APA does provide that an administrative law judge with the Division of Administrative Hearings (DOAH) may determine that an agency has attempted to rely on an unadopted rule in proceedings initiated by agency action. However, this is qualified by a provision that an agency may overrule the DOAH determination if it's clearly erroneous. If the agency rejects the DOAH determination and is later reversed on appeal, the challenger is awarded attorney fees for the entire proceeding.[13] Additionally, in proceedings initiated by agency action, if a DOAH administrative law judge determines that a rule constitutes an invalid exercise of delegated legislative authority, the agency has full de novo authority to reject or modify such conclusions of law, provided the final order states with particularity the reasons for rejection or modifying such determination.[14]

In proceedings initiated by a party challenging a rule or unadopted rule, the DOAH administrative law judge enters a final order that cannot be overturned by the agency. The only appeal is to a District Court of Appeal.

Final Orders

An agency has 90 days to render a final order in any proceeding, after the hearing if the agency conducts the hearing, or after the recommended order is submitted to the agency if DOAH conducts the hearing (excepting the rule challenge proceedings described above in which the DOAH administrative law judge enters the final order).

Judicial Review

A notice of appeal of an appealable order under the APA must be filed within 30 days after the rendering of the order.[15] An order, however, is rendered when filed with the agency clerk. On occasion, a party might not receive notice of the order in time to meet the 30 day appeal deadline. Under the current statute, a party may not seek judicial review of the validity of a rule

[12] Section 120.56(4), F.S.
[13] Section 120.57(1)(e)3., F.S.
[14] Section 120.57(1)(k-l), F.S.
[15] Section 120.68(2)(a), F.S.

by appealing its adoption, but the statute authorizes an appeal from a final order in a rule challenge.[16]

Minor Violations

The APA directs agencies to issue a "notice of noncompliance" as the first response when the agency encounters a first minor violation of a rule.[17] The law provides that a violation is a minor violation if it "does not result in economic or physical harm to a person or adversely affect the public health, safety, or welfare or create a significant threat of such harm." Agencies are authorized to designate those rules for which a violation would be a minor violation. An agency's designation of rules under the provision is excluded from challenge under the APA but may be subject to review and revision by the Governor or Governor and Cabinet.[18] An agency under the direction of a cabinet officer has the discretion not to use the "notice of noncompliance" once each licensee is provided a copy of all rules upon issuance of a license, and annually thereafter.

Rules Ombudsman

Section 288.7015, F.S., requires the Governor to appoint a rules ombudsman in the Executive Office of the Governor, for considering the impact of agency rules on the state's citizens and businesses. The rules ombudsman must carry out the duties related to rule adoption procedures with respect to small businesses; review state agency rules that adversely or disproportionately impact businesses, particularly those relating to small and minority businesses; and make recommendations on any existing or proposed rules to alleviate unnecessary or disproportionate adverse effects to business. Each state agency must cooperate fully with the rules ombudsman in identifying such rules, and take the necessary steps to waive, modify, or otherwise minimize such adverse effects of any such rules.

III. Effect of Proposed Changes:

This bill makes a number of changes to the Administrative Procedure Act (APA), which relate to a state agency's reliance on unadopted or invalid rules and the provision of notices and information to the public.

Petition to Initiate Rulemaking; Unadopted Rule (Section 1)

Under existing s. 120.54(7)(b), F.S., a person may petition an agency to initiate rulemaking with respect to an unadopted rule. If after a public hearing on the unadopted rule, the agency chooses to initiate rulemaking, the statutes do not establish a timeframe or schedule for the rulemaking activities. Under the bill, an agency, within 30 days after the public hearing, must provide the notice required by the bill through a Notice of Rule Development. Unless the agency publishes a notice in the Florida Administrative Register explaining the reasons it cannot do so, the Notice of

[16] Section 120.68(9), F.S.
[17] Section 120.695, F.S. The statute contains the following legislative intent: "It is the intent of the Legislature that an agency charged with enforcing rules shall issue a notice of noncompliance as its first response to a minor violation of a rule in any instance in which it is reasonable to assume that the violator was unaware of the rule or unclear as to how to comply with it."
[18] Section 120.695(2)(c), (d), F.S. The statute provides for final review and revision of these agency designations to be at the discretion of elected constitutional officers.

Proposed Rule must be filed within 180 days after the Notice of Rule Development. Lastly, unless the agency publishes a statement explaining why rulemaking is not feasible or practicable under s. 120.54(1), F.S., the bill prohibits the agency from relying on the unadopted rule until rulemaking is complete.

Distribution of Notices (Section 2)

The bill adds additional items to the list of required contents of the Florida Administrative Register, including:

- Notices of Rule Development Workshops.
- A listing of all rules filed for adoption within the previous 7 days.
- A listing of rules pending ratification by the Legislature.

The bill also requires agencies that provide notices by email to licensees or other interested persons to include within those email messages, notices of rule development workshops and notices of the intent to adopt, amend, or repeal a rule.

Rule Challenges (Section 3)

Burdens of Proof

The bill amends s. 120.56(1), (2) and (4), F.S., relating to petitions challenging the validity of rules, proposed rules and statements defined as rules ("unadopted rules"). The changes clarify the pleading requirements for the petitions. It also clarifies the parties' respective burdens of proof in challenges to proposed or unadopted rules.

Time Period for Issuance of Final Order (Section 4)

Under existing law, an agency must issue a final order within 90 days after a DOAH administrative law judge issues a recommended order. The bill, however, contemplates that a DOAH administrative law judge's decision on a rule challenge is final agency action, reversible only by an appellate court. But the bill, consistent with existing law, provides that the DOAH administrative law judge's decision with respect to other disputed matters in the same proceeding is a recommended decision. As a result, the agency might not as a practical matter be able to issue a final order until an appellate court rules on the validity of a challenged rule. For those cases, the bill provides that an agency must issue its final order within ten days after the appellate court issues its mandate.

Rule Challenges in Proceedings Involving Disputed Facts (Section 5)

Section 5 amends s. 120.57, F.S., relating to DOAH hearings of agency-initiated actions involving disputed issues of material fact. The bill incorporates many of the rule challenge provisions of s. 120.56, F.S., allowing the administrative law judge to enter a final order on a challenge to the validity of a rule or to an unadopted rule in all contests before DOAH. This treats a challenge to a rule in defending against or attacking an agency action much as a challenge in an action initiated solely to challenge the rule. Notably, the decision on the rule challenge in the DOAH proceeding is binding on the agency.

The bill allows the agency, within 15 days after notice of the rule challenge in such matters, to waive its reliance on an unadopted rule or a rule alleged to be invalid and, thereby, eliminate that aspect of the litigation, without prejudice to the agency reasserting its position in another matter or rule challenge.

The bill specifies that a petitioner may pursue a separate, collateral challenge under s. 120.56, F.S., even if an adequate remedy exists through a hearing involving disputed issues of material fact. The administrative law judge may consolidate the proceedings.

The bill also revises the procedures for raising challenges to the validity of rules and unadopted rules in many proceedings where there is no dispute of material fact, staying the agency's non-DOAH proceeding during a related DOAH challenge to a rule.

Judicial Review (Section 6)

Existing law requires an agency to notify the Administrative Procedures Committee of the appeal of orders from a rule challenge proceeding. The bill requires an agency to report to the committee the appeal of orders relating to the assertion of a rule challenge as a defense to agency action. The section also allows ten additional days to file an appeal if the appellant did not receive notice of the rendering of the final order within 25 days. Section 6 also contains provisions conforming to other provisions of the bill which allow the direct appeal of a decision of a DOAH administrative law judge ruling on a rule challenge asserted as a defense to agency action.

Designation of Minor Violation of Rules (Section 7)

Section 7 amends s. 120.695, F.S., to direct each agency to timely review its rules and certify to the President of the Senate, the Speaker of the House of Representatives, the Administrative Procedures Committee, and the rules ombudsman those rules that have been designated as rules the violation of which would be a minor violation no later than June 30, 2016, and after such date within three months after any request of the rules ombudsman. Each agency that fails to timely complete the review and file the certification will be reported by the rules ombudsman to the Governor, the President of the Senate, the Speaker of the House of Representatives and the Administrative Procedures Committee.

Beginning July 1, 2016, each agency will be required to publish all rules of that agency designated as rules the violation of which would be a minor violation either as a complete list on the agency’s website or by incorporation of the designations in the agency’s disciplinary guidelines adopted as a rule. Each agency must ensure that all investigative and enforcement personnel are knowledgeable of the agencies designations of these rules. The agency head must certify for each rule filed for adoption whether any part of the rule is designated as one the violation of which would be a minor violation and update the listing on the webpage or disciplinary guidelines.

Effective Date (Section 8)

The bill provides an effective date of July 1, 2015.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

This bill does not apply to counties or municipalities. As such, the bill is not subject to the constitutional restrictions on the Legislature to enact mandates.

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 718 may require an agency to provide precise guidance through more precise rules to those regulated before the agency may sanction a regulated entity for a rule or statutory violation.

C. Government Sector Impact:

The bill has an insignificant, indeterminate fiscal impact. The bill may require some additional workload on state agencies and a minimal increase in expenditures related to state agencies filing more frequently in the Florida Administrative Register. However, the impact is likely insignificant and can be absorbed within existing resources.

VI. Technical Deficiencies:

None.

VII. Related Issues:

As the Administrative Procedure Act has evolved over time through amendments by the Legislature, it has become more complex. At some point, the Legislature may wish to simplify the structure of the act to ensure that persons regulated by an agency can easily understand their rights to challenge agency actions.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 120.54, 120.55, 120.56, 120.569, 120.57, 120.68, and 120.695.

IX. Additional Information:

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

CS by Appropriations on April 23, 2015:
The committee substitute:

- Deletes sections relating to declaratory statements, mediation, and attorney fees.
- Specifies that a petitioner in a hearing on an agency-initiated action involving disputed issues of material fact may pursue a separate, collateral rule challenge.
- Specifies that a final order entered in a rule challenge that is collateral to another proceeding will be directly appealable just as an order in a rule challenge under s. 120.56, F.S.
- Adds ten days to the 30 day time to appeal if a party does not receive notice of the final order until after the 25th day.
- Extends the effective date (from July 1, 2015, to July 1, 2016) of the provision requiring agencies to timely review and certify those rules that have been designated as minor violations.

B. Amendments:

None.

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

187540

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/23/2015	.	
	.	
	.	
	.	

The Committee on Appropriations (Lee) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Paragraph (c) of subsection (7) of section 120.54, Florida Statutes, is amended, and paragraph (d) is added to that subsection, to read:

120.54 Rulemaking.—

(7) PETITION TO INITIATE RULEMAKING.—

(c) If the agency does not initiate rulemaking or otherwise comply with the requested action within 30 days after ~~following~~

187540

12 the public hearing provided for in ~~by~~ paragraph (b), ~~if the~~
13 ~~agency does not initiate rulemaking or otherwise comply with the~~
14 ~~requested action,~~ the agency shall publish in the Florida
15 Administrative Register a statement of its reasons for not
16 initiating rulemaking or otherwise complying with the requested
17 action~~,~~ and of any changes it will make in the scope or
18 application of the unadopted rule. The agency shall file the
19 statement with the committee. The committee shall forward a copy
20 of the statement to the substantive committee with primary
21 oversight jurisdiction of the agency in each house of the
22 Legislature. The committee or the committee with primary
23 oversight jurisdiction may hold a hearing directed to the
24 statement of the agency. The committee holding the hearing may
25 recommend to the Legislature the introduction of legislation
26 making the rule a statutory standard or limiting or otherwise
27 modifying the authority of the agency.
28 (d) If the agency initiates rulemaking after a public
29 hearing provided for in paragraph (b), the agency shall publish
30 a notice of rule development within 30 days after the hearing
31 and file a notice of proposed rule within 180 days after the
32 notice of rule development unless, before the 180th day, the
33 agency publishes in the Florida Administrative Register a
34 statement explaining its reasons for not having filed the
35 notice. If rulemaking is initiated under this paragraph, the
36 agency may not rely on the unadopted rule unless the agency
37 publishes in the Florida Administrative Register a statement
38 explaining why rulemaking under paragraph (1)(a) is not feasible
39 or practicable until conclusion of the rulemaking proceeding.
40 Section 2. Section 120.55, Florida Statutes, is amended to

187540

41 read:
42 120.55 Publication.—
43 (1) The Department of State shall:
44 (a)1. Through a continuous revision and publication system,
45 compile and publish electronically, on an Internet website
46 managed by the department, the "Florida Administrative Code."
47 The Florida Administrative Code shall contain all rules adopted
48 by each agency, citing the grant of rulemaking authority and the
49 specific law implemented pursuant to which each rule was
50 adopted, all history notes as authorized in s. 120.545(7),
51 complete indexes to all rules contained in the code, and any
52 other material required or authorized by law or deemed useful by
53 the department. The electronic code shall display each rule
54 chapter currently in effect in browse mode and allow full text
55 search of the code and each rule chapter. The department may
56 contract with a publishing firm for a printed publication;
57 however, the department shall retain responsibility for the code
58 as provided in this section. The electronic publication shall be
59 the official compilation of the administrative rules of this
60 state. The Department of State shall retain the copyright over
61 the Florida Administrative Code.
62 2. Rules general in form but applicable to only one school
63 district, community college district, or county, or a part
64 thereof, or state university rules relating to internal
65 personnel or business and finance shall not be published in the
66 Florida Administrative Code. Exclusion from publication in the
67 Florida Administrative Code shall not affect the validity or
68 effectiveness of such rules.
69 3. At the beginning of the section of the code dealing with

187540

70 an agency that files copies of its rules with the department,
71 the department shall publish the address and telephone number of
72 the executive offices of each agency, the manner by which the
73 agency indexes its rules, a listing of all rules of that agency
74 excluded from publication in the code, and a statement as to
75 where those rules may be inspected.
76 4. Forms shall not be published in the Florida
77 Administrative Code; but any form which an agency uses in its
78 dealings with the public, along with any accompanying
79 instructions, shall be filed with the committee before it is
80 used. Any form or instruction which meets the definition of
81 "rule" provided in s. 120.52 shall be incorporated by reference
82 into the appropriate rule. The reference shall specifically
83 state that the form is being incorporated by reference and shall
84 include the number, title, and effective date of the form and an
85 explanation of how the form may be obtained. Each form created
86 by an agency which is incorporated by reference in a rule notice
87 of which is given under s. 120.54(3)(a) after December 31, 2007,
88 must clearly display the number, title, and effective date of
89 the form and the number of the rule in which the form is
90 incorporated.
91 5. The department shall allow adopted rules and material
92 incorporated by reference to be filed in electronic form as
93 prescribed by department rule. When a rule is filed for adoption
94 with incorporated material in electronic form, the department's
95 publication of the Florida Administrative Code on its Internet
96 website must contain a hyperlink from the incorporating
97 reference in the rule directly to that material. The department
98 may not allow hyperlinks from rules in the Florida

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99 Administrative Code to any material other than that filed with
100 and maintained by the department, but may allow hyperlinks to
101 incorporated material maintained by the department from the
102 adopting agency's website or other sites.
103 (b) Electronically publish on an Internet website managed
104 by the department a continuous revision and publication entitled
105 the "Florida Administrative Register," which shall serve as the
106 official publication and must contain:
107 1. All notices required by s. 120.54(2) and (3)(a)
108 ~~120.54(3)(a)~~, showing the text of all rules proposed for
109 consideration.
110 2. All notices of public meetings, hearings, and workshops
111 conducted in accordance with s. 120.525, including a statement
112 of the manner in which a copy of the agenda may be obtained.
113 3. A notice of each request for authorization to amend or
114 repeal an existing uniform rule or for the adoption of new
115 uniform rules.
116 4. Notice of petitions for declaratory statements or
117 administrative determinations.
118 5. A summary of each objection to any rule filed by the
119 Administrative Procedures Committee.
120 6. A list of rules filed for adoption in the previous 7
121 days.
122 7. A list of all rules filed for adoption pending
123 legislative ratification under s. 120.541(3). A rule shall be
124 taken off the list once notice of ratification or withdrawal of
125 such rule is received.
126 8.~~6.~~ Any other material required or authorized by law or
127 deemed useful by the department.

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128
129 The department may contract with a publishing firm for a printed
130 publication of the Florida Administrative Register and make
131 copies available on an annual subscription basis.
132 (c) Prescribe by rule the style and form required for
133 rules, notices, and other materials submitted for filing.
134 (d) Charge each agency using the Florida Administrative
135 Register a space rate to cover the costs related to the Florida
136 Administrative Register and the Florida Administrative Code.
137 (e) Maintain a permanent record of all notices published in
138 the Florida Administrative Register.
139 (2) The Florida Administrative Register Internet website
140 must allow users to:
141 (a) Search for notices by type, publication date, rule
142 number, word, subject, and agency.
143 (b) Search a database that makes available all notices
144 published on the website for a period of at least 5 years.
145 (c) Subscribe to an automated e-mail notification of
146 selected notices to be sent out before or concurrently with
147 publication of the electronic Florida Administrative Register.
148 Such notification must include in the text of the e-mail a
149 summary of the content of each notice.
150 (d) View agency forms and other materials submitted to the
151 department in electronic form and incorporated by reference in
152 proposed rules.
153 (e) Comment on proposed rules.
154 (3) Publication of material required by paragraph (1)(b) on
155 the Florida Administrative Register Internet website does not
156 preclude publication of such material on an agency’s website or

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157 by other means.
158 (4) Each agency shall provide copies of its rules upon
159 request, with citations to the grant of rulemaking authority and
160 the specific law implemented for each rule.
161 (5) Each agency that provides an e-mail notification
162 service to inform licensees or other registered recipients of
163 notices shall use that service to notify recipients of each
164 notice required under s. 120.54(2) and (3) and provide Internet
165 links to the appropriate rule page on the Secretary of State's
166 website or Internet links to an agency website that contains the
167 proposed rule or final rule.
168 (6) ~~(5)~~ Any publication of a proposed rule promulgated by an
169 agency, whether published in the Florida Administrative Register
170 or elsewhere, shall include, along with the rule, the name of
171 the person or persons originating such rule, the name of the
172 agency head who approved the rule, and the date upon which the
173 rule was approved.
174 (7) ~~(6)~~ Access to the Florida Administrative Register
175 Internet website and its contents, including the e-mail
176 notification service, shall be free for the public.
177 (8) ~~(7)~~ (a) All fees and moneys collected by the Department
178 of State under this chapter shall be deposited in the Records
179 Management Trust Fund for the purpose of paying for costs
180 incurred by the department in carrying out this chapter.
181 (b) The unencumbered balance in the Records Management
182 Trust Fund for fees collected pursuant to this chapter may not
183 exceed $300,000 at the beginning of each fiscal year, and any
184 excess shall be transferred to the General Revenue Fund.
185 Section 3. Subsection (1), paragraph (a) of subsection (2),

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186 and subsection (4) of section 120.56, Florida Statutes, are
187 amended to read:
188 120.56 Challenges to rules.—
189 (1) GENERAL PROCEDURES ~~FOR CHALLENGING THE VALIDITY OF A~~
190 ~~RULE OR A PROPOSED RULE~~.—
191 (a) Any person substantially affected by a rule or a
192 proposed rule may seek an administrative determination of the
193 invalidity of the rule on the ground that the rule is an invalid
194 exercise of delegated legislative authority.
195 (b) The petition challenging the validity of a proposed or
196 adopted rule under this section ~~seeking an administrative~~
197 ~~determination~~ must state: ~~with particularity~~
198 1. The particular provisions alleged to be invalid and a
199 statement ~~with sufficient explanation~~ of the facts or grounds
200 for the alleged invalidity. ~~and~~
201 2. Facts sufficient to show that the petitioner ~~person~~
202 ~~challenging a rule~~ is substantially affected by the challenged
203 adopted rule ~~it,~~ or ~~that the person challenging a proposed rule~~
204 would be substantially affected by the proposed rule ~~it~~.
205 (c) The petition shall be filed by electronic means with
206 the division which shall, immediately upon filing, forward by
207 electronic means copies to the agency whose rule is challenged,
208 the Department of State, and the committee. Within 10 days after
209 receiving the petition, the division director shall, if the
210 petition complies with ~~the requirements of~~ paragraph (b), assign
211 an administrative law judge who shall conduct a hearing within
212 30 days thereafter, unless the petition is withdrawn or a
213 continuance is granted by agreement of the parties or for good
214 cause shown. Evidence of good cause includes, but is not limited

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215 to, written notice of an agency's decision to modify or withdraw
216 the proposed rule or a written notice from the chair of the
217 committee stating that the committee will consider an objection
218 to the rule at its next scheduled meeting. The failure of an
219 agency to follow the applicable rulemaking procedures or
220 requirements set forth in this chapter shall be presumed to be
221 material; however, the agency may rebut this presumption by
222 showing that the substantial interests of the petitioner and the
223 fairness of the proceedings have not been impaired.
224 (d) Within 30 days after the hearing, the administrative
225 law judge shall render a decision and state the reasons therefor
226 in writing. The division shall forthwith transmit by electronic
227 means copies of the administrative law judge's decision to the
228 agency, the Department of State, and the committee.
229 (e) Hearings held under this section shall be de novo in
230 nature. The standard of proof shall be the preponderance of the
231 evidence. Hearings shall be conducted in the same manner as
232 provided by ss. 120.569 and 120.57, except that the
233 administrative law judge's order shall be final agency action.
234 The petitioner and the agency whose rule is challenged shall be
235 adverse parties. Other substantially affected persons may join
236 the proceedings as intervenors on appropriate terms which shall
237 not unduly delay the proceedings. Failure to proceed under this
238 section does ~~shall~~ not constitute failure to exhaust
239 administrative remedies.
240 (2) CHALLENGING PROPOSED RULES; SPECIAL PROVISIONS.—
241 (a) A substantially affected person may seek an
242 administrative determination of the invalidity of a proposed
243 rule by filing a petition seeking such a determination with the

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244 division within 21 days after the date of publication of the
245 notice required by s. 120.54(3)(a); within 10 days after the
246 final public hearing is held on the proposed rule as provided by
247 s. 120.54(3)(e)2.; within 20 days after the statement of
248 estimated regulatory costs or revised statement of estimated
249 regulatory costs, if applicable, has been prepared and made
250 available as provided in s. 120.541(1)(d); or within 20 days
251 after the date of publication of the notice required by s.
252 120.54(3)(d). The petition must state with particularity the
253 objections to the proposed rule and the reasons that the
254 proposed rule is an invalid exercise of delegated legislative
255 authority. The petitioner has the burden of going forward with
256 evidence sufficient to support the petition. The agency then has
257 the burden to prove by a preponderance of the evidence that the
258 proposed rule is not an invalid exercise of delegated
259 legislative authority as to the objections raised. ~~A person who~~
260 ~~is substantially affected by a change in the proposed rule may~~
261 ~~seek a determination of the validity of such change.~~ A person
262 who is not substantially affected by the proposed rule as
263 initially noticed, but who is substantially affected by the rule
264 as a result of a change, may challenge any provision of the
265 resulting proposed rule ~~and is not limited to challenging the~~
266 ~~change to the proposed rule~~.
267 (4) CHALLENGING AGENCY STATEMENTS DEFINED AS UNADOPTED
268 RULES; SPECIAL PROVISIONS.—
269 (a) Any person substantially affected by an agency
270 statement that is an unadopted rule may seek an administrative
271 determination that the statement violates s. 120.54(1)(a). The
272 petition shall include the text of the statement or a

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273 description of the statement and shall state ~~with particularity~~
274 facts sufficient to show that the statement constitutes an
275 unadopted ~~a~~ rule ~~under s. 120.52 and that the agency has not~~
276 ~~adopted the statement by the rulemaking procedure provided by s.~~
277 ~~120.54~~.
278 (b) The administrative law judge may extend the hearing
279 date beyond 30 days after assignment of the case for good cause.
280 Upon notification to the administrative law judge provided
281 before the final hearing that the agency has published a notice
282 of rulemaking under s. 120.54(3), such notice shall
283 automatically operate as a stay of proceedings pending adoption
284 of the statement as a rule. The administrative law judge may
285 vacate the stay for good cause shown. A stay of proceedings
286 pending rulemaking shall remain in effect so long as the agency
287 is proceeding expeditiously and in good faith to adopt the
288 statement as a rule.
289 (c) The petitioner has the burden of going forward with
290 evidence sufficient to support the petition. The agency then has
291 the burden to prove by a preponderance of the evidence that the
292 statement does not meet the definition of an unadopted rule, the
293 statement was adopted as a rule in compliance with s. 120.54, or
294 ~~If a hearing is held and the petitioner proves the allegations~~
295 ~~of the petition, the agency shall have the burden of proving~~
296 that rulemaking is not feasible or not practicable under s.
297 120.54(1)(a).
298 (d) ~~(c)~~ The administrative law judge may determine whether
299 all or part of a statement violates s. 120.54(1)(a). The
300 decision of the administrative law judge shall constitute a
301 final order. The division shall transmit a copy of the final

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302 order to the Department of State and the committee. The
303 Department of State shall publish notice of the final order in
304 the first available issue of the Florida Administrative
305 Register.
306 (e) ~~(d)~~ If an administrative law judge enters a final order
307 that all or part of an unadopted rule ~~agency statement~~ violates
308 s. 120.54(1)(a), the agency must immediately discontinue all
309 reliance upon the unadopted rule ~~statement~~ or any substantially
310 similar statement as a basis for agency action.
311 (f) ~~(e)~~ If proposed rules addressing the challenged
312 unadopted rule ~~statemen~~t are determined to be an invalid
313 exercise of delegated legislative authority as defined in s.
314 120.52(8)(b)-(f), the agency must immediately discontinue
315 reliance upon ~~on~~ the unadopted rule ~~statement~~ and any
316 substantially similar statement until rules addressing the
317 subject are properly adopted, and the administrative law judge
318 shall enter a final order to that effect.
319 (g) ~~(f)~~ All proceedings to determine a violation of s.
320 120.54(1)(a) shall be brought pursuant to this subsection. A
321 proceeding pursuant to this subsection may be consolidated with
322 a proceeding under subsection (3) or under any other section of
323 this chapter. This paragraph does not prevent a party whose
324 substantial interests have been determined by an agency action
325 from bringing a proceeding pursuant to s. 120.57(1)(e).
326 Section 4. Paragraph (l) of subsection (2) of section
327 120.569, Florida Statutes, is amended to read:
328 120.569 Decisions which affect substantial interests.—
329 (2)
330 (l) Unless the time period is waived or extended with the

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331 consent of all parties, the final order in a proceeding which
332 affects substantial interests must be in writing and include
333 findings of fact, if any, and conclusions of law separately
334 stated, and it must be rendered within 90 days:
335 1. After the hearing is concluded, if conducted by the
336 agency;
337 2. After a recommended order is submitted to the agency and
338 mailed to all parties, if the hearing is conducted by an
339 administrative law judge, except that, at the election of the
340 agency, the time for rendering the final order may be extended
341 up to 10 days after entry of a mandate from any appeal following
342 entry of a final order under s. 120.57(1)(e)4.; or
343 3. After the agency has received the written and oral
344 material it has authorized to be submitted, if there has been no
345 hearing.
346 Section 5. Paragraphs (e) and (h) of subsection (1) and
347 subsection (2) of section 120.57, Florida Statutes, are amended
348 to read:
349 120.57 Additional procedures for particular cases.—
350 (1) ADDITIONAL PROCEDURES APPLICABLE TO HEARINGS INVOLVING
351 DISPUTED ISSUES OF MATERIAL FACT.—
352 (e)1. An agency or an administrative law judge may not base
353 agency action that determines the substantial interests of a
354 party on an unadopted rule or a rule that is an invalid exercise
355 of delegated legislative authority. ~~The administrative law judge~~
356 ~~shall determine whether an agency statement constitutes an~~
357 ~~unadopted rule.~~ This subparagraph does not preclude application
358 of valid adopted rules and applicable provisions of law to the
359 facts.

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360 2. In a matter initiated as a result of agency action
361 proposing to determine the substantial interests of a party, the
362 party's timely petition for hearing may challenge the proposed
363 agency action based on a rule that is an invalid exercise of
364 delegated legislative authority or based on an alleged unadopted
365 rule. For challenges brought under this subparagraph:
366 a. The challenge shall be pled as a defense using the
367 procedures set forth in s. 120.56(1)(b).
368 b. Section 120.56(3)(a) applies to a challenge alleging
369 that a rule is an invalid exercise of delegated legislative
370 authority.
371 c. Section 120.56(4)(c) applies to a challenge alleging an
372 unadopted rule.
373 d. The agency has 15 days after the date of receipt of a
374 challenge under this subparagraph to serve the challenging party
375 with a notice stating whether the agency will continue to rely
376 upon the rule or the alleged unadopted rule as a basis for the
377 action determining the party's substantive interests. Failure to
378 timely serve the notice constitutes a binding stipulation that
379 the agency shall not rely upon the rule or unadopted rule
380 further in the proceeding. The agency shall include a copy of
381 this notice upon referral of the matter to the division under s.
382 120.569(2)(a).
383 e. This subparagraph does not preclude the consolidation of
384 any proceeding under s. 120.56 with any proceeding under this
385 paragraph.
386 3.~~2.~~ Notwithstanding subparagraph 1., if an agency
387 demonstrates that the statute being implemented directs it to
388 adopt rules, that the agency has not had time to adopt those

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389 rules because the requirement was so recently enacted, and that
390 the agency has initiated rulemaking and is proceeding
391 expeditiously and in good faith to adopt the required rules,
392 then the agency's action may be based upon those unadopted rules
393 if~~, subject to de novo review by~~ the administrative law judge
394 determines that rulemaking is neither feasible nor practicable
395 and the unadopted rules would not constitute an invalid exercise
396 of delegated legislative authority if adopted as rules. An
397 unadopted rule ~~The agency action~~ shall not be presumed valid ~~or~~
398 ~~invalid~~. The agency must demonstrate that the unadopted rule:
399 a. Is within the powers, functions, and duties delegated by
400 the Legislature or, if the agency is operating pursuant to
401 authority vested in the agency by ~~derived from~~ the State
402 Constitution, is within that authority;
403 b. Does not enlarge, modify, or contravene the specific
404 provisions of law implemented;
405 c. Is not vague, establishes adequate standards for agency
406 decisions, or does not vest unbridled discretion in the agency;
407 d. Is not arbitrary or capricious. A rule is arbitrary if
408 it is not supported by logic or the necessary facts; a rule is
409 capricious if it is adopted without thought or reason or is
410 irrational;
411 e. Is not being applied to the substantially affected party
412 without due notice; and
413 f. Does not impose excessive regulatory costs on the
414 regulated person, county, or city.
415 4. If the agency timely serves notice of continued reliance
416 upon a challenged rule or an alleged unadopted rule under sub-
417 subparagraph 2.d., the administrative law judge shall determine

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418 whether the challenged rule is an invalid exercise of delegated
419 legislative authority or whether the challenged agency statement
420 constitutes an unadopted rule and if that unadopted rule meets
421 the requirements of subparagraph 3. The determination shall be
422 rendered as a separate final order no earlier than the date on
423 which the administrative law judge serves the recommended order.
424 5.~~3.~~ The recommended and final orders in any proceeding
425 shall be governed by ~~the provisions of~~ paragraphs (k) and (l),
426 except that the administrative law judge's determination
427 ~~regarding an unadopted rule~~ under subparagraph 4. ~~1. or~~
428 ~~subparagraph 2.~~ shall be included as a conclusion of law that
429 the agency may not reject ~~not be rejected by the agency unless~~
430 ~~the agency first determines from a review of the complete~~
431 ~~record, and states with particularity in the order, that such~~
432 ~~determination is clearly erroneous or does not comply with~~
433 ~~essential requirements of law. In any proceeding for review~~
434 ~~under s. 120.68, if the court finds that the agency's rejection~~
435 ~~of the determination regarding the unadopted rule does not~~
436 ~~comport with the provisions of this subparagraph, the agency~~
437 ~~action shall be set aside and the court shall award to the~~
438 ~~prevailing party the reasonable costs and a reasonable~~
439 ~~attorney's fee for the initial proceeding and the proceeding for~~
440 ~~review~~.
441 6. A petitioner may pursue a separate, collateral challenge
442 under s. 120.56 even if an adequate remedy exists through a
443 proceeding under this section. The administrative law judge may
444 consolidate the proceedings.
445 (h) Any party to a proceeding in which an administrative
446 law judge ~~of the Division of Administrative Hearings~~ has final

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447 order authority may move for a summary final order when there is
448 no genuine issue as to any material fact. A summary final order
449 shall be rendered if the administrative law judge determines
450 from the pleadings, depositions, answers to interrogatories, and
451 admissions on file, together with affidavits, if any, that no
452 genuine issue as to any material fact exists and that the moving
453 party is entitled as a matter of law to the entry of a final
454 order. A summary final order shall consist of findings of fact,
455 if any, conclusions of law, a disposition or penalty, if
456 applicable, and any other information required by law to be
457 contained in the final order. This paragraph does not apply to
458 proceedings authorized in paragraph (e).
459 (2) ADDITIONAL PROCEDURES APPLICABLE TO HEARINGS NOT
460 INVOLVING DISPUTED ISSUES OF MATERIAL FACT.—In any case to which
461 subsection (1) does not apply:
462 (a) The agency shall:
463 1. Give reasonable notice to affected persons of the action
464 of the agency, whether proposed or already taken, or of its
465 decision to refuse action, together with a summary of the
466 factual, legal, and policy grounds therefor.
467 2. Give parties or their counsel the option, at a
468 convenient time and place, to present to the agency or hearing
469 officer written or oral evidence in opposition to the action of
470 the agency or to its refusal to act, or a written statement
471 challenging the grounds upon which the agency has chosen to
472 justify its action or inaction.
473 3. If the objections of the parties are overruled, provide
474 a written explanation within 7 days.
475 (b) An agency may not base agency action that determines

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476 the substantial interests of a party on an unadopted rule or a
477 rule that is an invalid exercise of delegated legislative
478 authority. No later than the date provided by the agency under
479 subparagraph (a)2. for presenting material in opposition to the
480 agency's proposed action or refusal to act, the party may file a
481 petition under s. 120.56 challenging the rule, portion of rule,
482 or unadopted rule upon which the agency bases its proposed
483 action or refusal to act. The filing of a challenge under s.
484 120.56 pursuant to this paragraph shall stay all proceedings on
485 the agency's proposed action or refusal to act until entry of
486 the final order by the administrative law judge. The final order
487 shall provide additional notice that the stay of the pending
488 agency action is terminated and that any further stay pending
489 appeal of the final order must be sought from the appellate
490 court.
491 (c) ~~(b)~~ The record shall only consist of:
492 1. The notice and summary of grounds.
493 2. Evidence received.
494 3. All written statements submitted.
495 4. Any decision overruling objections.
496 5. All matters placed on the record after an ex parte
497 communication.
498 6. The official transcript.
499 7. Any decision, opinion, order, or report by the presiding
500 officer.
501 Section 6. Subsections (1), (2), and (9) of section 120.68,
502 Florida Statutes, are amended to read:
503 120.68 Judicial review.—
504 (1)(a) A party who is adversely affected by final agency

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505 action is entitled to judicial review.
506 (b) A preliminary, procedural, or intermediate order of the
507 agency or of an administrative law judge of the Division of
508 Administrative Hearings, or a final order under s.
509 120.57(1)(e)4., is immediately reviewable if review of the final
510 agency decision would not provide an adequate remedy.
511 (2)(a) Judicial review shall be sought in the appellate
512 district where the agency maintains its headquarters or where a
513 party resides or as otherwise provided by law.
514 (b) All proceedings shall be instituted by filing a notice
515 of appeal or petition for review in accordance with the Florida
516 Rules of Appellate Procedure within 30 days after the date that
517 ~~rendition of~~ the order being appealed is filed with the agency
518 clerk. If a party receives notice of the filing of the order
519 later than the 25th day after the filing of the order with the
520 agency clerk, the time by which the party must file a notice of
521 appeal or petition for review is extended for 10 days after the
522 date that the party received the notice of the filing of the
523 order. If the appeal is of an order rendered in a proceeding
524 initiated under s. 120.56 or a final order under s.
525 120.57(1)(e)4., the agency whose rule is being challenged shall
526 transmit a copy of the notice of appeal to the committee.
527 (c) ~~(b)~~ When proceedings under this chapter are consolidated
528 for final hearing and the parties to the consolidated proceeding
529 seek review of final or interlocutory orders in more than one
530 district court of appeal, the courts of appeal are authorized to
531 transfer and consolidate the review proceedings. The court may
532 transfer such appellate proceedings on its own motion, upon
533 motion of a party to one of the appellate proceedings, or by

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534 stipulation of the parties to the appellate proceedings. In
535 determining whether to transfer a proceeding, the court may
536 consider such factors as the interrelationship of the parties
537 and the proceedings, the desirability of avoiding inconsistent
538 results in related matters, judicial economy, and the burden on
539 the parties of reproducing the record for use in multiple
540 appellate courts.
541 (9) A ~~No~~ petition challenging an agency rule as an invalid
542 exercise of delegated legislative authority shall not be
543 instituted pursuant to this section, except to review an order
544 entered pursuant to a proceeding under s. 120.56, s.
545 120.57(1)(e)5., or s. 120.57(2)(b) or an agency's findings of
546 immediate danger, necessity, and procedural fairness
547 prerequisite to the adoption of an emergency rule pursuant to s.
548 120.54(4), unless the sole issue presented by the petition is
549 the constitutionality of a rule and there are no disputed issues
550 of fact.
551 Section 7. Section 120.695, Florida Statutes, is amended to
552 read:
553 120.695 Notice of noncompliance; designation of minor
554 violation of rules.—
555 (1) It is the policy of the state that the purpose of
556 regulation is to protect the public by attaining compliance with
557 the policies established by the Legislature. Fines and other
558 penalties may be provided in order to assure compliance;
559 however, the collection of fines and the imposition of penalties
560 are intended to be secondary to the primary goal of attaining
561 compliance with an agency's rules. It is the intent of the
562 Legislature that an agency charged with enforcing rules shall

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563 issue a notice of noncompliance as its first response to a minor
564 violation of a rule in any instance in which it is reasonable to
565 assume that the violator was unaware of the rule or unclear as
566 to how to comply with it.
567 (2)(a) Each agency shall issue a notice of noncompliance as
568 a first response to a minor violation of a rule. A "notice of
569 noncompliance" is a notification by the agency charged with
570 enforcing the rule issued to the person or business subject to
571 the rule. A notice of noncompliance may not be accompanied with
572 a fine or other disciplinary penalty. It must identify the
573 specific rule that is being violated, provide information on how
574 to comply with the rule, and specify a reasonable time for the
575 violator to comply with the rule. A rule is agency action that
576 regulates a business, occupation, or profession, or regulates a
577 person operating a business, occupation, or profession, and
578 that, if not complied with, may result in a disciplinary
579 penalty.
580 (b) Each agency shall review all of its rules and designate
581 those for which a violation would be a minor violation and for
582 which a notice of noncompliance must be the first enforcement
583 action taken against a person or business subject to regulation.
584 A violation of a rule is a minor violation if it does not result
585 in economic or physical harm to a person or adversely affect the
586 public health, safety, or welfare or create a significant threat
587 of such harm. ~~If an agency under the direction of a cabinet~~
588 ~~officer mails to each licensee a notice of the designated rules~~
589 ~~at the time of licensure and at least annually thereafter, the~~
590 ~~provisions of paragraph (a) may be exercised at the discretion~~
591 ~~of the agency. Such notice shall include a subject-matter index~~

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592 ~~of the rules and information on how the rules may be obtained.~~
593 (c)1. No later than June 30, 2016, and after such date
594 within 3 months after any request of the rules ombudsman in the
595 Executive Office of the Governor, ~~The agency's review and~~
596 ~~designation must be completed by December 1, 1995;~~ each agency
597 shall review ~~under the direction of the Governor shall make a~~
598 ~~report to the Governor, and each agency under the joint~~
599 ~~direction of the Governor and Cabinet shall report to the~~
600 ~~Governor and Cabinet by January 1, 1996, on which of~~ its rules
601 and certify to the President of the Senate, the Speaker of the
602 House of Representatives, the committee, and the rules ombudsman
603 those rules that have been designated as rules the violation of
604 which would be a minor violation under paragraph (b), consistent
605 with the legislative intent stated in subsection (1). The rules
606 ombudsman shall promptly report to the Governor, the President
607 of the Senate, the Speaker of the House of Representatives, and
608 the committee the failure of any agency to timely complete the
609 review and file the certification as required by this section.
610 2. Beginning July 1, 2016, each agency shall:
611 a. Publish all rules that the agency has designated as
612 rules the violation of which would be a minor violation, either
613 as a complete list on the agency's website or by incorporation
614 of the designations in the agency's disciplinary guidelines
615 adopted as a rule.
616 b. Ensure that all investigative and enforcement personnel
617 are knowledgeable about the agency's designations under this
618 section.
619 3. For each rule filed for adoption, the agency head shall
620 certify whether any part of the rule is designated as a rule the

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621 violation of which would be a minor violation and shall update
622 the listing required by sub-subparagraph 2.a.
623 (d) The Governor or the Governor and Cabinet, as
624 appropriate ~~pursuant to paragraph (c)~~, may evaluate the review
625 and designation effects of each agency subject to the direction
626 and supervision of such authority and may direct ~~apply~~ a
627 different designation than that applied by such ~~the~~ agency.
628 (e) Notwithstanding s. 120.52(1)(a), this section does not
629 apply to:
630 1. The Department of Corrections;
631 2. Educational units;
632 3. The regulation of law enforcement personnel; or
633 4. The regulation of teachers.
634 (f) Designation pursuant to this section is not subject to
635 challenge under this chapter.
636 Section 8. This act shall take effect July 1, 2015.
637
638 ========== T I T L E A M E N D M E N T ==========
639 And the title is amended as follows:
640 Delete everything before the enacting clause
641 and insert:
642 A bill to be entitled
643 An act relating to administrative procedures; amending
644 s. 120.54, F.S.; providing procedures for agencies to
645 follow when initiating rulemaking after certain public
646 hearings; limiting reliance upon an unadopted rule in
647 certain circumstances; amending s. 120.55, F.S.;
648 providing for publication of notices of rule
649 development and of rules filed for adoption; providing

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650 for additional notice of rule development, proposals,
651 and adoptions in the Florida Administrative Register;
652 requiring certain agencies to provide additional e-
653 mail notifications concerning specified rulemaking and
654 rule development activities; amending s. 120.56, F.S.;
655 specifying the burden of proof necessary for a
656 petitioner to challenge a proposed rule or unadopted
657 agency statement; amending s. 120.569, F.S.; granting
658 agencies additional time to render final orders in
659 certain circumstances; amending s. 120.57, F.S.;
660 conforming proceedings that oppose agency action based
661 on an invalid or unadopted rule to proceedings used
662 for challenging rules; requiring the agency to issue a
663 notice stating whether the agency will rely on the
664 challenged rule or alleged unadopted rule; authorizing
665 the administrative law judge to make certain findings
666 on the validity of certain alleged unadopted rules;
667 authorizing the administrative law judge to issue a
668 separate final order on certain rules and alleged
669 unadopted rules; prohibiting agencies from rejecting
670 specific conclusions of law in certain final orders
671 rendered by an administrative law judge; authorizing a
672 petitioner to file certain collateral challenges
673 regarding the validity of a rule; authorizing the
674 administrative law judge to consolidate proceedings in
675 such rule challenges; providing for the stay of
676 proceedings not involving disputed issues of fact upon
677 timely filing of a rule challenge; providing that the
678 final order terminates the stay; amending s. 120.68,

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679 F.S.; providing for judicial review of orders rendered
680 in challenges to specified rules or unadopted rules;
681 authorizing extensions for filing certain appeals or
682 petitions for review under certain circumstances;
683 amending s. 120.695, F.S.; removing obsolete
684 provisions with respect to required agency review and
685 designation of minor violations; requiring agency
686 review and certification of minor violation rules by a
687 specified date; requiring the reporting of an agency's
688 failure to complete the review and file certification
689 of such rules; requiring minor violation certification
690 for all rules adopted after a specified date;
691 requiring public notice; providing applicability;
692 conforming provisions to changes made by the act;
693 providing an effective date.

By Senator Lee

24-00407-15 2015718__

A bill to be entitled

An act relating to administrative procedures; amending s. 57.111, F.S.; providing conditions under which a proceeding is not substantially justified for purposes of attorney fees and costs; amending s. 120.54, F.S.; requiring agencies to set a time for workshops for certain unadopted rules; amending s. 120.55, F.S.; providing additional items that must be noticed by an agency in the Florida Administrative Register; requiring agencies to provide such notice to registered recipients under certain circumstances; amending s. 120.56, F.S.; clarifying that petitions for administrative determinations apply to rules and proposed rules; identifying which entities have the burden in hearings in which a rule, proposed rule, or agency statement is at issue; prohibiting an administrative law judge from bifurcating certain petitions; amending s. 120.565, F.S.; authorizing certain parties to state to an agency their understanding of how certain rules apply to specific facts; specifying the timeframe for an agency to provide a declaratory statement; authorizing the award of attorney fees under certain circumstances; amending s. 120.569, F.S.; granting agencies additional time to render final orders under certain circumstances; amending s. 120.57, F.S.; conforming proceedings based on invalid or unadopted rules to proceedings used for challenging existing rules; requiring an agency to issue a notice regarding its reliance on the

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24-00407-15 2015718__

challenged rule or alleged unadopted rule; authorizing the administrative law judge to make certain findings on the validity of certain alleged unadopted rules; requiring the administrative law judge to issue a separate final order on certain rules and alleged unadopted rules; prohibiting agencies from rejecting specific conclusions of law; limiting situations under which an agency may reject or modify conclusions of law; providing for stay of proceedings not involving disputed issues of fact upon timely filing of a rule challenge; providing that the final order terminates the stay; amending s. 120.573, F.S.; providing additional situations in which a party may request mediation; amending s. 120.595, F.S.; providing criteria for establishing whether a nonprevailing party participated in a proceeding for an improper purpose; revising provisions providing for the award of attorney fees and costs by the appellate court or administrative law judge; providing exceptions; removing a provision authorizing an agency to demonstrate its actions were substantially justified; requiring notice of a proposed challenge by the petitioner as a condition precedent to filing a challenge and being eligible for the reimbursement of attorney fees and costs; authorizing the recovery of attorney fees and costs incurred in litigating rights to attorney fees and costs in certain actions; providing such attorney fees and costs are not limited in amount; amending s. 120.68, F.S.; requiring

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specified agencies to provide notice of appeal to the Administrative Procedures Committee under certain circumstances; amending s. 120.695, F.S.; removing obsolete provisions; requiring agency review and certification of minor rule violations by a specified date; requiring the reporting of agency failure to complete such review and certification; requiring certification of minor violations for all rules adopted after a specified date; requiring public notice; providing for nonapplicability; providing an effective date.

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

Section 1. Paragraph (e) of subsection (3) of section 57.111, Florida Statutes, is amended to read:

57.111 Civil actions and administrative proceedings initiated by state agencies; attorney ~~attorneys'~~ fees and costs.—

(3) As used in this section:

(e) A proceeding is "substantially justified" if it had a reasonable basis in law and fact at the time it was initiated by a state agency. A proceeding is not "substantially justified" if the law, rule, or order at issue in the current agency action is the subject upon which the prevailing party previously petitioned the agency for a declaratory statement under s. 120.565; the current agency action involves identical or substantially similar facts and circumstances as those raised in the previous petition; and:

1. The agency action contradicts the declaratory statement issued by the agency upon the previous petition; or

2. The agency denied the previous petition under s. 120.565 before initiating the current agency action against the substantially affected party.

Section 2. Paragraph (c) of subsection (7) of section 120.54, Florida Statutes, is amended to read:

120.54 Rulemaking.—

(7) PETITION TO INITIATE RULEMAKING.—

(c) Within 30 days following the public hearing provided for in ~~by~~ paragraph (b), if the petition's requested action requires rulemaking and the agency initiates rulemaking, the agency shall establish a time certain for rulemaking workshops and shall discontinue reliance upon the agency statement or unadopted rule until it adopts rules pursuant to subsection (3). If the agency does not initiate rulemaking or otherwise comply with the requested action, the agency shall publish in the Florida Administrative Register a statement of its reasons for not initiating rulemaking or otherwise complying with the requested action~~,~~ and of any changes it will make in the scope or application of the unadopted rule. The agency shall file the statement with the committee. The committee shall forward a copy of the statement to the substantive committee with primary oversight jurisdiction of the agency in each house of the Legislature. The committee or the committee with primary oversight jurisdiction may hold a hearing directed to the statement of the agency. The committee holding the hearing may recommend to the Legislature the introduction of legislation making the rule a statutory standard or limiting or otherwise

117 modifying the authority of the agency.
118 Section 3. Section 120.55, Florida Statutes, is amended to
119 read:
120 120.55 Publication.—
121 (1) The Department of State shall:
122 (a)1. Through a continuous revision and publication system,
123 compile and publish electronically, on an Internet website
124 managed by the department, the "Florida Administrative Code."
125 The Florida Administrative Code shall contain all rules adopted
126 by each agency, citing the grant of rulemaking authority and the
127 specific law implemented pursuant to which each rule was
128 adopted, all history notes as authorized in s. 120.545(7),
129 complete indexes to all rules contained in the code, and any
130 other material required or authorized by law or deemed useful by
131 the department. The electronic code shall display each rule
132 chapter currently in effect in browse mode and allow full text
133 search of the code and each rule chapter. The department may
134 contract with a publishing firm for a printed publication;
135 however, the department shall retain responsibility for the code
136 as provided in this section. The electronic publication shall be
137 the official compilation of the administrative rules of this
138 state. The Department of State shall retain the copyright over
139 the Florida Administrative Code.
140 2. Rules general in form but applicable to only one school
141 district, community college district, or county, or a part
142 thereof, or state university rules relating to internal
143 personnel or business and finance shall not be published in the
144 Florida Administrative Code. Exclusion from publication in the
145 Florida Administrative Code shall not affect the validity or

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146 effectiveness of such rules.
147 3. At the beginning of the section of the code dealing with
148 an agency that files copies of its rules with the department,
149 the department shall publish the address and telephone number of
150 the executive offices of each agency, the manner by which the
151 agency indexes its rules, a listing of all rules of that agency
152 excluded from publication in the code, and a statement as to
153 where those rules may be inspected.
154 4. Forms shall not be published in the Florida
155 Administrative Code; but any form which an agency uses in its
156 dealings with the public, along with any accompanying
157 instructions, shall be filed with the committee before it is
158 used. Any form or instruction which meets the definition of
159 "rule" provided in s. 120.52 shall be incorporated by reference
160 into the appropriate rule. The reference shall specifically
161 state that the form is being incorporated by reference and shall
162 include the number, title, and effective date of the form and an
163 explanation of how the form may be obtained. Each form created
164 by an agency which is incorporated by reference in a rule notice
165 of which is given under s. 120.54(3)(a) after December 31, 2007,
166 must clearly display the number, title, and effective date of
167 the form and the number of the rule in which the form is
168 incorporated.
169 5. The department shall allow adopted rules and material
170 incorporated by reference to be filed in electronic form as
171 prescribed by department rule. When a rule is filed for adoption
172 with incorporated material in electronic form, the department's
173 publication of the Florida Administrative Code on its Internet
174 website must contain a hyperlink from the incorporating

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175 reference in the rule directly to that material. The department
176 may not allow hyperlinks from rules in the Florida
177 Administrative Code to any material other than that filed with
178 and maintained by the department, but may allow hyperlinks to
179 incorporated material maintained by the department from the
180 adopting agency's website or other sites.
181 (b) Electronically publish on an Internet website managed
182 by the department a continuous revision and publication entitled
183 the "Florida Administrative Register," which shall serve as the
184 official publication and must contain:
185 1. All notices required by s. 120.54(2) and (3)(a)
186 ~~120.54(3)(a)~~, showing the text of all rules proposed for
187 consideration.
188 2. All notices of public meetings, hearings, and workshops
189 conducted in accordance with s. 120.525, including a statement
190 of the manner in which a copy of the agenda may be obtained.
191 3. A notice of each request for authorization to amend or
192 repeal an existing uniform rule or for the adoption of new
193 uniform rules.
194 4. Notice of petitions for declaratory statements or
195 administrative determinations.
196 5. A summary of each objection to any rule filed by the
197 Administrative Procedures Committee.
198 6. A listing of rules filed for adoption in the previous 7
199 days.
200 7. A listing of all rules filed for adoption pending
201 legislative ratification under s. 120.541(3). Each rule on the
202 list shall be taken off the list once it is ratified or
203 withdrawn.

204 8.~~6.~~ Any other material required or authorized by law or
205 deemed useful by the department.
206
207 The department may contract with a publishing firm for a printed
208 publication of the Florida Administrative Register and make
209 copies available on an annual subscription basis.
210 (c) Prescribe by rule the style and form required for
211 rules, notices, and other materials submitted for filing.
212 (d) Charge each agency using the Florida Administrative
213 Register a space rate to cover the costs related to the Florida
214 Administrative Register and the Florida Administrative Code.
215 (e) Maintain a permanent record of all notices published in
216 the Florida Administrative Register.
217 (2) The Florida Administrative Register Internet website
218 must allow users to:
219 (a) Search for notices by type, publication date, rule
220 number, word, subject, and agency.
221 (b) Search a database that makes available all notices
222 published on the website for a period of at least 5 years.
223 (c) Subscribe to an automated e-mail notification of
224 selected notices to be sent out before or concurrently with
225 publication of the electronic Florida Administrative Register.
226 Such notification must include in the text of the e-mail a
227 summary of the content of each notice.
228 (d) View agency forms and other materials submitted to the
229 department in electronic form and incorporated by reference in
230 proposed rules.
231 (e) Comment on proposed rules.
232 (3) Publication of material required by paragraph (1)(b) on

233 the Florida Administrative Register Internet website does not
234 preclude publication of such material on an agency's website or
235 by other means.
236 (4) Each agency shall provide copies of its rules upon
237 request, with citations to the grant of rulemaking authority and
238 the specific law implemented for each rule.
239 (5) Each agency that provides an e-mail notification
240 service to inform registered recipients of notices shall use
241 that service to notify recipients of each notice required under
242 s. 120.54(2) and (3)(a) and provide Internet links to the
243 appropriate rule page on the Secretary of State's website or
244 Internet links to an agency website that contains the proposed
245 rule or final rule.
246 (6) ~~(5)~~ Any publication of a proposed rule promulgated by an
247 agency, whether published in the Florida Administrative Register
248 or elsewhere, shall include, along with the rule, the name of
249 the person or persons originating such rule, the name of the
250 agency head who approved the rule, and the date upon which the
251 rule was approved.
252 (7) ~~(6)~~ Access to the Florida Administrative Register
253 Internet website and its contents, including the e-mail
254 notification service, shall be free for the public.
255 (8) ~~(7)~~ (a) All fees and moneys collected by the Department
256 of State under this chapter shall be deposited in the Records
257 Management Trust Fund for the purpose of paying for costs
258 incurred by the department in carrying out this chapter.
259 (b) The unencumbered balance in the Records Management
260 Trust Fund for fees collected pursuant to this chapter may not
261 exceed $300,000 at the beginning of each fiscal year, and any

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262 excess shall be transferred to the General Revenue Fund.
263 Section 4. Subsections (1), (3), and (4) of section 120.56,
264 Florida Statutes, are amended to read:
265 120.56 Challenges to rules.—
266 (1) GENERAL PROCEDURES ~~FOR CHALLENGING THE VALIDITY OF A~~
267 ~~RULE OR A PROPOSED RULE~~.—
268 (a) Any person substantially affected by a rule or a
269 proposed rule may seek an administrative determination of the
270 invalidity of the rule on the ground that the rule is an invalid
271 exercise of delegated legislative authority.
272 (b) The petition seeking an administrative determination of
273 the invalidity of a rule or proposed rule must state the facts
274 and ~~with particularity the~~ provisions alleged to be invalid with
275 sufficient explanation of the ~~facts or~~ grounds for the alleged
276 invalidity and facts sufficient to show that the petitioner
277 ~~person~~ challenging a rule is substantially affected by it, or
278 that the petitioner ~~person~~ challenging a proposed rule would be
279 substantially affected by it.
280 (c) The petition shall be filed by electronic means with
281 the division which shall, immediately upon filing, forward by
282 electronic means copies to the agency whose rule is challenged,
283 the Department of State, and the committee. Within 10 days after
284 receiving the petition, the division director shall, if the
285 petition complies with ~~the requirements of~~ paragraph (b), assign
286 an administrative law judge who shall conduct a hearing within
287 30 days thereafter, unless the petition is withdrawn or a
288 continuance is granted by agreement of the parties or for good
289 cause shown. Evidence of good cause includes, but is not limited
290 to, written notice of an agency's decision to modify or withdraw

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291 the proposed rule or a written notice from the chair of the
292 committee stating that the committee will consider an objection
293 to the rule at its next scheduled meeting. The failure of an
294 agency to follow the applicable rulemaking procedures or
295 requirements set forth in this chapter shall be presumed to be
296 material; however, the agency may rebut this presumption by
297 showing that the substantial interests of the petitioner and the
298 fairness of the proceedings have not been impaired.
299 (d) Within 30 days after the hearing, the administrative
300 law judge shall render a decision and state the reasons therefor
301 in writing. The division shall forthwith transmit by electronic
302 means copies of the administrative law judge's decision to the
303 agency, the Department of State, and the committee.
304 (e) Hearings held under this section shall be de novo in
305 nature. The standard of proof shall be the preponderance of the
306 evidence. The petitioner has the burden of going forward with
307 the evidence. The agency has the burden of proving by a
308 preponderance of the evidence that the rule, proposed rule, or
309 agency statement is not an invalid exercise of delegated
310 legislative authority. Hearings shall be conducted in the same
311 manner as provided by ss. 120.569 and 120.57, except that the
312 administrative law judge's order shall be final agency action.
313 The petitioner and the agency whose rule is challenged shall be
314 adverse parties. Other substantially affected persons may join
315 the proceedings as intervenors on appropriate terms which shall
316 not unduly delay the proceedings. Failure to proceed under this
317 section does ~~shall~~ not constitute failure to exhaust
318 administrative remedies.
319 (3) CHALLENGING EXISTING RULES; SPECIAL PROVISIONS.—

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320 (a) A substantially affected person may seek an
321 administrative determination of the invalidity of an existing
322 rule at any time during the existence of the rule. The
323 petitioner has the ~~a~~ burden of going forward with the evidence
324 as set forth in paragraph (1)(b), and the agency has the burden
325 of proving by a preponderance of the evidence that the existing
326 rule is not an invalid exercise of delegated legislative
327 authority as to the objections raised.
328 (b) The administrative law judge may declare all or part of
329 a rule invalid. The rule or part thereof declared invalid shall
330 become void when the time for filing an appeal expires. The
331 agency whose rule has been declared invalid in whole or part
332 shall give notice of the decision in the Florida Administrative
333 Register in the first available issue after the rule has become
334 void.
335 (c) If an existing agency rule is declared invalid, the
336 agency may no longer rely on the rule for final agency action,
337 including any final action on cases pending under s. 120.57.
338 (4) CHALLENGING AGENCY STATEMENTS DEFINED AS RULES; SPECIAL
339 PROVISIONS.—
340 (a) Any person substantially affected by an agency
341 statement may seek an administrative determination that the
342 statement violates s. 120.54(1)(a). The petition shall include
343 the text of the statement or a description of the statement and
344 shall state ~~with particularity~~ facts sufficient to show that the
345 statement constitutes a rule under s. 120.52 and that the agency
346 has not adopted the statement by the rulemaking procedure
347 provided by s. 120.54.
348 (b) The administrative law judge may extend the hearing

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349 date beyond 30 days after assignment of the case for good cause.
350 Upon notification to the administrative law judge provided
351 before the final hearing that the agency has published a notice
352 of rulemaking under s. 120.54(3), such notice shall
353 automatically operate as a stay of proceedings pending adoption
354 of the statement as a rule. The administrative law judge may
355 vacate the stay for good cause shown. A stay of proceedings
356 pending rulemaking shall remain in effect so long as the agency
357 is proceeding expeditiously and in good faith to adopt the
358 statement as a rule. If a hearing is held and the petitioner
359 proves the allegations of the petition, the agency shall have
360 the burden of proving that rulemaking is not feasible or not
361 practicable under s. 120.54(1)(a).
362 (c) The administrative law judge may determine whether all
363 or part of a statement violates s. 120.54(1)(a). The decision of
364 the administrative law judge shall constitute a final order. The
365 division shall transmit a copy of the final order to the
366 Department of State and the committee. The Department of State
367 shall publish notice of the final order in the first available
368 issue of the Florida Administrative Register.
369 (d) If an administrative law judge enters a final order
370 that all or part of an agency statement violates s.
371 120.54(1)(a), the agency must immediately discontinue all
372 reliance upon the statement or any substantially similar
373 statement as a basis for agency action.
374 (e) If proposed rules addressing the challenged statement
375 are determined to be an invalid exercise of delegated
376 legislative authority as defined in s. 120.52(8)(b)-(f), the
377 agency must immediately discontinue reliance on the statement

378 and any substantially similar statement until rules addressing
379 the subject are properly adopted, and the administrative law
380 judge shall enter a final order to that effect.
381 (f) If a petitioner files a petition challenging agency
382 action and a part of that petition alleges the presence of or
383 reliance upon agency statements or unadopted rules, the
384 administrative law judge may not bifurcate the petition into two
385 cases but shall consider the challenge to the proposed agency
386 action and the allegation that such agency action was based upon
387 the presence of or reliance upon agency statements or unadopted
388 rules.
389 (g) ~~(f)~~ All proceedings to determine a violation of s.
390 120.54(1)(a) shall be brought pursuant to this subsection. A
391 proceeding pursuant to this subsection may be consolidated with
392 a proceeding under subsection (3) or under any other section of
393 this chapter. This paragraph does not prevent a party whose
394 substantial interests have been determined by an agency action
395 from bringing a proceeding pursuant to s. 120.57(1)(e).
396 Section 5. Subsection (2) of section 120.565, Florida
397 Statutes, is amended, and subsections (4) and (5) are added to
398 that section, to read:
399 120.565 Declaratory statement by agencies.—
400 (2) The petition seeking a declaratory statement shall
401 state ~~with particularity~~ the petitioner's set of circumstances
402 and shall specify the statutory provision, rule, or order that
403 the petitioner believes may apply to the set of circumstances.
404 (4) The petitioner may submit to the agency clerk a
405 statement that describes or asserts the petitioner's
406 understanding of how the statutory provision, rule, or order

407 applies to the set of circumstances. The agency has 60 days to
408 review the petitioner's statement and to either accept the
409 statement or offer changes and other clarifications to establish
410 the plain meaning of how the statutory provision, rule, or order
411 applies to the set of circumstances described in the
412 petitioner's statement.
413 (5) If the agency denies a request for a declaratory
414 statement and the petitioner appeals the denial and it is
415 determined that the agency improperly denied the request, the
416 petitioner is entitled to an award of reasonable attorney fees
417 and costs.
418 Section 6. Paragraph (l) of subsection (2) of section
419 120.569, Florida Statutes, is amended to read:
420 120.569 Decisions which affect substantial interests.—
421 (2)
422 (l) Unless the time period is waived or extended with the
423 consent of all parties, the final order in a proceeding which
424 affects substantial interests must be in writing and include
425 findings of fact, if any, and conclusions of law separately
426 stated, and it must be rendered within 90 days:
427 1. After the hearing is concluded, if conducted by the
428 agency;
429 2. After a recommended order is submitted to the agency and
430 mailed to all parties, if the hearing is conducted by an
431 administrative law judge, except that, at the election of the
432 agency, the time for rendering the final order may be extended
433 up to 10 days after the entry of a mandate on any appeal from a
434 final order under s. 120.57(1)(e)4.; or
435 3. After the agency has received the written and oral

436 material it has authorized to be submitted, if there has been no
437 hearing.
438 Section 7. Paragraphs (e), (h), and (l) of subsection (1)
439 and subsection (2) of section 120.57, Florida Statutes, are
440 amended to read:
441 120.57 Additional procedures for particular cases.—
442 (1) ADDITIONAL PROCEDURES APPLICABLE TO HEARINGS INVOLVING
443 DISPUTED ISSUES OF MATERIAL FACT.—
444 (e)1. An agency or an administrative law judge may not base
445 agency action that determines the substantial interests of a
446 party on an unadopted rule or a rule that is an invalid exercise
447 of delegated legislative authority. ~~The administrative law judge~~
448 ~~shall determine whether an agency statement constitutes an~~
449 ~~unadopted rule.~~ This subparagraph does not preclude application
450 of valid adopted rules and applicable provisions of law to the
451 facts.
452 2. In a matter initiated as a result of agency action
453 proposing to determine the substantial interests of a party, a
454 party's timely petition for hearing may challenge the proposed
455 agency action based on a rule that is an invalid exercise of
456 delegated legislative authority or based on an alleged unadopted
457 rule. For challenges brought under this subparagraph:
458 a. The challenge shall be pled as a defense using the
459 procedures set forth in s. 120.56(1)(b).
460 b. Section 120.56(3)(a) applies to a challenge alleging
461 that a rule is an invalid exercise of delegated legislative
462 authority.
463 c. Section 120.56(4)(c) applies to a challenge alleging an
464 unadopted rule.

465 d. The agency has 15 days from the date of receipt of a
466 challenge under this subparagraph to serve the challenging party
467 with a notice as to whether the agency will continue to rely
468 upon the rule or the alleged unadopted rule as a basis for the
469 action determining the party's substantive interests. Failure to
470 serve or to timely serve the notice constitutes a binding
471 determination that the agency may not rely upon the rule or
472 unadopted rule further in the proceeding. The agency shall
473 include a copy of the notice, if one was served, when it refers
474 the matter to the division under s. 120.569(2)(a).
475 e. This subparagraph does not preclude the consolidation of
476 any proceeding under s. 120.56 with any proceeding under this
477 paragraph.
478 3.~~2.~~ Notwithstanding subparagraph 1., if an agency
479 demonstrates that the statute being implemented directs it to
480 adopt rules, that the agency has not had time to adopt those
481 rules because the requirement was so recently enacted, and that
482 the agency has initiated rulemaking and is proceeding
483 expeditiously and in good faith to adopt the required rules,
484 then the agency's action may be based upon those unadopted rules
485 if~~, subject to de novo review by~~ the administrative law judge
486 determines that the unadopted rules would not constitute an
487 invalid exercise of delegated legislative authority if adopted
488 as rules. An unadopted rule is ~~The agency action shall~~ not ~~be~~
489 presumed to be valid ~~or invalid~~. The agency must demonstrate
490 that the unadopted rule:
491 a. Is within the powers, functions, and duties delegated by
492 the Legislature or, if the agency is operating pursuant to
493 authority vested in the agency by ~~derived from~~ the State

494 Constitution, is within that authority;
495 b. Does not enlarge, modify, or contravene the specific
496 provisions of law implemented;
497 c. Is not vague, establishes adequate standards for agency
498 decisions, or does not vest unbridled discretion in the agency;
499 d. Is not arbitrary or capricious. A rule is arbitrary if
500 it is not supported by logic or the necessary facts; a rule is
501 capricious if it is adopted without thought or reason or is
502 irrational;
503 e. Is not being applied to the substantially affected party
504 without due notice; and
505 f. Does not impose excessive regulatory costs on the
506 regulated person, county, or city.
507 4. If the agency timely serves notice of continued reliance
508 upon a challenged rule or an alleged unadopted rule under sub-
509 subparagraph 2.d., the administrative law judge shall determine
510 whether the challenged rule is an invalid exercise of delegated
511 legislative authority or whether the challenged agency statement
512 constitutes an unadopted rule and if that unadopted rule meets
513 the requirements of subparagraph 3. The determination shall be
514 rendered as a separate final order no earlier than the date on
515 which the administrative law judge serves the recommended order.
516 5.~~3.~~ The recommended and final orders in any proceeding
517 shall be governed by ~~the provisions of~~ paragraphs (k) and (l),
518 except that the administrative law judge's determination
519 ~~regarding an unadopted rule~~ under subparagraph 4. ~~1. or~~
520 ~~subparagraph 2.~~ shall be included as a conclusion of law that
521 the agency may not reject ~~not be rejected by the agency unless~~
522 ~~the agency first determines from a review of the complete~~

523 ~~record, and states with particularity in the order, that such~~
524 ~~determination is clearly erroneous or does not comply with~~
525 ~~essential requirements of law. In any proceeding for review~~
526 ~~under s. 120.68, if the court finds that the agency's rejection~~
527 ~~of the determination regarding the unadopted rule does not~~
528 ~~comport with the provisions of this subparagraph, the agency~~
529 ~~action shall be set aside and the court shall award to the~~
530 ~~prevailing party the reasonable costs and a reasonable~~
531 ~~attorney's fee for the initial proceeding and the proceeding for~~
532 ~~review~~.
533 (h) Any party to a proceeding in which an administrative
534 law judge ~~of the Division of Administrative Hearings~~ has final
535 order authority may move for a summary final order when there is
536 no genuine issue as to any material fact. A summary final order
537 shall be rendered if the administrative law judge determines
538 from the pleadings, depositions, answers to interrogatories, and
539 admissions on file, together with affidavits, if any, that no
540 genuine issue as to any material fact exists and that the moving
541 party is entitled as a matter of law to the entry of a final
542 order. A summary final order shall consist of findings of fact,
543 if any, conclusions of law, a disposition or penalty, if
544 applicable, and any other information required by law to be
545 contained in the final order. This paragraph does not apply to
546 proceedings set forth in paragraph (e).
547 (l) The agency may adopt the recommended order as the final
548 order of the agency. The agency in its final order may only
549 reject or modify the conclusions of law over which it has
550 substantive jurisdiction and interpretation of administrative
551 rules over which it has substantive jurisdiction if the agency

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552 determines that the conclusions of law are clearly erroneous.
553 When rejecting or modifying such conclusion of law or
554 interpretation of administrative rule, the agency must state
555 with particularity its reasons for rejecting or modifying such
556 conclusion of law or interpretation of administrative rule and
557 must make a finding that its substituted conclusion of law or
558 interpretation of administrative rule is as reasonable as, or
559 more reasonable than, that which was rejected or modified.
560 Rejection or modification of conclusions of law may not form the
561 basis for rejection or modification of findings of fact. The
562 agency may not reject or modify the findings of fact unless the
563 agency first determines from a review of the entire record, and
564 states with particularity in the order, that the findings of
565 fact were not based upon competent substantial evidence or that
566 the proceedings on which the findings were based did not comply
567 with essential requirements of law. The agency may accept the
568 recommended penalty in a recommended order, but may not reduce
569 or increase it without a review of the complete record and
570 without stating with particularity its reasons therefor in the
571 order, by citing to the record in justifying the action.
572 (2) ADDITIONAL PROCEDURES APPLICABLE TO HEARINGS NOT
573 INVOLVING DISPUTED ISSUES OF MATERIAL FACT.—In any case to which
574 subsection (1) does not apply:
575 (a) The agency shall:
576 1. Give reasonable notice to affected persons of the action
577 of the agency, whether proposed or already taken, or of its
578 decision to refuse action, together with a summary of the
579 factual, legal, and policy grounds therefor.
580 2. Give parties or their counsel the option, at a

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581 convenient time and place, to present to the agency or
582 administrative law judge ~~hearing officer~~ written or oral
583 evidence in opposition to the action of the agency or to its
584 refusal to act, or a written statement challenging the grounds
585 upon which the agency has chosen to justify its action or
586 inaction.
587 3. If the objections of the parties are overruled, provide
588 a written explanation within 7 days.
589 (b) An agency may not base agency action that determines
590 the substantial interests of a party on an unadopted rule or a
591 rule that is an invalid exercise of delegated legislative
592 authority. No later than the date provided by the agency under
593 subparagraph (a)2., the party may file a petition under s.
594 120.56 challenging the rule, portion of rule, or unadopted rule
595 upon which the agency bases its proposed action or refusal to
596 act. The filing of a challenge under s. 120.56 pursuant to this
597 paragraph shall stay all proceedings on the agency's proposed
598 action or refusal to act until entry of the final order by the
599 administrative law judge. The final order shall provide notice
600 that the stay of the pending agency action is terminated and any
601 further stay pending appeal of the final order must be sought
602 from the appellate court.
603 (c) ~~(b)~~ The record shall only consist of:
604 1. The notice and summary of grounds.
605 2. Evidence received.
606 3. All written statements submitted.
607 4. Any decision overruling objections.
608 5. All matters placed on the record after an ex parte
609 communication.

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610 6. The official transcript.
611 7. Any decision, opinion, order, or report by the presiding
612 officer.
613 Section 8. Section 120.573, Florida Statutes, is amended to
614 read:
615 120.573 Mediation of disputes.—
616 (1) Each announcement of an agency action that affects
617 substantial interests shall advise whether mediation of the
618 administrative dispute for the type of agency action announced
619 is available and that choosing mediation does not affect the
620 right to an administrative hearing. If the agency and all
621 parties to the administrative action agree to mediation, in
622 writing, within 10 days after the time period stated in the
623 announcement for election of an administrative remedy under ss.
624 120.569 and 120.57, the time limitations imposed by ss. 120.569
625 and 120.57 shall be tolled to allow the agency and parties to
626 mediate the administrative dispute. The mediation shall be
627 concluded within 60 days after ~~of~~ such agreement unless
628 otherwise agreed by the parties. The mediation agreement shall
629 include provisions for mediator selection, the allocation of
630 costs and fees associated with mediation, and the mediating
631 parties' understanding regarding the confidentiality of
632 discussions and documents introduced during mediation. If
633 mediation results in settlement of the administrative dispute,
634 the agency shall enter a final order incorporating the agreement
635 of the parties. If mediation terminates without settlement of
636 the dispute, the agency shall notify the parties in writing that
637 the administrative hearing processes under ss. 120.569 and
638 120.57 are resumed.

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(2) A party in a proceeding conducted pursuant to a petition seeking an administrative determination of the invalidity of an existing rule, proposed rule, or agency statement under s. 120.56 or a proceeding conducted pursuant to a petition seeking a declaratory statement under s. 120.565 may request mediation of the dispute under this section.

Section 9. Section 120.595, Florida Statutes, is amended to read:

120.595 Attorney ~~Attorney's~~ fees.—

(1) CHALLENGES TO AGENCY ACTION PURSUANT TO SECTION 120.57(1).—

(a) The provisions of this subsection are supplemental to, and do not abrogate, other provisions allowing the award of fees or costs in administrative proceedings.

(b) The final order in a proceeding pursuant to s. 120.57(1) shall award reasonable costs and ~~a~~ reasonable attorney fees ~~attorney's fee~~ to the prevailing party if the administrative law judge determines ~~only where~~ the nonprevailing adverse party ~~has been determined by the administrative law judge to have~~ participated in the proceeding for an improper purpose.

1.~~(c)~~ Other than as provided in paragraph (d), in proceedings pursuant to s. 120.57(1), and upon motion, the administrative law judge shall determine whether any party participated in the proceeding for an improper purpose as defined by this subsection. ~~In making such determination, the administrative law judge shall consider whether~~ The nonprevailing adverse party shall be presumed to have participated in the pending proceeding for an improper purpose

if:

a. Such party was an adverse party ~~has participated~~ in three ~~two~~ or more ~~other such~~ proceedings involving the same prevailing party and the same subject;

b. In those ~~project as an adverse party and in which such two or more~~ proceedings, the nonprevailing adverse party did not establish either the factual or legal merits of its position;~~, and shall consider whether~~

c. The factual or legal position asserted in the pending ~~instant~~ proceeding would have been cognizable in the previous proceedings; and

d. The nonprevailing adverse party has not rebutted the presumption of participating~~. In such event, it shall be rebuttably presumed that the nonprevailing adverse party participated~~ in the pending proceeding for an improper purpose.

2.~~(d)~~ If ~~In any proceeding in which the administrative law judge determines that~~ a party is determined to have participated in the proceeding for an improper purpose, the recommended order shall include such findings of fact and conclusions of law to establish the conclusion ~~so designate~~ and shall determine the award of costs and attorney ~~attorney's~~ fees.

(c)~~(e)~~ For the purpose of this subsection:

1. "Improper purpose" means participation in a proceeding pursuant to s. 120.57(1) primarily to harass or to cause unnecessary delay or for frivolous purpose or to needlessly increase the cost of litigation, licensing, or securing the approval of an activity.

2. "Costs" has the same meaning as the costs allowed in civil actions in this state as provided in chapter 57.

697 3. "Nonprevailing adverse party" means a party that has
698 failed to have substantially changed the outcome of the proposed
699 or final agency action which is the subject of a proceeding. In
700 the event that a proceeding results in any substantial
701 modification or condition intended to resolve the matters raised
702 in a party's petition, it shall be determined that the party
703 having raised the issue addressed is not a nonprevailing adverse
704 party. The recommended order shall state whether the change is
705 substantial for purposes of this subsection. In no event shall
706 the term "nonprevailing party" or "prevailing party" be deemed
707 to include any party that has intervened in a previously
708 existing proceeding to support the position of an agency.
709 (d) For challenges brought under s. 120.57(1)(e), when the
710 agency relies on a challenged rule or an alleged unadopted rule
711 pursuant to s. 120.57(1)(e)2.d., if the appellate court or the
712 administrative law judge declares the rule or portion of the
713 rule to be invalid or that the agency statement is an unadopted
714 rule that does not meet the requirements of s. 120.57(1)(e)4., a
715 judgment or order shall be rendered against the agency for
716 reasonable costs and reasonable attorney fees. An award of
717 attorney fees as provided by this paragraph may not exceed
718 $50,000.
719 (2) CHALLENGES TO PROPOSED AGENCY RULES PURSUANT TO SECTION
720 120.56(2).—If the appellate court or administrative law judge
721 declares a proposed rule or portion of a proposed rule invalid
722 pursuant to s. 120.56(2), a judgment or order shall be rendered
723 against the agency for reasonable costs and reasonable attorney
724 ~~attorney's~~ fees, unless the agency demonstrates that ~~its actions~~
725 ~~were substantially justified or~~ special circumstances exist

726 which would make the award unjust. ~~An agency's actions are~~
727 ~~"substantially justified" if there was a reasonable basis in law~~
728 ~~and fact at the time the actions were taken by the agency.~~ If
729 the agency prevails in the proceedings, the appellate court or
730 administrative law judge shall award reasonable costs and
731 reasonable attorney ~~attorney's~~ fees against a party if the
732 appellate court or administrative law judge determines that a
733 party participated in the proceedings for an improper purpose as
734 defined by paragraph (1)(c) ~~(1)(e)~~. An ~~No~~ award of attorney
735 ~~attorney's~~ fees as provided by this subsection may not ~~shall~~
736 exceed $50,000.
737 (3) CHALLENGES TO EXISTING AGENCY RULES PURSUANT TO SECTION
738 120.56(3) AND (5).—If the appellate court or administrative law
739 judge declares a rule or portion of a rule invalid pursuant to
740 s. 120.56(3) or (5), a judgment or order shall be rendered
741 against the agency for reasonable costs and reasonable attorney
742 ~~attorney's~~ fees, unless the agency demonstrates that ~~its actions~~
743 ~~were substantially justified or~~ special circumstances exist
744 which would make the award unjust. ~~An agency's actions are~~
745 ~~"substantially justified" if there was a reasonable basis in law~~
746 ~~and fact at the time the actions were taken by the agency.~~ If
747 the agency prevails in the proceedings, the appellate court or
748 administrative law judge shall award reasonable costs and
749 reasonable attorney ~~attorney's~~ fees against a party if the
750 appellate court or administrative law judge determines that a
751 party participated in the proceedings for an improper purpose as
752 defined by paragraph (1)(c) ~~(1)(e)~~. An ~~No~~ award of attorney
753 ~~attorney's~~ fees as provided by this subsection may not ~~shall~~
754 exceed $50,000.

755 (4) CHALLENGES TO UNADOPTED RULES ~~AGENCY ACTION~~ PURSUANT TO
756 SECTION 120.56(4).—
757 (a) If the appellate court or administrative law judge
758 determines that all or part of an unadopted rule ~~agency~~
759 ~~statement~~ violates s. 120.54(1)(a), or that the agency must
760 immediately discontinue reliance upon ~~on~~ the unadopted rule
761 ~~statement~~ and any substantially similar statement pursuant to s.
762 120.56(4)(e), a judgment or order shall be entered against the
763 agency for reasonable costs and reasonable attorney ~~attorney's~~
764 fees, unless the agency demonstrates that the statement is
765 required by the Federal Government to implement or retain a
766 delegated or approved program or to meet a condition to receipt
767 of federal funds.
768 (b) Upon notification to the administrative law judge
769 provided before the final hearing that the agency has published
770 a notice of rulemaking under s. 120.54(3)(a), such notice shall
771 automatically operate as a stay of proceedings pending
772 rulemaking. The administrative law judge may vacate the stay for
773 good cause shown. A stay of proceedings under this paragraph
774 remains in effect so long as the agency is proceeding
775 expeditiously and in good faith to adopt the statement as a
776 rule. The administrative law judge shall award reasonable costs
777 and reasonable attorney ~~attorney's~~ fees incurred ~~accrued~~ by the
778 petitioner before ~~prior to~~ the date the notice was published~~,~~
779 ~~unless the agency proves to the administrative law judge that it~~
780 ~~did not know and should not have known that the statement was an~~
781 ~~unadopted rule. Attorneys' fees and costs under this paragraph~~
782 ~~and paragraph (a) shall be awarded only upon a finding that the~~
783 ~~agency received notice that the statement may constitute an~~

784 ~~unadopted rule at least 30 days before a petition under s.~~
785 ~~120.56(4) was filed and that the agency failed to publish the~~
786 ~~required notice of rulemaking pursuant to s. 120.54(3) that~~
787 ~~addresses the statement within that 30-day period. Notice to the~~
788 ~~agency may be satisfied by its receipt of a copy of the s.~~
789 ~~120.56(4) petition, a notice or other paper containing~~
790 ~~substantially the same information, or a petition filed pursuant~~
791 ~~to s. 120.54(7)~~. An award of attorney ~~attorney's~~ fees as
792 provided by this paragraph may not exceed $50,000.
793 (c) Notwithstanding ~~the provisions of~~ chapter 284, an award
794 shall be paid from the budget entity of the secretary, executive
795 director, or equivalent administrative officer of the agency,
796 and the agency is ~~shall~~ not ~~be~~ entitled to payment of an award
797 or reimbursement for payment of an award under any provision of
798 law.
799 (d) If the agency prevails in the proceedings, the
800 appellate court or administrative law judge shall award
801 reasonable costs and attorney ~~attorney's~~ fees against a party if
802 the appellate court or administrative law judge determines that
803 the party participated in the proceedings for an improper
804 purpose as defined in paragraph (1)(c) ~~(1)(e)~~ or that the party
805 or the party's attorney knew or should have known that a claim
806 was not supported by the material facts necessary to establish
807 the claim or would not be supported by the application of then-
808 existing law to those material facts.
809 (5) APPEALS.—When there is an appeal, the court in its
810 discretion may award reasonable attorney ~~attorney's~~ fees and
811 reasonable costs to the prevailing party if the court finds that
812 the appeal was frivolous, meritless, or an abuse of the

813 appellate process, or that the agency action that ~~which~~
814 precipitated the appeal was a gross abuse of the agency's
815 discretion. Upon review of agency action that precipitates an
816 appeal, if the court finds that the agency improperly rejected
817 or modified findings of fact in a recommended order, the court
818 shall award reasonable attorney ~~attorney's~~ fees and reasonable
819 costs to a prevailing appellant for the administrative
820 proceeding and the appellate proceeding.
821 (6) NOTICE OF INVALIDITY.—A party failing to serve a notice
822 of proposed challenge under this subsection is not entitled to
823 an award of reasonable attorney fees and reasonable costs under
824 this section.
825 (a) Before filing a petition challenging the validity of a
826 proposed rule under s. 120.56(2), an adopted rule under s.
827 120.56(3), or an agency statement defined as an unadopted rule
828 under s. 120.56(4), a substantially affected person shall serve
829 the agency head with notice of the proposed challenge. The
830 notice shall identify the proposed or adopted rule or the
831 unadopted rule that the person proposes to challenge and a brief
832 explanation of the basis for that challenge. The notice must be
833 received by the agency head at least 5 days before the filing of
834 a petition under s. 120.56(2) and at least 30 days before the
835 filing of a petition under s. 120.56(3) or s. 120.56(4).
836 (b) This subsection does not apply to defenses raised and
837 challenges authorized by s. 120.57(1)(e) or s. 120.57(2)(b).
838 (7) DETERMINATION OF RECOVERABLE FEES AND COSTS.—For
839 purposes of this chapter, s. 57.105(5), and s. 57.111, in
840 addition to an award of reasonable attorney fees and reasonable
841 costs, the prevailing party shall also recover reasonable

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842 attorney fees and reasonable costs incurred in litigating
843 entitlement to, and the determination or quantification of,
844 reasonable attorney fees and reasonable costs for the underlying
845 matter. Reasonable attorney fees and reasonable costs awarded
846 for litigating entitlement to, and the determination or
847 quantification of, reasonable attorney fees and reasonable costs
848 for the underlying matter are not subject to the limitations on
849 amounts provided in this chapter or s. 57.111.
850 (8) ~~(6)~~ OTHER SECTIONS NOT AFFECTED.—Other provisions,
851 including ss. 57.105 and 57.111, authorize the award of attorney
852 ~~attorney's~~ fees and costs in administrative proceedings. ~~Nothing~~
853 ~~in~~ This section does not ~~shall~~ affect the availability of
854 attorney ~~attorney's~~ fees and costs as provided in those
855 sections.
856 Section 10. Paragraph (a) of subsection (2) and subsection
857 (9) of section 120.68, Florida Statutes, are amended to read:
858 120.68 Judicial review.—
859 (2)(a) Judicial review shall be sought in the appellate
860 district where the agency maintains its headquarters or where a
861 party resides or as otherwise provided by law. All proceedings
862 shall be instituted by filing a notice of appeal or petition for
863 review in accordance with the Florida Rules of Appellate
864 Procedure within 30 days after the rendition of the order being
865 appealed. If the appeal is of an order rendered in a proceeding
866 initiated under s. 120.56 or a final order under s.
867 120.57(1)(e)4., the agency whose rule is being challenged shall
868 transmit a copy of the notice of appeal to the committee.
869 (9) A ~~No~~ petition challenging an agency rule as an invalid
870 exercise of delegated legislative authority may not ~~shall~~ be

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871 instituted pursuant to this section, except to review an order
872 entered pursuant to a proceeding under s. 120.56, s.
873 120.57(1)(e)5., or s. 120.57(2)(b) or an agency's findings of
874 immediate danger, necessity, and procedural fairness
875 prerequisite to the adoption of an emergency rule pursuant to s.
876 120.54(4), unless the sole issue presented by the petition is
877 the constitutionality of a rule and there are no disputed issues
878 of fact.
879 Section 11. Section 120.695, Florida Statutes, is amended
880 to read:
881 120.695 Notice of noncompliance; designation of minor
882 violation of rules.—
883 (1) It is the policy of the state that the purpose of
884 regulation is to protect the public by attaining compliance with
885 the policies established by the Legislature. Fines and other
886 penalties may be provided in order to assure compliance;
887 however, the collection of fines and the imposition of penalties
888 are intended to be secondary to the primary goal of attaining
889 compliance with an agency's rules. It is the intent of the
890 Legislature that an agency charged with enforcing rules shall
891 issue a notice of noncompliance as its first response to a minor
892 violation of a rule in any instance in which it is reasonable to
893 assume that the violator was unaware of the rule or unclear as
894 to how to comply with it.
895 (2)(a) Each agency shall issue a notice of noncompliance as
896 a first response to a minor violation of a rule. A "notice of
897 noncompliance" is a notification by the agency charged with
898 enforcing the rule issued to the person or business subject to
899 the rule. A notice of noncompliance may not be accompanied with

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900 a fine or other disciplinary penalty. It must identify the
901 specific rule that is being violated, provide information on how
902 to comply with the rule, and specify a reasonable time for the
903 violator to comply with the rule. A rule is agency action that
904 regulates a business, occupation, or profession, or regulates a
905 person operating a business, occupation, or profession, and
906 that, if not complied with, may result in a disciplinary
907 penalty.
908 (b) Each agency shall review all of its rules and designate
909 those for which a violation would be a minor violation and for
910 which a notice of noncompliance must be the first enforcement
911 action taken against a person or business subject to regulation.
912 A violation of a rule is a minor violation if it does not result
913 in economic or physical harm to a person or adversely affect the
914 public health, safety, or welfare or create a significant threat
915 of such harm. ~~If an agency under the direction of a cabinet~~
916 ~~officer mails to each licensee a notice of the designated rules~~
917 ~~at the time of licensure and at least annually thereafter, the~~
918 ~~provisions of paragraph (a) may be exercised at the discretion~~
919 ~~of the agency. Such notice shall include a subject-matter index~~
920 ~~of the rules and information on how the rules may be obtained.~~
921 (c)1. Within 3 months after any request of the rules
922 ombudsman in the Executive Office of the Governor, ~~The agency's~~
923 ~~review and designation must be completed by December 1, 1995;~~
924 each agency shall review ~~under the direction of the Governor~~
925 ~~shall make a report to the Governor, and each agency under the~~
926 ~~joint direction of the Governor and Cabinet shall report to the~~
927 ~~Governor and Cabinet by January 1, 1996, on which of~~ its rules
928 and certify to the President of the Senate, the Speaker of the

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929 House of Representatives, the Administrative Procedures
930 Committee, and the rules ombudsman any designated rules, ~~have~~
931 ~~been designated as rules~~ the violation of which would be a minor
932 violation under paragraph (b), consistent with the legislative
933 intent stated in subsection (1). The rules ombudsman shall
934 promptly report to the Governor, the President of the Senate,
935 the Speaker of the House of Representatives, and the
936 Administrative Procedures Committee each failure of an agency to
937 timely complete the review and file the certification as
938 required by this section.
939 2. Beginning July 1, 2015, each agency shall:
940 a. Publish all rules that the agency has designated as
941 rules that the violation of which would be a minor violation,
942 either as a complete list on the agency's Internet web page or
943 by incorporation of the designations in the agency's
944 disciplinary guidelines adopted as a rule.
945 b. Ensure that all investigative and enforcement personnel
946 are knowledgeable about the agency's designations under this
947 section.
948 3. For each rule filed for adoption, the agency head shall
949 certify whether any part of the rule is designated as a rule
950 that the violation of which would be a minor violation and shall
951 update the listing required by sub-subparagraph 2.a.
952 (d) The Governor or the Governor and Cabinet, as
953 appropriate ~~pursuant to paragraph (c)~~, may evaluate the review
954 and designation effects of each agency subject to the direction
955 and supervision of such authority and may direct ~~apply~~ a
956 different designation than that applied by such ~~the~~ agency.
957 (e) Notwithstanding s. 120.52(1)(a), this section does not

958 apply to:
959 1. The Department of Corrections;
960 2. Educational units;
961 3. The regulation of law enforcement personnel; or
962 4. The regulation of teachers.
963 (f) Designation pursuant to this section is not subject to
964 challenge under this chapter.
965 Section 12. This act shall take effect July 1, 2015.

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 Appropriations

BILL: CS/CS/SB 896

INTRODUCER: Transportation Committee; Community Affairs Committee; and Senator Brandes

SUBJECT: Location of Utilities

DATE: April 20, 2015 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	White	Yeatman	CA	**Fav/CS**
2.	Price	Eichin	TR	**Fav/CS**
3.	Sneed	Kynoch	AP	**Pre-meeting**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 896 addresses the responsibility for the cost of relocating utility facilities in a public easement. Easements dedicated to the public for utilities are typically located along existing road or highway rights-of-way and are available for use by a variety of utility providers. The bill revises the responsibility to bear relocation costs from the utility owner to the state or local government requiring the facilities to be relocated, effectively shifting such costs currently borne by the utility and its users to taxpayers. Under the bill, the owner of a utility that requires relocation will be liable for relocation costs only if their lines and facilities are across, on or "*within"* the right-of-way, rather than "*along*" any right-of-way.

Additionally, the bill prohibits a municipality or county from requiring utilities to resubmit proprietary maps of facilities if the facilities have previously been subject to a permit.

According to the Florida Department of Transportation (DOT), the bill would have an indeterminate negative fiscal impact on state expenditures relating to the cost of utility relocation on state roads. To the extent funds are expended for such relocations, projects currently planned in the Work Program may need to be adjusted.

The bill is also expected to have an indeterminate negative fiscal impact on local governments that may now be responsible for the cost of relocation on roads within their jurisdictions.

The bill provides that it becomes effective upon becoming law.

II. Present Situation:

Specific Grant of Authority to Counties to Issue Licenses to Utilities

Section 125.42, F.S., gives counties specific authority to grant a license to any person or private corporation to construct, maintain, repair, operate, and remove, within the unincorporated areas of a county, water, sewage, gas, power, telephone, other utility, and television transmission lines located "under, on, over, across and along" any county roads or highways.[1] The statutory phrase "under, on, over, across and along" county roads or highways has been in the statute since 1947.[2]

Specific Grant of Authority to Regulate the Placement and Maintenance of Utility Lines

Chapter 337, F.S., relates to public contracts and the acquisition, disposal, and use of property. DOT and local governmental entities[3] prescribe and enforce reasonable rules or regulations related to the placement and maintenance of the utility lines along, across, or on any public road or rail corridor.[4] "Utility" in this context means any electric transmission, telephone, telegraph, or other communication services lines; pole lines; poles; railways; ditches; sewers; water, heat or gas mains; pipelines; fences; gasoline tanks and pumps; or other structures that the statute refers to as a "utility."[5] Florida local governments have enacted ordinances regulating utilities located within city rights-of-way or easements.[6]

Payment of Moving or Removing Utilities and Exceptions

Since 1957, Florida law expressly has provided that in the event of widening, repair or reconstruction of a county's public road or highway, the licensee, i.e., the utility provider, must move or remove the lines at no cost to the county.[7] In 2009, that requirement was made subject to a provision in s. 337.403(1), F.S., relating to agreements entered into after July 1, 2009.[8] In 2014, it was made subject to an additional requirement that the authority[9] find the utility is "unreasonably interfering" with the convenient, safe, or continuous use, or the maintenance, improvement, extension, or expansion, of such public road or publicly owned rail corridor.[10]

Additionally, beginning in 1957, Florida statutorily required utilities to bear the costs of relocating a utility placed upon, under, over, or along any public road the authority finds unreasonably interferes in any way with the convenient, safe, or continuous use, or the maintenance, improvement, extension or expansion of a road.[11] In 1994, that law was amended to include utilities placed upon, under, over, or along any publicly owned rail corridor.[12] Utility

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[1] Section 125.42, F.S.
[2] Ch. 23850, ss. 1-3, Laws of Fla., now codified at s. 125.42, F.S.
[3] These are referred in ss. 337.401-337.404, F.S., as an "authority." S. 337.401(1)(a), F.S.
[4] Section 337.401, F.S.
[5] Section 337.401(a), F.S.
[6] *See* City of Cape Coral Code of Ordinances, Ch. 25; City of Jacksonville Code of Ordinances, Title XXI, Ch. 711; City of Orlando Code of Ordinances, Ch. 23.
[7] Ch. 57-777, s. 1, Laws of Fla., now codified at s. 125.42(5), F.S.
[8] Ch. 2009-85, s. 2, Laws of Fla., now codified at s. 125.42(5), F.S.
[9] "[A]uthority" means DOT and local governmental entities. Section 337.401(1), F.S.
[10] Ch. 2014-169, s. 1, Laws of Fla., now codified at s. 125.42, F.S.
[11] Ch. 57-1978, s. 1, Laws of Fla., now codified at s. 337.403, F.S.
[12] Ch. 1994-247, s. 28, Laws of Fla., now codified at s. 337.403, F.S.]

owners, upon 30 days' notice, must eliminate the unreasonable interference within a reasonable time or an agreed time, at their own expense.[13] The general rule remains that utilities bear the costs of relocating a utility unless governmental participation in such costs is authorized. Since 1987, numerous exceptions to that general rule have been statutorily carved out, and can be found in s. 337.403(1), F.S., as follows:

- When the project is on the federal aid interstate system and federal funding is identified for at least 90 percent of the cost, DOT pays for the removal or relocation with federal funds.[14]
- When utility work is performed as part of a transportation facility construction contract, DOT may participate in those costs in an amount limited to the difference between the official estimate of all the work in the agreement plus ten percent of the amount awarded for the utility work in the construction contract.[15]
- When utility work is performed in advance of a construction contract, DOT may participate in the cost of clearing and grubbing necessary for relocation.[16]
- If the utility being removed or relocated was initially installed to serve an authority or its tenants, or both, the authority bears the cost of the utility work but is not responsible for the cost of removal or relocation of any subsequent additions to the facility for the purpose of serving others.[17]
- If, in an agreement between the utility and an authority entered into after July 1, 2009, the utility conveys, subordinates, or relinquishes a compensable property right to the authority for the purpose of accommodating the acquisition or use of the right-of-way by the authority without the agreement expressly addressing future responsibility for cost of removal or relocation, the authority bears the cost of the utility work, but nothing impairs or restricts, or may be used to interpret, the terms of any agreement entered into prior to July 1, 2009.[18]
- If the utility is an electric facility being relocated underground to enhance vehicular, bicycle, and pedestrian safety, and if ownership of the electric facility to be placed underground has been transferred from a private to a public utility within the past five years, DOT bears the cost of the necessary utility work.[19]
- An authority may bear the cost of utility work when the utility is not able to establish a compensable property right in the property where the utility is located:
    - If the utility was physically located on the particular property before the authority acquired rights in the property,
    - The information available to the authority does not establish the relative priorities of the authority's and the utility's interest in the property, and
    - The utility demonstrates that it has a compensable property right in all adjacent properties along the alignment of the utility[20] or, pursuant to a 2014 amendment, after due diligence, the utility certifies that it does not have evidence to prove or disprove it has a compensable property right in the particular property where the utility is located.[21]

[13] Section 337.403, F.S.
[14] Ch. 1987-100, s. 12, Laws of Fla., now codified at s. 337.403(1)(a), F.S.
[15] Ch. 1987-100, s. 12, Laws of Fla., now codified at s. 337.403(1)(b), F.S.
[16] Ch. 1999-385, s. 25, Laws of Fla., now codified at s. 337.403(1)(c), F.S.
[17] Ch. 2009-85, s. 10, Laws of Fla., now codified at s. 337.403(1)(d), F.S.
[18] Ch. 2009-85, s. 10, Laws of Fla., now codified at s. 337.403(1)(e), F.S.
[19] Ch. 2009-85, s.10, Laws of Fla., now codified at s. 337.403(1)(f), F.S.
[20] Ch. 2012-174, s. 35, Laws of Fla., now codified at s. 337.403(1)(g), F.S.
[21] Ch. 2014-169, s. 5, Laws of Fla., now codified at s. 337.403(1)(g)2., F.S.

- If a municipally-owned or county-owned utility is located in a rural area of critical economic concern[22] and DOT determines that the utility is unable, and will not be able within the next ten years to pay for the cost of utility work necessitated by a DOT project on the State Highway System, DOT may pay, in whole or in part, the cost of such utility work performed by DOT or its contractor.
- If the relocation of utility facilities is needed for the construction of a commuter rail service project or an intercity passenger rail service project, and the cost of the project is reimbursable by the federal government, then the utility that owns or operates the facilities located by permit on a DOT owned rail corridor shall perform all necessary utility relocation work after notice from DOT, and DOT must pay the expense for the utility relocation work in the same proportion as federal funds are expended on the rail project after deducting any increase in the value of a new facility and any salvage value derived from an old facility.[23]

Utility Relocation under Common Law and the *Cape Coral* Decision

Legal scholarship has addressed the common law implications of utility relocation.[24] Generally, under common law, a utility will bear the costs of moving or relocating its utility lines or facilities if they are within the right-of-way or a public utility easement, unless there exists an agreement providing otherwise or a private easement pursuant to which the utility locates and runs its lines or facilities. A right-of-way differs from an easement. The term right-of-way "has been construed to mean … a right of passage over the land of another …. It does not necessarily mean a legal and enforceable incorporeal [or intangible] right such as an easement."[25] An easement gives someone else a reserved right to use property in a specified manner,[26] but "does not involve title to or an estate in the land itself."[27]

In 2014, the Florida Second District Court of Appeal (DCA) ruled in *Lee County Electric Coop., Inc. v. City of Cape Coral* that the requirement for utilities to pay for relocation within a right-of-way is well established in the common law.[28] That court found that, absent another arrangement by agreement between a governmental entity and the utility, or a statute dictating otherwise, the common law principle governs.[29] This case involved a platted public utility easement on each side of the boundary for each home site in the subdivision, in which the electric utility had installed lines and other equipment. The easement was "along" the public right-of-way and was dedicated *to the public*, not to any utility owner, for the purpose of furnishing utilities. No

[22] Section 288.0656(2)(d) defines "rural area of critical economic concern" as "a rural community, or a region composed of rural communities, designated by the Governor, that has been adversely affected by an extraordinary economic event, severe or chronic distress, or a natural disaster or that presents a unique economic development opportunity of regional impact."
[23] Ch. 2014-169, s. 5, Laws of Fla., now codified at s. 337.403(1)(i), F.S. The exception expressly provides that in no event is the state required to use state dollars for such utility relocation work and that it does not apply to any phase of the Central Florida Rail Corridor project known as SunRail. Section 337.403(1)(i), F.S.
[24] Michael L. Stokes, *Moving the Lines: The Common Law of Utility Relocation*, 45 Val. U.L. Rev. 457 (Winter, 2011).
[25] *City of Miami Beach v. Carner*, 579 So. 2d 248, 253 (Fla. 3d DCA 1991).
[26] *Southeast Seminole Civic Ass'n v. Adkins*, 604 So. 2d 523, 527 (Fla. 5th DCA 1992) ("[E]asements are mere rights to make certain limited use of lands and at common law, they did not have, and in the absence of contractual provisions, do not have, obligations corollary to the easement rights.").
[27] *Estate of Johnston v. TPE Hotels, Inc.*, 719 So. 2d 22, 26 (Fla. 5th DCA 1998) (citations omitted).
[28] *Lee County Electric Coop., Inc. v. City of Cape Coral*, No. 2D10-3781, 2014 WL 2218972, at *4 (Fla. 2d DCA May 23, 2014), *cert. denied*, 151 So. 3d 1226 (Fla. 2014), quoting *Norfolk Redevelopment & Hous. Auth. v. Chesapeake & Potomac Tel. Co. of Va.*, 464 U.S. 30, 35 (1983).
[29] *Id*.

reserved right to use the property was granted to the Lee County Electric Coop by virtue of the platted public easement. The municipality and the utility had a franchise agreement granting the utility the right to operate its electric utility in the public easement, but the agreement did not address who would be responsible for the cost of moving the utility's equipment if the municipality required the utility to do so. The Second DCA held that the utility would bear the burden of the cost of moving a utility line located within a public utility easement to another public utility easement as part of the municipality's expansion of an existing road.[30]

III. Effect of Proposed Changes:

Section 1 amends s. 125.42, F.S., relating to licenses for water, sewage, gas, power, telephone, other utility and television lines. The bill reduces a county's authority to grant licenses for lines to only locations under, on, over, across, or within the right-of-way limits of a county highway or public road, as opposed to "under, on, over, across and along" such highways or roads. Specifically, the bill provides that the authority of a county to grant a license to construct, maintain, repair, operate, or remove, within the unincorporated areas of the county, lines for the transmission of water, sewage, gas, power, telephone, other utility, television lines, and other communications services[31] is limited to those lines located within the right-of-way limits of any county roads or highways. Accordingly, this change narrows a county's ability to grant licenses to construct such lines within a public easement, running along a road or highway but not within the actual right-of-way.

The bill also makes a conforming change, substituting a reference to ss. 337.403(1)(d) through (i), F.S., with ss. 337.403(1)(d) through (j), F.S., to correspond with the new exception set forth in Section 3 of the bill.

Section 2 amends s. 337.401, F.S., relating to rules or regulations concerning specified structures within public roads or rail corridors. The bill reduces the ability of defined government authorities to grant licenses to only locations "across, on, or within" the right-of-way limits of a county highway or public road, as opposed to "along, across, or on" such highways or roads. Specifically, the bill narrows the authority of DOT and local governmental entities to prescribe and enforce rules or regulations related to the placing and maintaining of a utility[32] to only across, on, or within the right-of-way limits of any public road or publicly owned rail corridors. By changing the language to "right-of-way," the bill reduces the authority of DOT and local governments to prescribe and enforce rules and regulations regarding the placement and maintenance of utilities within a public easement. The bill also changes the expression "other

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[30] *Id.* In reaching this conclusion, the Second District distinguished *Panhandle E. Pipe Line Co.*, noting that case concerned "a private easement the utility purchased from a property owner, rather than pursuant to a franchise agreement that allows the utility to use public property." *Lee County Electric Coop., Inc.*, 2014 WL 2218972, at *3. The Second District in its opinion also distinguished an earlier Second District case, *Pinellas County v. General Tel. Co. of Fla.*, 229 So. 2d 9 (Fla. 2d DCA 1969). In *Pinellas County*, without citing or discussing relevant cases or statutes, the court determined that the utility, which had a franchise agreement with the City, had a property right in the agreement, and held that the County had to pay the utility's costs in moving its telephone lines located within a right-of-way of an alley dedicated to the City and which was within property the County was purchasing as part of a County building construction.

[31] The bill adds "other communications services" to the list of utilities in current law.

[32] Section 337.401(1)(a), F.S., provides that utilities include "electric transmission, telephone, telegraph, or other communication services lines; pole lines; poles; railways; ditches; sewers; water, heat or gas mains; pipelines; fences; gasoline tanks and pumps; or other structures referred to in this section as the "utility"."

structures referred to as a utility" to mean those structures referred to in ss. 337.401-337.404, F.S., instead of just those found in s. 337.401, F.S.

Additionally, the bill prohibits municipalities or counties exercising authority over a utility from requiring the utility to provide proprietary maps of facilities if the facilities have previously been subject to a permit from the authority; and separately prohibits municipalities or counties from requiring providers of communication services to provide proprietary maps of such facilities.

Section 3 amends s. 337.403, F.S., relating to alleviating an interference that a utility causes to a public road or publicly owned rail corridor. The bill limits the responsibility of utility providers to pay for relocating their lines and facilities under certain circumstances and requires defined governmental authorities to pay for such relocation. Specifically, the bill establishes that the utility is not required to bear relocation costs if a governmental authority requires relocation:

- For any purpose other than unreasonable interference with the safe continuous use, maintenance, improvement, extension, or expansion of a public road or publicly owned rail corridor; or as a condition or result of a project by a different entity;[33] and
- Where the utility is located upon, under, over or *within the right-of-way limits* of the road or rail corridor, rather than upon, under, over, *or along* the road or rail corridor; or where a utility is located within an existing and valid utility easement granted by recorded plat, regardless of whether such land was subsequently acquired by the governmental authority, by dedication, transfer of fee, or otherwise.

The bill further specifies that nothing impairs any rights of the holder of any private railroad right-of-way, including any rights in any agreement between the holder and a utility that otherwise allocates relocation costs.

These changes overturn the results reached by the Second DCA in *Lee County Electric Cooperative, Inc. v. City of Cape Coral,* which held that the cost of relocating utilities from a public easement in the absence of a permit or other agreement is the responsibility of the utility owner.[34] Under the bill, if a utility is located in a public easement and no permit or agreement is in place to address relocation, the state or local government will be required to pay relocation costs because the utility is located *along* a public right-of-way.

The provisions extend beyond the issue before the court in the Lee County case. For example, current law defers to private property rights by requiring the state or local government to pay for relocation when a utility is located on a *private* easement, i.e., on property for which the utility has paid for the right to use or occupy. The bill's provisions seemingly extend private property rights to public property by requiring the governmental entity to pay for utility relocation even when the governmental entity has purchased a *public* easement, i.e., property dedicated *to the public* in general, not to any specific utility owner, effectively bestowing a compensable property right to private users of a public easement, even when such users were granted the right to use the public property without compensation.

[33] The other entity would be responsible for payment.
[34] *Lee County Electric Coop., Inc.,* 2014 WL 2218972, at *4.

Section 4 provides that the Legislature finds that the bill fulfills an important state interest by clarifying a utility's responsibility for relocation of its facilities.

Section 5 provides that the act shall take effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Subsection (a) of s. 18, Art. VII of the Florida Constitution provides in pertinent part that "no county or municipality shall be bound by any general law requiring such county or municipality to spend funds … unless the legislature has determined that such law fulfills an important state interest and unless: … the expenditure is required to comply with a law that applies to all persons similarly situated."

The bill applies to all persons similarly situated, including the state and local governments. The bill includes a legislative finding that the bill fulfills an important state interest.

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/CS/SB 896 would have an indeterminate positive impact on the private sector, depending upon the number of eligible reimbursements for relocation made to utilities by DOT, local governments, or other entities.

C. Government Sector Impact:

State and local governments would bear the cost of relocation if they require the relocation of a utility, with certain exceptions. If the relocation is required by an entity other than the state or a local government, the other entity bears the cost of relocation. State and local governments would be required to bear the cost of utility work when a utility is located within an existing and valid utility easement granted by recorded plat, regardless of how such land was subsequently acquired by the local government, even where the state or local government subsequently acquired the property by outright purchase.

While the extent is unknown, potential negative fiscal impacts appear to exist, given that utility facilities are located along the public right-of-way all over the state. The increased responsibility of state and local governments, and nonusers of utilities, to bear the cost of utility relocation previously borne by the utility owner and its users may delay or even prevent needed transportation improvements, particularly for local governments.

According to DOT, the bill would have an indeterminate negative fiscal impact on state expenditures relating to the cost of utility relocation on state roads.[35] To the extent funds are expended for such relocations, projects currently planned in the Work Program may need to be adjusted.

The bill will have an indeterminate negative fiscal impact on local governments, based on the number of situations in which local governments will be responsible for the cost of certain utility relocations on roads within their jurisdictions.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill expressly acknowledges the existence, and precludes the impairment of existing agreements between railroads and utility owners allocating utility relocation costs. However, the bill does not acknowledge nor preclude the same with respect to existing permits or agreements between utility owners and the state or a local government. This raises the issue of the extent to which provisions of existing permits and agreements between a utility owner and the state or a local government relating to relocation costs remain valid under the bill. The extent of the expected negative fiscal impact resulting from the bill will depend on how this issue is resolved.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 125.42, 337.401, and 337.403.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS/CS by Transportation on April 2, 2015:
The bill is modified to:

- Prohibit impairment of any rights of the holder of any private railroad right-of-way, including any rights in any agreement between the holder and a utility that allocates certain relocation costs;
- Insert a cross-reference to an existing definition;

[35] Florida Dep't of Transportation, *Legislative Bill Analysis of SB 896*, at 3 (Feb. 13, 2015).

- Include interference with drainage directly associated with the maintenance, improvement, extension, or expansion of a public road in currently-required utility work at the utility owner's expense; and
- Clarify that the cost of utility work within a previously dedicated public easement is shifted to the authority only if the utility is lawfully located in the easement.

CS by Community Affairs on March 23, 2015:
Clarifies that proprietary maps are the type of information that local governments may not require from a utility if their facilities have been previously subject to a permit and includes a statement of important state interest.

B. Amendments:

None.

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LEGISLATIVE ACTION

Senate	.	House
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The Committee on Appropriations (Hays) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Section 125.42, Florida Statutes, is amended to read:

125.42 Water, sewage, gas, power, telephone, other utility, and television lines within the right-of-way limits of ~~along~~ county roads and highways.—

(1) The board of county commissioners, with respect to

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11 property located without the corporate limits of any
12 municipality, is authorized to grant a license to any person or
13 private corporation to construct, maintain, repair, operate, and
14 remove lines for the transmission of water, sewage, gas, power,
15 telephone, other public utilities, and television, or other
16 communications services as defined in s. 202.11(1) under, on,
17 over, across, or within the right-of-way limits of ~~and along~~ any
18 county highway or any public road or highway acquired by the
19 county or public by purchase, gift, devise, dedication, or
20 prescription. However, the board of county commissioners shall
21 include in any instrument granting such license adequate
22 provisions:
23 (a) To prevent the creation of any obstructions or
24 conditions which are or may become dangerous to the traveling
25 public;
26 (b) To require the licensee to repair any damage or injury
27 to the road or highway by reason of the exercise of the
28 privileges granted in any instrument creating such license and
29 to repair the road or highway promptly, restoring it to a
30 condition at least equal to that which existed immediately prior
31 to the infliction of such damage or injury;
32 (c) Whereby the licensee shall hold the board of county
33 commissioners and members thereof harmless from the payment of
34 any compensation or damages resulting from the exercise of the
35 privileges granted in any instrument creating the license; and
36 (d) As may be reasonably necessary, for the protection of
37 the county and the public.
38 (2) A license may be granted in perpetuity or for a term of
39 years, subject, however, to termination by the licensor, in the

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40 event the road or highway is closed, abandoned, vacated,
41 discontinued, or reconstructed.
42 (3) The board of county commissioners is authorized to
43 grant exclusive or nonexclusive licenses for the purposes stated
44 herein for television.
45 (4) This law is intended to provide an additional method
46 for the granting of licenses and shall not be construed to
47 repeal any law now in effect relating to the same subject.
48 (5) In the event of widening, repair, or reconstruction of
49 any such road, the licensee shall move or remove such water,
50 sewage, gas, power, telephone, and other utility lines and
51 television lines at no cost to the county should they be found
52 by the county to be unreasonably interfering, except as provided
53 in s. 337.403(1)(d)-(j) ~~337.403(1)(d)-(i)~~.
54 Section 2. Paragraph (a) of subsection (1), subsection (2),
55 and paragraph (b) of subsection (3) of section 337.401, Florida
56 Statutes, are amended to read:
57 337.401 Use of right-of-way for utilities subject to
58 regulation; permit; fees.—
59 (1)(a) The department and local governmental entities,
60 referred to in this section and ss. 337.402-337.404 ~~ss. 337.401-~~
61 ~~337.404~~ as the "authority," that have jurisdiction and control
62 of public roads or publicly owned rail corridors are authorized
63 to prescribe and enforce reasonable rules or regulations with
64 reference to the placing and maintaining ~~along,~~ across, ~~or~~ on,
65 or within the right-of-way limits of any road or publicly owned
66 rail corridors under their respective jurisdictions any electric
67 transmission, telephone, telegraph, or other communications
68 services lines; pole lines; poles; railways; ditches; sewers;

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69 water, heat, or gas mains; pipelines; fences; gasoline tanks and
70 pumps; or other structures referred to in this section and ss.
71 337.402-337.404 ~~this section~~ as the "utility." The department
72 may enter into a permit-delegation agreement with a governmental
73 entity if issuance of a permit is based on requirements that the
74 department finds will ensure the safety and integrity of
75 facilities of the Department of Transportation; however, the
76 permit-delegation agreement does not apply to facilities of
77 electric utilities as defined in s. 366.02(2).
78 (2) The authority may grant to any person who is a resident
79 of this state, or to any corporation which is organized under
80 the laws of this state or licensed to do business within this
81 state, the use of a right-of-way for the utility in accordance
82 with such rules or regulations as the authority may adopt. No
83 utility shall be installed, located, or relocated unless
84 authorized by a written permit issued by the authority. However,
85 for public roads or publicly owned rail corridors under the
86 jurisdiction of the department, a utility relocation schedule
87 and relocation agreement may be executed in lieu of a written
88 permit. The permit shall require the permitholder to be
89 responsible for any damage resulting from the issuance of such
90 permit. In exercising its authority over a utility under this
91 section, a municipality or county may not require a utility to
92 provide proprietary maps of facilities that were previously
93 subject to a permit from the authority. The authority may
94 initiate injunctive proceedings as provided in s. 120.69 to
95 enforce provisions of this subsection or any rule or order
96 issued or entered into pursuant thereto.
97 (3)

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98 (b) Registration described in paragraph (a) does not
99 establish a right to place or maintain, or priority for the
100 placement or maintenance of, a communications facility in roads
101 or rights-of-way of a municipality or county. Each municipality
102 and county retains the authority to regulate and manage
103 municipal and county roads or rights-of-way in exercising its
104 police power. Any rules or regulations adopted by a municipality
105 or county which govern the occupation of its roads or rights-of-
106 way by providers of communications services must be related to
107 the placement or maintenance of facilities in such roads or
108 rights-of-way, must be reasonable and nondiscriminatory, and may
109 include only those matters necessary to manage the roads or
110 rights-of-way of the municipality or county. In exercising its
111 authority over providers of communications services under this
112 section, a municipality or county may not require a
113 communications services provider to provide proprietary maps of
114 facilities that were previously subject to a permit from the
115 authority.
116 Section 3. Subsection (1) of section 337.403, Florida
117 Statutes, is amended to read:
118 337.403 Interference caused by utility; expenses.—
119 (1) If a utility that is placed upon, under, over, or
120 within the right-of-way limits of ~~along~~ any public road or
121 publicly owned rail corridor is found by the authority to be
122 unreasonably interfering in any way with the convenient, safe,
123 or continuous use, or the maintenance, improvement, extension,
124 or expansion, of such public road or publicly owned rail
125 corridor, the utility owner shall, upon 30 days' written notice
126 to the utility or its agent by the authority, initiate the work

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127 necessary to alleviate the interference at its own expense
128 except as provided in paragraphs (a)-(j) ~~(a)-(i)~~. The work must
129 be completed within such reasonable time as stated in the notice
130 or such time as agreed to by the authority and the utility
131 owner. If an authority requires the relocation of a utility for
132 purposes not described in this subsection and the utility owner
133 is authorized by state or common law or state or local agreement
134 to place facilities in the public rights-of-way, the authority
135 must bear the cost of relocating the utility. If relocation is
136 required as a condition or result of a project by an entity
137 other than an authority, the entity other than the authority
138 must bear the cost of relocating the utility except to the
139 extent that the relocation would otherwise be required in
140 connection with a transportation improvement identified in the
141 authority's capital improvement schedule and scheduled for
142 construction within 5 years. This subsection does not impair any
143 right of the holder of a private railroad right-of-way or
144 obligate the holder of such private railroad right-of-way to
145 bear the relocation cost in such railroad right-of-way, subject
146 to any agreement between the holder of the private railroad
147 right-of-way and a utility which otherwise allocates such
148 relocation cost. This subsection also does not affect a lawfully
149 issued permit or lawful contract entered into between an
150 authority and a utility before April 15, 2015. To the extent
151 that an authority is required by this subsection to bear the
152 cost of relocating a utility, the authority shall pay the entire
153 expense properly attributable to such work after deducting any
154 increase in the value of a new facility and any salvage value
155 derived from an old facility.

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156 (a) If the relocation of utility facilities, as referred to
157 in s. 111 of the Federal-Aid Highway Act of 1956, Pub. L. No.
158 84-627, is necessitated by the construction of a project on the
159 federal-aid interstate system, including extensions thereof
160 within urban areas, and the cost of the project is eligible and
161 approved for reimbursement by the Federal Government to the
162 extent of 90 percent or more under the Federal Aid Highway Act,
163 or any amendment thereof, then in that event the utility owning
164 or operating such facilities shall perform any necessary work
165 upon notice from the department, and the state shall pay the
166 entire expense properly attributable to such work after
167 deducting therefrom any increase in the value of a new facility
168 and any salvage value derived from an old facility.
169 (b) When a joint agreement between the department and the
170 utility is executed for utility work to be accomplished as part
171 of a contract for construction of a transportation facility, the
172 department may participate in those utility work costs that
173 exceed the department's official estimate of the cost of the
174 work by more than 10 percent. The amount of such participation
175 is limited to the difference between the official estimate of
176 all the work in the joint agreement plus 10 percent and the
177 amount awarded for this work in the construction contract for
178 such work. The department may not participate in any utility
179 work costs that occur as a result of changes or additions during
180 the course of the contract.
181 (c) When an agreement between the department and utility is
182 executed for utility work to be accomplished in advance of a
183 contract for construction of a transportation facility, the
184 department may participate in the cost of clearing and grubbing

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185 necessary to perform such work.
186 (d) If the utility facility was initially installed to
187 exclusively serve the authority or its tenants, or both, the
188 authority shall bear the costs of the utility work. However, the
189 authority is not responsible for the cost of utility work
190 related to any subsequent additions to that facility for the
191 purpose of serving others. For a county or municipality, if such
192 utility facility was installed in the right-of-way as a means to
193 serve a county or municipal facility on a parcel of property
194 adjacent to the right-of-way and if the intended use of the
195 county or municipal facility is for a use other than
196 transportation purposes, the obligation of the county or
197 municipality to bear the costs of the utility work shall extend
198 only to utility work on the parcel of property on which the
199 facility of the county or municipality originally served by the
200 utility facility is located.
201 (e) If, under an agreement between a utility and the
202 authority entered into after July 1, 2009, the utility conveys,
203 subordinates, or relinquishes a compensable property right to
204 the authority for the purpose of accommodating the acquisition
205 or use of the right-of-way by the authority, without the
206 agreement expressly addressing future responsibility for the
207 cost of necessary utility work, the authority shall bear the
208 cost of removal or relocation. This paragraph does not impair or
209 restrict, and may not be used to interpret, the terms of any
210 such agreement entered into before July 1, 2009.
211 (f) If the utility is an electric facility being relocated
212 underground in order to enhance vehicular, bicycle, and
213 pedestrian safety and in which ownership of the electric

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214 facility to be placed underground has been transferred from a
215 private to a public utility within the past 5 years, the
216 department shall incur all costs of the necessary utility work.
217 (g) An authority may bear the costs of utility work
218 required to eliminate an unreasonable interference when the
219 utility is not able to establish that it has a compensable
220 property right in the particular property where the utility is
221 located if:
222 1. The utility was physically located on the particular
223 property before the authority acquired rights in the property;
224 2. The utility demonstrates that it has a compensable
225 property right in adjacent properties along the alignment of the
226 utility or, after due diligence, certifies that the utility does
227 not have evidence to prove or disprove that it has a compensable
228 property right in the particular property where the utility is
229 located; and
230 3. The information available to the authority does not
231 establish the relative priorities of the authority's and the
232 utility's interests in the particular property.
233 (h) If a municipally owned utility or county-owned utility
234 is located in a rural area of critical economic concern, as
235 defined in s. 288.0656(2), and the department determines that
236 the utility is unable, and will not be able within the next 10
237 years, to pay for the cost of utility work necessitated by a
238 department project on the State Highway System, the department
239 may pay, in whole or in part, the cost of such utility work
240 performed by the department or its contractor.
241 (i) If the relocation of utility facilities is necessitated
242 by the construction of a commuter rail service project or an

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243 intercity passenger rail service project and the cost of the
244 project is eligible and approved for reimbursement by the
245 Federal Government, then in that event the utility owning or
246 operating such facilities located by permit on a department-
247 owned rail corridor shall perform any necessary utility
248 relocation work upon notice from the department, and the
249 department shall pay the expense properly attributable to such
250 utility relocation work in the same proportion as federal funds
251 are expended on the commuter rail service project or an
252 intercity passenger rail service project after deducting
253 therefrom any increase in the value of a new facility and any
254 salvage value derived from an old facility. In no event shall
255 the state be required to use state dollars for such utility
256 relocation work. This paragraph does not apply to any phase of
257 the Central Florida Commuter Rail project, known as SunRail.
258 (j) If a utility is lawfully located within an existing and
259 valid utility easement granted by recorded plat, regardless of
260 whether such land was subsequently acquired by the authority by
261 dedication, transfer of fee, or otherwise, the authority must
262 bear the cost of the utility work required to eliminate an
263 unreasonable interference.
264 Section 4. The Legislature finds that a proper and
265 legitimate state purpose is served by clarifying a utility's
266 responsibility for relocating its facilities within a right-of-
267 way or within a utility easement granted by recorded plat.
268 Therefore, the Legislature determines and declares that this act
269 fulfills an important state interest.
270 Section 5. This act shall take effect upon becoming a law.
271

774714

272 ========== T I T L E A M E N D M E N T ==========
273 And the title is amended as follows:
274 Delete everything before the enacting clause
275 and insert:
276 A bill to be entitled
277 An act relating to the location of utilities; amending
278 s. 125.42, F.S.; authorizing a board of county
279 commissioners to grant a license to work on, operate,
280 and remove specified communications services lines
281 within the right-of-way limits of certain county or
282 public highways or roads; conforming a cross-
283 reference; amending s. 337.401, F.S.; specifying that
284 the Department of Transportation and certain local
285 governmental entities may prescribe and enforce rules
286 or regulations regarding the placement and maintenance
287 of specified structures and lines within the right-of-
288 ways of roads or publicly owned rail corridors under
289 their respective jurisdictions; prohibiting a
290 municipality or county from requiring a utility or a
291 communications services provider to provide
292 proprietary maps of previously permitted facilities;
293 amending s. 337.403, F.S.; specifying that a utility
294 located within certain right-of-way limits must
295 initiate and pay for the work necessary to alleviate
296 any interference to the use of certain public roads or
297 rail corridors; requiring an authority to pay the cost
298 of requiring the relocation of a utility under certain
299 circumstances; requiring an entity other than the
300 authority to pay the cost of certain relocations of

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301 utilities under certain circumstances; providing
302 applicability; requiring the authority to pay the
303 entire expense if it is required under certain
304 circumstances to bear the cost of relocating a utility
305 after certain deductions; requiring an authority to
306 pay the cost of utility work required to eliminate
307 unreasonable interference within certain existing
308 utility easements; providing a finding of important
309 state interest; providing an effective date.

By the Committees on Transportation; and Community Affairs; and Senator Brandes

596-03453-15 2015896c2

A bill to be entitled

An act relating to the location of utilities; amending s. 125.42, F.S.; authorizing the board of county commissioners to grant a license to work on or operate specified communications services within the right-of-way limits of certain county or public highways or roads; conforming a cross-reference; amending s. 337.401, F.S.; authorizing the Department of Transportation and certain local governmental entities to prescribe and enforce rules or regulations regarding placing and maintaining specified structures within the right-of-way limits of roads or publicly owned rail corridors under their respective jurisdictions; prohibiting a municipality or county from requiring a utility to provide proprietary maps of facilities under certain circumstances; prohibiting a municipality or county from requiring a provider of communications services to provide proprietary maps of facilities under certain circumstances; amending s. 337.403, F.S.; requiring a utility owner, under certain circumstances, to initiate at its own expense the work necessary to alleviate an interference to a public road, including directly associated drainage, or publicly owned rail corridor which is caused by the utility if the utility is placed within the right-of-way limits of the public road or publicly owned rail corridor; conforming a cross-reference; requiring an authority or an entity other than the authority to bear the costs of relocating a utility in certain

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596-03453-15 2015896c2

circumstances; providing applicability; requiring the authority to bear the cost of the utility work necessary to eliminate an unreasonable interference if the utility is lawfully located within a certain utility easement; providing legislative findings; providing an effective date.

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

Section 1. Section 125.42, Florida Statutes, is amended to read:

125.42 Water, sewage, gas, power, telephone, other utility, and television lines within the right-of-way limits of ~~along~~ county roads and highways.—

(1) The board of county commissioners, with respect to property located without the corporate limits of any municipality, is authorized to grant a license to any person or private corporation to construct, maintain, repair, operate, and remove lines for the transmission of water, sewage, gas, power, telephone, other public utilities, ~~and~~ television, or other communications services as defined in s. 202.11 under, on, over, across, or within the right-of-way limits of ~~and along~~ any county highway or any public road or highway acquired by the county or public by purchase, gift, devise, dedication, or prescription. However, the board of county commissioners shall include in any instrument granting such license adequate provisions:

(a) To prevent the creation of any obstructions or conditions which are or may become dangerous to the traveling

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public;

(b) To require the licensee to repair any damage or injury to the road or highway by reason of the exercise of the privileges granted in any instrument creating such license and to repair the road or highway promptly, restoring it to a condition at least equal to that which existed immediately prior to the infliction of such damage or injury;

(c) Whereby the licensee shall hold the board of county commissioners and members thereof harmless from the payment of any compensation or damages resulting from the exercise of the privileges granted in any instrument creating the license; and

(d) As may be reasonably necessary, for the protection of the county and the public.

(2) A license may be granted in perpetuity or for a term of years, subject, however, to termination by the licensor, in the event the road or highway is closed, abandoned, vacated, discontinued, or reconstructed.

(3) The board of county commissioners is authorized to grant exclusive or nonexclusive licenses for the purposes stated herein for television.

(4) This law is intended to provide an additional method for the granting of licenses and shall not be construed to repeal any law now in effect relating to the same subject.

(5) In the event of widening, repair, or reconstruction of any such road, the licensee shall move or remove such water, sewage, gas, power, telephone, and other utility lines and television lines at no cost to the county should they be found by the county to be unreasonably interfering, except as provided in s. 337.403(1)(d)-(j) ~~s. 337.403(1)(d)-(i)~~.

Section 2. Paragraph (a) of subsection (1), subsection (2), and paragraph (b) of subsection (3) of section 337.401, Florida Statutes, are amended to read:

337.401 Use of right-of-way for utilities subject to regulation; permit; fees.—

(1)(a) The department and local governmental entities, referred to in this section and in ss. 337.402, 337.403, and 337.404 ~~ss. 337.401-337.404~~ as the "authority," that have jurisdiction and control of public roads or publicly owned rail corridors are authorized to prescribe and enforce reasonable rules or regulations with reference to the placing and maintaining ~~along,~~ across, ~~or~~ on, or within the right-of-way limits of any road or publicly owned rail corridors under their respective jurisdictions any electric transmission, telephone, telegraph, or other communications services lines; pole lines; poles; railways; ditches; sewers; water, heat, or gas mains; pipelines; fences; gasoline tanks and pumps; or other structures referred to in this section and in ss. 337.402, 337.403, and 337.404 ~~this section~~ as the "utility." The department may enter into a permit-delegation agreement with a governmental entity if issuance of a permit is based on requirements that the department finds will ensure the safety and integrity of facilities of the Department of Transportation; however, the permit-delegation agreement does not apply to facilities of electric utilities as defined in s. 366.02(2).

(2) The authority may grant to any person who is a resident of this state, or to any corporation which is organized under the laws of this state or licensed to do business within this state, the use of a right-of-way for the utility in accordance

with such rules or regulations as the authority may adopt. No utility shall be installed, located, or relocated unless authorized by a written permit issued by the authority. However, for public roads or publicly owned rail corridors under the jurisdiction of the department, a utility relocation schedule and relocation agreement may be executed in lieu of a written permit. The permit shall require the permitholder to be responsible for any damage resulting from the issuance of such permit. In exercising its authority over a utility under this section, a municipality or county may not require a utility to provide proprietary maps of facilities where such facilities have been previously subject to a permit from the authority. The authority may initiate injunctive proceedings as provided in s. 120.69 to enforce provisions of this subsection or any rule or order issued or entered into pursuant thereto.

(3)

(b) Registration described in paragraph (a) does not establish a right to place or maintain, or priority for the placement or maintenance of, a communications facility in roads or rights-of-way of a municipality or county. Each municipality and county retains the authority to regulate and manage municipal and county roads or rights-of-way in exercising its police power. Any rules or regulations adopted by a municipality or county which govern the occupation of its roads or rights-of-way by providers of communications services must be related to the placement or maintenance of facilities in such roads or rights-of-way, must be reasonable and nondiscriminatory, and may include only those matters necessary to manage the roads or rights-of-way of the municipality or county. In exercising its

authority over providers of communications services under this section, a municipality or county may not require a provider of communications services to provide proprietary maps of facilities where such facilities have been previously subject to a permit from the authority.

Section 3. Subsection (1) of section 337.403, Florida Statutes, is amended to read:

337.403 Interference caused by utility; expenses.—

(1) If a utility that is placed upon, under, over, or within the right-of-way limits of ~~along~~ any public road or publicly owned rail corridor is found by the authority to be unreasonably interfering in any way with the convenient, safe, or continuous use, or the maintenance, improvement, extension, or expansion, of such public road, including directly associated drainage, or publicly owned rail corridor, the utility owner shall, upon 30 days' written notice to the utility or its agent by the authority, initiate the work necessary to alleviate the interference at its own expense except as provided in paragraphs (a)-(j) ~~(a)-(i)~~. The work must be completed within such reasonable time as stated in the notice or such time as agreed to by the authority and the utility owner. If an authority requires the relocation of a utility for purposes not described in this subsection, the authority shall bear the cost of relocating the utility. If the relocation is required as a condition or result of a project by an entity other than an authority, the entity other than the authority shall bear the costs of relocating the utility. However, nothing in this subsection shall impair any rights of the holder of any private railroad right-of-way, including any rights in any agreement

175 between the holder of the private railroad right-of-way and a
176 utility that otherwise allocates such relocation cost.
177 (a) If the relocation of utility facilities, as referred to
178 in s. 111 of the Federal-Aid Highway Act of 1956, Pub. L. No.
179 84-627, is necessitated by the construction of a project on the
180 federal-aid interstate system, including extensions thereof
181 within urban areas, and the cost of the project is eligible and
182 approved for reimbursement by the Federal Government to the
183 extent of 90 percent or more under the Federal Aid Highway Act,
184 or any amendment thereof, ~~then in that event~~ the utility owning
185 or operating such facilities shall perform any necessary work
186 upon notice from the department, and the state shall pay the
187 entire expense properly attributable to such work after
188 deducting therefrom any increase in the value of a new facility
189 and any salvage value derived from an old facility.
190 (b) When a joint agreement between the department and the
191 utility is executed for utility work to be accomplished as part
192 of a contract for construction of a transportation facility, the
193 department may participate in those utility work costs that
194 exceed the department's official estimate of the cost of the
195 work by more than 10 percent. The amount of such participation
196 is limited to the difference between the official estimate of
197 all the work in the joint agreement plus 10 percent and the
198 amount awarded for this work in the construction contract for
199 such work. The department may not participate in any utility
200 work costs that occur as a result of changes or additions during
201 the course of the contract.
202 (c) When an agreement between the department and utility is
203 executed for utility work to be accomplished in advance of a

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204 contract for construction of a transportation facility, the
205 department may participate in the cost of clearing and grubbing
206 necessary to perform such work.
207 (d) If the utility facility was initially installed to
208 exclusively serve the authority or its tenants, or both, the
209 authority shall bear the costs of the utility work. However, the
210 authority is not responsible for the cost of utility work
211 related to any subsequent additions to that facility for the
212 purpose of serving others. For a county or municipality, if such
213 utility facility was installed in the right-of-way as a means to
214 serve a county or municipal facility on a parcel of property
215 adjacent to the right-of-way and if the intended use of the
216 county or municipal facility is for a use other than
217 transportation purposes, the obligation of the county or
218 municipality to bear the costs of the utility work shall extend
219 only to utility work on the parcel of property on which the
220 facility of the county or municipality originally served by the
221 utility facility is located.
222 (e) If, under an agreement between a utility and the
223 authority entered into after July 1, 2009, the utility conveys,
224 subordinates, or relinquishes a compensable property right to
225 the authority for the purpose of accommodating the acquisition
226 or use of the right-of-way by the authority, without the
227 agreement expressly addressing future responsibility for the
228 cost of necessary utility work, the authority shall bear the
229 cost of removal or relocation. This paragraph does not impair or
230 restrict, and may not be used to interpret, the terms of any
231 such agreement entered into before July 1, 2009.
232 (f) If the utility is an electric facility being relocated

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233 underground in order to enhance vehicular, bicycle, and
234 pedestrian safety and in which ownership of the electric
235 facility to be placed underground has been transferred from a
236 private to a public utility within the past 5 years, the
237 department shall incur all costs of the necessary utility work.
238 (g) An authority may bear the costs of utility work
239 required to eliminate an unreasonable interference when the
240 utility is not able to establish that it has a compensable
241 property right in the particular property where the utility is
242 located if:
243 1. The utility was physically located on the particular
244 property before the authority acquired rights in the property;
245 2. The utility demonstrates that it has a compensable
246 property right in adjacent properties along the alignment of the
247 utility or, after due diligence, certifies that the utility does
248 not have evidence to prove or disprove that it has a compensable
249 property right in the particular property where the utility is
250 located; and
251 3. The information available to the authority does not
252 establish the relative priorities of the authority's and the
253 utility's interests in the particular property.
254 (h) If a municipally owned utility or county-owned utility
255 is located in a rural area of critical economic concern, as
256 defined in s. 288.0656(2), and the department determines that
257 the utility is unable, and will not be able within the next 10
258 years, to pay for the cost of utility work necessitated by a
259 department project on the State Highway System, the department
260 may pay, in whole or in part, the cost of such utility work
261 performed by the department or its contractor.

262 (i) If the relocation of utility facilities is necessitated
263 by the construction of a commuter rail service project or an
264 intercity passenger rail service project and the cost of the
265 project is eligible and approved for reimbursement by the
266 Federal Government, then in that event the utility owning or
267 operating such facilities located by permit on a department-
268 owned rail corridor shall perform any necessary utility
269 relocation work upon notice from the department, and the
270 department shall pay the expense properly attributable to such
271 utility relocation work in the same proportion as federal funds
272 are expended on the commuter rail service project or an
273 intercity passenger rail service project after deducting
274 therefrom any increase in the value of a new facility and any
275 salvage value derived from an old facility. In no event shall
276 the state be required to use state dollars for such utility
277 relocation work. This paragraph does not apply to any phase of
278 the Central Florida Commuter Rail project, known as SunRail.
279 (j) If a utility is lawfully located within an existing and
280 valid utility easement granted by recorded plat, regardless of
281 whether such land was subsequently acquired by the authority by
282 dedication, transfer of fee, or otherwise, the authority shall
283 bear the cost of the utility work required to eliminate an
284 unreasonable interference.
285 Section 4. The Legislature finds that a proper and
286 legitimate state purpose is served by clarifying a utility's
287 responsibility for relocating its facilities within the right-
288 of-way or within a utility easement granted by recorded plat.
289 Therefore, the Legislature determines and declares that this act
290 fulfills an important state interest.

291 Section 5. This act shall take effect upon becoming a law.
292

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

The Florida Senate

Committee Agenda Request

To: Senator Tom Lee, Chair
Committee on Appropriations

Subject: Committee Agenda Request

Date: April 2, 2015

I respectfully request that **Senate Bill #896**, relating to **Location of Utilities**, be placed on the:

☒ committee agenda at your earliest possible convenience.

☐ next committee agenda.

Senator Jeff Brandes
Florida Senate, District 22

File signed original with committee office

S-020 (03/2004)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/21/2015
Meeting Date

Topic: UTILITY RELOCATION

Bill Number: CSCS 896 (if applicable)

Name: TRACY HATCH

Amendment Barcode: 774714 (if applicable)

Job Title: GENERAL ATTORNEY

Address: 150 S. MONROE ST. SUITE 400
Street

TALLAHASSEE, FL 32301
City, State, Zip

Phone: 850-425-6360

E-mail: th9467@att.com

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

Representing: AT&T

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

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

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4-21-15
Meeting Date

896
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic: Relocation of Utilities

Name: Jordan Connors

Job Title:

Address: 2145 SW Cape Cod Dr
Street

Port St Lucie FL 34953
City State Zip

Phone: 772 418 6068

Email: Jordan@jordanconnors.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☑ Against
(The Chair will read this information into the record.)

Representing: City of Port St Lucie

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 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/21/15
Meeting Date

896
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic: Relocation of Utilities

Name: Jim Smith

Job Title:

Address: 305 S. Calhoun St.
Street

Tallahassee FL 32301
City State Zip

Phone: 850-599-1729

Email: James.Smith@centurylink.com

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

Waive Speaking: [X] In Support [ ] Against
(The Chair will read this information into the record.)

Representing: CenturyLink

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

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

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/21/15
Meeting Date

P96
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic: Relocation Utilities

Name: Charles Dudley

Job Title:

Address: 108 S. Monroe St.
Street

Tallahassee FL 32301
City State Zip

Phone: 681-0024

Email: Cdudley@flatattorneys.com

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

Waive Speaking: [ ] In Support [ ] Against
(The Chair will read this information into the record.)

Representing: FL Cable Telecom. Assoc.

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

Lobbyist registered with Legislature: [ ] Yes [ ] No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

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

4-21-15
Meeting Date

896
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic

Name Dale Calhoun

Job Title

Address PO Box 11026
Street

Tallahassee FL 32302
City State Zip

Phone 8506810496

Email

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

Waive Speaking: [ ] In Support [ ] Against
(The Chair will read this information into the record.)

Representing Florida Natural Gas Association

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

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

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4-21-2015
Meeting Date

SB896
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic: Relocations of Utilities

Name: Woody Simmons

Job Title: VP-Governmental Affairs

Address: 106 E. College Avenue, Ste. 710
Street

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

Phone: 850 222-6304

Email: woodrow.simmons@verizon.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☑ In Support ☐ Against
(The Chair will read this information into the record.)

Representing: Verizon

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4-21-2015
Meeting Date

SB896
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic: Relocations of Utilities

Name: Woody Simmons

Job Title: VP-Governmental Affairs

Address: 106 E. College Avenue, Ste. 710
Street

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

Phone: 850 222-6304

Email: woodrow.simmons@verizon.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☑ In Support ☐ Against
(The Chair will read this information into the record.)

Representing: Verizon

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4-21-2015
Meeting Date

SB896
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic: Relocations of Utilities

Name: Bryan Lantz

Job Title: Region Rights-of-Way & Municipal Affairs Manager

Address: 7701 E Telecom Parkway MC: FLTDSA3
Street

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

Phone: 813-740-1231

Email: bryan.lantz@core.verizon.com

Speaking: ☑ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing: Verizon

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 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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4-21-2015
Meeting Date

SB896
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic: Relocations of Utilities

Name: Bryan Lantz

Job Title: Region Rights-of-Way & Municipal Affairs Manager

Address: 7701 E Telecom Parkway MC: FLTDSA3
Street

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

Phone: 813-740-1231

Email: bryan.lantz@core.verizon.com

Speaking: ☑ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing: Verizon

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4.21.15
Meeting Date

SB 896
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic: LOCATION OF UTILITIES

Name: MEGAN SIRIANE-SAMPLES

Job Title: LEGISLATIVE ADVOCATE

Address: P.O. BOX 1757
Street

TALLAHASSEE FL 32301
City State Zip

Phone: 850.701.3455

Email: MSIRIANESAMPLES@FLCITIES.COM

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

Waive Speaking: [ ] In Support [ ] Against
(The Chair will read this information into the record.)

Representing: FLORIDA LEAGUE OF CITIES

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 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/21/15
Meeting Date

SB 896
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic: Location of Utilities

Name: Brewster Bevis

Job Title: Senior VP

Address: 516 N Adams St
Street

Tally, FL 32301
City, State, Zip

Phone: 224-7173

Email: bbevis@aifl.com

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

Waive Speaking: [✓] In Support [ ] Against
(The Chair will read this information into the record.)

Representing: Associated Industries of Florida

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

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

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/21/15
Meeting Date

896
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic: Location of Utilities

Name: Dan Peterson

Job Title: Director - Center for Property Rights

Address: 2878 S. Orange Ave
Street

Orlando FL 32771
City State Zip

Phone: 407-758-2491

Email: dpeterson@jamesmadison.org

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

Waive Speaking: [ ] In Support [ ] Against
(The Chair will read this information into the record.)

Representing: JAMES MADISON INSTITUTE

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

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/21/15
Meeting Date

896
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic: EASEMENT / ROW

Name: JC Flores

Job Title: VP Gov Affairs

Address: 150 S. Monroe St
Street

Tallahassee, FL 32312
City, State, Zip

Phone: 850-577-7700

Email: JF3230@att.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☑ In Support ☐ Against
(The Chair will read this information into the record.)

Representing: AT&T

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/21/15
Meeting Date

896
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic: Rights of Way

Name: Doug Mannheimer

Job Title: Atty.

Address: 215 S. Monroe St. Suite 400
Street

Tallahassee FL 32301
City State Zip

Phone: 850-681-6810

Email: dmannheimer@broadandcassel.com

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

Waive Speaking: [X] In Support [ ] Against
(The Chair will read this information into the record.)

Representing: Sprint

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

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

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/21/15
Meeting Date

896
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic: Utility Relocation

Name: Eric Poole

Job Title: Asst Leg Director

Address: 400 Monroe S
Street

City State Zip

Phone: 922 4300

Email:

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

Waive Speaking: [ ] In Support [ ] Against
(The Chair will read this information into the record.)

Representing: Florida Assoc. Counties

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

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

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/21/15
Meeting Date

896
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic: Location of utilities

Name: Katie Kelly

Job Title:

Address: Street

City State Zip

Phone:

Email:

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

Waive Speaking: [x] In Support [ ] Against
(The Chair will read this information into the record.)

Representing: Fla Chamber of Commerce

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

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

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

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S-001 (10/14/14)

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 Appropriations

BILL: PCS/CS/SB 914 (706156)

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on General Government); Banking and Insurance Committee; and Senator Richter

SUBJECT: Intrastate Crowdfunding

DATE: April 20, 2015 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Johnson	Knudson	BI	**Fav/CS**
2.	Betta	DeLoach	AGG	**Recommend: Fav/CS**
3.	Betta	Kynoch	AP	**Pre-meeting**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/CS/SB 914 authorizes intrastate crowdfunding as a mechanism for small businesses to raise up to $1 million annually in crowdfunding securities. Issuers and intermediaries engaging in intrastate crowdfunding would be subject to specified requirements under the Florida Securities and Investor Protection Act, which is administered by the Office of Financial Regulation (OFR).

The bill creates an intrastate exemption for securities meeting certain state and federal requirements. The issuer, intermediary, investor, and transaction must be located in Florida in accordance with the federal intrastate exemption. Like the federal Jumpstart Our Business Startups Act[1] (JOBS Act), as described below, the bill exempts an issuer and the offering for a 12-month period for an offering of up to $1 million of securities, requires registration for the intermediary, and mirrors the federal law's investment limitations for investors. The bill requires issuer notice filings and intermediary registration with the OFR, disclosures to investors, an escrow agreement for investor funds, a right of rescission, and financial reporting to investors and to the OFR. The bill also gives authority to the Financial Services Commission to adopt rules relating to notice-filings and registration forms, books and records, and investor protections.

The bill provides a total appropriation of $120,000 from the Regulatory Trust Fund within the OFR for information technology and workload issues. Related to revenues, issuers are subject to

[1] Public Law 112-106.

a $200 notice-filing fee and intermediaries are subject to a $200 registration fee. The impact on state revenues is indeterminate at this time.

The bill provides an effective date of October 1, 2015.

II. Present Situation:

Federal Regulation of Securities

Securities Act of 1933

The federal Securities Act of 1933 (Securities Act), requires every offer or sale of securities using the means and instrumentalities of interstate commerce to be registered with the U.S. Securities and Exchange Commission (SEC), unless an exemption (such as the intrastate exemption) is available. The Securities Act's emphasis on disclosure of important financial information through the registration of securities enables investors to make informed judgments about whether to purchase a company's securities. While the SEC requires that the information provided be accurate, it does not guarantee it. Investors who purchase securities and suffer losses have recovery rights if they can prove that there was incomplete or inaccurate disclosure of important information.

Securities Exchange Act of 1934

With the enactment of the Securities Exchange Act of 1934 (act), Congress created the Securities and Exchange Commission. The act provides the SEC with broad authority over all aspects of the securities industry. This includes the power to register, regulate, and oversee brokerage firms, transfer agents, and clearing agencies as well as the nation's securities self-regulatory organizations (SROs). The New York Stock Exchange, the NASDAQ Stock Market, and the Chicago Board of Options, and the Financial Industry Regulatory Authority (FINRA) are forms of SROs.

The act also identifies and prohibits certain types of conduct in the markets and provides the SEC with disciplinary powers over regulated entities and persons associated with them. The act also authorizes the SEC to require periodic reporting of information by companies with publicly traded securities. Generally, any person acting as a "broker" or "dealer" as defined by Section 3(4), and 3(a)(5) of the Securities Exchange Act of 1934, respectively, must be registered with the SEC and join a self-regulatory organization—the Financial Industry Regulatory Authority (FINRA), a national securities exchange, or both. Broker-dealers must also comply with state laws relating to registration requirements.

Intrastate Exemption

Section 3(a)(11) of the Securities Act of 1933 provides: "Any security which is a part of an issue offered and sold only to persons resident within a single State or Territory, where the issuer of such security is a person resident and business within or, if a corporation, incorporated by and doing business within, such State or Territory."[2] Prior to the enactment of the JOBS Act, states

[2] 15 USC s. 77c(a)(11). SEC Rule 147 (17 CFR s. 230.147) provides a "safe harbor" that guarantees compliance with Section 3(a)(11) if the conditions set forth in the rule are met.

such as Kansas and Georgia had already enacted their own securities offering exemption pursuant to the federal intrastate exemption under Section 3(a)(11) of the Securities Act of 1933 and SEC Rule 147,[3] in an effort to stimulate state-based offerings.

Issuers may also rely on the SEC's Rule 147, known as the "safe harbor" rule, which provides specific guidance on section 3(a)(11) offerings. For example, Rule 147 specifies that at least 80 percent of the gross revenues and its subsidiaries (on a consolidated basis) be derived from the subject state in order to be deemed "doing business within a state or territory." Rule 147 states that the legislative history of section 3(a)(11) suggests that "the exemption was intended to apply only to issues genuinely local in character, which in reality represent local financing to local industries, carried out through local investment."

Unlike the Title III crowdfunding exemption of the JOBS Act, section 3(a)(11) does not limit the size of the offering, and unlike several other exemptions, section 3(a)(11) does not limit the number of investors or require that they be accredited. However, it is noted that section 3(a)(11) is strictly and narrowly construed, and if any of the securities are offered or sold to even one out-of-state person, the exemption may be lost and the company could be in violation of the Securities Act of 1933.[4] Broker-dealers that conduct their business on a purely intrastate basis are not required to register at the federal level.[5]

On April 10, 2014, the SEC issued interpretive guidance regarding section 3(a)(11) of the Securities Act of 1933 and the Internet.[6] The SEC indicated that use of a third-party Internet portal to promote an offering to residents of a single state would not violate the intrastate exemption, if the portal implemented "adequate measures," such as disclaimers, restrictive legends, and limited access to information about specific investment opportunities to persons who confirm they are residents of the relevant states by way of zip codes or address verification. Although the SEC's interpretive ruling is not conclusive, issuers generally would not be able to use popular social media platforms (such as Facebook, Twitter, or LinkedIn) to promote an intrastate crowdfunding offering, because these sites can be indiscriminately accessed by non-Florida residents. In addition, the issuer would likely need to ensure that an investor does not continue to use the portal after moving out of state.[7]

It is also important to note that section 3(a)(11) only provides an exemption from federal registration, but does not provide immunity from the antifraud or civil liability provisions of the federal securities laws, including investor rescission. States may still require registration for purely intrastate offerings involving a general solicitation of investors.

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[3] 17 CFR s. 230.147.

[4] U.S. SECURITIES & EXCHANGE COMMISSION, *Small Business and the SEC*, http://www.sec.gov/info/smallbus/qasbsec.htm#intrastate (last visited March 30, 2015).

[5] Section 15(a)(1) of the Securities Exchange Act provides an exemption from broker-dealer registration for a broker-dealer whose business is "exclusively intrastate and who does not make use of any facility of a national securities exchange." 15 U.S.C. 78o(a)(1).

[6] *See* Questions 141.03-141.05 (issued April 10, 2014), *available at* http://www.sec.gov/divisions/corpfin/guidance/securitiesactrules-interps.htm (last visited March 30, 2015).

[7] Elizabeth J. Chandler, *SEC Staff Releases Compliance and Disclosure Interpretations Related to Intrastate Crowdfunding*, THE NATIONAL LAW REVIEW (Apr. 14, 2014), http://www.natlawreview.com/article/sec-securities-and-exchange-commission-staff-releases-compliance-and-disclosure-inte (last visited March 30, 2015).

JOBS Act and Crowdfunding

Title III of the JOBS Act (Title III) provides an interstate exemption from the registration requirements for crowdfunding transactions. Unlike other securities exemptions, Title III permits the issuer (fundraiser) to advertise and solicit sales of securities from the public and to sell the securities to non-accredited investors without first registering with the SEC or other regulatory authority. Title III also allows intermediaries, either registered broker-dealers or a new Internet-based platform entity (funding portals), to facilitate the online offer or sale of securities, subject to certain requirements, including registering with "with any applicable self-regulatory organization," as defined in the 1934 Securities Exchange Act. The SEC's proposed rule provides that this self-regulatory organization is FINRA, which is the only registered national securities association.[8] If the Title III conditions are met, funding portals are exempt from having to also register with the SEC.

Certain companies are not eligible to use the Title III exemption, such as non-U.S. companies, companies that already are SEC reporting companies, certain investment companies, and others as determined by SEC rule. Title III also includes a disqualification provision under which the exemption is unavailable if the issuer or related persons were subject to certain disqualifying events, such as being subject to a state financial regulatory final order barring the individual from the financial industry or a criminal conviction involving the purchase or sale of securities or false filings with the SEC.

In addition to the requirements discussed above, to qualify for the exemption, crowdfunding transactions by an issuer (including all entities controlled by or under common control with the issuer) must meet the following:

- The amount raised must not exceed $1 million in a 12-month period.
- Individual investments in a 12-month period are limited to: the greater of $2,000 or five percent of annual income or net worth, if annual income or net worth of the investor is less than $100,000; and ten percent of annual income or net worth (not to exceed an amount sold of $100,000), if annual income or net worth of the investor is $100,000 or more.
- An offering made in reliance on the exemption must be conducted through an intermediary that is either a registered broker or a registered "funding portal." Transactions must be conducted through an intermediary that either is registered as a broker or is registered as a new type of entity called a "funding portal," which would be subject to an exemption from broker registration.
- Issuers and intermediaries that facilitate transactions between issuers and investors in reliance on the crowdfunding exemption must provide certain disclosures to investors and potential investors and provide notices and other information to the SEC.

The JOBS Act requires the SEC to adopt rules to implement interstate crowdfunding. On October 23, 2013, the SEC proposed rules that would implement Title III. The SEC has advised that no Title III (interstate) crowdfunding is permitted until the SEC's rules are finalized; specifically, one cannot operate a crowdfunding intermediary or funding portal unless registered in accordance with the final rules.[9]

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[8] SEC Proposed Regulation Crowdfunding Section 227.400.

[9] U.S. SECURITIES & EXCHANGE COMMISSION, Information Regarding the Use of Crowdfunding Exemption in the JOBS Act, at http://www.sec.gov/spotlight/jobsact/crowdfundingexemption.htm. *See also* JOBS Act Frequently Asked Questions About

Florida Regulation of Securities

In addition to federal securities laws, "Blue Sky Laws" are state laws that protect the investing public through registration requirements for both broker dealers and securities offerings, merit review of offerings, and various investor remedies for fraudulent sales practices and activities.[10] In Florida, the Securities and Investor Protection Act, chapter 517, F.S. (act), regulates securities issued, offered, and sold in the state of Florida. The Florida Office of Financial Regulation (OFR) regulates and registers the offer and sale of securities in, to, or from Florida by firms, branch offices, and individuals affiliated with these firms in accordance with the act and Chapter 69W, Florida Administrative Code. [11]

The act prohibits dealers, associated persons, and issuers from offering or selling securities in this state unless registered with the OFR or specifically exempted.[12] Additionally, all securities in Florida must be registered with the OFR unless they meet one of the exemptions in ss. 517.051 or 517.061, F.S., or are federally covered (i.e., under the exclusive jurisdiction of the SEC).[13] Failure to meet the requirements of these exemptions, can subject the issuer to civil, criminal, and administrative liability for the sale of unregistered securities, which is a third-degree felony in Florida.[14] Civil remedies under the act include rescission and damages.[15] In addition, issuers must comply with disclosure requirements in state and federal laws that provide potential investors with full and fair disclosures regarding the security.

Currently, no Florida exemption permits the advertising or solicitation for the offer or sale of unregistered securities to the public, or for securities sold to the public to be sold by an unregistered dealer.

III. Effect of Proposed Changes:

The bill creates an intrastate exemption for crowdfunding transactions from the registration requirements under s. 517.061, F.S., for the offer and sale of certain securities. The bill contains provisions from the JOBS Act and is limited to intrastate offerings under 15 U.S.C. s. 77c(a)(11). The bill provides the securities in crowdfunding transactions may be generally advertised and sold over the Internet and are not required to be sold through a registered broker-dealer when offered to the general public, but may be sold through an intermediary. The bill provides for the offer and sale of up to $1 million of unregistered securities per offering, and sets forth terms and conditions for issuers and intermediaries offering and selling such securities.

Crowdfunding Intermediaries, at http://www.sec.gov/divisions/marketreg/tmjobsact-crowdfundingintermediariesfaq.htm (last visited March 30, 2015).

[10] U.S. Securities and Exchange Commission, *Blue Sky Laws*, http://www.sec.gov/answers/bluesky.htm (last visited March 30, 2015).

[11] Pursuant to s. 20.121(3)(a), F.S., the Financial Services Commission (the Governor and Cabinet) serves as the OFR's agency head for purposes of rulemaking and appoints the OFR's Commissioner, who serves as the agency head for purposes of final agency action for all areas within the OFR's regulatory authority.

[12] Section. 517.12, F.S.

[13] Section 517.07, F.S. If a security is registered with the SEC, s. 517.082, F.S., requires the broker or issuer to notify OFR that the security is registered with the SEC.

[14] Section 517.302(1), F.S.

[15] Section 517.211(3-5), F.S.

Section 1 amends s. 571.021, F.S., to define an intermediary to mean a natural person residing in this state, or a corporation, trust, partnership, association, or any other legal entity registered with the Secretary of State to do business in Florida, that represents an issuer in a transaction involving the offer or sale of securities under s. 517.061, F.S.

Section 2 amends s. 517.061, F.S., to provide that the offer or sale of a security by an issuer conducted in accordance with s. 517.0611, F.S., is exempt from registration.

Section 3 creates s. 517.0611, F.S., the Florida Intrastate Crowdfunding Exemption. An offer or sale of a security by an issuer is an exempt transaction under s. 517.061, F.S., if the offer or sale meets the requirements of this section. The exemption may not be used in conjunction with any other exemption under ss. 517.051 or 517.061, F.S. The offer or sale of the securities under this section must be conducted in accordance with the requirements of the federal exemption for intrastate exemptions in s. 3(a)(11) of the Securities Act of 1933, 15 U.S.C. s. 77c(a)(11), and U. S. SEC Rule 147, 17 C.F.R. s. 230.147, adopted pursuant to the Securities Act of 1933.

Issuer Requirements

The issuer, to qualify for the intrastate crowdfunding exemption, must:

- Be a for-profit business entity formed under the laws of this state and be registered with the Secretary of State.
- Conduct transactions for the offering through a dealer or intermediary registered with the OFR.
- Not be, either before or as a result of the offering, an investment company as defined in s. 3 of the Investment Company Act of 1940, 15 U.S.C. s. 80a-3, or subject to the reporting requirements of s. 13 or s. 15(d) of the Securities Exchange Act of 1934, 15 U.S.C. s. 78m or s. 78o(d).
- Not be subject to a disqualification established by the commission or the OFR, or a disqualification described in s. 517.1611 F.S. or the U.S. SEC Rule 5069d), 17 C.F.R. 230.506(d), adopted pursuant to the Securities Act of 1933.
- Not be a company with an undefined business operation, a company that lacks a business plan, or meets other conditions specified.
- Execute an escrow agreement with a financial institution. The issuer must also provide the OFR with a copy of the escrow agreement with such a financial institution. The escrow agreement must require that offering proceeds be released to the issuer only when the aggregate capital raised from all investors is equal to or greater than the minimum target offering amount specified in the disclosure statement as necessary to implement the business plan. The agreement must also provide all investors will receive a full refund of their investment commitment if that target-offering amount is not raised by the date stated in the disclosure statement.
- Allow investors to cancel a commitment to invest within three business days before the offering deadline.

The issuer must submit a notice filing with the OFR at least ten days before the issuer commences an offering or the offering is displayed on a website. The notice must indicate that the issuer is conducting an offering in reliance upon this exemption. The notice must contain the

contact information of the issuer, identify key persons who will be involved in the offer or sale of securities on behalf of the issuer, and disclose the federally insured financial institution authorized to do business in this state in which investor funds will be deposited. Further, the notice must include an attestation under oath that the issuer and other key persons are not currently and have not been within the past ten years the subject of regulatory or criminal actions involving fraud or deceit. The notice must document that the issuer is organized under the laws of Florida and authorized to do business in Florida and include the target offering amount.

The issuer must provide a disclosure statement to investors and the dealer or intermediary, along with a copy to the OFR at the time the notice is filed, and make available to potential investors through the dealer or intermediary. This disclosure would include a description of the business of and financial condition of the issuer and the anticipated business plan of the issuer, information about the offering.

The bill provides that the sum of all cash and other consideration received for all sales of the security in reliance upon this exemption must not exceed $1 million, less the aggregate amount received for all sales of securities by the issuer within the 12 months preceding the first offer or sale made in reliance upon this exemption. Unless the investor is an accredited investor as defined by Rule 501 of Regulation D under the Securities Act of 1933, the aggregate amount sold by an issuer to an investor in transactions exempt from registration requirements under this section during a 12-month period may not exceed:

- If the annual income and net worth of the investor are less than $100,000, the greater of $2,000, five percent of the annual income of the investor, or five percent of the net worth of the investor.
- If the annual income or net worth of the investor is $100,000 or more, the greater of $100,000, ten percent of the annual income of the investor, or ten percent of the net worth of the investor.

Intermediary Requirements:

An intermediary is subject to registration requirements as provided in **section 4** of the bill. The bill:

- Provide basic information on its platform regarding the high risk of investment in and limitation on the resale of exempt securities and the potential for loss of an entire investment. The basic information shall include:
  - A description of the escrow agreement that the issuer has executed and the conditions for the release of such funds to the issuer in accordance with the agreement.
  - A description of whether financial information provided by the issuer has been audited by an independent certified public accountant.
- Maintain records of the offers and sales of securities made through its platform, as prescribed by commission rule, and provide access to such records upon request by the OIR.
- Verify, pursuant to commission rule, that an investor is a resident of Florida.
- Deposit and release investor funds in escrow pursuant to the escrow agreement executed by the issuer.
- Provide a monthly update for each offering, which is accessible on the intermediary's platform, and includes the date and amount of each sale of securities in the previous calendar month.

- Implement written policies and procedures that are reasonably designed to achieve compliance with federal and state securities laws; comply with anti-money laundering requirements of 31 C.F.R. ch. X applicable to registered brokers; and comply with the privacy requirements of 17 C.F.R. part 248 as they apply to brokers.

Sections 4 amends s. 517.12, F.S., by requiring an intermediary to register as a dealer or as an intermediary and pay a registration fee of $200 to the OFR. An intermediary or persons associated with an intermediary are subject to a criminal background check. Further, an intermediary or persons associated with an intermediary may not be subject to any disqualification described in s. 517.1611, F.S., or the SEC Rule 506(d), 17 C.F.R. 230.506(d), adopted pursuant to the Securities Act of 1933.

Section 5 amends s. 517.121, F.S., to provide that an intermediary is subject to examination by the OFR and must maintain certain books and records.

Section 6 amends s. 517.161, F.S**.,** to provide the OFR with enforcement authority to take regulatory actions against an intermediary.

Section 7 provides a technical conforming change to s. 626.9911, F.S.

Section 8 appropriates $120,000 in nonrecurring funds from the Regulatory Trust Fund within the OFR to implement the bill.

Section 9 provides the act will take effect October 1, 2015.

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:

PCS/CS/SB 914 creates a $200 notice-filing fee for issuers and a $200 registration fee for intermediaries.

B. Private Sector Impact:

The bill will provide start-up and small companies with another option for raising capital that would not be subject to securities registration with the OFR if certain requirements were met.

C. Government Sector Impact:

The bill provides a total appropriation of $120,000 in nonrecurring funds from the Regulatory Trust Fund to implement the provisions of this bill. This includes an estimated $63,150 to update the licensure system and provide additional data storage, along with $56,850 for Other Personnel Services for temporary employees related to workload.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 517.021, 517.061, 517.12, and 626.9911.

IX. Additional Information:

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

Recommended CS/CS by Appropriations Subcommittee on General Government on April 14, 2015:
The committee substitute provides $120,000 in nonrecurring funds from the Regulatory Trust Fund to implement the act, in addition to a technical, clarifying change.

Banking and Insurance on March 31, 2015:
The CS provides the following changes:

- Clarifies provisions to be consistent with the requirements of the federal JOBS Act and the intrastate exemption authorized under the Securities Act of 1933.
- Requires the issuer to file an irrevocable written consent to service of civil process with the OFR.
- Requires the issuer to provide a disclosure statement and a copy of the escrow agreement to the OFR that meets certain requirements.
- Clarifies intermediary registration requirements.
- Requires intermediary to maintain certain books and records as prescribed by commission rule and be subject to examination by the OFR.

- Provides technical and conforming changes.

B. Amendments:

None.

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

706156

576-04114-15

Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on General Government)

A bill to be entitled

An act relating to intrastate crowdfunding; amending s. 517.021, F.S.; conforming a cross-reference; defining the term "intermediary" for purposes of the Florida Securities and Investor Protection Act; amending s. 517.061, F.S.; exempting offers or sales of securities by certain issuers from registration requirements; creating s. 517.0611, F.S.; providing a short title; exempting the intrastate offering and sale of certain securities from certain regulatory requirements; providing applicability; providing registration and reporting requirements for issuers and intermediaries offering such securities; requiring the issuer to provide to the office a copy of a specified escrow agreement; limiting the aggregate amount of sales of such securities within a specified period; limiting the aggregate amount of sales to specified investors; requiring an issuer to produce and distribute an annual report to investors; requiring a notice-filing to be suspended under certain circumstances; specifying that fees collected become revenue of the state; requiring a qualified third party to hold certain funds in escrow; amending s. 517.12, F.S.; providing registration requirements for an intermediary; conforming a cross-reference; amending s. 517.121, F.S.; requiring an intermediary to comply with specified recordkeeping requirements;

706156

576-04114-15

amending s. 517.161, F.S.; including an intermediary in the disciplinary provisions; amending s. 626.9911, F.S.; conforming a cross-reference; providing an appropriation; providing an effective date.

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

Section 1. Subsection (9) of section 517.021, Florida Statutes, is amended, subsections (13) through (23) are redesignated as subsections (14) through (24), respectively, and a new subsection (13) is added to that section, to read:

517.021 Definitions.—When used in this chapter, unless the context otherwise indicates, the following terms have the following respective meanings:

(9) "Federal covered adviser" means a person who is registered or required to be registered under s. 203 of the Investment Advisers Act of 1940. The term "federal covered adviser" does not include any person who is excluded from the definition of investment adviser under subparagraphs (14)(b)1.-8. ~~(13)(b)1.-8~~.

(13) "Intermediary" means a natural person residing in the state or a corporation, trust, partnership, association, or other legal entity registered with the Secretary of State to do business in the state which represents an issuer in a transaction involving the offer or sale of securities under s. 517.061.

Section 2. Section 517.061, Florida Statutes, is amended to read:

517.061 Exempt transactions.—Except as otherwise provided

in s. 517.0611 for a transaction listed in subsection (21), the exemption for each transaction listed below is self-executing and does not require any filing with the office before ~~prior to~~ claiming the ~~such~~ exemption. Any person who claims entitlement to any of the exemptions bears the burden of proving such entitlement in any proceeding brought under this chapter. The registration provisions of s. 517.07 do not apply to any of the following transactions; however, such transactions are subject to the provisions of ss. 517.301, 517.311, and 517.312:

(1) At any judicial, executor's, administrator's, guardian's, or conservator's sale, or at any sale by a receiver or trustee in insolvency or bankruptcy, or any transaction incident to a judicially approved reorganization in which a security is issued in exchange for one or more outstanding securities, claims, or property interests.

(2) By or for the account of a pledgeholder or mortgagee selling or offering for sale or delivery in the ordinary course of business and not for the purposes of avoiding the provisions of this chapter, to liquidate a bona fide debt, a security pledged in good faith as security for such debt.

(3) The isolated sale or offer for sale of securities when made by or on behalf of a vendor not the issuer or underwriter of the securities, who, being the bona fide owner of such securities, disposes of her or his own property for her or his own account, and such sale is not made directly or indirectly for the benefit of the issuer or an underwriter of such securities or for the direct or indirect promotion of any scheme or enterprise with the intent of violating or evading any provision of this chapter. For purposes of this subsection,

isolated offers or sales include, but are not limited to, an isolated offer or sale made by or on behalf of a vendor of securities not the issuer or underwriter of the securities if:

(a) The offer or sale of securities is in a transaction satisfying all of the requirements of subparagraphs (11)(a)1., 2., 3., and 4. and paragraph (11)(b); or

(b) The offer or sale of securities is in a transaction exempt under s. 4(1) of the Securities Act of 1933, as amended.

For purposes of this subsection, any person, including, without limitation, a promoter or affiliate of an issuer, shall not be deemed an underwriter, an issuer, or a person acting for the direct or indirect benefit of the issuer or an underwriter with respect to any securities of the issuer which she or he has owned beneficially for at least 1 year.

(4) The distribution by a corporation, trust, or partnership, actively engaged in the business authorized by its charter or other organizational articles or agreement, of securities to its stockholders or other equity security holders, partners, or beneficiaries as a stock dividend or other distribution out of earnings or surplus.

(5) The issuance of securities to such equity security holders or other creditors of a corporation, trust, or partnership in the process of a reorganization of such corporation or entity, made in good faith and not for the purpose of avoiding the provisions of this chapter, either in exchange for the securities of such equity security holders or claims of such creditors or partly for cash and partly in exchange for the securities or claims of such equity security

115 holders or creditors.
116 (6) Any transaction involving the distribution of the
117 securities of an issuer exclusively among its own security
118 holders, including any person who at the time of the transaction
119 is a holder of any convertible security, any nontransferable
120 warrant, or any transferable warrant which is exercisable within
121 not more than 90 days of issuance, when no commission or other
122 remuneration is paid or given directly or indirectly in
123 connection with the sale or distribution of such additional
124 securities.
125 (7) The offer or sale of securities to a bank, trust
126 company, savings institution, insurance company, dealer,
127 investment company as defined by the Investment Company Act of
128 1940, pension or profit-sharing trust, or qualified
129 institutional buyer as defined by rule of the commission in
130 accordance with Securities and Exchange Commission Rule 144A (17
131 C.F.R. s. 230.144(A)(a)), whether any of such entities is acting
132 in its individual or fiduciary capacity; provided that such
133 offer or sale of securities is not for the direct or indirect
134 promotion of any scheme or enterprise with the intent of
135 violating or evading any provision of this chapter.
136 (8) The sale of securities from one corporation to another
137 corporation provided that:
138 (a) The sale price of the securities is $50,000 or more;
139 and
140 (b) The buyer and seller corporations each have assets of
141 $500,000 or more.
142 (9) The offer or sale of securities from one corporation to
143 another corporation, or to security holders thereof, pursuant to

144 a vote or consent of such security holders as may be provided by
145 the articles of incorporation and the applicable corporate
146 statutes in connection with mergers, share exchanges,
147 consolidations, or sale of corporate assets.
148 (10) The issuance of notes or bonds in connection with the
149 acquisition of real property or renewals thereof, if such notes
150 or bonds are issued to the sellers of, and are secured by all or
151 part of, the real property so acquired.
152 (11)(a) The offer or sale, by or on behalf of an issuer, of
153 its own securities, which offer or sale is part of an offering
154 made in accordance with all of the following conditions:
155 1. There are no more than 35 purchasers, or the issuer
156 reasonably believes that there are no more than 35 purchasers,
157 of the securities of the issuer in this state during an offering
158 made in reliance upon this subsection or, if such offering
159 continues for a period in excess of 12 months, in any
160 consecutive 12-month period.
161 2. Neither the issuer nor any person acting on behalf of
162 the issuer offers or sells securities pursuant to this
163 subsection by means of any form of general solicitation or
164 general advertising in this state.
165 3. Before ~~Prior to~~ the sale, each purchaser or the
166 purchaser's representative, if any, is provided with, or given
167 reasonable access to, full and fair disclosure of all material
168 information.
169 4. No person defined as a "dealer" in this chapter is paid
170 a commission or compensation for the sale of the issuer's
171 securities unless such person is registered as a dealer under
172 this chapter.

173 5. When sales are made to five or more persons in this
174 state, any sale in this state made pursuant to this subsection
175 is voidable by the purchaser in such sale either within 3 days
176 after the first tender of consideration is made by such
177 purchaser to the issuer, an agent of the issuer, or an escrow
178 agent or within 3 days after the availability of that privilege
179 is communicated to such purchaser, whichever occurs later.
180 (b) The following purchasers are excluded from the
181 calculation of the number of purchasers under subparagraph
182 (a)1.:
183 1. Any relative or spouse, or relative of such spouse, of a
184 purchaser who has the same principal residence as such
185 purchaser.
186 2. Any trust or estate in which a purchaser, any of the
187 persons related to such purchaser specified in subparagraph 1.,
188 and any corporation specified in subparagraph 3. collectively
189 have more than 50 percent of the beneficial interest (excluding
190 contingent interest).
191 3. Any corporation or other organization of which a
192 purchaser, any of the persons related to such purchaser
193 specified in subparagraph 1., and any trust or estate specified
194 in subparagraph 2. collectively are beneficial owners of more
195 than 50 percent of the equity securities or equity interest.
196 4. Any purchaser who makes a bona fide investment of
197 $100,000 or more, provided such purchaser or the purchaser's
198 representative receives, or has access to, the information
199 required to be disclosed by subparagraph (a)3.
200 5. Any accredited investor, as defined by rule of the
201 commission in accordance with Securities and Exchange Commission

202 Regulation 230.501 (17 C.F.R. s. 230.501).
203 (c)1. For purposes of determining which offers and sales of
204 securities constitute part of the same offering under this
205 subsection and are therefore deemed to be integrated with one
206 another:
207 a. Offers or sales of securities occurring more than 6
208 months before ~~prior to~~ an offer or sale of securities made
209 pursuant to this subsection shall not be considered part of the
210 same offering, provided there are no offers or sales by or for
211 the issuer of the same or a similar class of securities during
212 such 6-month period.
213 b. Offers or sales of securities occurring at any time
214 after 6 months from an offer or sale made pursuant to this
215 subsection shall not be considered part of the same offering,
216 provided there are no offers or sales by or for the issuer of
217 the same or a similar class of securities during such 6-month
218 period.
219 2. Offers or sales which do not satisfy the conditions of
220 any of the provisions of subparagraph 1. may or may not be part
221 of the same offering, depending on the particular facts and
222 circumstances in each case. The commission may adopt a rule or
223 rules indicating what factors should be considered in
224 determining whether offers and sales not qualifying for the
225 provisions of subparagraph 1. are part of the same offering for
226 purposes of this subsection.
227 (d) Offers or sales of securities made pursuant to, and in
228 compliance with, any other subsection of this section or any
229 subsection of s. 517.051 shall not be considered part of an
230 offering pursuant to this subsection, regardless of when such

231 offers and sales are made.
232 (12) The sale of securities by a bank or trust company
233 organized or incorporated under the laws of the United States or
234 this state at a profit to such bank or trust company of not more
235 than 2 percent of the total sale price of such securities;
236 provided that there is no solicitation of this business by such
237 bank or trust company where such bank or trust company acts as
238 agent in the purchase or sale of such securities.
239 (13) An unsolicited purchase or sale of securities on order
240 of, and as the agent for, another by a dealer registered
241 pursuant to the provisions of s. 517.12; provided that this
242 exemption applies solely and exclusively to such registered
243 dealers and does not authorize or permit the purchase or sale of
244 securities on order of, and as agent for, another by any person
245 other than a dealer so registered; and provided, further, that
246 such purchase or sale is not directly or indirectly for the
247 benefit of the issuer or an underwriter of such securities or
248 for the direct or indirect promotion of any scheme or enterprise
249 with the intent of violation or evading any provision of this
250 chapter.
251 (14) The offer or sale of shares of a corporation which
252 represent ownership, or entitle the holders of the shares to
253 possession and occupancy, of specific apartment units in
254 property owned by such corporation and organized and operated on
255 a cooperative basis, solely for residential purposes.
256 (15) The offer or sale of securities under a bona fide
257 employer-sponsored stock option, stock purchase, pension,
258 profit-sharing, savings, or other benefit plan when offered only
259 to employees of the sponsoring organization or to employees of

260 its controlled subsidiaries.
261 (16) The sale by or through a registered dealer of any
262 securities option if at the time of the sale of the option:
263 (a) The performance of the terms of the option is
264 guaranteed by any dealer registered under the federal Securities
265 Exchange Act of 1934, as amended, which guaranty and dealer are
266 in compliance with such requirements or rules as may be approved
267 or adopted by the commission; or
268 (b) Such options transactions are cleared by the Options
269 Clearing Corporation or any other clearinghouse recognized by
270 the office; and
271 (c) The option is not sold by or for the benefit of the
272 issuer of the underlying security; and
273 (d) The underlying security may be purchased or sold on a
274 recognized securities exchange or is quoted on the National
275 Association of Securities Dealers Automated Quotation System;
276 and
277 (e) Such sale is not directly or indirectly for the purpose
278 of providing or furthering any scheme to violate or evade any
279 provisions of this chapter.
280 (17)(a) The offer or sale of securities, as agent or
281 principal, by a dealer registered pursuant to s. 517.12, when
282 such securities are offered or sold at a price reasonably
283 related to the current market price of such securities, provided
284 such securities are:
285 1. Securities of an issuer for which reports are required
286 to be filed by s. 13 or s. 15(d) of the Securities Exchange Act
287 of 1934, as amended;
288 2. Securities of a company registered under the Investment

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Company Act of 1940, as amended;

3. Securities of an insurance company, as that term is defined in s. 2(a)(17) of the Investment Company Act of 1940, as amended;

4. Securities, other than any security that is a federal covered security pursuant to s. 18(b)(1) of the Securities Act of 1933 and is not subject to any registration or filing requirements under this act, which appear in any list of securities dealt in on any stock exchange registered pursuant to the Securities Exchange Act of 1934, as amended, and which securities have been listed or approved for listing upon notice of issuance by such exchange, and also all securities senior to any securities so listed or approved for listing upon notice of issuance, or represented by subscription rights which have been so listed or approved for listing upon notice of issuance, or evidences of indebtedness guaranteed by companies any stock of which is so listed or approved for listing upon notice of issuance, such securities to be exempt only so long as such listings or approvals remain in effect. The exemption provided for herein does not apply when the securities are suspended from listing approval for listing or trading.

(b) The exemption provided in this subsection does not apply if the sale is made for the direct or indirect benefit of an issuer or controlling persons of such issuer or if such securities constitute the whole or part of an unsold allotment to, or subscription or participation by, a dealer as an underwriter of such securities.

(c) This exemption shall not be available for any securities which have been denied registration pursuant to s.

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517.111. Additionally, the office may deny this exemption with reference to any particular security, other than a federal covered security, by order published in such manner as the office finds proper.

(18) The offer or sale of any security effected by or through a person in compliance with s. 517.12(17).

(19) Other transactions defined by rules as transactions exempted from the registration provisions of s. 517.07, which rules the commission may adopt from time to time, but only after a finding by the office that the application of the provisions of s. 517.07 to a particular transaction is not necessary in the public interest and for the protection of investors because of the small dollar amount of securities involved or the limited character of the offering. In conjunction with its adoption of such rules, the commission may also provide in such rules that persons selling or offering for sale the exempted securities are exempt from the registration requirements of s. 517.12. No rule so adopted may have the effect of narrowing or limiting any exemption provided for by statute in the other subsections of this section.

(20) Any nonissuer transaction by a registered associated person of a registered dealer, and any resale transaction by a sponsor of a unit investment trust registered under the Investment Company Act of 1940, in a security of a class that has been outstanding in the hands of the public for at least 90 days; provided, at the time of the transaction:

(a) The issuer of the security is actually engaged in business and is not in the organization stage or in bankruptcy or receivership and is not a blank check, blind pool, or shell

347 company whose primary plan of business is to engage in a merger
348 or combination of the business with, or an acquisition of, any
349 unidentified person;
350 (b) The security is sold at a price reasonably related to
351 the current market price of the security;
352 (c) The security does not constitute the whole or part of
353 an unsold allotment to, or a subscription or participation by,
354 the broker-dealer as an underwriter of the security;
355 (d) A nationally recognized securities manual designated by
356 rule of the commission or order of the office or a document
357 filed with the Securities and Exchange Commission that is
358 publicly available through the commission's electronic data
359 gathering and retrieval system contains:
360 1. A description of the business and operations of the
361 issuer;
362 2. The names of the issuer's officers and directors, if
363 any, or, in the case of an issuer not domiciled in the United
364 States, the corporate equivalents of such persons in the
365 issuer's country of domicile;
366 3. An audited balance sheet of the issuer as of a date
367 within 18 months before such transaction or, in the case of a
368 reorganization or merger in which parties to the reorganization
369 or merger had such audited balance sheet, a pro forma balance
370 sheet; and
371 4. An audited income statement for each of the issuer's
372 immediately preceding 2 fiscal years, or for the period of
373 existence of the issuer, if in existence for less than 2 years
374 or, in the case of a reorganization or merger in which the
375 parties to the reorganization or merger had such audited income

376 statement, a pro forma income statement; and
377 (e) The issuer of the security has a class of equity
378 securities listed on a national securities exchange registered
379 under the Securities Exchange Act of 1934 or designated for
380 trading on the National Association of Securities Dealers
381 Automated Quotation System, unless:
382 1. The issuer of the security is a unit investment trust
383 registered under the Investment Company Act of 1940;
384 2. The issuer of the security has been engaged in
385 continuous business, including predecessors, for at least 3
386 years; or
387 3. The issuer of the security has total assets of at least
388 $2 million based on an audited balance sheet as of a date within
389 18 months before such transaction or, in the case of a
390 reorganization or merger in which parties to the reorganization
391 or merger had such audited balance sheet, a pro forma balance
392 sheet.
393 (21) The offer or sale of a security by an issuer conducted
394 in accordance with s. 517.0611.
395 Section 3. Section 517.0611, Florida Statutes, is created
396 to read:
397 517.0611 Intrastate crowdfunding.—
398 (1) This section may be cited as the "Florida Intrastate
399 Crowdfunding Exemption."
400 (2) Notwithstanding any other provision of this chapter, an
401 offer or sale of a security by an issuer is an exempt
402 transaction under s. 517.061 if the offer or sale is conducted
403 in accordance with this section. The exemption provided in this
404 section may not be used in conjunction with any other exemption

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405 under s. 517.051 or s.517.061.
406 (3) The offer or sale of securities under this section must
407 be conducted in accordance with the requirements of the federal
408 exemption for intrastate offerings in s. 3(a)(11) of the
409 Securities Act of 1933, 15 U.S.C. s. 77c(a)(11), and United
410 States Securities and Exchange Commission Rule 147, 17 C.F.R. s.
411 230.147, adopted pursuant to the Securities Act of 1933.
412 (4) An issuer must:
413 (a) Be a for-profit business entity formed under the laws
414 of this state, be registered with the Secretary of State,
415 maintain its principal place of business in this state, and
416 derive its revenues primarily from operations in this state.
417 (b) Conduct transactions for the offering through a dealer
418 registered with the office or an intermediary registered under
419 s. 517.12(20).
420 (c) Not be, either before or as a result of the offering,
421 an investment company as defined in s. 3 of the Investment
422 Company Act of 1940, 15 U.S.C. s. 80a-3, or subject to the
423 reporting requirements of s. 13 or s. 15(d) of the Securities
424 Exchange Act of 1934, 15 U.S.C. s. 78m or s. 78o(d).
425 (d) Not be a company with an undefined business operation,
426 a company that lacks a business plan, a company that lacks a
427 stated investment goal for the funds being raised, or a company
428 that plans to engage in a merger or acquisition with an
429 unspecified business entity.
430 (e) Not be subject to a disqualification established by the
431 commission or office or a disqualification described in s.
432 517.1611 or United States Securities and Exchange Commission
433 Rule 506(d), 17 C.F.R. 230.506(d), adopted pursuant to the

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434 Securities Act of 1933. Each director, officer, person occupying
435 a similar status or performing a similar function, or person
436 holding more than 20 percent of the shares of the issuer, is
437 subject to this requirement.
438 (f) Execute an escrow agreement with a federally insured
439 financial institution authorized to do business in this state
440 for the deposit of investor funds, and ensure that all offering
441 proceeds are provided to the issuer only when the aggregate
442 capital raised from all investors is equal to or greater than
443 the target offering amount.
444 (g) Allow investors to cancel a commitment to invest within
445 3 business days before the offering deadline, as stated in the
446 disclosure statement, and issue refunds to all investors if the
447 target offering amount is not reached by the offering deadline.
448 (5) The issuer must file a notice of the offering with the
449 office, in writing or in electronic form, in a format prescribed
450 by commission rule, together with a nonrefundable filing fee of
451 $200. The commission may adopt rules establishing procedures for
452 the deposit of fees and the filing of documents by electronic
453 means if the procedures provide the office with the information
454 and data required by this section. A notice is effective upon
455 receipt of the completed form, filing fee, and an irrevocable
456 written consent to service of civil process, as provided for in
457 s. 517.101, by the office. The notice may be terminated by
458 filing with the office a notice of termination. The notice and
459 offering expire 12 months after filing the notice with the
460 office and are not eligible for renewal. The notice must:
461 (a) Be filed with the office at least 10 days before the
462 issuer commences an offering of securities or the offering is

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463 displayed on a website of an intermediary in reliance upon the
464 exemption provided by this section.
465 (b) Indicate that the issuer is conducting an offering in
466 reliance upon the exemption provided by this section.
467 (c) Contain the name and contact information of the issuer.
468 (d) Identify any predecessors, owners, officers, directors,
469 and control persons or any person occupying a similar status or
470 performing a similar function of the issuer, including that
471 person's title, his or her status as a partner, trustee, sole
472 proprietor or similar role, and his or her ownership percentage.
473 (e) Identify the federally insured financial institution,
474 authorized to do business in this state, in which investor funds
475 will be deposited, in accordance with the escrow agreement.
476 (f) Require an attestation under oath that the issuer, its
477 predecessors, affiliated issuers, directors, officers, and
478 control persons, or any other person occupying a similar status
479 or performing a similar function, are not currently and have not
480 been within the past 10 years the subject of regulatory or
481 criminal actions involving fraud or deceit.
482 (g) Include documentation verifying that the issuer is
483 organized under the laws of this state and authorized to do
484 business in this state.
485 (h) Include the intermediary's website address where the
486 issuer's securities will be offered.
487 (i) Include the target offering amount.
488 (6) The issuer must amend the notice form within 30 days
489 after any information contained in the notice becomes inaccurate
490 for any reason. The commission may require, by rule, an issuer
491 who has filed a notice under this section to file amendments

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492 with the office.
493 (7) The issuer must provide to investors and the dealer or
494 intermediary, along with a copy to the office at the time the
495 notice is filed, and make available to potential investors
496 through the dealer or intermediary, a disclosure statement
497 containing material information about the issuer and the
498 offering, including:
499 (a) The name, legal status, physical address, and website
500 address of the issuer.
501 (b) The names of the directors, officers, and any person
502 occupying a similar status or performing a similar function, and
503 the name of each person holding more than 20 percent of the
504 shares of the issuer.
505 (c) A description of the business of the issuer and the
506 anticipated business plan of the issuer.
507 (d) A description of the stated purpose and intended use of
508 the proceeds of the offering.
509 (e) The target offering amount, the deadline to reach the
510 target offering amount, and regular updates regarding the
511 progress of the issuer in meeting the target offering amount.
512 (f) The price to the public of the securities or the method
513 for determining the price, provided that before the sale each
514 investor receives in writing the final price and all required
515 disclosures, with an opportunity to rescind the commitment to
516 purchase the securities.
517 (g) A description of the ownership and capital structure of
518 the issuer, including:
519 1. Terms of the securities being offered and each class of
520 security of the issuer, including how those terms may be

521 modified, and a summary of the differences between such
522 securities, including how the rights of the securities being
523 offered may be materially limited, diluted, or qualified by
524 rights of any other class of security of the issuer;
525 2. A description of how the exercise of the rights held by
526 the principal shareholders of the issuer could negatively impact
527 the purchasers of the securities being offered;
528 3. The name and ownership level of each existing
529 shareholder who owns more than 20 percent of any class of the
530 securities of the issuer;
531 4. How the securities being offered are being valued, and
532 examples of methods of how such securities may be valued by the
533 issuer in the future, including during subsequent corporate
534 actions; and
535 5. The risks to purchasers of the securities relating to
536 minority ownership in the issuer, the risks associated with
537 corporate action, including additional issuances of shares, a
538 sale of the issuer or of assets of the issuer, or transactions
539 with related parties.
540 (h) A description of the financial condition of the issuer.
541 1. For offerings that, in combination with all other
542 offerings of the issuer within the preceding 12-month period,
543 have target offering amounts of $100,000 or less, the
544 description must include the most recent income tax return filed
545 by the issuer, if any, and a financial statement that must be
546 certified by the principal executive officer of the issuer as
547 true and complete in all material respects.
548 2. For offerings that, in combination with all other
549 offerings of the issuer within the preceding 12-month period,

550 have target offering amounts of more than $100,000, but not more
551 than $500,000, the description must include financial statements
552 prepared in accordance with generally accepted accounting
553 principles and reviewed by a certified public accountant, as
554 defined in s. 473.302, who is independent of the issuer, using
555 professional standards and procedures for such review or
556 standards and procedures established by the office, by rule, for
557 such purpose.
558 3. For offerings that, in combination with all other
559 offerings of the issuer within the preceding 12-month period,
560 have target offering amounts of more than $500,000, the
561 description must include audited financial statements prepared
562 in accordance with generally accepted accounting principles by a
563 certified public accountant, as defined in s. 473.302, who is
564 independent of the issuer, and other requirements as the
565 commission may establish by rule.
566 (i) The following statement in boldface, conspicuous type
567 on the front page of the disclosure statement:
568
569 These securities are offered under and will be sold in reliance
570 upon an exemption from the registration requirements of federal
571 and Florida securities laws. Consequently, neither the Federal
572 Government nor the State of Florida has reviewed the accuracy or
573 completeness of any offering materials. In making an investment
574 decision, investors must rely on their own examination of the
575 issuer and the terms of the offering, including the merits and
576 risks involved. These securities are subject to restrictions on
577 transferability and resale and may not be transferred or resold
578 except as specifically authorized by applicable federal and

579 state securities laws. Investing in these securities involves a
580 speculative risk, and investors should be able to bear the loss
581 of their entire investment.
582 (8) The issuer shall provide to the office a copy of the
583 escrow agreement with a financial institution authorized to
584 conduct business in this state. All investor funds must be
585 deposited in the escrow account. The escrow agreement must
586 require that all offering proceeds be released to the issuer
587 only when the aggregate capital raised from all investors is
588 equal to or greater than the minimum target offering amount
589 specified in the disclosure statement as necessary to implement
590 the business plan, and that all investors will receive a full
591 return of their investment commitment if that target offering
592 amount is not raised by the date stated in the disclosure
593 statement.
594 (9) The sum of all cash and other consideration received
595 for sales of a security under this section may not exceed $1
596 million, less the aggregate amount received for all sales of
597 securities by the issuer within the 12 months preceding the
598 first offer or sale made in reliance upon this exemption. Offers
599 or sales to a person owning 20 percent or more of the
600 outstanding shares of any class or classes of securities or to
601 an officer, director, partner, or trustee, or a person occupying
602 a similar status, do not count toward this limitation.
603 (10) Unless the investor is an accredited investor as
604 defined by Rule 501 of Regulation D, adopted pursuant to the
605 Securities Act of 1933, the aggregate amount sold by an issuer
606 to an investor in transactions exempt from registration
607 requirements under this subsection in a 12-month period may not

608 exceed:
609 (a) The greater of $2,000 or 5 percent of the annual income
610 or net worth of such investor, if the annual income or the net
611 worth of the investor is less than $100,000.
612 (b) Ten percent of the annual income or net worth of such
613 investor, not to exceed a maximum aggregate amount sold of
614 $100,000, if either the annual income or net worth of the
615 investor is equal to or exceeds $100,000.
616 (11) The issuer shall file with the office and provide to
617 investors free of charge an annual report of the results of
618 operations and financial statements of the issuer within 45 days
619 of its fiscal year end, until no securities under this offering
620 are outstanding. The annual reports must meet the following
621 requirements:
622 (a) Include an analysis by management of the issuer of the
623 business operations and the financial condition of the issuer,
624 and disclose the compensation received by each director,
625 executive officer, and person having an ownership interest of 20
626 percent or more of the issuer, including cash compensation
627 earned since the previous report and on an annual basis, and any
628 bonuses, stock options, other rights to receive securities of
629 the issuer, or any affiliate of the issuer, or other
630 compensation received.
631 (b) Disclose any material change to information contained
632 in the disclosure statements which was not disclosed in a
633 previous report.
634 (12)(a) A notice-filing under this section shall be
635 summarily suspended by the office if the payment for the filing
636 is dishonored by the financial institution upon which the funds

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637 are drawn. For purposes of s. 120.60(6), failure to pay the
638 required notice filing fee constitutes an immediate and serious
639 danger to the public health, safety, and welfare. The office
640 shall enter a final order revoking a notice-filing in which the
641 payment for the filing is dishonored by the financial
642 institution upon which the funds are drawn.
643 (b) A notice-filing under this section shall be summarily
644 suspended by the office if the issuer made a material false
645 statement in the issuer's notice-filing. The summary suspension
646 shall remain in effect until a final order is entered by the
647 office. For purposes of s. 120.60(6), a material false statement
648 made in the issuer's notice-filing constitutes an immediate and
649 serious danger to the public health, safety, and welfare. If an
650 issuer made a material false statement in the issuer's notice-
651 filing, the office shall enter a final order revoking the
652 notice-filing, issue a fine as prescribed by s. 517.221(3), and
653 issue permanent bars under s. 517.221(4) to the issuer and all
654 owners, officers, directors, and control persons, or any person
655 occupying a similar status or performing a similar function of
656 the issuer, including titles; status as a partner, trustee, sole
657 proprietor, or similar roles; and ownership percentage.
658 (13) All fees collected under this section become the
659 revenue of the state, except for those assessments provided for
660 under s. 517.131(1) until such time as the Securities Guaranty
661 Fund satisfies the statutory limits, and are not returnable in
662 the event that a notice filing is withdrawn.
663 (14) An intermediary must:
664 (a) Take measures, as established by commission rule, to
665 reduce the risk of fraud with respect to transactions, including

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666 verifying that the issuer is in compliance with the requirements
667 of this section and, if necessary, denying an issuer access to
668 its platform if the intermediary believes it is unable to
669 adequately assess the risk of fraud of the issuer or its
670 potential offering.
671 (b) Provide basic information on its website regarding the
672 high risk of investment in and limitation on the resale of
673 exempt securities and the potential for loss of an entire
674 investment. The basic information must include:
675 1. A description of the escrow agreement that the issuer
676 has executed and the conditions for release of such funds to the
677 issuer in accordance with the agreement and subsection (4).
678 2. A description of whether financial information provided
679 by the issuer has been audited by an independent certified
680 public accountant, as defined in s. 473.302.
681 (c) Obtain a zip code or residence address from each
682 potential investor who seeks to view information regarding
683 specific investment opportunities, in order to confirm that the
684 potential investor is a resident of this state.
685 (d) Obtain and verify, pursuant to commission rule, a valid
686 Florida driver license number or official identification card
687 number from each investor before purchase of a security or other
688 information, as defined by commission rule, to confirm that the
689 investor is a resident of the state.
690 (e) Obtain an affidavit from each investor stating that the
691 investment being made by the investor is consistent with the
692 income requirements of subsection (10).
693 (f) Direct the release of investor funds in escrow in
694 accordance with subsection (4).

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695 (g) Direct investors to transmit funds directly to the
696 financial institution designated in the escrow agreement to hold
697 the funds for the benefit of the investor.
698 (h) Provide a monthly update for each offering, after the
699 first full month after the date of the offering. The update must
700 be accessible on the intermediary's website and must display the
701 date and amount of each sale of securities, and each
702 cancellation of commitment to invest in the previous calendar
703 month.
704 (i) Require each investor to certify in writing, including
705 as part of such certification his or her signature and his or
706 her initials next to each paragraph of the certification, as
707 follows:
708
709 I understand and acknowledge that:
710
711 I am investing in a high-risk, speculative business venture. I
712 may lose all of my investment, and I can afford the loss of my
713 investment.
714
715 This offering has not been reviewed or approved by any state or
716 federal securities commission or other regulatory authority and
717 no regulatory authority has confirmed the accuracy or determined
718 the adequacy of any disclosure made to me relating to this
719 offering.
720
721 The securities I am acquiring in this offering are illiquid and
722 are subject to possible dilution. There is no ready market for
723 the sale of the securities. It may be difficult or impossible

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724 for me to sell or otherwise dispose of the securities, and I may
725 be required to hold the securities indefinitely.
726
727 I may be subject to tax on my share of the taxable income and
728 losses of the issuer, whether or not I have sold or otherwise
729 disposed of my investment or received any dividends or other
730 distributions from the issuer.
731
732 By entering into this transaction with the issuer, I am
733 affirmatively representing myself as being a Florida resident at
734 the time this contract is formed, and if this representation is
735 subsequently shown to be false, the contract is void.
736
737 If I resell any of the securities I am acquiring in this
738 offering to a person that is not a Florida resident within 9
739 months after the closing of the offering, my contract with the
740 issuer for the purchase of these securities is void.
741
742 (j) Require each investor to answer questions demonstrating
743 an understanding of the level of risk generally applicable to
744 investments in startups, emerging businesses, and small issuers,
745 and an understanding of the risk of illiquidity.
746 (k) Take reasonable steps to protect personal information
747 collected from investors, as required by s. 501.171.
748 (l) Prohibit its directors and officers from having any
749 financial interest in the issuer using its services.
750 (m) Implement written policies and procedures that are
751 reasonably designed to achieve compliance with federal and state
752 securities laws; comply with anti-money laundering requirements

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753 of 31 C.F.R. ch. X applicable to registered brokers; and comply
754 with the privacy requirements of 17 C.F.R. part 248 as they
755 apply to brokers.
756 (15) An intermediary not registered as a dealer under s.
757 517.12(6) may not:
758 (a) Offer investment advice or recommendations. A refusal
759 by an intermediary to post an offering that it deems not
760 credible or that represents a potential for fraud may not be
761 construed as an offer of investment advice or recommendation.
762 (b) Solicit purchases, sales, or offers to buy securities
763 offered or displayed on its website.
764 (c) Compensate employees, agents, or other persons for the
765 solicitation or based on the sale of securities offered or
766 displayed on its website.
767 (d) Hold, manage, possess, or otherwise handle investor
768 funds or securities.
769 (e) Compensate promoters, finders, or lead generators for
770 providing the intermediary with the personal identifying
771 information of any potential investor.
772 (f) Engage in any other activities set forth by commission
773 rule.
774 (16) All funds received from investors must be directed to
775 the financial institution designated in the escrow agreement to
776 hold the funds and must be used in accordance with
777 representations made to investors by the intermediary. If an
778 investor cancels a commitment to invest, the intermediary must
779 direct the financial institution designated to hold the funds to
780 promptly refund the funds of the investor.
781 Section 4. Section 517.12, Florida Statutes, is amended to

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782 read:
783 517.12 Registration of dealers, associated persons,
784 intermediaries, and investment advisers.—
785 (1) No dealer, associated person, or issuer of securities
786 shall sell or offer for sale any securities in or from offices
787 in this state, or sell securities to persons in this state from
788 offices outside this state, by mail or otherwise, unless the
789 person has been registered with the office pursuant to the
790 provisions of this section. The office shall not register any
791 person as an associated person of a dealer unless the dealer
792 with which the applicant seeks registration is lawfully
793 registered with the office pursuant to this chapter.
794 (2) The registration requirements of this section do not
795 apply to the issuers of securities exempted by s. 517.051(1)-(8)
796 and (10).
797 (3) Except as otherwise provided in s. 517.061(11)(a)4.,
798 (13), (16), (17), or (19), the registration requirements of this
799 section do not apply in a transaction exempted by s. 517.061(1)-
800 (12), (14), and (15).
801 (4) No investment adviser or associated person of an
802 investment adviser or federal covered adviser shall engage in
803 business from offices in this state, or render investment advice
804 to persons of this state, by mail or otherwise, unless the
805 federal covered adviser has made a notice-filing with the office
806 pursuant to s. 517.1201 or the investment adviser is registered
807 pursuant to the provisions of this chapter and associated
808 persons of the federal covered adviser or investment adviser
809 have been registered with the office pursuant to this section.
810 The office shall not register any person or an associated person

811 of a federal covered adviser or an investment adviser unless the
812 federal covered adviser or investment adviser with which the
813 applicant seeks registration is in compliance with the notice-
814 filing requirements of s. 517.1201 or is lawfully registered
815 with the office pursuant to this chapter. A dealer or associated
816 person who is registered pursuant to this section may render
817 investment advice upon notification to and approval from the
818 office.
819 (5) No dealer or investment adviser shall conduct business
820 from a branch office within this state unless the branch office
821 is notice-filed with the office pursuant to s. 517.1202.
822 (6) A dealer, associated person, or investment adviser, in
823 order to obtain registration, must file with the office a
824 written application, on a form which the commission may by rule
825 prescribe. The commission may establish, by rule, procedures for
826 depositing fees and filing documents by electronic means
827 provided such procedures provide the office with the information
828 and data required by this section. Each dealer or investment
829 adviser must also file an irrevocable written consent to service
830 of civil process similar to that provided for in s. 517.101. The
831 application shall contain such information as the commission or
832 office may require concerning such matters as:
833 (a) The name of the applicant and the address of its
834 principal office and each office in this state.
835 (b) The applicant’s form and place of organization; and, if
836 the applicant is a corporation, a copy of its articles of
837 incorporation and amendments to the articles of incorporation
838 or, if a partnership, a copy of the partnership agreement.
839 (c) The applicant’s proposed method of doing business and

840 financial condition and history, including a certified financial
841 statement showing all assets and all liabilities, including
842 contingent liabilities of the applicant as of a date not more
843 than 90 days prior to the filing of the application.
844 (d) The names and addresses of all associated persons of
845 the applicant to be employed in this state and the offices to
846 which they will be assigned.
847 (7) The application must also contain such information as
848 the commission or office may require about the applicant; any
849 member, principal, or director of the applicant or any person
850 having a similar status or performing similar functions; any
851 person directly or indirectly controlling the applicant; or any
852 employee of a dealer or of an investment adviser rendering
853 investment advisory services. Each applicant and any direct
854 owners, principals, or indirect owners that are required to be
855 reported on Form BD or Form ADV pursuant to subsection (15)
856 shall submit fingerprints for live-scan processing in accordance
857 with rules adopted by the commission. The fingerprints may be
858 submitted through a third-party vendor authorized by the
859 Department of Law Enforcement to provide live-scan
860 fingerprinting. The costs of fingerprint processing shall be
861 borne by the person subject to the background check. The
862 Department of Law Enforcement shall conduct a state criminal
863 history background check, and a federal criminal history
864 background check must be conducted through the Federal Bureau of
865 Investigation. The office shall review the results of the state
866 and federal criminal history background checks and determine
867 whether the applicant meets licensure requirements. The
868 commission may waive, by rule, the requirement that applicants,

869 including any direct owners, principals, or indirect owners that
870 are required to be reported on Form BD or Form ADV pursuant to
871 subsection (15), submit fingerprints or the requirement that
872 such fingerprints be processed by the Department of Law
873 Enforcement or the Federal Bureau of Investigation. The
874 commission or office may require information about any such
875 applicant or person concerning such matters as:
876 (a) His or her full name, and any other names by which he
877 or she may have been known, and his or her age, social security
878 number, photograph, qualifications, and educational and business
879 history.
880 (b) Any injunction or administrative order by a state or
881 federal agency, national securities exchange, or national
882 securities association involving a security or any aspect of the
883 securities business and any injunction or administrative order
884 by a state or federal agency regulating banking, insurance,
885 finance, or small loan companies, real estate, mortgage brokers,
886 or other related or similar industries, which injunctions or
887 administrative orders relate to such person.
888 (c) His or her conviction of, or plea of nolo contendere
889 to, a criminal offense or his or her commission of any acts
890 which would be grounds for refusal of an application under s.
891 517.161.
892 (d) The names and addresses of other persons of whom the
893 office may inquire as to his or her character, reputation, and
894 financial responsibility.
895 (8) The commission or office may require the applicant or
896 one or more principals or general partners, or natural persons
897 exercising similar functions, or any associated person applicant

898 to successfully pass oral or written examinations. Because any
899 principal, manager, supervisor, or person exercising similar
900 functions shall be responsible for the acts of the associated
901 persons affiliated with a dealer, the examination standards may
902 be higher for a dealer, office manager, principal, or person
903 exercising similar functions than for a nonsupervisory
904 associated person. The commission may waive the examination
905 process when it determines that such examinations are not in the
906 public interest. The office shall waive the examination
907 requirements for any person who has passed any tests as
908 prescribed in s. 15(b)(7) of the Securities Exchange Act of 1934
909 that relates to the position to be filled by the applicant.
910 (9)(a) All dealers, except securities dealers who are
911 designated by the Federal Reserve Bank of New York as primary
912 government securities dealers or securities dealers registered
913 as issuers of securities, shall comply with the net capital and
914 ratio requirements imposed pursuant to the Securities Exchange
915 Act of 1934. The commission may by rule require a dealer to file
916 with the office any financial or operational information that is
917 required to be filed by the Securities Exchange Act of 1934 or
918 any rules adopted under such act.
919 (b) The commission may by rule require the maintenance of a
920 minimum net capital for securities dealers who are designated by
921 the Federal Reserve Bank of New York as primary government
922 securities dealers and securities dealers registered as issuers
923 of securities and investment advisers, or prescribe a ratio
924 between net capital and aggregate indebtedness, to assure
925 adequate protection for the investing public. The provisions of
926 this section shall not apply to any investment adviser that

927 maintains its principal place of business in a state other than
928 this state, provided such investment adviser is registered in
929 the state where it maintains its principal place of business and
930 is in compliance with such state's net capital requirements.
931 (10) An applicant for registration shall pay an assessment
932 fee of $200, in the case of a dealer or investment adviser, or
933 $50, in the case of an associated person. An associated person
934 may be assessed an additional fee to cover the cost for the
935 fingerprints to be processed by the office. Such fee shall be
936 determined by rule of the commission. Such fees become the
937 revenue of the state, except for those assessments provided for
938 under s. 517.131(1) until such time as the Securities Guaranty
939 Fund satisfies the statutory limits, and are not returnable in
940 the event that registration is withdrawn or not granted.
941 (11) If the office finds that the applicant is of good
942 repute and character and has complied with the provisions of
943 this chapter and the rules made pursuant hereto, it shall
944 register the applicant. The registration of each dealer,
945 investment adviser, and associated person expires on December 31
946 of the year the registration became effective unless the
947 registrant has renewed his or her registration on or before that
948 date. Registration may be renewed by furnishing such information
949 as the commission may require, together with payment of the fee
950 required in subsection (10) for dealers, investment advisers, or
951 associated persons and the payment of any amount lawfully due
952 and owing to the office pursuant to any order of the office or
953 pursuant to any agreement with the office. Any dealer,
954 investment adviser, or associated person who has not renewed a
955 registration by the time the current registration expires may

956 request reinstatement of such registration by filing with the
957 office, on or before January 31 of the year following the year
958 of expiration, such information as may be required by the
959 commission, together with payment of the fee required in
960 subsection (10) for dealers, investment advisers, or associated
961 persons and a late fee equal to the amount of such fee. Any
962 reinstatement of registration granted by the office during the
963 month of January shall be deemed effective retroactive to
964 January 1 of that year.
965 (12)(a) The office may issue a license to a dealer,
966 investment adviser, or associated person to evidence
967 registration under this chapter. The office may require the
968 return to the office of any license it may issue prior to
969 issuing a new license.
970 (b) Every dealer, investment adviser, or federal covered
971 adviser shall promptly file with the office, as prescribed by
972 rules adopted by the commission, notice as to the termination of
973 employment of any associated person registered for such dealer
974 or investment adviser in this state and shall also furnish the
975 reason or reasons for such termination.
976 (c) Each dealer or investment adviser shall designate in
977 writing to, and register with, the office a manager for each
978 office the dealer or investment adviser has in this state.
979 (13) Changes in registration occasioned by changes in
980 personnel of a partnership or in the principals, copartners,
981 officers, or directors of any dealer or investment adviser or by
982 changes of any material fact or method of doing business shall
983 be reported by written amendment in such form and at such time
984 as the commission may specify. In any case in which a person or

985 a group of persons, directly or indirectly or acting by or
986 through one or more persons, proposes to purchase or acquire a
987 controlling interest in a registered dealer or investment
988 adviser, such person or group shall submit an initial
989 application for registration as a dealer or investment adviser
990 prior to such purchase or acquisition. The commission shall
991 adopt rules providing for waiver of the application required by
992 this subsection where control of a registered dealer or
993 investment adviser is to be acquired by another dealer or
994 investment adviser registered under this chapter or where the
995 application is otherwise unnecessary in the public interest.
996 (14) Every dealer or investment adviser registered or
997 required to be registered or branch office notice-filed or
998 required to be notice-filed with the office shall keep records
999 of all currency transactions in excess of $10,000 and shall file
1000 reports, as prescribed under the financial recordkeeping
1001 regulations in 31 C.F.R. part 103, with the office when
1002 transactions occur in or from this state. All reports required
1003 by this subsection to be filed with the office shall be
1004 confidential and exempt from s. 119.07(1) except that any law
1005 enforcement agency or the Department of Revenue shall have
1006 access to, and shall be authorized to inspect and copy, such
1007 reports.
1008 (15)(a) In order to facilitate uniformity and streamline
1009 procedures for persons who are subject to registration or
1010 notification in multiple jurisdictions, the commission may adopt
1011 by rule uniform forms that have been approved by the Securities
1012 and Exchange Commission, and any subsequent amendments to such
1013 forms, if the forms are substantially consistent with the

1014 provisions of this chapter. Uniform forms that the commission
1015 may adopt to administer this section include, but are not
1016 limited to:
1017 1. Form BR, Uniform Branch Office Registration Form,
1018 adopted October 2005.
1019 2. Form U4, Uniform Application for Securities Industry
1020 Registration or Transfer, adopted October 2005.
1021 3. Form U5, Uniform Termination Notice for Securities
1022 Industry Registration, adopted October 2005.
1023 4. Form ADV, Uniform Application for Investment Adviser
1024 Registration, adopted October 2003.
1025 5. Form ADV-W, Notice of Withdrawal from Registration as an
1026 Investment Adviser, adopted October 2003.
1027 6. Form BD, Uniform Application for Broker-Dealer
1028 Registration, adopted July 1999.
1029 7. Form BDW, Uniform Request for Broker-Dealer Withdrawal,
1030 adopted August 1999.
1031 (b) In lieu of filing with the office the applications
1032 specified in subsection (6), the fees required by subsection
1033 (10), the renewals required by subsection (11), and the
1034 termination notices required by subsection (12), the commission
1035 may by rule establish procedures for the deposit of such fees
1036 and documents with the Central Registration Depository or the
1037 Investment Adviser Registration Depository of the Financial
1038 Industry Regulatory Authority, as developed under contract with
1039 the North American Securities Administrators Association, Inc.
1040 (16) Except for securities dealers who are designated by
1041 the Federal Reserve Bank of New York as primary government
1042 securities dealers or securities dealers registered as issuers

1043 of securities, every applicant for initial or renewal
1044 registration as a securities dealer and every person registered
1045 as a securities dealer shall be registered as a broker or dealer
1046 with the Securities and Exchange Commission and shall be subject
1047 to insurance coverage by the Securities Investor Protection
1048 Corporation.
1049 (17)(a) A dealer that is located in Canada, does not have
1050 an office or other physical presence in this state, and has made
1051 a notice-filing in accordance with this subsection is exempt
1052 from the registration requirements of this section and may
1053 effect transactions in securities with or for, or induce or
1054 attempt to induce the purchase or sale of any security by:
1055 1. A person from Canada who is present in this state and
1056 with whom the Canadian dealer had a bona fide dealer-client
1057 relationship before the person entered the United States; or
1058 2. A person from Canada who is present in this state and
1059 whose transactions are in a self-directed, tax-advantaged
1060 retirement plan in Canada of which the person is the holder or
1061 contributor.
1062 (b) A notice-filing under this subsection must consist of
1063 documents the commission by rule requires to be filed, together
1064 with a consent to service of process and a nonrefundable filing
1065 fee of $200. The commission may establish by rule procedures for
1066 the deposit of fees and the filing of documents to be made by
1067 electronic means, if such procedures provide the office with the
1068 information and data required by this section.
1069 (c) A Canadian dealer may make a notice-filing under this
1070 subsection if the dealer provides to the office:
1071 1. A notice-filing in the form the commission requires by

1072 rule.
1073 2. A consent to service of process.
1074 3. Evidence that the Canadian dealer is registered as a
1075 dealer in the jurisdiction in which the dealer's main office is
1076 located.
1077 4. Evidence that the Canadian dealer is a member of a self-
1078 regulatory organization or stock exchange in Canada.
1079 (d) The office may issue a permit to evidence the
1080 effectiveness of a notice-filing for a Canadian dealer.
1081 (e) A notice-filing is effective upon receipt by the
1082 office. A notice-filing expires on December 31 of the year in
1083 which the filing becomes effective unless the Canadian dealer
1084 has renewed the filing on or before that date. A Canadian dealer
1085 may annually renew a notice-filing by furnishing to the office
1086 such information as the office requires together with a renewal
1087 fee of $200 and the payment of any amount due and owing the
1088 office pursuant to any agreement with the office. Any Canadian
1089 dealer who has not renewed a notice-filing by the time a current
1090 notice-filing expires may request reinstatement of such notice-
1091 filing by filing with the office, on or before January 31 of the
1092 year following the year the notice-filing expires, such
1093 information as the commission requires by rule, together with
1094 the payment of $200 and a late fee of $200. A reinstatement of a
1095 notice-filing granted by the office during the month of January
1096 is effective retroactively to January 1 of that year.
1097 (f) An associated person who represents a Canadian dealer
1098 who has made a notice-filing under this subsection is exempt
1099 from the registration requirements of this section and may
1100 effect transactions in securities in this state as permitted for

1101 a dealer under paragraph (a) if such person is registered in the
1102 jurisdiction from which he or she is effecting transactions into
1103 this state.
1104 (g) A Canadian dealer who has made a notice-filing under
1105 this subsection shall:
1106 1. Maintain its provincial or territorial registration and
1107 its membership in a self-regulatory organization or stock
1108 exchange in good standing.
1109 2. Provide the office upon request with its books and
1110 records relating to its business in this state as a dealer.
1111 3. Provide the office upon request notice of each civil,
1112 criminal, or administrative action initiated against the dealer.
1113 4. Disclose to its clients in this state that the dealer
1114 and its associated persons are not subject to the full
1115 regulatory requirements under this chapter.
1116 5. Correct any inaccurate information within 30 days after
1117 the information contained in the notice-filing becomes
1118 inaccurate for any reason.
1119 (h) An associated person representing a Canadian dealer who
1120 has made a notice-filing under this subsection shall:
1121 1. Maintain provincial or territorial registration in good
1122 standing.
1123 2. Provide the office upon request with notice of each
1124 civil, criminal, or administrative action initiated against such
1125 person.
1126 (i) A notice-filing may be terminated by filing notice of
1127 such termination with the office. Unless another date is
1128 specified by the Canadian dealer, such notice is effective upon
1129 receipt of the notice by the office.

1130 (j) All fees collected under this subsection become the
1131 revenue of the state, except those assessments provided for
1132 under s. 517.131(1), until the Securities Guaranty Fund has
1133 satisfied the statutory limits. Such fees are not returnable if
1134 a notice-filing is withdrawn.
1135 (18) Every dealer or associated person registered or
1136 required to be registered with the office shall satisfy any
1137 continuing education requirements established by rule pursuant
1138 to law.
1139 (19) The registration requirements of this section which
1140 apply to investment advisers and associated persons do not apply
1141 to a commodity trading adviser who:
1142 (a) Is registered as such with the Commodity Futures
1143 Trading Commission pursuant to the Commodity Exchange Act.
1144 (b) Advises or exercises trading discretion, with respect
1145 to foreign currency options listed and traded exclusively on the
1146 Philadelphia Stock Exchange, on behalf of an "appropriate
1147 person" as defined by the Commodity Exchange Act.
1148
1149 The exemption provided in this subsection does not apply to a
1150 commodity trading adviser who engages in other activities that
1151 require registration under this chapter.
1152 (20) An intermediary may not engage in business in this
1153 state unless the intermediary is registered as a dealer or as an
1154 intermediary with the office pursuant to this section to
1155 facilitate the offer or sale of securities in accordance with s.
1156 517.0611. An intermediary, in order to obtain registration, must
1157 file with the office a written application on a form prescribed
1158 by commission rule and pay a registration fee of $200. The

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1159 commission may establish by rule procedures for depositing fees
1160 and filing documents by electronic means if such procedures
1161 provide the office with the information and data required by
1162 this section. Each intermediary must also file an irrevocable
1163 written consent to service of civil process, as provided for in
1164 s. 517.101.
1165 (a) The application must contain such information as the
1166 commission or office may require concerning:
1167 1. The name of the applicant and address of its principal
1168 office and each office in this state.
1169 2. The applicant's form and place of organization; and if
1170 the applicant is a corporation, a copy of its articles of
1171 incorporation and amendments to the articles of incorporation
1172 or, if a partnership, a copy of the partnership agreement.
1173 3. The website address where securities of the issuer will
1174 be offered.
1175 4. Contact information.
1176 (b) The application must also contain such information as
1177 the commission may require by rule about the applicant; any
1178 member, principal, or director of the applicant or any person
1179 having a similar status or performing similar functions; or any
1180 persons directly or indirectly controlling the applicant. Each
1181 applicant and any direct owners, principals, or indirect owners
1182 that are required to be reported on a form adopted by commission
1183 rule shall submit fingerprints for live-scan processing in
1184 accordance with rules adopted by the commission. The
1185 fingerprints may be submitted through a third-party vendor
1186 authorized by the Department of Law Enforcement to provide live-
1187 scan fingerprinting. The costs of fingerprint processing shall

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1188 be borne by the person subject to the background check. The
1189 Department of Law Enforcement shall conduct a state criminal
1190 history background check, and a federal criminal history
1191 background check must be conducted through the Federal Bureau of
1192 Investigation. The office shall review the results of the state
1193 and federal criminal history background checks and determine
1194 whether the applicant meets licensure requirements. The
1195 commission may waive, by rule, the requirement that applicants,
1196 including any direct owners, principals, or indirect owners,
1197 that are required to be reported on a form adopted by commission
1198 rule submit fingerprints or the requirement that such
1199 fingerprints be processed by the Department of Law Enforcement
1200 or the Federal Bureau of Investigation. The commission, by rule,
1201 or the office may require information about any applicant or
1202 person concerning such matters as:
1203 1. His or her full name and any other names by which he or
1204 she may have been known and his or her age, social security
1205 number, photograph, qualifications, and educational and business
1206 history.
1207 2. Any injunction or administrative order by a state or
1208 federal agency, national securities exchange, or national
1209 securities association involving a security or any aspect of the
1210 securities business and any injunction or administrative order
1211 by a state or federal agency regulating banking, insurance,
1212 finance, or small loan companies, real estate, mortgage brokers,
1213 or other related or similar industries, which relate to such
1214 person.
1215 3. His or her conviction of, or plea of nolo contendere to,
1216 a criminal offense or his or her commission of any acts that

1217 would be grounds for refusal of an application under s. 517.161.
1218 (c) The application must be amended within 30 days if any
1219 information contained in the form becomes inaccurate for any
1220 reason.
1221 (d) An intermediary or persons affiliated with the
1222 intermediary may not be subject to any disqualification
1223 described in s. 517.1611 or the United States Securities and
1224 Exchange Commission Rule 506(d), 17 C.F.R. 230.506(d), adopted
1225 pursuant to the Securities Act of 1933. Each director, officer,
1226 control person of the issuer, any person occupying a similar
1227 status or performing a similar function, and each person holding
1228 more than 20 percent of the shares of the intermediary is
1229 subject to this requirement.
1230 (e) If the office finds that the applicant is of good
1231 repute and character and has complied with the provisions of
1232 this chapter and the rules made pursuant hereto, it shall
1233 register the applicant. The registration of each intermediary
1234 expires on December 31 of the year the registration became
1235 effective unless the registrant has renewed his or her
1236 registration on or before that date. Registration may be renewed
1237 by furnishing such information as the commission may require by
1238 rule, together with payment of the fee of $200 and the payment
1239 of any amount due to the office pursuant to any order of the
1240 office or pursuant to any agreement with the office. An
1241 intermediary who has not renewed a registration by filing with
1242 the office on or before January 31 of the year following the
1243 year of expiration must submit the information that may be
1244 required by the commission, together with payment of the $200
1245 fee and a late fee of $200. Any reinstatement of registration

1246 granted by the office during the month of January shall be
1247 deemed effective retroactive to January 1 of that year.
1248 (21)~~(20)~~ The registration requirements of this section do
1249 not apply to any general lines insurance agent or life insurance
1250 agent licensed under chapter 626, for the sale of a security as
1251 defined in s. 517.021(22)(g) ~~s. 517.021(21)(g)~~, if the
1252 individual is directly authorized by the issuer to offer or sell
1253 the security on behalf of the issuer and the issuer is a
1254 federally chartered savings bank subject to regulation by the
1255 Federal Deposit Insurance Corporation. Actions under this
1256 subsection shall constitute activity under the insurance agent's
1257 license for purposes of ss. 626.611 and 626.621.
1258 Section 5. Subsections (1) and (2) of section 517.121,
1259 Florida Statutes, are amended to read:
1260 517.121 Books and records requirements; examinations.—
1261 (1) A dealer, investment adviser, branch office, or
1262 associated person, or intermediary shall maintain such books and
1263 records as the commission may prescribe by rule.
1264 (2) The office shall, at intermittent periods, examine the
1265 affairs and books and records of each registered dealer,
1266 investment adviser, associated person, intermediary, or branch
1267 office notice-filed with the office, or require such records and
1268 reports to be submitted to it as required by rule of the
1269 commission, to determine compliance with this act.
1270 Section 6. Section 517.161, Florida Statutes, is amended to
1271 read:
1272 517.161 Revocation, denial, or suspension of registration
1273 of dealer, investment adviser, intermediary, or associated
1274 person.—

1275 (1) Registration under s. 517.12 may be denied or any
1276 registration granted may be revoked, restricted, or suspended by
1277 the office if the office determines that such applicant or
1278 registrant; any member, principal, or director of the applicant
1279 or registrant or any person having a similar status or
1280 performing similar functions; or any person directly or
1281 indirectly controlling the applicant or registrant:
1282 (a) Has violated any provision of this chapter or any rule
1283 or order made under this chapter;
1284 (b) Has made a material false statement in the application
1285 for registration;
1286 (c) Has been guilty of a fraudulent act in connection with
1287 rendering investment advice or in connection with any sale of
1288 securities, has been or is engaged or is about to engage in
1289 making fictitious or pretended sales or purchases of any such
1290 securities or in any practice involving the rendering of
1291 investment advice or the sale of securities which is fraudulent
1292 or in violation of the law;
1293 (d) Has made a misrepresentation or false statement to, or
1294 concealed any essential or material fact from, any person in the
1295 rendering of investment advice or the sale of a security to such
1296 person;
1297 (e) Has failed to account to persons interested for all
1298 money and property received;
1299 (f) Has not delivered, after a reasonable time, to persons
1300 entitled thereto securities held or agreed to be delivered by
1301 the dealer, broker, or investment adviser, as and when paid for,
1302 and due to be delivered;
1303 (g) Is rendering investment advice or selling or offering

1304 for sale securities through any associated person not registered
1305 in compliance with the provisions of this chapter;
1306 (h) Has demonstrated unworthiness to transact the business
1307 of dealer, investment adviser, intermediary, or associated
1308 person;
1309 (i) Has exercised management or policy control over or
1310 owned 10 percent or more of the securities of any dealer,
1311 intermediary, or investment adviser that has been declared
1312 bankrupt, or had a trustee appointed under the Securities
1313 Investor Protection Act; or is, in the case of a dealer,
1314 intermediary, or investment adviser, insolvent;
1315 (j) Has been convicted of, or has entered a plea of guilty
1316 or nolo contendere to, regardless of whether adjudication was
1317 withheld, a crime against the laws of this state or any other
1318 state or of the United States or of any other country or
1319 government which relates to registration as a dealer, investment
1320 adviser, issuer of securities, intermediary, or associated
1321 person; which relates to the application for such registration;
1322 or which involves moral turpitude or fraudulent or dishonest
1323 dealing;
1324 (k) Has had a final judgment entered against her or him in
1325 a civil action upon grounds of fraud, embezzlement,
1326 misrepresentation, or deceit;
1327 (l) Is of bad business repute;
1328 (m) Has been the subject of any decision, finding,
1329 injunction, suspension, prohibition, revocation, denial,
1330 judgment, or administrative order by any court of competent
1331 jurisdiction, administrative law judge, or by any state or
1332 federal agency, national securities, commodities, or option

1333 exchange, or national securities, commodities, or option
1334 association, involving a violation of any federal or state
1335 securities or commodities law or any rule or regulation
1336 promulgated thereunder, or any rule or regulation of any
1337 national securities, commodities, or options exchange or
1338 national securities, commodities, or options association, or has
1339 been the subject of any injunction or adverse administrative
1340 order by a state or federal agency regulating banking,
1341 insurance, finance or small loan companies, real estate,
1342 mortgage brokers or lenders, money transmitters, or other
1343 related or similar industries. For purposes of this subsection,
1344 the office may not deny registration to any applicant who has
1345 been continuously registered with the office for 5 years after
1346 the date of entry of such decision, finding, injunction,
1347 suspension, prohibition, revocation, denial, judgment, or
1348 administrative order provided such decision, finding,
1349 injunction, suspension, prohibition, revocation, denial,
1350 judgment, or administrative order has been timely reported to
1351 the office pursuant to the commission's rules; or
1352 (n) Made payment to the office for a registration with a
1353 check or electronic transmission of funds that is dishonored by
1354 the applicant's or registrant's financial institution.
1355 (2) The payment or anticipated payment of any amount from
1356 the Securities Guaranty Fund in settlement of a claim or in
1357 satisfaction of a judgment against an applicant or registrant
1358 constitutes prima facie grounds for the denial of the
1359 applicant's application for registration or the revocation of
1360 the registrant's registration.
1361 (3) In the event the office determines to deny an

1362 application or revoke a registration, it shall enter a final
1363 order with its findings on the register of dealers and
1364 associated persons; and denial, suspension, or revocation of the
1365 registration of a dealer, intermediary, or investment adviser
1366 shall also deny, suspend, or revoke the registration of all her
1367 or his associated persons.
1368 (4) It shall be sufficient cause for denial of an
1369 application or revocation of registration, in the case of a
1370 partnership, corporation, or unincorporated association, if any
1371 member of the partnership or any officer, director, or ultimate
1372 equitable owner of the corporation or association has committed
1373 any act or omission which would be cause for denying, revoking,
1374 restricting, or suspending the registration of an individual
1375 dealer, investment adviser, intermediary, or associated person.
1376 As used in this subsection, the term "ultimate equitable owner"
1377 means a natural person who directly or indirectly owns or
1378 controls an ownership interest in the corporation, partnership,
1379 association, or other legal entity however organized, regardless
1380 of whether such natural person owns or controls such ownership
1381 interest through one or more proxies, powers of attorney,
1382 nominees, corporations, associations, partnerships, trusts,
1383 joint stock companies, or other entities or devices, or any
1384 combination thereof.
1385 (5) The office may deny any request to terminate or
1386 withdraw any application or registration if the office believes
1387 that an act which would be a ground for denial, suspension,
1388 restriction, or revocation under this chapter has been
1389 committed.
1390 (6) Registration under s. 517.12 may be denied or any

1391 registration granted may be suspended or restricted if an
1392 applicant or registrant is charged, in a pending enforcement
1393 action or pending criminal prosecution, with any conduct that
1394 would authorize denial or revocation under subsection (1).
1395 Registration under s. 517.12 may be suspended or restricted if a
1396 registrant is arrested for any conduct that would authorize
1397 revocation under subsection (1).
1398 (a) Any denial of registration ordered under this
1399 subsection shall be without prejudice to the applicant's ability
1400 to reapply for registration.
1401 (b) Any order of suspension or restriction under this
1402 subsection shall:
1403 1. Take effect only after a hearing, unless no hearing is
1404 requested by the registrant or unless the suspension or
1405 restriction is made in accordance with s. 120.60(6).
1406 2. Contain a finding that evidence of a prima facie case
1407 supports the charge made in the enforcement action or criminal
1408 prosecution.
1409 3. Operate for no longer than 10 days beyond receipt of
1410 notice by the office of termination with respect to the
1411 registrant of the enforcement action or criminal prosecution.
1412 (c) For purposes of this subsection:
1413 1. The term "enforcement action" means any judicial
1414 proceeding or any administrative proceeding where such judicial
1415 or administrative proceeding is brought by an agency of the
1416 United States or of any state to enforce or restrain violation
1417 of any state or federal law, or any disciplinary proceeding
1418 maintained by the Financial Industry Regulatory Authority, the
1419 National Futures Association, or any other similar self-

1420 regulatory organization.
1421 2. An enforcement action is pending at any time after
1422 notice to the applicant or registrant of such action and is
1423 terminated at any time after entry of final judgment or decree
1424 in the case of judicial proceedings, final agency action in the
1425 case of administrative proceedings, and final disposition by a
1426 self-regulatory organization in the case of disciplinary
1427 proceedings.
1428 3. A criminal prosecution is pending at any time after
1429 criminal charges are filed and is terminated at any time after
1430 conviction, acquittal, or dismissal.
1431 Section 7. Paragraph (b) of subsection (4) of section
1432 626.9911, Florida Statutes, is amended to read:
1433 626.9911 Definitions.—As used in this act, the term:
1434 (4) "Life expectancy provider" means a person who
1435 determines, or holds himself or herself out as determining, life
1436 expectancies or mortality ratings used to determine life
1437 expectancies:
1438 (b) In connection with a viatical settlement investment,
1439 pursuant to s. 517.021(24) ~~s. 517.021(23)~~; or
1440 Section 8. For the 2015-2016 fiscal year, the sum of
1441 $120,000 in nonrecurring funds from the Regulatory Trust Fund is
1442 appropriated to the Office of Financial Regulation for the
1443 purpose of implementing this act.
1444 Section 9. This act shall take effect October 1, 2015.

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 Appropriations

BILL: CS/CS/SB 914

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on General Government); Banking and Insurance Committee; and Senator Richter

SUBJECT: Intrastate Crowdfunding

DATE: April 24, 2015 REVISED: _____ _____ _____ _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Johnson	Knudson	BI	**Fav/CS**
2.	Betta	DeLoach	AGG	**Recommend: Fav/CS**
3.	Betta	Kynoch	AP	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 914 authorizes intrastate crowdfunding as a mechanism for small businesses to raise up to $1 million annually in crowdfunding securities. Issuers and intermediaries engaging in intrastate crowdfunding would be subject to specified requirements under the Florida Securities and Investor Protection Act, which is administered by the Office of Financial Regulation (OFR).

The bill creates an intrastate exemption for securities meeting certain state and federal requirements. The issuer, intermediary, investor, and transaction must be located in Florida in accordance with the federal intrastate exemption. Like the federal Jumpstart Our Business Startups Act[1] (JOBS Act), as described below, the bill exempts an issuer and the offering for a 12-month period for an offering of up to $1 million of securities, requires registration for the intermediary, and mirrors the federal law's investment limitations for investors. The bill requires issuer notice filings and intermediary registration with the OFR, disclosures to investors, an escrow agreement for investor funds, a right of rescission, and financial reporting to investors and to the OFR. The bill also gives authority to the Financial Services Commission to adopt rules relating to notice-filings and registration forms, books and records, and investor protections.

The bill provides a total appropriation of $120,000 from the Regulatory Trust Fund within the OFR for information technology and workload issues. Related to revenues, issuers are subject to

[1] Public Law 112-106.

a $200 notice-filing fee and intermediaries are subject to a $200 registration fee. The impact on state revenues is indeterminate at this time.

The bill provides an effective date of October 1, 2015.

II. Present Situation:

Federal Regulation of Securities

Securities Act of 1933

The federal Securities Act of 1933 (Securities Act), requires every offer or sale of securities using the means and instrumentalities of interstate commerce to be registered with the U.S. Securities and Exchange Commission (SEC), unless an exemption (such as the intrastate exemption) is available. The Securities Act's emphasis on disclosure of important financial information through the registration of securities enables investors to make informed judgments about whether to purchase a company's securities. While the SEC requires that the information provided be accurate, it does not guarantee it. Investors who purchase securities and suffer losses have recovery rights if they can prove that there was incomplete or inaccurate disclosure of important information.

Securities Exchange Act of 1934

With the enactment of the Securities Exchange Act of 1934 (act), Congress created the Securities and Exchange Commission. The act provides the SEC with broad authority over all aspects of the securities industry. This includes the power to register, regulate, and oversee brokerage firms, transfer agents, and clearing agencies as well as the nation's securities self-regulatory organizations (SROs). The New York Stock Exchange, the NASDAQ Stock Market, and the Chicago Board of Options, and the Financial Industry Regulatory Authority (FINRA) are forms of SROs.

The act also identifies and prohibits certain types of conduct in the markets and provides the SEC with disciplinary powers over regulated entities and persons associated with them. The act also authorizes the SEC to require periodic reporting of information by companies with publicly traded securities. Generally, any person acting as a "broker" or "dealer" as defined by Section 3(4), and 3(a)(5) of the Securities Exchange Act of 1934, respectively, must be registered with the SEC and join a self-regulatory organization—the Financial Industry Regulatory Authority (FINRA), a national securities exchange, or both. Broker-dealers must also comply with state laws relating to registration requirements.

Intrastate Exemption

Section 3(a)(11) of the Securities Act of 1933 provides: "Any security which is a part of an issue offered and sold only to persons resident within a single State or Territory, where the issuer of such security is a person resident and business within or, if a corporation, incorporated by and doing business within, such State or Territory."[2] Prior to the enactment of the JOBS Act, states

[2] 15 USC s. 77c(a)(11). SEC Rule 147 (17 CFR s. 230.147) provides a "safe harbor" that guarantees compliance with Section 3(a)(11) if the conditions set forth in the rule are met.

such as Kansas and Georgia had already enacted their own securities offering exemption pursuant to the federal intrastate exemption under Section 3(a)(11) of the Securities Act of 1933 and SEC Rule 147,[3] in an effort to stimulate state-based offerings.

Issuers may also rely on the SEC's Rule 147, known as the "safe harbor" rule, which provides specific guidance on section 3(a)(11) offerings. For example, Rule 147 specifies that at least 80 percent of the gross revenues and its subsidiaries (on a consolidated basis) be derived from the subject state in order to be deemed "doing business within a state or territory." Rule 147 states that the legislative history of section 3(a)(11) suggests that "the exemption was intended to apply only to issues genuinely local in character, which in reality represent local financing to local industries, carried out through local investment."

Unlike the Title III crowdfunding exemption of the JOBS Act, section 3(a)(11) does not limit the size of the offering, and unlike several other exemptions, section 3(a)(11) does not limit the number of investors or require that they be accredited. However, it is noted that section 3(a)(11) is strictly and narrowly construed, and if any of the securities are offered or sold to even one out-of-state person, the exemption may be lost and the company could be in violation of the Securities Act of 1933.[4] Broker-dealers that conduct their business on a purely intrastate basis are not required to register at the federal level.[5]

On April 10, 2014, the SEC issued interpretive guidance regarding section 3(a)(11) of the Securities Act of 1933 and the Internet.[6] The SEC indicated that use of a third-party Internet portal to promote an offering to residents of a single state would not violate the intrastate exemption, if the portal implemented "adequate measures," such as disclaimers, restrictive legends, and limited access to information about specific investment opportunities to persons who confirm they are residents of the relevant states by way of zip codes or address verification. Although the SEC's interpretive ruling is not conclusive, issuers generally would not be able to use popular social media platforms (such as Facebook, Twitter, or LinkedIn) to promote an intrastate crowdfunding offering, because these sites can be indiscriminately accessed by non-Florida residents. In addition, the issuer would likely need to ensure that an investor does not continue to use the portal after moving out of state.[7]

It is also important to note that section 3(a)(11) only provides an exemption from federal registration, but does not provide immunity from the antifraud or civil liability provisions of the federal securities laws, including investor rescission. States may still require registration for purely intrastate offerings involving a general solicitation of investors.

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[3] 17 CFR s. 230.147.

[4] U.S. SECURITIES & EXCHANGE COMMISSION, *Small Business and the SEC*, http://www.sec.gov/info/smallbus/qasbsec.htm#intrastate (last visited March 30, 2015).

[5] Section 15(a)(1) of the Securities Exchange Act provides an exemption from broker-dealer registration for a broker-dealer whose business is "exclusively intrastate and who does not make use of any facility of a national securities exchange." 15 U.S.C. 78o(a)(1).

[6] *See* Questions 141.03-141.05 (issued April 10, 2014), *available at* http://www.sec.gov/divisions/corpfin/guidance/securitiesactrules-interps.htm (last visited March 30, 2015).

[7] Elizabeth J. Chandler, *SEC Staff Releases Compliance and Disclosure Interpretations Related to Intrastate Crowdfunding*, THE NATIONAL LAW REVIEW (Apr. 14, 2014), http://www.natlawreview.com/article/sec-securities-and-exchange-commission-staff-releases-compliance-and-disclosure-inte (last visited March 30, 2015).

JOBS Act and Crowdfunding

Title III of the JOBS Act (Title III) provides an interstate exemption from the registration requirements for crowdfunding transactions. Unlike other securities exemptions, Title III permits the issuer (fundraiser) to advertise and solicit sales of securities from the public and to sell the securities to non-accredited investors without first registering with the SEC or other regulatory authority. Title III also allows intermediaries, either registered broker-dealers or a new Internet-based platform entity (funding portals), to facilitate the online offer or sale of securities, subject to certain requirements, including registering with "with any applicable self-regulatory organization," as defined in the 1934 Securities Exchange Act. The SEC's proposed rule provides that this self-regulatory organization is FINRA, which is the only registered national securities association.[8] If the Title III conditions are met, funding portals are exempt from having to also register with the SEC.

Certain companies are not eligible to use the Title III exemption, such as non-U.S. companies, companies that already are SEC reporting companies, certain investment companies, and others as determined by SEC rule. Title III also includes a disqualification provision under which the exemption is unavailable if the issuer or related persons were subject to certain disqualifying events, such as being subject to a state financial regulatory final order barring the individual from the financial industry or a criminal conviction involving the purchase or sale of securities or false filings with the SEC.

In addition to the requirements discussed above, to qualify for the exemption, crowdfunding transactions by an issuer (including all entities controlled by or under common control with the issuer) must meet the following:

- The amount raised must not exceed $1 million in a 12-month period.
- Individual investments in a 12-month period are limited to: the greater of $2,000 or five percent of annual income or net worth, if annual income or net worth of the investor is less than $100,000; and ten percent of annual income or net worth (not to exceed an amount sold of $100,000), if annual income or net worth of the investor is $100,000 or more.
- An offering made in reliance on the exemption must be conducted through an intermediary that is either a registered broker or a registered "funding portal." Transactions must be conducted through an intermediary that either is registered as a broker or is registered as a new type of entity called a "funding portal," which would be subject to an exemption from broker registration.
- Issuers and intermediaries that facilitate transactions between issuers and investors in reliance on the crowdfunding exemption must provide certain disclosures to investors and potential investors and provide notices and other information to the SEC.

The JOBS Act requires the SEC to adopt rules to implement interstate crowdfunding. On October 23, 2013, the SEC proposed rules that would implement Title III. The SEC has advised that no Title III (interstate) crowdfunding is permitted until the SEC's rules are finalized; specifically, one cannot operate a crowdfunding intermediary or funding portal unless registered in accordance with the final rules.[9]

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[8] SEC Proposed Regulation Crowdfunding Section 227.400.

[9] U.S. SECURITIES & EXCHANGE COMMISSION, Information Regarding the Use of Crowdfunding Exemption in the JOBS Act, at http://www.sec.gov/spotlight/jobsact/crowdfundingexemption.htm. *See also* JOBS Act Frequently Asked Questions About

Florida Regulation of Securities

In addition to federal securities laws, "Blue Sky Laws" are state laws that protect the investing public through registration requirements for both broker dealers and securities offerings, merit review of offerings, and various investor remedies for fraudulent sales practices and activities.[10] In Florida, the Securities and Investor Protection Act, chapter 517, F.S. (act), regulates securities issued, offered, and sold in the state of Florida. The Florida Office of Financial Regulation (OFR) regulates and registers the offer and sale of securities in, to, or from Florida by firms, branch offices, and individuals affiliated with these firms in accordance with the act and Chapter 69W, Florida Administrative Code. [11]

The act prohibits dealers, associated persons, and issuers from offering or selling securities in this state unless registered with the OFR or specifically exempted.[12] Additionally, all securities in Florida must be registered with the OFR unless they meet one of the exemptions in ss. 517.051 or 517.061, F.S., or are federally covered (i.e., under the exclusive jurisdiction of the SEC).[13] Failure to meet the requirements of these exemptions, can subject the issuer to civil, criminal, and administrative liability for the sale of unregistered securities, which is a third-degree felony in Florida.[14] Civil remedies under the act include rescission and damages.[15] In addition, issuers must comply with disclosure requirements in state and federal laws that provide potential investors with full and fair disclosures regarding the security.

Currently, no Florida exemption permits the advertising or solicitation for the offer or sale of unregistered securities to the public, or for securities sold to the public to be sold by an unregistered dealer.

III. Effect of Proposed Changes:

The bill creates an intrastate exemption for crowdfunding transactions from the registration requirements under s. 517.061, F.S., for the offer and sale of certain securities. The bill contains provisions from the JOBS Act and is limited to intrastate offerings under 15 U.S.C. s. 77c(a)(11). The bill provides the securities in crowdfunding transactions may be generally advertised and sold over the Internet and are not required to be sold through a registered broker-dealer when offered to the general public, but may be sold through an intermediary. The bill provides for the offer and sale of up to $1 million of unregistered securities per offering, and sets forth terms and conditions for issuers and intermediaries offering and selling such securities.

Crowdfunding Intermediaries, at http://www.sec.gov/divisions/marketreg/tmjobsact-crowdfundingintermediariesfaq.htm (last visited March 30, 2015).

[10] U.S. Securities and Exchange Commission, *Blue Sky Laws*, http://www.sec.gov/answers/bluesky.htm (last visited March 30, 2015).

[11] Pursuant to s. 20.121(3)(a), F.S., the Financial Services Commission (the Governor and Cabinet) serves as the OFR's agency head for purposes of rulemaking and appoints the OFR's Commissioner, who serves as the agency head for purposes of final agency action for all areas within the OFR's regulatory authority.

[12] Section. 517.12, F.S.

[13] Section 517.07, F.S. If a security is registered with the SEC, s. 517.082, F.S., requires the broker or issuer to notify OFR that the security is registered with the SEC.

[14] Section 517.302(1), F.S.

[15] Section 517.211(3-5), F.S.

Section 1 amends s. 517.021, F.S., to define an intermediary to mean a natural person residing in this state, or a corporation, trust, partnership, association, or any other legal entity registered with the Secretary of State to do business in Florida, that represents an issuer in a transaction involving the offer or sale of securities under s. 517.061, F.S.

Section 2 amends s. 517.061, F.S., to provide that the offer or sale of a security by an issuer conducted in accordance with s. 517.0611, F.S., is exempt from registration.

Section 3 creates s. 517.0611, F.S., the Florida Intrastate Crowdfunding Exemption. An offer or sale of a security by an issuer is an exempt transaction under s. 517.061, F.S., if the offer or sale meets the requirements of this section. The exemption may not be used in conjunction with any other exemption under ss. 517.051 or 517.061, F.S. The offer or sale of the securities under this section must be conducted in accordance with the requirements of the federal exemption for intrastate exemptions in s. 3(a)(11) of the Securities Act of 1933, 15 U.S.C. s. 77c(a)(11), and U. S. SEC Rule 147, 17 C.F.R. s. 230.147, adopted pursuant to the Securities Act of 1933.

Issuer Requirements

The issuer, to qualify for the intrastate crowdfunding exemption, must:

- Be a for-profit business entity formed under the laws of this state and be registered with the Secretary of State.
- Conduct transactions for the offering through a dealer or intermediary registered with the OFR.
- Not be, either before or as a result of the offering, an investment company as defined in s. 3 of the Investment Company Act of 1940, 15 U.S.C. s. 80a-3, or subject to the reporting requirements of s. 13 or s. 15(d) of the Securities Exchange Act of 1934, 15 U.S.C. s. 78m or s. 78o(d).
- Not be subject to a disqualification established by the commission or the OFR, or a disqualification described in s. 517.1611 F.S. or the U.S. SEC Rule 5069d), 17 C.F.R. 230.506(d), adopted pursuant to the Securities Act of 1933.
- Not be a company with an undefined business operation, a company that lacks a business plan, or meets other conditions specified.
- Execute an escrow agreement with a financial institution. The issuer must also provide the OFR with a copy of the escrow agreement with such a financial institution. The escrow agreement must require that offering proceeds be released to the issuer only when the aggregate capital raised from all investors is equal to or greater than the minimum target offering amount specified in the disclosure statement as necessary to implement the business plan. The agreement must also provide all investors will receive a full refund of their investment commitment if that target-offering amount is not raised by the date stated in the disclosure statement.
- Allow investors to cancel a commitment to invest within three business days before the offering deadline.

The issuer must submit a notice filing with the OFR at least ten days before the issuer commences an offering or the offering is displayed on a website. The notice must indicate that the issuer is conducting an offering in reliance upon this exemption. The notice must contain the

contact information of the issuer, identify key persons who will be involved in the offer or sale of securities on behalf of the issuer, and disclose the federally insured financial institution authorized to do business in this state in which investor funds will be deposited. Further, the notice must include an attestation under oath that the issuer and other key persons are not currently and have not been within the past ten years the subject of regulatory or criminal actions involving fraud or deceit. The notice must document that the issuer is organized under the laws of Florida and authorized to do business in Florida and include the target offering amount.

The issuer must provide a disclosure statement to investors and the dealer or intermediary, along with a copy to the OFR at the time the notice is filed, and make available to potential investors through the dealer or intermediary. This disclosure would include a description of the business of and financial condition of the issuer and the anticipated business plan of the issuer, information about the offering.

The bill provides that the sum of all cash and other consideration received for all sales of the security in reliance upon this exemption must not exceed $1 million, less the aggregate amount received for all sales of securities by the issuer within the 12 months preceding the first offer or sale made in reliance upon this exemption. Unless the investor is an accredited investor as defined by Rule 501 of Regulation D under the Securities Act of 1933, the aggregate amount sold by an issuer to an investor in transactions exempt from registration requirements under this section during a 12-month period may not exceed:

- If the annual income and net worth of the investor are less than $100,000, the greater of $2,000, five percent of the annual income of the investor, or five percent of the net worth of the investor.
- If the annual income or net worth of the investor is $100,000 or more, the greater of $100,000, ten percent of the annual income of the investor, or ten percent of the net worth of the investor.

Intermediary Requirements:

An intermediary is subject to registration requirements as provided in **section 4** of the bill. The bill requires an intermediary to:

- Provide basic information on its platform regarding the high risk of investment in and limitation on the resale of exempt securities and the potential for loss of an entire investment. The basic information shall include:
  - A description of the escrow agreement that the issuer has executed and the conditions for the release of such funds to the issuer in accordance with the agreement.
  - A description of whether financial information provided by the issuer has been audited by an independent certified public accountant.
- Maintain records of the offers and sales of securities made through its platform, as prescribed by commission rule, and provide access to such records upon request by the OIR.
- Verify, pursuant to commission rule, that an investor is a resident of Florida.
- Deposit and release investor funds in escrow pursuant to the escrow agreement executed by the issuer.
- Provide a monthly update for each offering, which is accessible on the intermediary's platform, and includes the date and amount of each sale of securities in the previous calendar month.

- Implement written policies and procedures that are reasonably designed to achieve compliance with federal and state securities laws; comply with anti-money laundering requirements of 31 C.F.R. ch. X applicable to registered brokers; and comply with the privacy requirements of 17 C.F.R. part 248 as they apply to brokers.

Sections 4 amends s. 517.12, F.S., by requiring an intermediary to register as a dealer or as an intermediary and pay a registration fee of $200 to the OFR. An intermediary or persons associated with an intermediary are subject to a criminal background check. Further, an intermediary or persons associated with an intermediary may not be subject to any disqualification described in s. 517.1611, F.S., or the SEC Rule 506(d), 17 C.F.R. 230.506(d), adopted pursuant to the Securities Act of 1933.

Section 5 amends s. 517.121, F.S., to provide that an intermediary is subject to examination by the OFR and must maintain certain books and records.

Section 6 amends s. 517.161, F.S**.,** to provide the OFR with enforcement authority to take regulatory actions against an intermediary.

Section 7 provides a technical conforming change to s. 626.9911, F.S.

Section 8 appropriates $120,000 in nonrecurring funds from the Regulatory Trust Fund within the OFR to implement the bill.

Section 9 provides the act will take effect October 1, 2015.

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:

CS/CS/SB 914 creates a $200 notice-filing fee for issuers and a $200 registration fee for intermediaries.

B. Private Sector Impact:

The bill will provide start-up and small companies with another option for raising capital that would not be subject to securities registration with the OFR if certain requirements were met.

C. Government Sector Impact:

The bill provides a total appropriation of $120,000 in nonrecurring funds from the Regulatory Trust Fund to implement the provisions of this bill. This includes an estimated $63,150 to update the licensure system and provide additional data storage, along with $56,850 for Other Personnel Services for temporary employees related to workload.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 517.021, 517.061, 517.12, and 626.9911.

IX. Additional Information:

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

CS/CS by Appropriations on April 23, 2015:
The committee substitute provides $120,000 in nonrecurring funds from the Regulatory Trust Fund to implement the act, in addition to a technical, clarifying change.

CS by Banking and Insurance on March 31, 2015:
The CS provides the following changes:

- Clarifies provisions to be consistent with the requirements of the federal JOBS Act and the intrastate exemption authorized under the Securities Act of 1933.
- Requires the issuer to file an irrevocable written consent to service of civil process with the OFR.
- Requires the issuer to provide a disclosure statement and a copy of the escrow agreement to the OFR that meets certain requirements.
- Clarifies intermediary registration requirements.
- Requires intermediary to maintain certain books and records as prescribed by commission rule and be subject to examination by the OFR.
- Provides technical and conforming changes.

B. Amendments:

None.

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

By the Committee on Banking and Insurance; and Senator Richter

A bill to be entitled

An act relating to intrastate crowdfunding; amending s. 517.021, F.S.; conforming a cross-reference; defining the term "intermediary" for purposes of the Florida Securities and Investor Protection Act; amending s. 517.061, F.S.; exempting offers or sales of securities by certain issuers from registration requirements; creating s. 517.0611, F.S.; providing a short title; exempting the intrastate offering and sale of certain securities from certain regulatory requirements; providing applicability; providing registration and reporting requirements for issuers and intermediaries offering such securities; requiring the issuer to provide to the office a copy of a specified escrow agreement; limiting the aggregate amount of sales of such securities within a specified period; limiting the aggregate amount of sales to specified investors; requiring an issuer to produce and distribute an annual report to investors; requiring a notice-filing to be suspended under certain circumstances; specifying that fees collected become revenue of the state; requiring a qualified third party to hold certain funds in escrow; amending s. 517.12, F.S.; providing registration requirements for an intermediary; conforming a cross-reference; amending s. 517.121, F.S.; requiring an intermediary to comply with specified recordkeeping requirements; amending s. 517.161, F.S.; including an intermediary in the disciplinary provisions; amending s. 626.9911,

F.S.; conforming a cross-reference; providing an effective date.

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

Section 1. Subsection (9) of section 517.021, Florida Statutes, is amended, subsections (13) through (23) are redesignated as subsections (14) through (24), respectively, and a new subsection (13) is added to that section, to read:

517.021 Definitions.—When used in this chapter, unless the context otherwise indicates, the following terms have the following respective meanings:

(9) "Federal covered adviser" means a person who is registered or required to be registered under s. 203 of the Investment Advisers Act of 1940. The term "federal covered adviser" does not include any person who is excluded from the definition of investment adviser under subparagraphs (14)(b)1.-8. ~~(13)(b)1.-8~~.

(13) "Intermediary" means a natural person residing in the state or a corporation, trust, partnership, association, or other legal entity registered with the Secretary of State to do business in the state which represents an issuer in a transaction involving the offer or sale of securities under s. 517.061.

Section 2. Section 517.061, Florida Statutes, is amended to read:

517.061 Exempt transactions.—Except as otherwise provided in s. 517.0611 for a transaction listed in subsection (21), the exemption for each transaction listed below is self-executing

59 and does not require any filing with the office before ~~prior to~~
60 claiming the ~~such~~ exemption. Any person who claims entitlement
61 to any of the exemptions bears the burden of proving such
62 entitlement in any proceeding brought under this chapter. The
63 registration provisions of s. 517.07 do not apply to any of the
64 following transactions; however, such transactions are subject
65 to the provisions of ss. 517.301, 517.311, and 517.312:
66 (1) At any judicial, executor's, administrator's,
67 guardian's, or conservator's sale, or at any sale by a receiver
68 or trustee in insolvency or bankruptcy, or any transaction
69 incident to a judicially approved reorganization in which a
70 security is issued in exchange for one or more outstanding
71 securities, claims, or property interests.
72 (2) By or for the account of a pledgeholder or mortgagee
73 selling or offering for sale or delivery in the ordinary course
74 of business and not for the purposes of avoiding the provisions
75 of this chapter, to liquidate a bona fide debt, a security
76 pledged in good faith as security for such debt.
77 (3) The isolated sale or offer for sale of securities when
78 made by or on behalf of a vendor not the issuer or underwriter
79 of the securities, who, being the bona fide owner of such
80 securities, disposes of her or his own property for her or his
81 own account, and such sale is not made directly or indirectly
82 for the benefit of the issuer or an underwriter of such
83 securities or for the direct or indirect promotion of any scheme
84 or enterprise with the intent of violating or evading any
85 provision of this chapter. For purposes of this subsection,
86 isolated offers or sales include, but are not limited to, an
87 isolated offer or sale made by or on behalf of a vendor of

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88 securities not the issuer or underwriter of the securities if:
89 (a) The offer or sale of securities is in a transaction
90 satisfying all of the requirements of subparagraphs (11)(a)1.,
91 2., 3., and 4. and paragraph (11)(b); or
92 (b) The offer or sale of securities is in a transaction
93 exempt under s. 4(1) of the Securities Act of 1933, as amended.
94
95 For purposes of this subsection, any person, including, without
96 limitation, a promoter or affiliate of an issuer, shall not be
97 deemed an underwriter, an issuer, or a person acting for the
98 direct or indirect benefit of the issuer or an underwriter with
99 respect to any securities of the issuer which she or he has
100 owned beneficially for at least 1 year.
101 (4) The distribution by a corporation, trust, or
102 partnership, actively engaged in the business authorized by its
103 charter or other organizational articles or agreement, of
104 securities to its stockholders or other equity security holders,
105 partners, or beneficiaries as a stock dividend or other
106 distribution out of earnings or surplus.
107 (5) The issuance of securities to such equity security
108 holders or other creditors of a corporation, trust, or
109 partnership in the process of a reorganization of such
110 corporation or entity, made in good faith and not for the
111 purpose of avoiding the provisions of this chapter, either in
112 exchange for the securities of such equity security holders or
113 claims of such creditors or partly for cash and partly in
114 exchange for the securities or claims of such equity security
115 holders or creditors.
116 (6) Any transaction involving the distribution of the

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117 securities of an issuer exclusively among its own security
118 holders, including any person who at the time of the transaction
119 is a holder of any convertible security, any nontransferable
120 warrant, or any transferable warrant which is exercisable within
121 not more than 90 days of issuance, when no commission or other
122 remuneration is paid or given directly or indirectly in
123 connection with the sale or distribution of such additional
124 securities.
125 (7) The offer or sale of securities to a bank, trust
126 company, savings institution, insurance company, dealer,
127 investment company as defined by the Investment Company Act of
128 1940, pension or profit-sharing trust, or qualified
129 institutional buyer as defined by rule of the commission in
130 accordance with Securities and Exchange Commission Rule 144A (17
131 C.F.R. s. 230.144(A)(a)), whether any of such entities is acting
132 in its individual or fiduciary capacity; provided that such
133 offer or sale of securities is not for the direct or indirect
134 promotion of any scheme or enterprise with the intent of
135 violating or evading any provision of this chapter.
136 (8) The sale of securities from one corporation to another
137 corporation provided that:
138 (a) The sale price of the securities is $50,000 or more;
139 and
140 (b) The buyer and seller corporations each have assets of
141 $500,000 or more.
142 (9) The offer or sale of securities from one corporation to
143 another corporation, or to security holders thereof, pursuant to
144 a vote or consent of such security holders as may be provided by
145 the articles of incorporation and the applicable corporate

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146 statutes in connection with mergers, share exchanges,
147 consolidations, or sale of corporate assets.
148 (10) The issuance of notes or bonds in connection with the
149 acquisition of real property or renewals thereof, if such notes
150 or bonds are issued to the sellers of, and are secured by all or
151 part of, the real property so acquired.
152 (11)(a) The offer or sale, by or on behalf of an issuer, of
153 its own securities, which offer or sale is part of an offering
154 made in accordance with all of the following conditions:
155 1. There are no more than 35 purchasers, or the issuer
156 reasonably believes that there are no more than 35 purchasers,
157 of the securities of the issuer in this state during an offering
158 made in reliance upon this subsection or, if such offering
159 continues for a period in excess of 12 months, in any
160 consecutive 12-month period.
161 2. Neither the issuer nor any person acting on behalf of
162 the issuer offers or sells securities pursuant to this
163 subsection by means of any form of general solicitation or
164 general advertising in this state.
165 3. Before ~~Prior to~~ the sale, each purchaser or the
166 purchaser's representative, if any, is provided with, or given
167 reasonable access to, full and fair disclosure of all material
168 information.
169 4. No person defined as a "dealer" in this chapter is paid
170 a commission or compensation for the sale of the issuer's
171 securities unless such person is registered as a dealer under
172 this chapter.
173 5. When sales are made to five or more persons in this
174 state, any sale in this state made pursuant to this subsection

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175 is voidable by the purchaser in such sale either within 3 days
176 after the first tender of consideration is made by such
177 purchaser to the issuer, an agent of the issuer, or an escrow
178 agent or within 3 days after the availability of that privilege
179 is communicated to such purchaser, whichever occurs later.
180 (b) The following purchasers are excluded from the
181 calculation of the number of purchasers under subparagraph
182 (a)1.:
183 1. Any relative or spouse, or relative of such spouse, of a
184 purchaser who has the same principal residence as such
185 purchaser.
186 2. Any trust or estate in which a purchaser, any of the
187 persons related to such purchaser specified in subparagraph 1.,
188 and any corporation specified in subparagraph 3. collectively
189 have more than 50 percent of the beneficial interest (excluding
190 contingent interest).
191 3. Any corporation or other organization of which a
192 purchaser, any of the persons related to such purchaser
193 specified in subparagraph 1., and any trust or estate specified
194 in subparagraph 2. collectively are beneficial owners of more
195 than 50 percent of the equity securities or equity interest.
196 4. Any purchaser who makes a bona fide investment of
197 $100,000 or more, provided such purchaser or the purchaser's
198 representative receives, or has access to, the information
199 required to be disclosed by subparagraph (a)3.
200 5. Any accredited investor, as defined by rule of the
201 commission in accordance with Securities and Exchange Commission
202 Regulation 230.501 (17 C.F.R. s. 230.501).
203 (c)1. For purposes of determining which offers and sales of

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204 securities constitute part of the same offering under this
205 subsection and are therefore deemed to be integrated with one
206 another:
207 a. Offers or sales of securities occurring more than 6
208 months before ~~prior to~~ an offer or sale of securities made
209 pursuant to this subsection shall not be considered part of the
210 same offering, provided there are no offers or sales by or for
211 the issuer of the same or a similar class of securities during
212 such 6-month period.
213 b. Offers or sales of securities occurring at any time
214 after 6 months from an offer or sale made pursuant to this
215 subsection shall not be considered part of the same offering,
216 provided there are no offers or sales by or for the issuer of
217 the same or a similar class of securities during such 6-month
218 period.
219 2. Offers or sales which do not satisfy the conditions of
220 any of the provisions of subparagraph 1. may or may not be part
221 of the same offering, depending on the particular facts and
222 circumstances in each case. The commission may adopt a rule or
223 rules indicating what factors should be considered in
224 determining whether offers and sales not qualifying for the
225 provisions of subparagraph 1. are part of the same offering for
226 purposes of this subsection.
227 (d) Offers or sales of securities made pursuant to, and in
228 compliance with, any other subsection of this section or any
229 subsection of s. 517.051 shall not be considered part of an
230 offering pursuant to this subsection, regardless of when such
231 offers and sales are made.
232 (12) The sale of securities by a bank or trust company

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233 organized or incorporated under the laws of the United States or
234 this state at a profit to such bank or trust company of not more
235 than 2 percent of the total sale price of such securities;
236 provided that there is no solicitation of this business by such
237 bank or trust company where such bank or trust company acts as
238 agent in the purchase or sale of such securities.
239 (13) An unsolicited purchase or sale of securities on order
240 of, and as the agent for, another by a dealer registered
241 pursuant to the provisions of s. 517.12; provided that this
242 exemption applies solely and exclusively to such registered
243 dealers and does not authorize or permit the purchase or sale of
244 securities on order of, and as agent for, another by any person
245 other than a dealer so registered; and provided, further, that
246 such purchase or sale is not directly or indirectly for the
247 benefit of the issuer or an underwriter of such securities or
248 for the direct or indirect promotion of any scheme or enterprise
249 with the intent of violation or evading any provision of this
250 chapter.
251 (14) The offer or sale of shares of a corporation which
252 represent ownership, or entitle the holders of the shares to
253 possession and occupancy, of specific apartment units in
254 property owned by such corporation and organized and operated on
255 a cooperative basis, solely for residential purposes.
256 (15) The offer or sale of securities under a bona fide
257 employer-sponsored stock option, stock purchase, pension,
258 profit-sharing, savings, or other benefit plan when offered only
259 to employees of the sponsoring organization or to employees of
260 its controlled subsidiaries.
261 (16) The sale by or through a registered dealer of any

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262 securities option if at the time of the sale of the option:
263 (a) The performance of the terms of the option is
264 guaranteed by any dealer registered under the federal Securities
265 Exchange Act of 1934, as amended, which guaranty and dealer are
266 in compliance with such requirements or rules as may be approved
267 or adopted by the commission; or
268 (b) Such options transactions are cleared by the Options
269 Clearing Corporation or any other clearinghouse recognized by
270 the office; and
271 (c) The option is not sold by or for the benefit of the
272 issuer of the underlying security; and
273 (d) The underlying security may be purchased or sold on a
274 recognized securities exchange or is quoted on the National
275 Association of Securities Dealers Automated Quotation System;
276 and
277 (e) Such sale is not directly or indirectly for the purpose
278 of providing or furthering any scheme to violate or evade any
279 provisions of this chapter.
280 (17)(a) The offer or sale of securities, as agent or
281 principal, by a dealer registered pursuant to s. 517.12, when
282 such securities are offered or sold at a price reasonably
283 related to the current market price of such securities, provided
284 such securities are:
285 1. Securities of an issuer for which reports are required
286 to be filed by s. 13 or s. 15(d) of the Securities Exchange Act
287 of 1934, as amended;
288 2. Securities of a company registered under the Investment
289 Company Act of 1940, as amended;
290 3. Securities of an insurance company, as that term is

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291 defined in s. 2(a)(17) of the Investment Company Act of 1940, as
292 amended;
293 4. Securities, other than any security that is a federal
294 covered security pursuant to s. 18(b)(1) of the Securities Act
295 of 1933 and is not subject to any registration or filing
296 requirements under this act, which appear in any list of
297 securities dealt in on any stock exchange registered pursuant to
298 the Securities Exchange Act of 1934, as amended, and which
299 securities have been listed or approved for listing upon notice
300 of issuance by such exchange, and also all securities senior to
301 any securities so listed or approved for listing upon notice of
302 issuance, or represented by subscription rights which have been
303 so listed or approved for listing upon notice of issuance, or
304 evidences of indebtedness guaranteed by companies any stock of
305 which is so listed or approved for listing upon notice of
306 issuance, such securities to be exempt only so long as such
307 listings or approvals remain in effect. The exemption provided
308 for herein does not apply when the securities are suspended from
309 listing approval for listing or trading.
310 (b) The exemption provided in this subsection does not
311 apply if the sale is made for the direct or indirect benefit of
312 an issuer or controlling persons of such issuer or if such
313 securities constitute the whole or part of an unsold allotment
314 to, or subscription or participation by, a dealer as an
315 underwriter of such securities.
316 (c) This exemption shall not be available for any
317 securities which have been denied registration pursuant to s.
318 517.111. Additionally, the office may deny this exemption with
319 reference to any particular security, other than a federal

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320 covered security, by order published in such manner as the
321 office finds proper.
322 (18) The offer or sale of any security effected by or
323 through a person in compliance with s. 517.12(17).
324 (19) Other transactions defined by rules as transactions
325 exempted from the registration provisions of s. 517.07, which
326 rules the commission may adopt from time to time, but only after
327 a finding by the office that the application of the provisions
328 of s. 517.07 to a particular transaction is not necessary in the
329 public interest and for the protection of investors because of
330 the small dollar amount of securities involved or the limited
331 character of the offering. In conjunction with its adoption of
332 such rules, the commission may also provide in such rules that
333 persons selling or offering for sale the exempted securities are
334 exempt from the registration requirements of s. 517.12. No rule
335 so adopted may have the effect of narrowing or limiting any
336 exemption provided for by statute in the other subsections of
337 this section.
338 (20) Any nonissuer transaction by a registered associated
339 person of a registered dealer, and any resale transaction by a
340 sponsor of a unit investment trust registered under the
341 Investment Company Act of 1940, in a security of a class that
342 has been outstanding in the hands of the public for at least 90
343 days; provided, at the time of the transaction:
344 (a) The issuer of the security is actually engaged in
345 business and is not in the organization stage or in bankruptcy
346 or receivership and is not a blank check, blind pool, or shell
347 company whose primary plan of business is to engage in a merger
348 or combination of the business with, or an acquisition of, any

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349 unidentified person;
350 (b) The security is sold at a price reasonably related to
351 the current market price of the security;
352 (c) The security does not constitute the whole or part of
353 an unsold allotment to, or a subscription or participation by,
354 the broker-dealer as an underwriter of the security;
355 (d) A nationally recognized securities manual designated by
356 rule of the commission or order of the office or a document
357 filed with the Securities and Exchange Commission that is
358 publicly available through the commission's electronic data
359 gathering and retrieval system contains:
360 1. A description of the business and operations of the
361 issuer;
362 2. The names of the issuer's officers and directors, if
363 any, or, in the case of an issuer not domiciled in the United
364 States, the corporate equivalents of such persons in the
365 issuer's country of domicile;
366 3. An audited balance sheet of the issuer as of a date
367 within 18 months before such transaction or, in the case of a
368 reorganization or merger in which parties to the reorganization
369 or merger had such audited balance sheet, a pro forma balance
370 sheet; and
371 4. An audited income statement for each of the issuer's
372 immediately preceding 2 fiscal years, or for the period of
373 existence of the issuer, if in existence for less than 2 years
374 or, in the case of a reorganization or merger in which the
375 parties to the reorganization or merger had such audited income
376 statement, a pro forma income statement; and
377 (e) The issuer of the security has a class of equity

378 securities listed on a national securities exchange registered
379 under the Securities Exchange Act of 1934 or designated for
380 trading on the National Association of Securities Dealers
381 Automated Quotation System, unless:
382 1. The issuer of the security is a unit investment trust
383 registered under the Investment Company Act of 1940;
384 2. The issuer of the security has been engaged in
385 continuous business, including predecessors, for at least 3
386 years; or
387 3. The issuer of the security has total assets of at least
388 $2 million based on an audited balance sheet as of a date within
389 18 months before such transaction or, in the case of a
390 reorganization or merger in which parties to the reorganization
391 or merger had such audited balance sheet, a pro forma balance
392 sheet.
393 (21) The offer or sale of a security by an issuer conducted
394 in accordance with s. 517.0611.
395 Section 3. Section 517.0611, Florida Statutes, is created
396 to read:
397 517.0611 Intrastate crowdfunding.—
398 (1) This section may be cited as the "Florida Intrastate
399 Crowdfunding Exemption."
400 (2) Notwithstanding any other provision of this chapter, an
401 offer or sale of a security by an issuer is an exempt
402 transaction under s. 517.061 if the offer or sale is conducted
403 in accordance with this section. The exemption provided in this
404 section may not be used in conjunction with any other exemption
405 under s. 517.051 or s.517.061.
406 (3) The offer or sale of securities under this section must

407 be conducted in accordance with the requirements of the federal
408 exemption for intrastate offerings in s. 3(a)(11) of the
409 Securities Act of 1933, 15 U.S.C. s. 77c(a)(11), and United
410 States Securities and Exchange Commission Rule 147, 17 C.F.R. s.
411 230.147, adopted pursuant to the Securities Act of 1933.
412 (4) An issuer must:
413 (a) Be a for-profit business entity formed under the laws
414 of this state, be registered with the Secretary of State,
415 maintain its principal place of business in this state, and
416 derive its revenues primarily from operations in this state.
417 (b) Conduct transactions for the offering through a dealer
418 registered with the office or an intermediary registered under
419 s. 517.12(20).
420 (c) Not be, either before or as a result of the offering,
421 an investment company as defined in s. 3 of the Investment
422 Company Act of 1940, 15 U.S.C. s. 80a-3, or subject to the
423 reporting requirements of s. 13 or s. 15(d) of the Securities
424 Exchange Act of 1934, 15 U.S.C. s. 78m or s. 78o(d).
425 (d) Not be a company with an undefined business operation,
426 a company that lacks a business plan, a company that lacks a
427 stated investment goal for the funds being raised, or a company
428 that plans to engage in a merger or acquisition with an
429 unspecified business entity.
430 (e) Not be subject to a disqualification established by the
431 commission or office or a disqualification described in s.
432 517.1611 or United States Securities and Exchange Commission
433 Rule 506(d), 17 C.F.R. 230.506(d), adopted pursuant to the
434 Securities Act of 1933. Each director, officer, person occupying
435 a similar status or performing a similar function, or person

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436 holding more than 20 percent of the shares of the issuer, is
437 subject to this requirement.
438 (f) Execute an escrow agreement with a federally insured
439 financial institution authorized to do business in this state
440 for the deposit of investor funds, and ensure that all offering
441 proceeds are provided to the issuer only when the aggregate
442 capital raised from all investors is equal to or greater than
443 the target offering amount.
444 (g) Allow investors to cancel a commitment to invest within
445 3 business days before the offering deadline, as stated in the
446 disclosure statement, and issue refunds to all investors if the
447 target offering amount is not reached by the offering deadline.
448 (5) The issuer must file a notice of the offering with the
449 office, in writing or in electronic form, in a format prescribed
450 by commission rule, together with a nonrefundable filing fee of
451 $200. The commission may adopt rules establishing procedures for
452 the deposit of fees and the filing of documents by electronic
453 means if the procedures provide the office with the information
454 and data required by this section. A notice is effective upon
455 receipt of the completed form, filing fee, and an irrevocable
456 written consent to service of civil process, as provided for in
457 s. 517.101, by the office. The notice may be terminated by
458 filing with the office a notice of termination. The notice and
459 offering expire 12 months after filing the notice with the
460 office and are not eligible for renewal. The notice must:
461 (a) Be filed with the office at least 10 days before the
462 issuer commences an offering of securities or the offering is
463 displayed on a website of an intermediary in reliance upon the
464 exemption provided by this section.

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465 (b) Indicate that the issuer is conducting an offering in
466 reliance upon the exemption provided by this section.
467 (c) Contain the name and contact information of the issuer.
468 (d) Identify any predecessors, owners, officers, directors,
469 and control persons or any person occupying a similar status or
470 performing a similar function of the issuer, including that
471 person's title, his or her status as a partner, trustee, sole
472 proprietor or similar role, and his or her ownership percentage.
473 (e) Identify the federally insured financial institution,
474 authorized to do business in this state, in which investor funds
475 will be deposited, in accordance with the escrow agreement.
476 (f) Require an attestation under oath that the issuer, its
477 predecessors, affiliated issuers, directors, officers, and
478 control persons, or any other person occupying a similar status
479 or performing a similar function, are not currently and have not
480 been within the past 10 years the subject of regulatory or
481 criminal actions involving fraud or deceit.
482 (g) Include documentation verifying that the issuer is
483 organized under the laws of this state and authorized to do
484 business in this state.
485 (h) Include the intermediary's website address where the
486 issuer's securities will be offered.
487 (i) Include the target offering amount.
488 (6) The issuer must amend the notice form within 30 days
489 after any information contained in the notice becomes inaccurate
490 for any reason. The commission may require, by rule, an issuer
491 who has filed a notice under this section to file amendments
492 with the office.
493 (7) The issuer must provide to investors and the dealer or

494 intermediary, along with a copy to the office at the time the
495 notice is filed, and make available to potential investors
496 through the dealer or intermediary, a disclosure statement
497 containing material information about the issuer and the
498 offering, including:
499 (a) The name, legal status, physical address, and website
500 address of the issuer.
501 (b) The names of the directors, officers, and any person
502 occupying a similar status or performing a similar function, and
503 the name of each person holding more than 20 percent of the
504 shares of the issuer.
505 (c) A description of the business of the issuer and the
506 anticipated business plan of the issuer.
507 (d) A description of the stated purpose and intended use of
508 the proceeds of the offering.
509 (e) The target offering amount, the deadline to reach the
510 target offering amount, and regular updates regarding the
511 progress of the issuer in meeting the target offering amount.
512 (f) The price to the public of the securities or the method
513 for determining the price, provided that before the sale each
514 investor receives in writing the final price and all required
515 disclosures, with an opportunity to rescind the commitment to
516 purchase the securities.
517 (g) A description of the ownership and capital structure of
518 the issuer, including:
519 1. Terms of the securities being offered and each class of
520 security of the issuer, including how those terms may be
521 modified, and a summary of the differences between such
522 securities, including how the rights of the securities being

523 offered may be materially limited, diluted, or qualified by
524 rights of any other class of security of the issuer;
525 2. A description of how the exercise of the rights held by
526 the principal shareholders of the issuer could negatively impact
527 the purchasers of the securities being offered;
528 3. The name and ownership level of each existing
529 shareholder who owns more than 20 percent of any class of the
530 securities of the issuer;
531 4. How the securities being offered are being valued, and
532 examples of methods of how such securities may be valued by the
533 issuer in the future, including during subsequent corporate
534 actions; and
535 5. The risks to purchasers of the securities relating to
536 minority ownership in the issuer, the risks associated with
537 corporate action, including additional issuances of shares, a
538 sale of the issuer or of assets of the issuer, or transactions
539 with related parties.
540 (h) A description of the financial condition of the issuer.
541 1. For offerings that, in combination with all other
542 offerings of the issuer within the preceding 12-month period,
543 have target offering amounts of $100,000 or less, the
544 description must include the most recent income tax return filed
545 by the issuer, if any, and a financial statement that must be
546 certified by the principal executive officer of the issuer as
547 true and complete in all material respects.
548 2. For offerings that, in combination with all other
549 offerings of the issuer within the preceding 12-month period,
550 have target offering amounts of more than $100,000, but not more
551 than $500,000, the description must include financial statements

552 prepared in accordance with generally accepted accounting
553 principles and reviewed by a certified public accountant, as
554 defined in s. 473.302, who is independent of the issuer, using
555 professional standards and procedures for such review or
556 standards and procedures established by the office, by rule, for
557 such purpose.
558 3. For offerings that, in combination with all other
559 offerings of the issuer within the preceding 12-month period,
560 have target offering amounts of more than $500,000, the
561 description must include audited financial statements prepared
562 in accordance with generally accepted accounting principles by a
563 certified public accountant, as defined in s. 473.302, who is
564 independent of the issuer, and other requirements as the
565 commission may establish by rule.
566 (i) The following statement in boldface, conspicuous type
567 on the front page of the disclosure statement:
568
569 These securities are offered under and will be sold in reliance
570 upon an exemption from the registration requirements of federal
571 and Florida securities laws. Consequently, neither the Federal
572 Government nor the State of Florida has reviewed the accuracy or
573 completeness of any offering materials. In making an investment
574 decision, investors must rely on their own examination of the
575 issuer and the terms of the offering, including the merits and
576 risks involved. These securities are subject to restrictions on
577 transferability and resale and may not be transferred or resold
578 except as specifically authorized by applicable federal and
579 state securities laws. Investing in these securities involves a
580 speculative risk, and investors should be able to bear the loss

581 of their entire investment.
582 (8) The issuer shall provide to the office a copy of the
583 escrow agreement with a financial institution authorized to
584 conduct business in this state. All investor funds must be
585 deposited in the escrow account. The escrow agreement must
586 require that all offering proceeds be released to the issuer
587 only when the aggregate capital raised from all investors is
588 equal to or greater than the minimum target offering amount
589 specified in the disclosure statement as necessary to implement
590 the business plan, and that all investors will receive a full
591 return of their investment commitment if that target offering
592 amount is not raised by the date stated in the disclosure
593 statement.
594 (9) The sum of all cash and other consideration received
595 for sales of a security under this section may not exceed $1
596 million, less the aggregate amount received for all sales of
597 securities by the issuer within the 12 months preceding the
598 first offer or sale made in reliance upon this exemption. Offers
599 or sales to a person owning 20 percent or more of the
600 outstanding shares of any class or classes of securities or to
601 an officer, director, partner, or trustee, or a person occupying
602 a similar status, do not count toward this limitation.
603 (10) Unless the investor is an accredited investor as
604 defined by Rule 501 of Regulation D, adopted pursuant to the
605 Securities Act of 1933, the aggregate amount sold by an issuer
606 to an investor in transactions exempt from registration
607 requirements under this subsection in a 12-month period may not
608 exceed:
609 (a) The greater of $2,000 or 5 percent of the annual income

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610 or net worth of such investor, if the annual income or the net
611 worth of the investor is less than $100,000.
612 (b) Ten percent of the annual income or net worth of such
613 investor, not to exceed a maximum aggregate amount sold of
614 $100,000, if either the annual income or net worth of the
615 investor is equal to or exceeds $100,000.
616 (11) The issuer shall file with the office and provide to
617 investors free of charge an annual report of the results of
618 operations and financial statements of the issuer within 45 days
619 of its fiscal year end, until no securities under this offering
620 are outstanding. The annual reports must meet the following
621 requirements:
622 (a) Include an analysis by management of the issuer of the
623 business operations and the financial condition of the issuer,
624 and disclose the compensation received by each director,
625 executive officer, and person having an ownership interest of 20
626 percent or more of the issuer, including cash compensation
627 earned since the previous report and on an annual basis, and any
628 bonuses, stock options, other rights to receive securities of
629 the issuer, or any affiliate of the issuer, or other
630 compensation received.
631 (b) Disclose any material change to information contained
632 in the disclosure statements which was not disclosed in a
633 previous report.
634 (12)(a) A notice-filing under this section shall be
635 summarily suspended by the office if the payment for the filing
636 is dishonored by the financial institution upon which the funds
637 are drawn. For purposes of s. 120.60(6), failure to pay the
638 required notice filing fee constitutes an immediate and serious

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639 danger to the public health, safety, and welfare. The office
640 shall enter a final order revoking a notice-filing in which the
641 payment for the filing is dishonored by the financial
642 institution upon which the funds are drawn.
643 (b) A notice-filing under this section shall be summarily
644 suspended by the office if the issuer made a material false
645 statement in the issuer's notice-filing. The summary suspension
646 shall remain in effect until a final order is entered by the
647 office. For purposes of s. 120.60(6), a material false statement
648 made in the issuer's notice-filing constitutes an immediate and
649 serious danger to the public health, safety, and welfare. If an
650 issuer made a material false statement in the issuer's notice-
651 filing, the office shall enter a final order revoking the
652 notice-filing, issue a fine as prescribed by s. 517.221(3), and
653 issue permanent bars under s. 517.221(4) to the issuer and all
654 owners, officers, directors, and control persons, or any person
655 occupying a similar status or performing a similar function of
656 the issuer, including titles; status as a partner, trustee, sole
657 proprietor, or similar roles; and ownership percentage.
658 (13) All fees collected under this section become the
659 revenue of the state, except for those assessments provided for
660 under s. 517.131(1) until such time as the Securities Guaranty
661 Fund satisfies the statutory limits, and are not returnable in
662 the event that a notice filing is withdrawn.
663 (14) An intermediary must:
664 (a) Take measures, as established by commission rule, to
665 reduce the risk of fraud with respect to transactions, including
666 verifying that the issuer is in compliance with the requirements
667 of this section and, if necessary, denying an issuer access to

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668 its platform if the intermediary believes it is unable to
669 adequately assess the risk of fraud of the issuer or its
670 potential offering.
671 (b) Provide basic information on its website regarding the
672 high risk of investment in and limitation on the resale of
673 exempt securities and the potential for loss of an entire
674 investment. The basic information must include:
675 1. A description of the escrow agreement that the issuer
676 has executed and the conditions for release of such funds to the
677 issuer in accordance with the agreement and subsection (4).
678 2. A description of whether financial information provided
679 by the issuer has been audited by an independent certified
680 public accountant, as defined in s. 473.302.
681 (c) Obtain a zip code or residence address from each
682 potential investor who seeks to view information regarding
683 specific investment opportunities, in order to confirm that the
684 potential investor is a resident of this state.
685 (d) Obtain and verify, pursuant to commission rule, a valid
686 Florida driver license number or official identification card
687 number from each investor before purchase of a security or other
688 information, as defined by commission rule, to confirm that the
689 investor is a resident of the state.
690 (e) Obtain an affidavit from each investor stating that the
691 investment being made by the investor is consistent with the
692 income requirements of subsection (10).
693 (f) Direct the release of investor funds in escrow in
694 accordance with subsection (4).
695 (g) Direct investors to transmit funds directly to the
696 financial institution designated in the escrow agreement to hold

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697 the funds for the benefit of the investor.
698 (h) Provide a monthly update for each offering, after the
699 first full month after the date of the offering. The update must
700 be accessible on the intermediary's website and must display the
701 date and amount of each sale of securities, and each
702 cancellation of commitment to invest in the previous calendar
703 month.
704 (i) Require each investor to certify in writing, including
705 as part of such certification his or her signature and his or
706 her initials next to each paragraph of the certification, as
707 follows:
708
709 I understand and acknowledge that:
710
711 I am investing in a high-risk, speculative business venture. I
712 may lose all of my investment, and I can afford the loss of my
713 investment.
714
715 This offering has not been reviewed or approved by any state or
716 federal securities commission or other regulatory authority and
717 no regulatory authority has confirmed the accuracy or determined
718 the adequacy of any disclosure made to me relating to this
719 offering.
720
721 The securities I am acquiring in this offering are illiquid and
722 are subject to possible dilution. There is no ready market for
723 the sale of the securities. It may be difficult or impossible
724 for me to sell or otherwise dispose of the securities, and I may
725 be required to hold the securities indefinitely.

726
727 I may be subject to tax on my share of the taxable income and
728 losses of the issuer, whether or not I have sold or otherwise
729 disposed of my investment or received any dividends or other
730 distributions from the issuer.
731
732 By entering into this transaction with the issuer, I am
733 affirmatively representing myself as being a Florida resident at
734 the time this contract is formed, and if this representation is
735 subsequently shown to be false, the contract is void.
736
737 If I resell any of the securities I am acquiring in this
738 offering to a person that is not a Florida resident within 9
739 months after the closing of the offering, my contract with the
740 issuer for the purchase of these securities is void.
741
742 (j) Require each investor to answer questions demonstrating
743 an understanding of the level of risk generally applicable to
744 investments in startups, emerging businesses, and small issuers,
745 and an understanding of the risk of illiquidity.
746 (k) Take reasonable steps to protect personal information
747 collected from investors, as required by s. 501.171.
748 (l) Prohibit its directors and officers from having any
749 financial interest in the issuer using its services.
750 (m) Implement written policies and procedures that are
751 reasonably designed to achieve compliance with federal and state
752 securities laws; comply with anti-money laundering requirements
753 of 31 C.F.R. ch. X applicable to registered brokers; and comply
754 with the privacy requirements of 17 C.F.R. part 248 as they

755 apply to brokers.
756 (15) An intermediary not registered as a dealer under s.
757 517.12(6) may not:
758 (a) Offer investment advice or recommendations. A refusal
759 by an intermediary to post an offering that it deems not
760 credible or that represents a potential for fraud may not be
761 construed as an offer of investment advice or recommendation.
762 (b) Solicit purchases, sales, or offers to buy securities
763 offered or displayed on its website.
764 (c) Compensate employees, agents, or other persons for the
765 solicitation or based on the sale of securities offered or
766 displayed on its website.
767 (d) Hold, manage, possess, or otherwise handle investor
768 funds or securities.
769 (e) Compensate promoters, finders, or lead generators for
770 providing the intermediary with the personal identifying
771 information of any potential investor.
772 (f) Engage in any other activities set forth by commission
773 rule.
774 (16) All funds received from investors must be directed to
775 the financial institution designated in the escrow agreement to
776 hold the funds and must be used in accordance with
777 representations made to investors by the intermediary. If an
778 investor cancels a commitment to invest, the intermediary must
779 direct the financial institution designated to hold the funds to
780 promptly refund the funds of the investor.
781 Section 4. Section 517.12, Florida Statutes, is amended to
782 read:
783 517.12 Registration of dealers, associated persons,

784 intermediaries, and investment advisers.—
785 (1) No dealer, associated person, or issuer of securities
786 shall sell or offer for sale any securities in or from offices
787 in this state, or sell securities to persons in this state from
788 offices outside this state, by mail or otherwise, unless the
789 person has been registered with the office pursuant to the
790 provisions of this section. The office shall not register any
791 person as an associated person of a dealer unless the dealer
792 with which the applicant seeks registration is lawfully
793 registered with the office pursuant to this chapter.
794 (2) The registration requirements of this section do not
795 apply to the issuers of securities exempted by s. 517.051(1)-(8)
796 and (10).
797 (3) Except as otherwise provided in s. 517.061(11)(a)4.,
798 (13), (16), (17), or (19), the registration requirements of this
799 section do not apply in a transaction exempted by s. 517.061(1)-
800 (12), (14), and (15).
801 (4) No investment adviser or associated person of an
802 investment adviser or federal covered adviser shall engage in
803 business from offices in this state, or render investment advice
804 to persons of this state, by mail or otherwise, unless the
805 federal covered adviser has made a notice-filing with the office
806 pursuant to s. 517.1201 or the investment adviser is registered
807 pursuant to the provisions of this chapter and associated
808 persons of the federal covered adviser or investment adviser
809 have been registered with the office pursuant to this section.
810 The office shall not register any person or an associated person
811 of a federal covered adviser or an investment adviser unless the
812 federal covered adviser or investment adviser with which the

813 applicant seeks registration is in compliance with the notice-
814 filing requirements of s. 517.1201 or is lawfully registered
815 with the office pursuant to this chapter. A dealer or associated
816 person who is registered pursuant to this section may render
817 investment advice upon notification to and approval from the
818 office.
819 (5) No dealer or investment adviser shall conduct business
820 from a branch office within this state unless the branch office
821 is notice-filed with the office pursuant to s. 517.1202.
822 (6) A dealer, associated person, or investment adviser, in
823 order to obtain registration, must file with the office a
824 written application, on a form which the commission may by rule
825 prescribe. The commission may establish, by rule, procedures for
826 depositing fees and filing documents by electronic means
827 provided such procedures provide the office with the information
828 and data required by this section. Each dealer or investment
829 adviser must also file an irrevocable written consent to service
830 of civil process similar to that provided for in s. 517.101. The
831 application shall contain such information as the commission or
832 office may require concerning such matters as:
833 (a) The name of the applicant and the address of its
834 principal office and each office in this state.
835 (b) The applicant's form and place of organization; and, if
836 the applicant is a corporation, a copy of its articles of
837 incorporation and amendments to the articles of incorporation
838 or, if a partnership, a copy of the partnership agreement.
839 (c) The applicant's proposed method of doing business and
840 financial condition and history, including a certified financial
841 statement showing all assets and all liabilities, including

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842 contingent liabilities of the applicant as of a date not more
843 than 90 days prior to the filing of the application.
844 (d) The names and addresses of all associated persons of
845 the applicant to be employed in this state and the offices to
846 which they will be assigned.
847 (7) The application must also contain such information as
848 the commission or office may require about the applicant; any
849 member, principal, or director of the applicant or any person
850 having a similar status or performing similar functions; any
851 person directly or indirectly controlling the applicant; or any
852 employee of a dealer or of an investment adviser rendering
853 investment advisory services. Each applicant and any direct
854 owners, principals, or indirect owners that are required to be
855 reported on Form BD or Form ADV pursuant to subsection (15)
856 shall submit fingerprints for live-scan processing in accordance
857 with rules adopted by the commission. The fingerprints may be
858 submitted through a third-party vendor authorized by the
859 Department of Law Enforcement to provide live-scan
860 fingerprinting. The costs of fingerprint processing shall be
861 borne by the person subject to the background check. The
862 Department of Law Enforcement shall conduct a state criminal
863 history background check, and a federal criminal history
864 background check must be conducted through the Federal Bureau of
865 Investigation. The office shall review the results of the state
866 and federal criminal history background checks and determine
867 whether the applicant meets licensure requirements. The
868 commission may waive, by rule, the requirement that applicants,
869 including any direct owners, principals, or indirect owners that
870 are required to be reported on Form BD or Form ADV pursuant to

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871 subsection (15), submit fingerprints or the requirement that
872 such fingerprints be processed by the Department of Law
873 Enforcement or the Federal Bureau of Investigation. The
874 commission or office may require information about any such
875 applicant or person concerning such matters as:
876 (a) His or her full name, and any other names by which he
877 or she may have been known, and his or her age, social security
878 number, photograph, qualifications, and educational and business
879 history.
880 (b) Any injunction or administrative order by a state or
881 federal agency, national securities exchange, or national
882 securities association involving a security or any aspect of the
883 securities business and any injunction or administrative order
884 by a state or federal agency regulating banking, insurance,
885 finance, or small loan companies, real estate, mortgage brokers,
886 or other related or similar industries, which injunctions or
887 administrative orders relate to such person.
888 (c) His or her conviction of, or plea of nolo contendere
889 to, a criminal offense or his or her commission of any acts
890 which would be grounds for refusal of an application under s.
891 517.161.
892 (d) The names and addresses of other persons of whom the
893 office may inquire as to his or her character, reputation, and
894 financial responsibility.
895 (8) The commission or office may require the applicant or
896 one or more principals or general partners, or natural persons
897 exercising similar functions, or any associated person applicant
898 to successfully pass oral or written examinations. Because any
899 principal, manager, supervisor, or person exercising similar

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900 functions shall be responsible for the acts of the associated
901 persons affiliated with a dealer, the examination standards may
902 be higher for a dealer, office manager, principal, or person
903 exercising similar functions than for a nonsupervisory
904 associated person. The commission may waive the examination
905 process when it determines that such examinations are not in the
906 public interest. The office shall waive the examination
907 requirements for any person who has passed any tests as
908 prescribed in s. 15(b)(7) of the Securities Exchange Act of 1934
909 that relates to the position to be filled by the applicant.
910 (9)(a) All dealers, except securities dealers who are
911 designated by the Federal Reserve Bank of New York as primary
912 government securities dealers or securities dealers registered
913 as issuers of securities, shall comply with the net capital and
914 ratio requirements imposed pursuant to the Securities Exchange
915 Act of 1934. The commission may by rule require a dealer to file
916 with the office any financial or operational information that is
917 required to be filed by the Securities Exchange Act of 1934 or
918 any rules adopted under such act.
919 (b) The commission may by rule require the maintenance of a
920 minimum net capital for securities dealers who are designated by
921 the Federal Reserve Bank of New York as primary government
922 securities dealers and securities dealers registered as issuers
923 of securities and investment advisers, or prescribe a ratio
924 between net capital and aggregate indebtedness, to assure
925 adequate protection for the investing public. The provisions of
926 this section shall not apply to any investment adviser that
927 maintains its principal place of business in a state other than
928 this state, provided such investment adviser is registered in

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929 the state where it maintains its principal place of business and
930 is in compliance with such state's net capital requirements.
931 (10) An applicant for registration shall pay an assessment
932 fee of $200, in the case of a dealer or investment adviser, or
933 $50, in the case of an associated person. An associated person
934 may be assessed an additional fee to cover the cost for the
935 fingerprints to be processed by the office. Such fee shall be
936 determined by rule of the commission. Such fees become the
937 revenue of the state, except for those assessments provided for
938 under s. 517.131(1) until such time as the Securities Guaranty
939 Fund satisfies the statutory limits, and are not returnable in
940 the event that registration is withdrawn or not granted.
941 (11) If the office finds that the applicant is of good
942 repute and character and has complied with the provisions of
943 this chapter and the rules made pursuant hereto, it shall
944 register the applicant. The registration of each dealer,
945 investment adviser, and associated person expires on December 31
946 of the year the registration became effective unless the
947 registrant has renewed his or her registration on or before that
948 date. Registration may be renewed by furnishing such information
949 as the commission may require, together with payment of the fee
950 required in subsection (10) for dealers, investment advisers, or
951 associated persons and the payment of any amount lawfully due
952 and owing to the office pursuant to any order of the office or
953 pursuant to any agreement with the office. Any dealer,
954 investment adviser, or associated person who has not renewed a
955 registration by the time the current registration expires may
956 request reinstatement of such registration by filing with the
957 office, on or before January 31 of the year following the year

958 of expiration, such information as may be required by the
959 commission, together with payment of the fee required in
960 subsection (10) for dealers, investment advisers, or associated
961 persons and a late fee equal to the amount of such fee. Any
962 reinstatement of registration granted by the office during the
963 month of January shall be deemed effective retroactive to
964 January 1 of that year.
965 (12)(a) The office may issue a license to a dealer,
966 investment adviser, or associated person to evidence
967 registration under this chapter. The office may require the
968 return to the office of any license it may issue prior to
969 issuing a new license.
970 (b) Every dealer, investment adviser, or federal covered
971 adviser shall promptly file with the office, as prescribed by
972 rules adopted by the commission, notice as to the termination of
973 employment of any associated person registered for such dealer
974 or investment adviser in this state and shall also furnish the
975 reason or reasons for such termination.
976 (c) Each dealer or investment adviser shall designate in
977 writing to, and register with, the office a manager for each
978 office the dealer or investment adviser has in this state.
979 (13) Changes in registration occasioned by changes in
980 personnel of a partnership or in the principals, copartners,
981 officers, or directors of any dealer or investment adviser or by
982 changes of any material fact or method of doing business shall
983 be reported by written amendment in such form and at such time
984 as the commission may specify. In any case in which a person or
985 a group of persons, directly or indirectly or acting by or
986 through one or more persons, proposes to purchase or acquire a

987 controlling interest in a registered dealer or investment
988 adviser, such person or group shall submit an initial
989 application for registration as a dealer or investment adviser
990 prior to such purchase or acquisition. The commission shall
991 adopt rules providing for waiver of the application required by
992 this subsection where control of a registered dealer or
993 investment adviser is to be acquired by another dealer or
994 investment adviser registered under this chapter or where the
995 application is otherwise unnecessary in the public interest.
996 (14) Every dealer or investment adviser registered or
997 required to be registered or branch office notice-filed or
998 required to be notice-filed with the office shall keep records
999 of all currency transactions in excess of $10,000 and shall file
1000 reports, as prescribed under the financial recordkeeping
1001 regulations in 31 C.F.R. part 103, with the office when
1002 transactions occur in or from this state. All reports required
1003 by this subsection to be filed with the office shall be
1004 confidential and exempt from s. 119.07(1) except that any law
1005 enforcement agency or the Department of Revenue shall have
1006 access to, and shall be authorized to inspect and copy, such
1007 reports.
1008 (15)(a) In order to facilitate uniformity and streamline
1009 procedures for persons who are subject to registration or
1010 notification in multiple jurisdictions, the commission may adopt
1011 by rule uniform forms that have been approved by the Securities
1012 and Exchange Commission, and any subsequent amendments to such
1013 forms, if the forms are substantially consistent with the
1014 provisions of this chapter. Uniform forms that the commission
1015 may adopt to administer this section include, but are not

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1016 limited to:
1017 1. Form BR, Uniform Branch Office Registration Form,
1018 adopted October 2005.
1019 2. Form U4, Uniform Application for Securities Industry
1020 Registration or Transfer, adopted October 2005.
1021 3. Form U5, Uniform Termination Notice for Securities
1022 Industry Registration, adopted October 2005.
1023 4. Form ADV, Uniform Application for Investment Adviser
1024 Registration, adopted October 2003.
1025 5. Form ADV-W, Notice of Withdrawal from Registration as an
1026 Investment Adviser, adopted October 2003.
1027 6. Form BD, Uniform Application for Broker-Dealer
1028 Registration, adopted July 1999.
1029 7. Form BDW, Uniform Request for Broker-Dealer Withdrawal,
1030 adopted August 1999.
1031 (b) In lieu of filing with the office the applications
1032 specified in subsection (6), the fees required by subsection
1033 (10), the renewals required by subsection (11), and the
1034 termination notices required by subsection (12), the commission
1035 may by rule establish procedures for the deposit of such fees
1036 and documents with the Central Registration Depository or the
1037 Investment Adviser Registration Depository of the Financial
1038 Industry Regulatory Authority, as developed under contract with
1039 the North American Securities Administrators Association, Inc.
1040 (16) Except for securities dealers who are designated by
1041 the Federal Reserve Bank of New York as primary government
1042 securities dealers or securities dealers registered as issuers
1043 of securities, every applicant for initial or renewal
1044 registration as a securities dealer and every person registered

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1045 as a securities dealer shall be registered as a broker or dealer
1046 with the Securities and Exchange Commission and shall be subject
1047 to insurance coverage by the Securities Investor Protection
1048 Corporation.
1049 (17)(a) A dealer that is located in Canada, does not have
1050 an office or other physical presence in this state, and has made
1051 a notice-filing in accordance with this subsection is exempt
1052 from the registration requirements of this section and may
1053 effect transactions in securities with or for, or induce or
1054 attempt to induce the purchase or sale of any security by:
1055 1. A person from Canada who is present in this state and
1056 with whom the Canadian dealer had a bona fide dealer-client
1057 relationship before the person entered the United States; or
1058 2. A person from Canada who is present in this state and
1059 whose transactions are in a self-directed, tax-advantaged
1060 retirement plan in Canada of which the person is the holder or
1061 contributor.
1062 (b) A notice-filing under this subsection must consist of
1063 documents the commission by rule requires to be filed, together
1064 with a consent to service of process and a nonrefundable filing
1065 fee of $200. The commission may establish by rule procedures for
1066 the deposit of fees and the filing of documents to be made by
1067 electronic means, if such procedures provide the office with the
1068 information and data required by this section.
1069 (c) A Canadian dealer may make a notice-filing under this
1070 subsection if the dealer provides to the office:
1071 1. A notice-filing in the form the commission requires by
1072 rule.
1073 2. A consent to service of process.

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1074 3. Evidence that the Canadian dealer is registered as a
1075 dealer in the jurisdiction in which the dealer's main office is
1076 located.
1077 4. Evidence that the Canadian dealer is a member of a self-
1078 regulatory organization or stock exchange in Canada.
1079 (d) The office may issue a permit to evidence the
1080 effectiveness of a notice-filing for a Canadian dealer.
1081 (e) A notice-filing is effective upon receipt by the
1082 office. A notice-filing expires on December 31 of the year in
1083 which the filing becomes effective unless the Canadian dealer
1084 has renewed the filing on or before that date. A Canadian dealer
1085 may annually renew a notice-filing by furnishing to the office
1086 such information as the office requires together with a renewal
1087 fee of $200 and the payment of any amount due and owing the
1088 office pursuant to any agreement with the office. Any Canadian
1089 dealer who has not renewed a notice-filing by the time a current
1090 notice-filing expires may request reinstatement of such notice-
1091 filing by filing with the office, on or before January 31 of the
1092 year following the year the notice-filing expires, such
1093 information as the commission requires by rule, together with
1094 the payment of $200 and a late fee of $200. A reinstatement of a
1095 notice-filing granted by the office during the month of January
1096 is effective retroactively to January 1 of that year.
1097 (f) An associated person who represents a Canadian dealer
1098 who has made a notice-filing under this subsection is exempt
1099 from the registration requirements of this section and may
1100 effect transactions in securities in this state as permitted for
1101 a dealer under paragraph (a) if such person is registered in the
1102 jurisdiction from which he or she is effecting transactions into

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1103 this state.
1104 (g) A Canadian dealer who has made a notice-filing under
1105 this subsection shall:
1106 1. Maintain its provincial or territorial registration and
1107 its membership in a self-regulatory organization or stock
1108 exchange in good standing.
1109 2. Provide the office upon request with its books and
1110 records relating to its business in this state as a dealer.
1111 3. Provide the office upon request notice of each civil,
1112 criminal, or administrative action initiated against the dealer.
1113 4. Disclose to its clients in this state that the dealer
1114 and its associated persons are not subject to the full
1115 regulatory requirements under this chapter.
1116 5. Correct any inaccurate information within 30 days after
1117 the information contained in the notice-filing becomes
1118 inaccurate for any reason.
1119 (h) An associated person representing a Canadian dealer who
1120 has made a notice-filing under this subsection shall:
1121 1. Maintain provincial or territorial registration in good
1122 standing.
1123 2. Provide the office upon request with notice of each
1124 civil, criminal, or administrative action initiated against such
1125 person.
1126 (i) A notice-filing may be terminated by filing notice of
1127 such termination with the office. Unless another date is
1128 specified by the Canadian dealer, such notice is effective upon
1129 receipt of the notice by the office.
1130 (j) All fees collected under this subsection become the
1131 revenue of the state, except those assessments provided for

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1132 under s. 517.131(1), until the Securities Guaranty Fund has
1133 satisfied the statutory limits. Such fees are not returnable if
1134 a notice-filing is withdrawn.
1135 (18) Every dealer or associated person registered or
1136 required to be registered with the office shall satisfy any
1137 continuing education requirements established by rule pursuant
1138 to law.
1139 (19) The registration requirements of this section which
1140 apply to investment advisers and associated persons do not apply
1141 to a commodity trading adviser who:
1142 (a) Is registered as such with the Commodity Futures
1143 Trading Commission pursuant to the Commodity Exchange Act.
1144 (b) Advises or exercises trading discretion, with respect
1145 to foreign currency options listed and traded exclusively on the
1146 Philadelphia Stock Exchange, on behalf of an "appropriate
1147 person" as defined by the Commodity Exchange Act.
1148
1149 The exemption provided in this subsection does not apply to a
1150 commodity trading adviser who engages in other activities that
1151 require registration under this chapter.
1152 (20) An intermediary may not engage in business in this
1153 state unless the intermediary is registered as a dealer or as an
1154 intermediary with the office pursuant to this section to
1155 facilitate the offer or sale of securities in accordance with s.
1156 517.0611. An intermediary, in order to obtain registration, must
1157 file with the office a written application on a form prescribed
1158 by commission rule and pay a registration fee of $200. The
1159 commission may establish by rule procedures for depositing fees
1160 and filing documents by electronic means if such procedures

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1161 provide the office with the information and data required by
1162 this section. Each intermediary must also file an irrevocable
1163 written consent to service of civil process, as provided for in
1164 s. 517.101.
1165 (a) The application must contain such information as the
1166 commission or office may require concerning:
1167 1. The name of the applicant and address of its principal
1168 office and each office in this state.
1169 2. The applicant's form and place of organization; and if
1170 the applicant is a corporation, a copy of its articles of
1171 incorporation and amendments to the articles of incorporation
1172 or, if a partnership, a copy of the partnership agreement.
1173 3. The website address where securities of the issuer will
1174 be offered.
1175 4. Contact information.
1176 (b) The application must also contain such information as
1177 the commission may require by rule about the applicant; any
1178 member, principal, or director of the applicant or any person
1179 having a similar status or performing similar functions; or any
1180 persons directly or indirectly controlling the applicant. Each
1181 applicant and any direct owners, principals, or indirect owners
1182 that are required to be reported on a form adopted by commission
1183 rule shall submit fingerprints for live-scan processing in
1184 accordance with rules adopted by the commission. The
1185 fingerprints may be submitted through a third-party vendor
1186 authorized by the Department of Law Enforcement to provide live-
1187 scan fingerprinting. The costs of fingerprint processing shall
1188 be borne by the person subject to the background check. The
1189 Department of Law Enforcement shall conduct a state criminal

1190 history background check, and a federal criminal history
1191 background check must be conducted through the Federal Bureau of
1192 Investigation. The office shall review the results of the state
1193 and federal criminal history background checks and determine
1194 whether the applicant meets licensure requirements. The
1195 commission may waive, by rule, the requirement that applicants,
1196 including any direct owners, principals, or indirect owners,
1197 that are required to be reported on a form adopted by commission
1198 rule submit fingerprints or the requirement that such
1199 fingerprints be processed by the Department of Law Enforcement
1200 or the Federal Bureau of Investigation. The commission, by rule,
1201 or the office may require information about any applicant or
1202 person concerning such matters as:
1203 1. His or her full name and any other names by which he or
1204 she may have been known and his or her age, social security
1205 number, photograph, qualifications, and educational and business
1206 history.
1207 2. Any injunction or administrative order by a state or
1208 federal agency, national securities exchange, or national
1209 securities association involving a security or any aspect of the
1210 securities business and any injunction or administrative order
1211 by a state or federal agency regulating banking, insurance,
1212 finance, or small loan companies, real estate, mortgage brokers,
1213 or other related or similar industries, which relate to such
1214 person.
1215 3. His or her conviction of, or plea of nolo contendere to,
1216 a criminal offense or his or her commission of any acts that
1217 would be grounds for refusal of an application under s. 517.161.
1218 (c) The application must be amended within 30 days if any

1219 information contained in the form becomes inaccurate for any
1220 reason.
1221 (d) An intermediary or persons affiliated with the
1222 intermediary may not be subject to any disqualification
1223 described in s. 517.1611 or the United States Securities and
1224 Exchange Commission Rule 506(d), 17 C.F.R. 230.506(d), adopted
1225 pursuant to the Securities Act of 1933. Each director, officer,
1226 control person of the issuer, any person occupying a similar
1227 status or performing a similar function, and each person holding
1228 more than 20 percent of the shares of the intermediary is
1229 subject to this requirement.
1230 (e) If the office finds that the applicant is of good
1231 repute and character and has complied with the provisions of
1232 this chapter and the rules made pursuant hereto, it shall
1233 register the applicant. The registration of each intermediary
1234 expires on December 31 of the year the registration became
1235 effective unless the registrant has renewed his or her
1236 registration on or before that date. Registration may be renewed
1237 by furnishing such information as the commission may require by
1238 rule, together with payment of the fee of $200 and the payment
1239 of any amount due to the office pursuant to any order of the
1240 office or pursuant to any agreement with the office. An
1241 intermediary who has not renewed a registration by filing with
1242 the office on or before January 31 of the year following the
1243 year of expiration must submit the information that may be
1244 required by the commission, together with payment of the $200
1245 fee and a late fee of $200. Any reinstatement of registration
1246 granted by the office during the month of January shall be
1247 deemed effective retroactive to January 1 of that year.

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1248 (21)~~(20)~~ The registration requirements of this section do
1249 not apply to any general lines insurance agent or life insurance
1250 agent licensed under chapter 626, for the sale of a security as
1251 defined in s. 517.021(22)(g) ~~s. 517.021(21)(g)~~, if the
1252 individual is directly authorized by the issuer to offer or sell
1253 the security on behalf of the issuer and the issuer is a
1254 federally chartered savings bank subject to regulation by the
1255 Federal Deposit Insurance Corporation. Actions under this
1256 subsection shall constitute activity under the insurance agent's
1257 license for purposes of ss. 626.611 and 626.621.
1258 Section 5. Subsections (1) and (2) of section 517.121,
1259 Florida Statutes, are amended to read:
1260 517.121 Books and records requirements; examinations.—
1261 (1) A dealer, investment adviser, branch office, or
1262 associated person, or intermediary shall maintain such books and
1263 records as the commission may prescribe by rule.
1264 (2) The office shall, at intermittent periods, examine the
1265 affairs and books and records of each registered dealer,
1266 investment adviser, associated person, intermediary, or branch
1267 office notice-filed with the office, or require such records and
1268 reports to be submitted to it as required by rule of the
1269 commission, to determine compliance with this act.
1270 Section 6. Section 517.161, Florida Statutes, is amended to
1271 read:
1272 517.161 Revocation, denial, or suspension of registration
1273 of dealer, investment adviser, intermediary, or associated
1274 person.—
1275 (1) Registration under s. 517.12 may be denied or any
1276 registration granted may be revoked, restricted, or suspended by

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1277 the office if the office determines that such applicant or
1278 registrant; any member, principal, or director of the applicant
1279 or registrant or any person having a similar status or
1280 performing similar functions; or any person directly or
1281 indirectly controlling the applicant or registrant:
1282 (a) Has violated any provision of this chapter or any rule
1283 or order made under this chapter;
1284 (b) Has made a material false statement in the application
1285 for registration;
1286 (c) Has been guilty of a fraudulent act in connection with
1287 rendering investment advice or in connection with any sale of
1288 securities, has been or is engaged or is about to engage in
1289 making fictitious or pretended sales or purchases of any such
1290 securities or in any practice involving the rendering of
1291 investment advice or the sale of securities which is fraudulent
1292 or in violation of the law;
1293 (d) Has made a misrepresentation or false statement to, or
1294 concealed any essential or material fact from, any person in the
1295 rendering of investment advice or the sale of a security to such
1296 person;
1297 (e) Has failed to account to persons interested for all
1298 money and property received;
1299 (f) Has not delivered, after a reasonable time, to persons
1300 entitled thereto securities held or agreed to be delivered by
1301 the dealer, broker, intermediary, or investment adviser, as and
1302 when paid for, and due to be delivered;
1303 (g) Is rendering investment advice or selling or offering
1304 for sale securities through any associated person not registered
1305 in compliance with the provisions of this chapter;

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1306 (h) Has demonstrated unworthiness to transact the business
1307 of dealer, investment adviser, intermediary, or associated
1308 person;
1309 (i) Has exercised management or policy control over or
1310 owned 10 percent or more of the securities of any dealer,
1311 intermediary, or investment adviser that has been declared
1312 bankrupt, or had a trustee appointed under the Securities
1313 Investor Protection Act; or is, in the case of a dealer,
1314 intermediary, or investment adviser, insolvent;
1315 (j) Has been convicted of, or has entered a plea of guilty
1316 or nolo contendere to, regardless of whether adjudication was
1317 withheld, a crime against the laws of this state or any other
1318 state or of the United States or of any other country or
1319 government which relates to registration as a dealer, investment
1320 adviser, issuer of securities, intermediary, or associated
1321 person; which relates to the application for such registration;
1322 or which involves moral turpitude or fraudulent or dishonest
1323 dealing;
1324 (k) Has had a final judgment entered against her or him in
1325 a civil action upon grounds of fraud, embezzlement,
1326 misrepresentation, or deceit;
1327 (l) Is of bad business repute;
1328 (m) Has been the subject of any decision, finding,
1329 injunction, suspension, prohibition, revocation, denial,
1330 judgment, or administrative order by any court of competent
1331 jurisdiction, administrative law judge, or by any state or
1332 federal agency, national securities, commodities, or option
1333 exchange, or national securities, commodities, or option
1334 association, involving a violation of any federal or state

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1335 securities or commodities law or any rule or regulation
1336 promulgated thereunder, or any rule or regulation of any
1337 national securities, commodities, or options exchange or
1338 national securities, commodities, or options association, or has
1339 been the subject of any injunction or adverse administrative
1340 order by a state or federal agency regulating banking,
1341 insurance, finance or small loan companies, real estate,
1342 mortgage brokers or lenders, money transmitters, or other
1343 related or similar industries. For purposes of this subsection,
1344 the office may not deny registration to any applicant who has
1345 been continuously registered with the office for 5 years after
1346 the date of entry of such decision, finding, injunction,
1347 suspension, prohibition, revocation, denial, judgment, or
1348 administrative order provided such decision, finding,
1349 injunction, suspension, prohibition, revocation, denial,
1350 judgment, or administrative order has been timely reported to
1351 the office pursuant to the commission's rules; or
1352 (n) Made payment to the office for a registration with a
1353 check or electronic transmission of funds that is dishonored by
1354 the applicant's or registrant's financial institution.
1355 (2) The payment or anticipated payment of any amount from
1356 the Securities Guaranty Fund in settlement of a claim or in
1357 satisfaction of a judgment against an applicant or registrant
1358 constitutes prima facie grounds for the denial of the
1359 applicant's application for registration or the revocation of
1360 the registrant's registration.
1361 (3) In the event the office determines to deny an
1362 application or revoke a registration, it shall enter a final
1363 order with its findings on the register of dealers and

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1364 associated persons; and denial, suspension, or revocation of the
1365 registration of a dealer, intermediary, or investment adviser
1366 shall also deny, suspend, or revoke the registration of all her
1367 or his associated persons.
1368 (4) It shall be sufficient cause for denial of an
1369 application or revocation of registration, in the case of a
1370 partnership, corporation, or unincorporated association, if any
1371 member of the partnership or any officer, director, or ultimate
1372 equitable owner of the corporation or association has committed
1373 any act or omission which would be cause for denying, revoking,
1374 restricting, or suspending the registration of an individual
1375 dealer, investment adviser, intermediary, or associated person.
1376 As used in this subsection, the term "ultimate equitable owner"
1377 means a natural person who directly or indirectly owns or
1378 controls an ownership interest in the corporation, partnership,
1379 association, or other legal entity however organized, regardless
1380 of whether such natural person owns or controls such ownership
1381 interest through one or more proxies, powers of attorney,
1382 nominees, corporations, associations, partnerships, trusts,
1383 joint stock companies, or other entities or devices, or any
1384 combination thereof.
1385 (5) The office may deny any request to terminate or
1386 withdraw any application or registration if the office believes
1387 that an act which would be a ground for denial, suspension,
1388 restriction, or revocation under this chapter has been
1389 committed.
1390 (6) Registration under s. 517.12 may be denied or any
1391 registration granted may be suspended or restricted if an
1392 applicant or registrant is charged, in a pending enforcement

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1393 action or pending criminal prosecution, with any conduct that
1394 would authorize denial or revocation under subsection (1).
1395 Registration under s. 517.12 may be suspended or restricted if a
1396 registrant is arrested for any conduct that would authorize
1397 revocation under subsection (1).
1398 (a) Any denial of registration ordered under this
1399 subsection shall be without prejudice to the applicant's ability
1400 to reapply for registration.
1401 (b) Any order of suspension or restriction under this
1402 subsection shall:
1403 1. Take effect only after a hearing, unless no hearing is
1404 requested by the registrant or unless the suspension or
1405 restriction is made in accordance with s. 120.60(6).
1406 2. Contain a finding that evidence of a prima facie case
1407 supports the charge made in the enforcement action or criminal
1408 prosecution.
1409 3. Operate for no longer than 10 days beyond receipt of
1410 notice by the office of termination with respect to the
1411 registrant of the enforcement action or criminal prosecution.
1412 (c) For purposes of this subsection:
1413 1. The term "enforcement action" means any judicial
1414 proceeding or any administrative proceeding where such judicial
1415 or administrative proceeding is brought by an agency of the
1416 United States or of any state to enforce or restrain violation
1417 of any state or federal law, or any disciplinary proceeding
1418 maintained by the Financial Industry Regulatory Authority, the
1419 National Futures Association, or any other similar self-
1420 regulatory organization.
1421 2. An enforcement action is pending at any time after

1422 notice to the applicant or registrant of such action and is
1423 terminated at any time after entry of final judgment or decree
1424 in the case of judicial proceedings, final agency action in the
1425 case of administrative proceedings, and final disposition by a
1426 self-regulatory organization in the case of disciplinary
1427 proceedings.
1428 3. A criminal prosecution is pending at any time after
1429 criminal charges are filed and is terminated at any time after
1430 conviction, acquittal, or dismissal.
1431 Section 7. Paragraph (b) of subsection (4) of section
1432 626.9911, Florida Statutes, is amended to read:
1433 626.9911 Definitions.—As used in this act, the term:
1434 (4) "Life expectancy provider" means a person who
1435 determines, or holds himself or herself out as determining, life
1436 expectancies or mortality ratings used to determine life
1437 expectancies:
1438 (b) In connection with a viatical settlement investment,
1439 pursuant to s. 517.021(24) ~~s. 517.021(23)~~; or
1440 Section 8. This act shall take effect October 1, 2015.

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 Appropriations

BILL: PCS/CS/SB 918 (279658)

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on General Government); Environmental Preservation and Conservation Committee; and Senators Dean and Margolis

SUBJECT: Environmental Resources

DATE: April 20, 2015 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hinton	Uchino	EP	**Fav/CS**
2.	Howard	DeLoach	AGG	**Recommend: Fav/CS**
3.	Howard	Kynoch	AP	**Pre-meeting**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/CS/SB 918 provides for the protection of springs and other water resources in Florida, creates a council to provide recommendations for funding water projects throughout the state, provides transparency for the process by which projects are submitted and selected, and provides for statewide consistency in data collection and analysis.

The bill directs the Department of Environmental Protection (DEP) to promote access to conservation lands using an online database and mobile application. The bill requires the DEP to submit a yearly report to the Governor, the President of the Senate, and the Speaker of the House of Representatives describing the percentage of public lands open to the public that were acquired under section 259.032, Florida Statutes, and efforts taken by the DEP to increase public access to such lands.

The bill creates the Shared-Use Nonmotorized Trail (SunTrail) network and directs the Florida Department of Transportation (FDOT) to create a SunTrail plan and include the SunTrail in the FDOT work program. The bill also provides for sponsorship of the SunTrail network.

The bill codifies the Central Florida Water Initiative (CFWI), which is a collaborative process designed to plan for future water needs in central Florida.

The bill makes extensive revisions to the Northern Everglades and Estuaries Protection Program (NEEPP).

Specifically, the bill:

- Specifies additional information to be included in the Consolidated Water Management District Annual Report;
- Provides for the application of minimum flows and levels (MFLs) in other water management districts when withdrawals in those other districts affect an MFL outside of those districts;
- Creates a pilot program for alternative water supply development projects in restricted allocation areas and directs certain water management districts (WMDs) to develop projects for the program;
- Creates the Florida Springs and Aquifer Protection Act;
- Provides findings, intent, and definitions;
- Directs the DEP to adopt a uniform definition for the term "harmful to the water resources" for Outstanding Florida Springs (OFSs);
- Directs the DEP, in coordination with the water management districts (WMDs), to delineate priority focus areas for impaired OFSs and provides considerations;
- Provides requirements for the DEP or a WMD to establish MFLs or adopt MFLs and recovery or prevention strategies, as necessary, and provides deadlines;
- Provides the DEP and WMDs with emergency rulemaking authority to adopt MFLs and recovery or prevention strategies for OFSs;
- Provides requirements for revising MFLs under certain circumstances and provides deadlines;
- Provides minimum requirements for recovery or prevention strategies for OFSs;
- Provides for extensions for local government projects included in a recovery or prevention strategy;
- Directs the DEP to assess OFSs for impairment and provides requirements and deadlines;
- Provides for the adoption of basin management action plans (BMAPs), includes requirements for BMAPs for OFSs;
- Provides for the enforcement of BMAPs;
- Requires the adoption of fertilizer use ordinances by local governments under certain circumstances;
- Provides for the identification and assessment of onsite sewage treatment and disposal systems (OSTDSs) in OFSs and directs the development of OSTDS remediation plans as necessary;
- Directs the DEP to adopt rules to fund pilot projects that address nutrient pollution or flows in Florida springs and provides deadlines;
- Directs the DEP to adopt rules to evaluate, select, and rank projects for environmental improvement, and provides considerations and deadlines;
- Prohibits certain activities within priority focus areas;
- Directs the DEP to adopt rules to improve water quantity and quality to administer the Florida Springs and Aquifer Protection Act;
- Codifies the Central Florida Water Initiative in statute;

- Provides considerations related to preferred water supply sources for entities applying for a water use permit;
- Removes references to the Works of the District program in the NEEPP;
- Amends provisions related to the NEEPP;
- Directs the South Florida Water Management District (SFWMD) to revise Rule 40E-61, Florida Administrative Code, to be consistent with the NEEPP and section 403.067, Florida Statutes, concerning Total Maximum Daily Loads (TMDLs);
- Provides for changes to the Caloosahatchee and St. Lucie River Watershed Protection Programs;
- Provides requirements for the Lake Okeechobee, Caloosahatchee River, and St. Lucie River BMAPs;
- Provides considerations and funding for water supply development and alternative water supply projects;
- Provides requirements for regional water supply planning;
- Provides for the study and reevaluation of best management practices (BMPs) that reduce pollution;
- Provides requirements for new or revised BMAPs;
- Provides for the enforcement of BMAPs;
- Provides for the verification of the implementation of BMPs;
- Requires the DEP, in conjunction with the WMDs, to report on the status of TMDLs, BMAPs, MFLs, and recovery and prevention strategies adopted pursuant to section 403.067, Florida Statutes, and under Parts I and VIII of chapter 373, Florida Statutes, and provides requirements;
- Requires the DEP to create a consolidated water resources work plan that covers all water resource projects in the state and provides requirements for the information provided;
- Directs the DEP to create a web-based, interactive map that provides information to the public on water projects being performed throughout the state, and provides requirements for the information to be provided;
- Creates the Florida Water Resources Advisory Council within the DEP to evaluate and rank water resource projects and provide recommendations to the Legislature for funding projects. The bill provides considerations for ranking projects and rulemaking authority to the DEP to implement the program;
- Requires the DEP to establish statewide standards for the collection of water quantity, water quality, and related data to ensure quality, reliability, and validity of the data and testing results;
- Requires the DEP to adopt rules concerning the reclassification of surface waters used for potable water supply; and
- Requires the DEP to adopt rules concerning projects focused on innovative nutrient and sediment reduction and conservation pilot projects; and
- Revises membership requirements for the Harris Chain of Lakes Restoration Council.

The bill requires a number of activities that will result in significant long-term costs for several government entities, including the DEP, the Department of Agriculture and Consumer Services (DACS), and the Water Management Districts (WMDs). The total fiscal impact is indeterminate; however, Senate Bill 2500, the Senate's General Appropriations Bill for Fiscal Year 2015-2016, provides the following: $50 million for Florida's Springs, $50 million for Water Resources, and

$25 million for the SunTrail. In addition, SB 2500 provides operational funding support to the Northwest Florida Water Management District (NWFWMD) for implementation of MFLs of $1.5 million, and nine positions and $1.73 million to the DEP and the DACS.

The bill requires the South Florida Water Management District, the Southwest Florida Water Management District, and the St. Johns Water Management District to designate and implement alternative water supply projects which will have an indeterminate negative fiscal impact. The bill gives the WMDs the authority to issue revenue bonds to pay the costs and expenses related to these projects.

The bill provides an effective date of July 1, 2015.

II. Present Situation:

State Lands Database

Section 253.0325, F.S., was created in 1990 to require the Department of Environmental Protection (DEP) to establish a computerized system for state lands records. The DEP contracted with a company to create the mainframe-based land record system for documents related to lands where title is vested in the Board of Trustees of the Internal Improvement Trust Fund. In 1999, the system was updated to include new technologies and integration components and referred to as the Board of Trustees Land Document System (BTLDS). The law requires the program to include, at a minimum, a document management component, a lands and records management component, an evaluation component, and a mapping component. The DEP is responsible for ensuring the information system is compatible within the DEP and other state, local, and regional government agencies.

In 2008, s. 253.0325, F.S., was amended to require the DEP to include all lands purchased with Preservation 2000 funds and Florida Forever funds. To comply with the requirement, the DEP contracted with an outside vendor to conduct a BTLDS Feasibility Study. The study determined the DEP Division of State Lands would be the clearinghouse for all of the state lands data and solely responsible for maintaining the database.

In 2010, s. 216.0153, F.S., directed the DEP to create, administer, operate, and maintain a comprehensive system and automated inventory of all state lands and real property leased, owned, rented, occupied, or maintained by a state agency, judicial branch, or water management district (WMD). In order to meet the requirement, the DEP created the Florida State Owned Lands and Records Information System (FL-SOLARIS). The database includes all state owned lands in which the state has a fee interest, including a conservation easement acquired through a formal acquisition process for conservation.

The FL-SOLARIS system has been implemented by the DEP and the Department of Management Services (DMS) to include two main components. The Facility Information Tracking System includes 332 users and 65 different agencies, and the Lands Information Tracking System includes 140 users and 50 different agencies.[1]

[1] State of Florida Lands and Facilities Inventory Search, http://webapps.dep.state.fl.us/DslPi/splash?Create=new (last visited Mar. 6, 2015).

Trail Development

The development of Florida's bicycle and pedestrian infrastructure did not begin in earnest until the late 20th century. The American railroad industry was deregulated by the Staggers Rail Act of 1980, providing Florida with an immediate abundance of abandoned rail corridors.[2] Organizations such as The Rails-to-Trails Conservancy and The Trust for Public Land, the Florida Department of Transportation (FDOT), and the DEP coordinated to develop numerous abandoned rail corridors as shared-use "rail-trails" for nonmotorized transportation and recreation. Many of Florida's premier nonmotorized trails, including the Pinellas Trail, the Tallahassee-St. Marks Trail, and the West Orange Trail, are a result of rail-trail conversions.

The second major initiative in trail development came in 1991 when Congress shifted surface transportation policy through passage of the Intermodal Surface Transportation Efficiency Act.[3] For the first time, pedestrian and bicycle facilities were identified as components of the nation's transportation infrastructure, and a dedicated funding source was created for multiuse trails and paths with local governments serving as project sponsors.[4] Many of the resulting projects are community-centric, short-distance trails, initiated by local governments and other governmental entities not traditionally associated with transportation development, such as water management districts and school districts.

Trail Connectivity

While many locales have benefited from federal trail funding, an unintended consequence of trail development being initiated by numerous state entities and local governments is a collection of random trails rather than a statewide system. As a result, many trails lack connectivity with other trails and often serve no meaningful origins and destinations. Trail users are often required to use roads, sidewalks, and highways to connect trails or to complete a trip. Many trail trips are "out-and-back" trips in which the origin and destination are the same location. Such trips serve little to no transportation function and do not realize the full economic potential of a trail network.

In 1995, the Legislature recognized the benefits of an expanded greenways and trails network and created the Florida Greenways Coordinating Council (FGCC).[5] The Legislature tasked the FGCC with promoting the creation of a statewide greenways and trails system and designated the DEP as the lead agency of the system.[6] The FGCC published the Connecting Florida Communities with Greenways and Trails Plan in 1998. The plan contains a multiuse recreational Opportunity Trail Map and is considered the first visioning document for connecting Florida's greenways and trails. The plan provides a comprehensive approach to the Florida Greenways and Trails System (FGTS) by providing a review of existing greenways and trails and recommendations to complete the system. The plan recommends:

- The DEP establish a process to prioritize greenways and trails for ecological, recreational, and cultural significance;

[2] Pub. Law No. 96-448, H.R. 72365, 96th Cong. (Oct. 14, 1980).
[3] Pub. Law No. 102–240, H.R. 2950, 102nd Cong. (Dec. 18, 1991).
[4] Joe Maher, *Federal Funding for Conservation and Recreation Trails*, 1 (Feb. 2009), *available at* http://www.rff.org/RFF/Documents/RFF-BCK-ORRG_DOT.pdf (last visited Mar. 11, 2015).
[5] Chapter 95-260, Laws of Fla.
[6] *Id*.

- The DEP identify the critical linkages in the statewide greenways and trails system;
- The FGCC evaluate and prioritize greenways and trails proposed by the DEP based on:
  - Willingness of the landowner;
  - Ecological, recreational, and cultural significance;
  - Acquisition considerations;
  - Management considerations;
  - Community support; and
  - Identification of critical linkages.
- The DEP develop a process for designating lands for the statewide greenways and trails system;
- The FGCC promote awareness and generate support of the greenways and trails system;
- Encouraging landowners to voluntarily sell or donate conservation easements or fee simple title to land;
- Coordinating with owners to acquire linear facilities;
- Encouraging developers to include trails in residential areas and to link residential trails with the statewide system;
- Identifying a funding mechanism for the creation and maintenance of trail systems;
- The Legislature create the Florida Greenways and Trails Council; and
- Measuring the success of the statewide trails system by:
  - Tracking the current trail system and new land designations in a database;
  - Maintaining natural areas so they may be considered for designation or remain designated;
  - Creating a system that provides public access to a trail within 15 minutes of every Floridian; and
  - Ensuring a 95 percent satisfaction rate for visitors to greenways and trails facilities.[7]

In 1999, the Legislature created the Florida Greenways and Trails Council as recommended by the 1998 Connecting Communities with Greenways and Trails Plan. Section 260.0142(4), F.S., directs the council to:

- Facilitate a statewide system of interconnected landscape linkages, conservation corridors, greenbelts, recreational corridors and trails, scenic corridors, utilitarian corridors, reserves, regional parks and preserves, ecological sites, and cultural/historic/recreational sites using land-based trails that connect, urban, suburban, and rural areas of the state;
- Recommend priorities for critical links in the FGTS;
- Review recommendations for acquisition funding;
- Review designation proposals to be include in the FGTS;
- Encourage public-private partnerships;
- Review the established benchmarks and make recommendations for appropriate action;
- Recommend updates to the implementation plan for the FGTS;
- Promote greenways and trails support organizations; and

[7] DEP, Florida Greenways Coordinating Council, *Connecting Florida's Communities with Greenways and Trails*, 11-35 (1998), *available at* http://www.dep.state.fl.us/gwt/FGTS_Plan/PDF/1998FGTSPlanConnectingFlorida'sCommunities.pdf (last visited Mar. 5, 2015).

- Support the FGTS through intergovernmental coordination, budget recommendations, and any other appropriate way.

In 2008, Florida was recognized as a leader in greenways and trails and awarded the Best Trails State Award by American Trail. Although the statewide system of trails had expanded to include thousands of miles of paved, unpaved, and paddling trails to accommodate hikers, bikers, equestrians, and paddlers, many gaps to the trail system remain.[8]

In 2013, the DEP published the 2013-2017 Florida Greenways and Trails System Plan. The 2013-2017 plan was the first update to the FGTS since the Connecting Florida Communities with Greenways and Trails Plan was published in 1998. The updated plan provides goals for the FGTS to advance Florida's economy, tourism, health, transportation, recreation, conservation, and quality of life. Specifically, the plan:

- Establishes priorities for coordinating, directing, and focusing resources;
- Provides a new framework for systematically closing the gaps in trails and connecting priority corridors within the FGTS to establish a fully connected and integrated statewide trail network; and
- Provides linkages between additional state planning efforts and the FGTS. The additional state planning efforts include:
  - The Florida Five-year Strategic Plan for Economic Development;
  - The VISIT FLORIDA Marketing Plan;
  - The Florida State Health Improvement Plan;
  - The Florida Transportation Plan 2060;
  - The Florida Statewide Comprehensive Outdoor Recreation Plan; and
  - The Cooperative Conservation Blueprint and Wildlife Action Plan.[9]

The Coast-to-Coast Connector (C2C) is an essential component of the 2013-2017 FGTS plan and the Florida Greenways and Trails Foundation "Close the Gaps" campaign.[10] The C2C is an approximately 275-mile system of local, regional, state, and federal trails crossing nine counties from Titusville to St. Petersburg. Approximately 200 miles of the corridor are developed or funded for completion. The remaining portion of the C2C will cost an estimated $42 million to complete.[11]

Once complete, the C2C will link communities and provide a year-round ecotourism engine throughout the region. The C2C includes two of the state's most popular trails, the Pinellas Trail and the West Orange Trail, each of which have served approximately 1 million users per year and fueled the economic transformation of trail communities, particularly Dunedin and Winter

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[8] DEP, *Coast to Coast Connector, Status Report: July 1, 2014 to December 31, 2014*, 3 (2014), *available at* http://www.dep.state.fl.us/gwt/FGTS_Plan/Long%20Distance%20Corridors/1st%20Edition%20Jan%202015.pdf (last visited Mar. 5, 2015).
[9] DEP, *Florida Greenways & Trails System Plan, 2013-2017*, 1 (2013), *available at* *http://www.dep.state.fl.us/gwt/FGTS_Plan/PDF/FGTS_Plan_2013-17_publication.pdf* (last visited Mar. 19, 2015).
[10] The Florida Greenways and Trails Foundation is a non-profit organization that supports the mission and programs of the DEP Office of Greenways and Trails.
[11] DEP, *The Coast to Coast Connector*, http://www.dep.state.fl.us/gwt/FGTS_Plan/Long%20Distance%20Corridors/Coast_to_Coast_Connector.htm (last visited Mar. 19, 2015).

Garden.[12] Components of the C2C will also serve other planned trails including multi-day loop trails such as the 250-mile Heart of Florida Greenway[13] and the 300-mile St. Johns River-to-Sea Loop.[14]

Interagency Coordination

The FDOT created the Florida Bicycle and Pedestrian Partnership Council in 2010, which includes representatives from the FDOT, state agencies, local governments, and non-profit organizations. The council provides policy recommendations for the state's walking, biking, and trail facilities to the FDOT and its partners. The primary focus of the council is to implement bicycle and pedestrian connections, promote bicycle and pedestrian safety, promote the use of design discretion to accommodate bicycle and pedestrian needs, and to promote the State Health Improvement Plan.[15]

The council has directed the FDOT to partner with the DEP to pursue opportunities that contribute to the full implementation of the FGTS Priority Network including:

- Considering additional right of ways for separate shared-use paths during all transportation corridor planning;
- Expanding the limited access pilot-projects;
- Developing an interagency Memoranda of Agreements to promote cooperation; and
- Working with metropolitan planning organizations and other regional entities.[16]

Although both the DEP and the FDOT are tasked with creating a network of connected trails and to coordinate efforts to accomplish each agency's goals, there is no legislation requiring interagency coordination to create a statewide system of shared-use transportation trails.

Trail Benefits

In addition to the intrinsic value nonmotorized travel brings to community mobility, sustainable transportation, and personal health, trails provide access to conservation lands and create wildlife corridors. Trails also produce numerous quantifiable economic benefits, including increasing the value of nearby properties, increasing spending at local businesses, influencing business location and relocation decisions, revitalizing depressed areas, providing sustainable tourism opportunities, and creating jobs.

Property Values

Based on an analysis of comparable trails from across the country, the construction of Miami-Dade County's Ludlam Trail will increase property values within a half mile of the trail 0.32 to 0.73 percent faster than other properties throughout the county. This translates into a total

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[12] *Id.*
[13] The Florida Greenways and Trails Foundation, *Close the Gaps: Heart of Florida Greenway Map* (May 29, 2012), *available at* http://fgtf.org/maps/hof/overview.pdf) (last visited Mar. 11, 2015).
[14] *See* ETM, *St. Johns River-to-Sea Loop Trail Status Update* (Sept. 2011), *available at* http://www.etminc.com/SJR2C/sg_userfiles/SJR2C_Summary_Report_09-19-11.pdf (last visited Mar. 11, 2015).
[15] DOT, *The Florida Bicycle and Pedestrian Partnership Council: 2012/2013 Annual Progress Report*, iii (Oct. 2013), *available at* http://www.dot.state.fl.us/planning/policy/bikeped/Annualrpt2012-13.pdf (last visited Mar. 11, 2015).
[16] *Id.* at 7

property value increase over a 25-year period of $121 million to $282 million.[17] A study of property values near trails in Delaware found that properties within 50 meters of the bike paths sell for $8,800 more than similar homes.[18] A survey co-sponsored by the National Association of Home Builders and the National Association of Realtors found that proximity to nonmotorized trails came in second only to highway access when recent home buyers were asked about the "importance of community amenities."[19]

Local Businesses and Economic Development

An economic impact analysis of trails in Orange County, Florida, found in 2010 average spending per trail user was $20 per visit, representing food and beverages, transportation, books and maps, bike maintenance, rentals, and more. The West Orange Trail supports 61 jobs and represents an estimated economic impact of $5 million for downtown Winter Garden. Longer destination trails increase spending and benefit hotels, bed and breakfasts, and outdoor outfitters.[20] A study of the Great Allegheny Passage, a 132-mile corridor in Pennsylvania, found that users reporting longer average travel distances to the trail were more likely to spend successive days on or near the trail. Those who reported an overnight stay in conjunction with their trips averaged spending $203 per person.[21] A survey on the Greenbrier River Trail, an 81-mile corridor in West Virginia, found an overwhelming majority of trail users were highly educated professionals with high income levels, two-thirds were from outside of West Virginia, 93 percent were staying in the area from one to four days, 58 percent spent between $100 and $500 in the area, and 93 percent indicated that they were highly likely to plan a return trip.[22]

Revitalization of Depressed Areas

Companies often choose locations in communities that offer a high level of amenities to employees as a means of attracting and retaining top-level workers. Trails can make communities attractive to businesses looking to expand or relocate both because of the amenities they offer to employees and the opportunities they offer to trail visitors.[23]

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[17] Miami-Dade County, Park and Recreation Department, *Miami-Dade County Trail Benefits Study: Ludlam Trail Case Study*, 57 (Jan. 2011), *available at* http://atfiles.org/files/pdf/Miami-Dade-Ludlam-Trail-Benefits.pdf (last visited Mar. 11, 2015).

[18] David P. Racca and Amardeep Dhanju, *Project Report for Property Value/Desirability Effects of Bike Paths Adjacent to Residential Areas*, 30 (Nov. 2006), *available at http://128.175.63.72/projects/DOCUMENTS/bikepathfinal.pdf* (last visited Mar. 19, 2015).

[19] National Trails Training Partnership, *Benefits of Trails and Greenways*, http://www.americantrails.org/resources/benefits/homebuyers02.html (last visited Mar. 11, 2015).

[20] East Central Florida Regional Planning Council, *Economic Impact Analysis of Orange County Trails*, ii (2011), *available at* http://www.dep.state.fl.us/gwt/economic/PDF/Orange_County_Trail_Report_final_May2011.pdf (last visited Mar. 11, 2015).

[21] Compos, Inc., *The Great Allegheny Passage Economic Impact Study (2007-2008)*, 91 (2009), *available at* http://www.atatrail.org/docs/GAPeconomicImpactStudy200809.pdf (last visited Mar. 11, 2015).

[22] ATI, *Maximizing Economic Benefits from a Rails-to-Trails Project in Southern West Virginia – A Case Study of the Greenbrier River Trail*, 11 (May 2001), *available at* http://atfiles.org/files/pdf/greenbrierecon.pdf (last visited Mar. 11, 2015).

[23] *See* NPS, *Economic Impacts of Protecting Rivers, Trails, and Greenway Corridors: Corporate Relocation and Retention. Rivers, Trails and Conservation Assistance Program* (1995), *available at* http://www.nps.gov/pwro/rtca/econ_all.pdf (last visited Mar. 11, 2015).

In Dunedin, Florida, after the abandoned CSX railroad was transformed into the Pinellas Trail, the downtown area went from 70 percent storefront occupancy to 95 percent occupancy.[24]

Tourism Opportunities

The Outer Banks of North Carolina generates $60 million in economic activity through bicycle tourism. The one-time investment of $6.7 million on bicycle infrastructure has resulted in an annual nine-to-one return. Analysis of Outer Banks trail amenities shows bicycle tourists tend to be affluent and educated. More than half of survey respondents said bicycling had a strong influence on their decision to return to the area. Two-thirds of respondents said that riding on bike facilities made them feel safer and three-quarters said that more paths, shoulders, and lanes should be built.[25]

A widely accepted tenet in trail development holds that the longer a given trail is, the greater its propensity for becoming a "destination trail," and the greater distance users will travel to use the trail. Users traveling farther stay in the area longer and, consequently, increase spending in the area. Users of the Great Allegheny Passage/C&O Canal Towpath, a 335-mile system of biking and hiking trails that connects Pittsburgh to Washington, DC, travel an average of 131 miles to the trailhead. Those that traveled 50 miles or more had daily expenditures approximately two times that of users that traveled less.[26]

Trail Development Creates More Jobs than Road Development

A national comparison of the number of jobs created per $1 million spent on various types of transportation projects found that for every $1 million spent on the development of multiuse trails, 9.57 jobs were created while road-only development yields 7.75 jobs.[27]

Sponsorship of Trails and Related Facilities

Section 335.065(3), F.S., authorizes the FDOT to enter into a concession agreement for commercial sponsorship displays, subject to the Highway Beautification Act of 1965 and all federal laws and agreements, on multiuse trails and related facilities with a not-for-profit entity or private sector business or entity. The revenues from the concession agreements may be used for trail maintenance.

In 2012, the Legislature created s. 260.0144, F.S., to authorize the DEP to enter into concession agreements for naming rights for the display of commercial sponsorship on certain state-owned greenway and trail facilities or properties. The DEP may establish the cost for entering into a concession agreement. The law specifies the commercial display contemplated by the concession agreement is for public relations or advertising purposes for the concessionaires and is not to be

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[24] DEP, *The Impact of Trails on Communities*, 34 (2010), *available at* http://www.opportunityflorida.com/pdf/Jim%20Wood%20-%20Trails%20and%20Economic%20Impact%20-%20Rural%20Summit.pdf (last visited Mar. 11, 2015).
[25] NCDOT, *Pathways to Prosperity: The Economic Impact of Investments in Bicycling Facilities*, vi-viii (July 2004), *available at* http://www.ncdot.gov/bikeped/download/bikeped_research_eiafulltechreport.pdf (last visited Mar. 5, 2015).
[26] *Supra* note 21, at 70.
[27] PERI, *Pedestrian and Bicycle Infrastructure: A National Study of Employment Impacts*, 11 (June 2011), *available at* http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.362.5819&rep=rep1&type=pdf (last visited Mar. 11, 2015).

construed as having a relationship with the DEP other than what is set forth in the terms of the concession agreement. The law also does not grant a proprietary or compensable interest in any sign, or display site or location.

Section 260.0144, F.S., requires 85 percent of the proceeds from the concession agreement with the DEP to be distributed to the appropriate trust fund within the DEP to be used for management and operation of state greenway or trail facilities and properties. The remaining 15 percent goes to the State Transportation Trust Fund.

The signage and display requirements for ss. 335.065(3) and 260.0144, F.S., are as follows:

- The placement of signage or displays is limited to the provisions of s. 337.407, F.S., and ch. 479, F.S., and limited to trailheads, parking areas, or public access points;
- The size of the signage or display is limited to 16 square feet at trailheads and parking areas and four square feet at public access points;
- The FDOT or the DEP must approve the name or display before installation;
- The FDOT or the DEP must ensure:
  - The size, color, materials, construction, and location of the signs are consistent with the management plan of the property and the standards of the FDOT or the DEP;
  - The signs do not intrude on natural and historic settings; and
  - The signs only contain the logo selected by the sponsor and the wording: "(Name of the sponsor)…proudly sponsors the costs of maintaining the…(Name of the greenway or trail)";
- All costs associated with the signage must be the responsibility of the concessionaire;
- The concession agreement is limited to one year unless extended by a multiyear agreement; and
- The FDOT or the DEP may terminate the agreement for just cause with 60 days advance notice to the concessionaire.

Florida's Springs

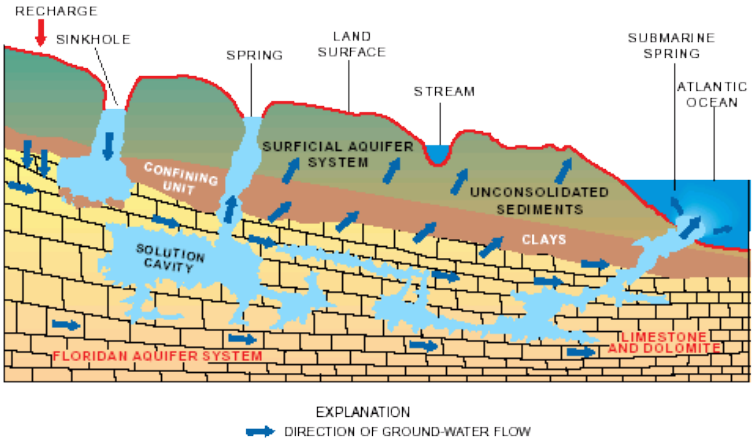
Florida's springs are unique and beautiful resources. The historically crystal clear waters provide not only a variety of recreational opportunities and habitats, but also great economic value for recreation and tourism. Springs are major sources of stream flow in a number of rivers such as the Rainbow, Chassahowitzka, Homosassa, and Ichetucknee.[28] Additionally, Florida's springs provide a "window" into the Floridan aquifer system, which provides most of the state's drinking water.

The Floridan aquifer system is a limestone aquifer that has enormous freshwater storage and transmission capacity. The upper portion of the aquifer consists of thick carbonate rocks that have been heavily eroded and covered with unconsolidated sand and clay. The surficial aquifer is located within the sand deposits and forms the land surface that is present today. In portions of Florida, the surficial aquifer lies on top of deep layers of clay sediments that prevent the

[28] Department of Community Affairs, *Protecting Florida's Springs: An Implementation Guidebook*, 3-1 (Feb. 2008), *available at* http://www.dep.state.fl.us/springs/reports/files/springsimplementguide.pdf (last visited Mar. 5, 2015).

downward movement of water. Springs form when groundwater is forced out through natural openings in the ground.[29]

The Water Cycle – Springs[30]



Florida has more than 700 recognized springs. First magnitude springs are those that discharge 100 cubic feet of water per second or greater. Florida has 33 first magnitude springs in 18 counties that discharge more than 64 million gallons of water per day. Spring discharges, primarily from the Floridan aquifer, are used to determine ground water quality and the degree of human impact on a spring's recharge area. Rainfall, surface conditions, soil type, mineralogy, the composition and porous nature of the aquifer system, flow, and length of time in the aquifer all contribute to ground water chemistry.[31]

The springshed is the area within the groundwater and surface water basins that contributes to the discharge of the spring. The spring recharge basin consists of all areas where water can be shown to contribute to groundwater flow discharging from the spring.

Spring protection zones are sub-areas of the groundwater and surface water basins of each spring or spring system that supply water to the spring and within which human activities, such as waste disposal or water use, are most likely to have negative impacts on the water discharging from the spring. When adverse conditions occur within a spring protection zone, the conditions can be minimized by:

- Land-use management and zoning by county or municipal government;
- Adoption of best management practices (BMPs);
- Educating the public concerning environmental sensitivity; and
- Regulatory action, if necessary.[32]

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[29] *Id*. at 3-1 to 3-2.
[30] U.S. Environmental Protection Agency, *The Water Cycle: Springs*, http://water.usgs.gov/edu/watercyclesprings.html (last visited Mar. 5, 2015).
[31] Florida Geological Survey, *Springs of Florida Bulletin No. 66*, *available at* http://www.dep.state.fl.us/geology/geologictopics/springs/bulletin66.htm (last visited Mar. 5, 2015).
[32] Upchurch, S.B. and Champion, K.M., *Delineation of Spring Protection Areas at Five, First-Magnitude Springs in North-Central Florida (Draft)*, 1 (Apr. 28, 2004), *available at* www.waterinstitute.ufl.edu/suwannee-hydro-observ/pdf/delineation-of-spring-protection-zones.pdf (last visited Mar. 5, 2015).

Nutrients

Phosphorus and nitrogen are essential nutrients for plants and animals and are the limiting nutrients in aquatic environments. The correct balance of both nutrients is necessary for a healthy ecosystem; however, excessive nitrogen and phosphorus can cause significant water quality problems. Typically, nitrogen is the limiting nutrient in spring systems. Therefore, even modest increases in nitrogen above optimum levels can accelerate algae growth, plant growth, and deplete oxygen levels.

Phosphorus and nitrogen are derived from natural and anthropogenic sources. Natural inputs include the atmosphere, soils, and the decay of plants and animals. Anthropogenic sources include sewage disposal systems (wastewater treatment facilities and septic tanks), overflows of storm and sanitary sewers (untreated sewage), agricultural production and irrigation practices, and stormwater runoff.

Excessive nutrients may result in harmful algal blooms, nuisance aquatic weeds, and alteration of the natural community of plants and animals. Dense, harmful algal blooms can also cause human health problems, fish kills, problems for water treatment plants, and generally impair the aesthetics and tastes of waters. Growth of nuisance aquatic weeds tends to increase in nutrient-enriched waters, which can impact recreational activities. Increased algae production, as a result of increased nutrients, can alter plant communities and affect natural systems.

In pristine conditions, spring water is high quality and lacks contaminants. It can be used directly for public water supplies or for irrigation. When pollutants are introduced to the land surface, some will be retained, but some will travel into the aquifer and later appear in spring flow. Often, nutrients introduced close to a spring will quickly reach the spring, especially in unconfined areas of the aquifer. While springs are valuable recreational and tourist attractions, they are also an indicator of reduced quality of the water in the aquifer.[33]

Urban Fertilizer Usage and Florida's Model Ordinance

Application of fertilizer in urban areas impacts springsheds when it runs off lawns and impervious surfaces into stormwater collection systems or directly into the surface water. The DEP has provided guidelines to minimize the impact of urban fertilizer use and adopted the Model Ordinance for Florida-Friendly Fertilizer Use on Urban Landscapes. The model ordinance provides counties and municipalities with a range of options to help minimize fertilizer inputs from urban applications. Some of the suggestions contained in the model ordinance are:

- Restricting the times fertilizer may be applied, such as restricting its application during the rainy season;
- Creating fertilizer free zones around sensitive waterbodies such as ponds, streams, watercourses, lakes, canals, or wetlands;
- Controlling application practices by, for example, restricting fertilizer application on impervious surfaces and requiring prompt cleanup of any fertilizer that is spilled on impervious surfaces; and

[33] *Supra* note 28, at 3-4.

- Managing grass clipping and vegetative matter by disposing of such materials properly rather than simply blowing them into the street, ditches, stormwater drains, or waterbodies.[34]

Water Pollution Control Programs

Total Maximum Daily Loads (TMDLs) and Water Quality Standards

Under s. 303 of the federal Clean Water Act (CWA), states are incentivized to adopt water quality standards (WQSs) for their navigable waters and must review and update those standards at least once every three years. These standards include:

- Designation of a waterbody's beneficial uses, such as water supply, recreation, fish propagation, and navigation;
- Water quality criteria that define the amounts of pollutants, in either numeric or narrative standards, that the waterbody can contain without impairment of the designated beneficial uses; and
- Anti-degradation requirements.[35]

In 1999, the Legislature passed the Florida Watershed Restoration Act,[36] which codified the establishment of TMDLs for pollutants of waterbodies as required by the CWA.[37] Each TMDL, which must be adopted by rule, is a scientific determination of the maximum amount of a given pollutant that can be absorbed by the waterbody while still meeting WQSs. Waterbodies that do not meet the established WQSs are deemed impaired and, pursuant to the CWA, the DEP establishes a TMDL for the waterbody or section of the waterbody that is impaired.[38] A TMDL for an impaired waterbody is defined as the sum of the individual waste load allocations for point sources and the load allocations for nonpoint sources and natural background. Waste load allocations are pollutant loads attributable to existing and future point sources, such as discharges from industry and sewage facilities. Load allocations are pollutant loads attributable to existing and future nonpoint sources such as the runoff from farms, forests, and urban areas. [39]

The U.S. Environmental Protection Agency (EPA) and the DEP enforce WQSs through the implementation and enforcement of the National Pollutant Discharge Elimination System (NPDES) permitting program. Every point source that discharges a pollutant into waters of the United States must obtain an NPDES permit establishing the amount of a particular pollutant that an individual point source can discharge into a specific waterbody. The amount of the pollutant that a point source can discharge under a NPDES permit is determined through the establishment of a technology-based effluent limitation. If a waterbody fails to meet the applicable WQS

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[34] DEP, *Model Ordinance for Florida-Friendly Fertilizer Use on Urban Landscapes*, 6-9 (2010), *available at* http://www.dep.state.fl.us/water/nonpoint/docs/nonpoint/dep-fert-modelord.pdf (last visited Mar. 5, 2015).
[35] 33 U.S.C. s. 1313(c)(2)(A) (2014); 40 C.F.R. ss. 131.6 and 131.10-131.12.
[36] Chapter 99-223, Laws of Fla.
[37] Section 403.067, F.S.
[38] *Id*.
[39] Fla. Admin. Code R. 62-620.200(37) (2006). Point source means any discernible, confined, and discrete conveyance, including any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft from which pollutants are or may be discharged. Nonpoint sources of pollution are essentially sources of pollution that are not point sources. They can include runoff from agricultural lands or residential areas; oil, grease and toxic materials from urban runoff; and sediment from improperly managed construction sites.

through the application of a technology-based effluent limitation, a more stringent pollution control program called the water quality based effluent limitation is applied.

Basin Management Action Plans (BMAPs)

The DEP is the lead agency in coordinating the implementation of TMDLs and BMAPs through existing water quality protection programs. Such programs include:

- Permitting and other existing regulatory programs, including water quality based effluent limitations;
- Non-regulatory and incentive-based programs, including BMPs, cost sharing, waste minimization, pollution prevention, agreements established pursuant to s. 403.061(21), F.S., and public education;[40]
- Public works, including capital facilities; and
- Land acquisition.[41]

The DEP may establish a BMAP as part of the development and implementation of a TMDL for a specific water body. First, the BMAP equitably allocates pollutant reductions to individual basins, as a whole to all basins, or to each identified point source or category of nonpoint sources.[42] Then the BMAP establishes the schedule for implementing projects and activities to meet the pollution reduction allocations. The BMAP process has the flexibility to allow for adaptive changes if necessary. The BMAP development process provides an opportunity for local stakeholders, local government and community leaders, and the general public to collectively determine and share water quality clean-up responsibilities. The DEP works with stakeholders to develop effective BMAPs.[43]

BMAPs must include milestones for implementation and water quality improvement. They must also include an associated water quality monitoring component sufficient to evaluate whether reasonable progress in pollutant load reductions is being achieved over time. An assessment of progress toward these milestones must be conducted every five years and revisions to the plan must be made as appropriate.[44]

Producers of nonpoint source pollution included in a BMAP must comply with the established pollutant reductions by either implementing the appropriate BMPs or by conducting water quality monitoring.[45] A nonpoint source discharger may be subject to enforcement action by the DEP or a WMD based upon a failure to implement these requirements.[46]

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[40] Section 403.061, F.S., grants the DEP the power and the duty to control and prohibit pollution of air and water in accordance with the law and rules adopted and promulgated by it. Furthermore, s. 403.061(21), F.S., allows the DEP to advise, consult, cooperate, and enter into agreements with other state agencies, the federal government, other states, interstate agencies, etc.
[41] Section 403.067(7)(b), F.S.
[42] Section 403.067(7), F.S.
[43] DEP, *Basin Management Action Plans (BMAPs)*, http://www.dep.state.fl.us/central/Home/Watershed/BMAP.htm (last visited Mar. 5, 2015).
[44] Section 403.067(7)(a)5., F.S.
[45] BMPs for agriculture, for example, include activities such as managing irrigation water to minimize losses, limiting the use of fertilizers, and waste management.
[46] Section 403.067(7)(b)1.h., F.S.

Provisions of a BMAP must be included in subsequent NPDES permits. The DEP is prohibited from imposing limits or conditions associated with an adopted TMDL in an NPDES permit until the permit expires, the discharge is modified, or the permit is reopened pursuant to an adopted BMAP.[47]

NPDES permits issued between the time a TMDL is established and a BMAP is adopted contain a compliance schedule allowing time for the BMAP to be developed. Once the BMAP is developed, a permit will be reopened and individual allocations consistent with the BMAP will be established in the permit. The timeframe for this to occur cannot exceed five years. NPDES permittees may request an individual allocation during the interim, and the DEP may include an individual allocation in the permit.[48]

For an individual point source, reducing pollutant loads established under the TMDL and water quality based effluent limitation regulatory programs can be difficult to accomplish. It may require investment in expensive technology or other costly measures to reduce pollutant loads.[49]

Agricultural Operations

Only lands that are used primarily for bona fide agricultural purposes are classified as agricultural in Florida.[50] The term "bona fide agricultural purposes" means good faith commercial agricultural use of the land. Certain factors may be taken into account in determining whether an agricultural operation is bona fide:

- The length of time the land has been used for agriculture;
- Whether the use has been continuous;
- The purchase price paid;
- Size, as it relates to specific agricultural use, but a minimum acreage may not be required for agricultural assessment;
- Whether an indicated effort has been made to care sufficiently and adequately for the land in accordance with accepted commercial agricultural practices, including fertilizing, liming, tilling, mowing, reforesting, and other accepted agricultural practices;
- Whether the land is under lease and, if so, the effective length, terms, and conditions of the lease; and
- Other factors as may be applicable.[51]

Industrial Wastewater Program

In Florida, all wastewater that is not defined as domestic wastewater is considered industrial wastewater. The DEP's Industrial Wastewater Program issues permits to facilities for activities that discharge to surface waters and ground waters of the state.[52] Industrial wastewater that

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[47] Florida Senate Committee on Environmental Preservation and Conservation, *CS/SB 754 Analysis* (Mar. 14, 2013), *available at* http://flsenate.gov/Session/Bill/2013/0754/Analyses/2013s0754.pre.ep.PDF (last visited Mar. 5, 2015).
[48] *Id*.
[49] *Id*.
[50] Section 193.461(3)(b), F.S.
[51] *Id*.
[52] DEP, *Wastewater Program: Industrial Wastewater*, http://www.dep.state.fl.us/Water/wastewater/iw/index.htm (last visited Mar. 5, 2015). Other operations that are considered sources of industrial wastewater include manufacturing, commercial

discharges to domestic wastewater treatment facilities, however, is regulated under a different program. The DEP is authorized by the EPA to issue permits for discharge to surface waters under the National Pollutant Discharge Elimination System (NPDES). Permits for discharge to ground waters are issued by the DEP under state statutes and rules. Industrial wastewater permits are issued by the district offices.

Two exceptions to the permits issued by the district offices are:

- NPDES permits for steam electric power plants, which are issued by the Industrial Wastewater Section in the Tallahassee office; and
- Industrial wastewater permitting for the phosphate industry, which is handled by the Phosphogypsum Management Section located in Tampa.[53]

Best Management Practices on Agricultural Lands

Agricultural BMPs are guidelines advising producers how to manage the water, nutrients, and pesticides they use to minimize agricultural impacts on Florida's natural resources. Agricultural activity is dependent on the application of fertilizer and pesticides and is linked to the contamination of watersheds with nutrients such as nitrogen and phosphorus. BMPs tend to cover four major areas, which overlap: nutrient management, or how producers use fertilizers; pest management, or how they use pesticides; water management, or how they use and discard water; and sediment management, or how they affect the sediments on and around their properties.[54]

BMPs reduce the amount of nutrients, sediments, and pesticides that enter the water system and help reduce water use. Because much of the state is built on limestone, which allows water to return relatively unfiltered to the aquifer, pollutants can enter the water supply quickly, endangering humans and ecosystems.[55]

The Department of Agriculture and Consumer Services (DACS) Office of Agricultural Water Policy is actively involved in developing BMPs. The DACS works cooperatively with agricultural producers, industry groups, the DEP, the state university system, the WMDs, and other interested parties to develop and implement BMP programs that are economically and technically feasible.[56]

Onsite Sewage Treatment and Disposal Systems (OSTDs)

In Florida, septic systems are referred to as onsite sewage treatment and disposal systems. An OSTDS can contain any one of the following components: a septic tank; a subsurface drainfield; an aerobic treatment unit (ATU); a graywater tank; a laundry wastewater tank; a grease interceptor; a pump tank; a waterless, incinerating or organic waste-composting toilet; and a

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businesses, mining, agricultural production and processing, and wastewater from cleanup of petroleum and chemical contaminated sites.

[53] *Id*.

[54] University of Florida Institute of Food and Agricultural Sciences, *Best Management Practices*, http://solutionsforyourlife.ufl.edu/hot_topics/agriculture/bmps.shtml (last visited Mar. 5, 2015).

[55] *Id*.

[56] DACS, Office of Agricultural Water Policy, *Home Page* (Jan. 8, 2014), http://www.freshfromflorida.com/Divisions-Offices/Agricultural-Water-Policy (last visited Mar. 5, 2015).

sanitary pit privy.[57] Septic systems are located underground and treat sewage without the presence of oxygen. Sewage flows from a home or business through a pipe into the first chamber, where solids settle out. The liquid then flows into the second chamber where anaerobic bacteria in the sewage break down the organic matter, allowing cleaner water to flow out of the second chamber into a drainfield.[58] Engineers licensed in Florida may specially design OSTDSs to meet the needs of individual property owners. Engineer-designed OSTDS plans are subject to review by the local county health department and must be certified by the engineer as complying with all requirements pertaining to such system.[59]

The Department of Health (DOH) administers onsite sewage programs, develops statewide rules, and provide training and standardization for county health department employees responsible for issuing permits for the installation and repair of OSTDSs within the state.[60] The Bureau also licenses over 700 septic tank contractors and oversees 2.6 million onsite wastewater systems in Florida. [61]

The EPA concluded in its 1997 Report to Congress that "adequately managed decentralized wastewater systems are a cost-effective and long-term option for meeting public health and water quality goals, particularly in less densely populated areas."[62] In Florida, development is dependent on OSTDSs due to the cost and time it takes to install central sewer systems. In rural areas and low-density developments, central sewer is not cost effective. Less than one percent of Florida systems are actively managed. The remainder are generally serviced only when they fail, often leading to costly repairs that could have been avoided with routine maintenance.[63]

Land Spreading of Septage

Septage is defined as a mixture of sludge, fatty materials, human feces, and wastewater removed during the pumping of an OSTDS.[64] Approximately 100,000 septic tanks are pumped each year, generating 100 million gallons of septage requiring treatment and disposal.[65] The septage is treated and disposed of at a number of septage treatment facilities regulated by the DOH. When used for land application, the septage is stabilized by raising the pH to 12 for at least two hours

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[57] DEP, *Wastewater: Septic Systems*, http://www.dep.state.fl.us/water/wastewater/dom/septic.htm (last visited Mar. 5, 2015).
[58] EPA, *Primer for Municipal Wastewater Treatment Systems*, 22 (2004), *available at* http://water.epa.gov/aboutow/owm/upload/2005_08_19_primer.pdf (last visited Mar. 5, 2015).
[59] *See* Fla. Admin. Code R. 64E-6.003 (2013) and R. 64E-6.004 (2010).
[60] The DOH does not permit the use of onsite sewage treatment and disposal systems where the estimated domestic sewage flow from the establishment is over 10,000 gallons per day (gpd) or the commercial sewage flow is over 5,000 gpd; where there is a likelihood that the system will receive toxic, hazardous or industrial wastes; where a sewer system is available; or of any system or flow from the establishment is currently regulated by the DEP. The DEP issues the permits for systems that discharge more than 10,000 gpd.
[61] Hall, P. and Clancy, S.J., *Statewide Inventory of Onsite Sewage Treatment and Disposal Systems in Florida, Final Report*, 6 (June 29, 2009), *available at* http://www.floridahealth.gov/healthy-environments/onsite-sewage/research/_documents/research-reports/_documents/inventory-report.pdf (last visited Mar. 5, 2015).
[62] EPA, *Handbook for Managing Onsite and Clustered (Decentralized) Wastewater Treatment Systems*, 1 (Dec. 2005), *available at* http://water.epa.gov/infrastructure/septic/upload/onsite_handbook.pdf (last visited Mar. 26, 2015).
[63] DOH, *Report on Range of Costs to Implement a Mandatory Statewide 5-Year Septic Tank Inspection Program*, 1 (Oct. 2008) (on file with the Senate Committee on Environmental Preservation and Conservation).
[64] Section 381.0065(2)(n), F.S.
[65] DOH, *Report on Alternative Methods for the Treatment and Disposal of Septage*, 1 (Feb. 2011), *available at* http://pk.b5z.net/i/u/6019781/f/FINAL_REPORT_ON_ALTERNATIVE_METHODS_FOR_THE_TREATMENT_AND_DISPOSAL_OF_SEPTAGE_03282011__2_.pdf (last visited Mar. 5, 2015).

or to a pH of 12.5 for 30 minutes.[66] The treated septage is then spread over land at DOH-regulated land application sites.[67] In addition to septage, onsite systems serving restaurants include tanks that separate grease from the sewage stream. The grease is collected, hauled, treated, and land applied similarly to septage. In 2011, there were 92 DOH-regulated land application sites that receive treated septage from 108 DOH-regulated septage treatment facilities. Approximately 40 percent of septage removed from septic tanks is treated at septage treatment facilities and then land applied.[68]

In 2010, the Legislature enacted ch. 2010-205, Laws of Florida., which prohibited the land application of septage from septic tanks effective January 1, 2016. In addition, the law required the DOH, in consultation with the DEP, to provide a report to the Governor and the Legislature recommending alternative methods to establish enhanced treatment levels for the land application of septage by February 1, 2011. The report provided several alternatives to the land application of septage as it is currently performed.[69]

Treatment of septage at domestic wastewater treatment facilities

Treating septage takes advantage of available wastewater treatment facilities' capacity while at the same time centralizing waste treatment operations. However, not all wastewater treatment facilities accept septage because it is a high strength waste, which has the potential to upset facilities' processes and may result in increased operation and maintenance requirements and costs. Furthermore, the distance between central facilities with available treatment capacity and the locations where septage is collected in rural areas can make transport to such facilities cost prohibitive.[70]

Disposal of septage at landfills

Acceptance of septage at Class I landfills has positive impacts because it increases microbial activity within the landfills and results in increased waste decomposition and more rapid waste stabilization. However, landfill instability may result due to disposal of the wet waste stream. Increased difficulty in operating compaction equipment may result due to creation of a slick working surface. Many landfills choose not to accept loads of septage, making land application sites one of the only available options for the disposal of septage.[71]

Advanced Treatment

While most of Florida's OSTDSs are conventional OSTDSs, or passive septic systems, there are other advanced systems capable of providing additional or advanced treatment of wastewater prior to disposal in the drainfield. Advanced OSTDSs can utilize various approaches to improve treatment before discharge to a drainfield, or the drainfield itself can be modified. On occasion,

[66] Fla. Admin. Code R. 64E-6.010(7)(a) (2013).
[67] See Fla. Admin. Code R. 64E-6.010 (2013).
[68] *Supra* note 65, at 2.
[69] *Supra* note 65, at 2.
[70] *Supra* note 65, at 2.
[71] *Supra* note 65, at 3.

engineers have included the drainfield as part of the treatment process, usually as a means to achieve fecal coliform reduction.[72]

Advanced systems differ in three respects from conventional treatment systems that consist of a septic tank with a drainfield. First, the design of advanced systems is more variable than the approach for conventional systems. Second, they need more frequent checkups and maintenance, which is the reason they require operating permits. Third, the performance expectations are more specific, while failures for advanced systems are less defined.[73] Advanced systems are significantly more expensive to purchase, install, and operate.

ATUs offer advanced treatment for wastewater. ATUs force compressed air through the liquid effluent in the tank to create a highly oxygenated (aerobic) environment for bacteria. Bacteria that thrive in oxygen-rich environments work to break down and digest the wastewater inside the ATU. Aerobic units come in a variety of sizes and shapes and can be made of concrete, fiberglass or polyurethane. They are designed to collect and treat all the water from a home, including water from toilets, showers, bathtubs, sinks, and laundry. There are as many as three stages that ATUs take wastewater through before the effluent is dispersed into the drainfield.[74]

Water Pollution Management

Urban Stormwater Management

Unmanaged urban stormwater creates a wide variety of effects on Florida's surface waters and groundwater. Factors that exacerbate unmanaged runoff include:

- Compaction of soil;
- Impervious surfaces such as roads and parking lots;
- Alteration of natural landscape features such as natural depression areas that hold water, floodplains, and wetlands;
- Construction of highly efficient drainage systems that alter the ability of the land to assimilate precipitation; and
- Pollutant loading of receiving water bodies from stormwater discharge.[75]

Urbanization within a watershed decreases the amount of rainwater that seeps into the soil. Rainwater is critical for recharging aquifers, maintaining water levels in lakes and wetlands, and maintaining spring and stream flows. The increased volume, speed, and pollutant loading in

[72] DOH, Assessment of Water Quality Protection, *Advanced Onsite Sewage Treatment and Disposal Systems: Performance, Management, Monitoring, Draft Final Report*, 14 (August 19, 2013), *available at* http://www.floridahealth.gov/healthy-environments/onsite-sewage/research/advancedostdsfinalreportdraft.pdf (last visited Mar. 5, 2015).
[73] Prepared for DEP by DOH, Bureau of Onsite Sewage Programs, *Revised Quality Assurance Project Plan Assessment of Water Quality Protection by Advanced Onsite Sewage Treatment and Disposal Systems (OSTDS): Performance, Management, Monitoring*, 8 (Aug. 22, 2011) *available at* http://www.floridahealth.gov/healthy-environments/onsite-sewage/research/_documents/final319qapp.pdf (last visited Mar. 5, 2015).
[74] Florida Health, Lee County, *Aerobic Treatment Unit Homeowner Education*, http://lee.floridahealth.gov/programs-and-services/environmental-health/onsite-sewage-disposal/permits/aerobic-treatment-units.html (last visited Mar. 5, 2015).
[75] DEP, *State Stormwater Treatment Rule Development Background*, http://www.dep.state.fl.us/water/wetlands/erp/rules/stormwater/background.htm (last visited Mar. 5, 2015).

stormwater discharged from developed areas leads to flooding, water quality problems, and loss of habitat.[76]

In 1982, to manage urban stormwater and minimize impacts to natural systems, Florida adopted a technology-based rule requiring the treatment of stormwater to a specified level of pollutant load reduction for new development. The rule included a performance standard for the minimum level of treatment and design criteria for BMPs to achieve the performance standard. It also included a rebuttable presumption that discharges from a stormwater management system would meet WQSs when designed in accordance with the BMP design criteria.[77] The performance standard was to reduce post-development stormwater pollutant loading of total suspended solids[78] by 80 percent, or by 95 percent for Outstanding Florida Waters.[79]

In 1990, the DEP developed and implemented the State Water Resource Implementation Rule (originally known as the State Water Policy rule).[80] This rule sets forth the broad guidelines for the implementation of Florida's stormwater program and describes the roles of the DEP, the WMDs, and local governments. One of the primary goals of the program is to maintain the predevelopment stormwater characteristics of a site. The rule sets a minimum performance standard for stormwater treatment systems to remove 80 percent of the post-development stormwater pollutants "that cause or contribute to violations of WQSs."[81]

The DEP and the WMDs jointly administer the Environmental Resource Permitting (ERP) program for activities that alter surface water flows.[82] Alteration or construction of new stormwater management systems in urban redevelopment areas is regulated by the ERP program pursuant to s. 373.413, F.S., and must comply with all other relevant sections of Part IV of ch. 373, F.S.

Wastewater Treatment Plants

Wastewater treatment is one of the most common forms of pollution control in the United States. Sewerage system components include collection sewers, pumping stations, and treatment plants. Sewage is collected and sent to a treatment plant to remove solids and biological contaminants. Once sewage has been treated, it is typically discharged into streams and other receiving waters, or reused.[83]

The basic function of wastewater treatment is to speed up natural processes by which water is purified. Typically, sewage is treated by primary and secondary processes. In the primary stage,

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[76] *Id*.
[77] *Id*.
[78] Total Suspended Solids is listed as a conventional pollutant under s. 304(a)(4) of the CWA. A conventional pollutant is a water pollutant that is amenable to treatment by a municipal sewage treatment plant.
[79] Fla. Admin. Code R. 62-302.700 (2006), provides that an Outstanding Florida Water is a designated water body worthy of special protection because of its natural attributes. This special designation is applied to certain water bodies, and is intended to protect and preserve their existing states.
[80] *Supra* note 75. *See generally* Fla. Admin. Code R. 62-40.
[81] *Supra* note 75.
[82] Chapter 373, Part IV, F.S. See also DEP, *Environmental Resource Permitting (ERP) Program*, http://www.dep.state.fl.us/water/wetlands/erp/index.htm (last visited Mar. 5, 2015).
[83] U.S. Environmental Protection Agency, Office of Water, *How Wastewater Treatment Works: The Basics*, Report no. 833-F-98-002, 1 (May 1998), *available at* http://www.epa.gov/npdes/pubs/bastre.pdf (last visited Mar. 5, 2015).

solids are allowed to settle and are removed from the wastewater. The secondary stage uses biological processes to further purify wastewater.[84]

Limits in Florida for effluent to surface water from wastewater treatment plants are required to contain no more than 20 mg/L carbonaceous biochemical oxygen demand (CBOD5)[85] and 20 mg/L total suspended solids (TSS)[86], or 90 percent removal of each from the wastewater influent, whichever is more stringent.[87] There are other limits depending on where the effluent is being discharged.

Advanced Wastewater Treatment

Advanced wastewater treatment (AWT) systems perform additional treatment beyond secondary treatment. AWT can remove more than 99 percent of all impurities from sewage, producing an effluent that may be drinking-water quality. The related technology can be expensive, requiring a high level of technical expertise and well trained treatment plant operators, a steady energy supply, chemicals, and specific equipment that may not be readily available. An example of an AWT process is the modification of a conventional secondary treatment plant to remove additional phosphorus and nitrogen. The effluent standards for AWT on an annual average basis are:

- CBOD5 – 5 mg/L;
- Suspended solids – 5 mg/L;
- Total nitrogen – 3 mg/L;
- Total phosphorus – 1 mg/L; and
- High levels of disinfection.[88]

Biosolids

Biosolids are the solid, semisolid, or liquid residue generated during the biological wastewater treatment process. Florida generates approximately 320,000 dry tons of biosolids annually. Biosolids are normally high in organic content and contain moderate amounts of nutrients such as nitrogen and phosphorus, making them valuable as a fertilizer or soil amendment.[89] They may be used beneficially or disposed of in landfills.[90]

Biosolids are classified as AA, A, or B. AA biosolids are considered the highest quality biosolids. They must be treated to a level that essentially eliminates pathogens and meets strict concentration limits for heavy metals. They may be used as fertilizer through commercial distribution and marketing.[91] Class A biosolids are biosolids that meet the same pathogen reduction requirements as Class AA biosolids, meet the same vector attraction (meaning the attraction of disease spreading animals) requirements as Class B biosolids, and meet a series of

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[84] *Id*.
[85] For more information on CBOD5, see Fla. Admin. Code R. 62-601.200(5) (1996).
[86] For more information on TSS, see Fla. Admin. Code R. 62-601.200(54) (1996).
[87] Fla. Admin. Code R. 62-600.420 (1993).
[88] Section 403.086(4), F.S.
[89] DEP, *Biosolids in Florida: 2012 Summary*, 1 (Dec. 2013), *available at* http://www.dep.state.fl.us/water/wastewater/dom/docs/BiosolidsFlorida-2012-Summary.pdf (last accessed Mar. 5, 2015).
[90] *Id*.
[91] *Id*.

concentration limits for nine different elements.[92] Class B biosolids must be treated to significantly reduce pathogens and must meet certain concentration limits for heavy metals. Application rates are limited to crop nutrient needs. They are subject to site application restrictions and restrictions on harvesting, grazing, and public access. Also, cumulative heavy metals must be tracked for Class A and B biosolids; however, in Florida, land applied biosolids are almost exclusively Class B. In 2012, approximately 108,272 dry tons of Class B biosolids were land applied.[93]

Minimum Flows and Levels (MFLs)

MFLs are established for water bodies in order to prevent significant harm to the water resources or ecology of an area as a result of water withdrawals. MFLs are typically determined based on evaluations of topography, soils, and vegetation data collected within plant communities and other pertinent information associated with the water resource. MFLs take into account the ability of wetlands and aquatic communities to adjust to changes in hydrologic conditions and allow for an acceptable level of hydrologic change to occur. When uses of water resources shift the hydrologic conditions below levels defined by MFLs, significant ecological harm can occur.[94] The goal of establishing an MFL is to ensure there is enough water to satisfy the consumptive use of the water resource without causing significant harm to the resource.[95] Consumptive uses of water draw down water levels and reduce pressure in the aquifer.[96] By establishing MFLs for non-consumptive uses, the WMDs are able to determine how much water is available for consumptive use. This is useful when evaluating a new consumptive use permit (CUP) application.[97]

Section 373.042, F.S., requires the DEP or WMDs to establish MFLs for priority water bodies to prevent significant harm from water withdrawals. While the DEP has the authority to adopt MFLs under ch. 373, F.S., the WMDs have the primary responsibility for MFL adoption. The WMDs submit annual MFL priority lists and schedules to the DEP for review and approval. MFLs are considered rules by the WMDs and are subject to ch. 120, F.S., challenges. MFLs are established using the best available data and are subject to independent scientific peer review at the election of the WMD, or, if requested, by a third party.[98]

MFLs apply to decisions affecting permit applications, declarations of water shortages, and assessments of water supply sources. Computer water budget models for surface waters and groundwater are used to evaluate the effects of existing and/or proposed consumptive uses and the likelihood they might cause significant harm. The WMD governing boards are required to develop recovery or prevention strategies in those cases where a water body or watercourse

[92] Fla. Admin. Code R. 62-640.200(9) (2010).
[93] *Supra* note 89.
[94] SJRWMD, *Water Supply: An Overview of Minimum Flows and Levels*, http://www.sjrwmd.com/minimumflowsandlevels/ (last visited Mar. 5, 2015).
[95] DEP, *Minimum Flows and Levels*, http://www.dep.state.fl.us/water/waterpolicy/mfl.htm (last visited Mar. 5, 2015).
[96] *Supra* note 28, at 3-5.
[97] Florida Senate Committee on Environmental Preservation and Conservation, *SB 244 Analysis*, 2 (Feb. 22, 2013), *available at* http://flsenate.gov/Session/Bill/2013/0244/Analyses/2013s0244.ep.PDF (last visited Mar. 5, 2015).
[98] *Id*.

currently does not or is anticipated to not meet an established MFL. Water uses cannot be permitted that cause any MFL to be violated.[99]

Prior to the passage of the Water Resources Act in 1972,[100] MFLs were defined in statute:

- Average minimum flow - the average of the five lowest monthly mean discharge for each month, January through December, occurring during the past twenty years of natural flow. The determination was based on available flow data or in the absence of such data, it was established by reasonable calculations; and
- Average minimum level - the average of the minimum thirty days lake water level occurring during each of the five years of lowest levels in the period of the preceding twenty consecutive years. The determination was based upon available lake level data, supplemented when available by reasonable calculations.[101]

The Water Resources Act of 1972 changed the way minimum flows and minimum levels were defined:

- The minimum flow for a given watercourse is the limit at which further withdrawals would be significantly harmful to the water resources or ecology of the area; and
- The minimum water level is the level of ground water in an aquifer and the level of surface water at which further withdrawals would be significantly harmful to the water resources of the area.[102]

The ecology of groundwater resources was thought to be non-existent at the time of the 1972 act.

Consumptive Use Permits (CUP)

A CUP establishes the duration and type of water use as well as the maximum amount of water that may be withdrawn daily. Pursuant to s. 373.219, F.S., each CUP must be consistent with the objectives of the issuing WMD or the DEP and may not be harmful to the water resources of the area. To obtain a CUP, an applicant must establish that the proposed use of water satisfies the statutory test, commonly referred to as "the three-prong test." Specifically, the proposed water use must:

- Be a "reasonable-beneficial use" as defined in s. 373.019(16), F.S.;
- Not interfere with any presently existing legal use of water; and
- Be consistent with the public interest.

Consolidated Water Management District Annual Reports

Each WMD must prepare and submit to the DEP, the Governor, the President of the Senate, and the Speaker of the House of Representatives a consolidated water management district annual report on the management of water resources. Copies of the report are available to the public.[103]

The report must contain:

[99] *Supra* note 94.
[100] Chapter 72-299, Laws of Fla.
[101] Section 373.081, F.S. (1971).
[102] *Supra* note 100.
[103] Section 373.036(7)(a), F.S.

- A district water management plan annual report. Alternatively, it may contain the annual work plan report,[104] which details the implementation of the strategic plan for the previous fiscal year, addressing success indicators, deliverables, and milestones;[105]
- The DEP approved MFLs annual priority list and schedule;
- The annual five-year capital improvements plan;
- The alternative water supplies annual report;
- The final annual five-year water resource development work program;
- The Florida Forever Water Management District Work Plan annual report;
- The mitigation donation annual report; and
- Any additional information the WMD deems appropriate.

Additionally, the South Florida WMD must include the:
- Lake Okeechobee Protection Program annual progress report;
- Everglades annual progress reports;
- Everglades restoration annual report; and
- Everglades Trust Fund annual expenditure report.[106]

Rural Areas of Opportunity

Rural areas of opportunity are rural communities and regions composed of rural communities designated by the Governor that have been adversely affected by an extraordinary economic event, severe or chronic distress, or a natural disaster, or that presents a unique economic development opportunity of regional impact.[107]

Rural communities are defined as:
- Counties with a population of 75,000 or fewer;
- Counties with a population of 125,000 or fewer that are contiguous to a county with a population of 75,000 or fewer;
- Designated municipalities within a county that meet the thresholds of the two previous criteria; or
- An unincorporated federal enterprise community or an incorporated rural city with a population of 25,000 or less and an employment base focused on traditional agricultural or resource-based industries, located in a county not defined as rural, which has at least three or more of the economic distress factors identified below:[108]
    - Low per capita income;
    - Low per capita taxable values;
    - High unemployment;
    - High underemployment;
    - Low weekly earned wages compared to the state average;
    - Low housing values compared to the state average;
    - High percentages of the population receiving public assistance;

[104] Section 373.036(7)(b)1., F.S.
[105] Section 373.036(2)(e)4., F.S.
[106] Section 373.036(7), F.S.
[107] Section 288.0656(2)(d), F.S.
[108] Section 288.0656(2)(e), F.S.

- High poverty levels compared to the state average; and
- A lack of year-round stable employment opportunities.[109]

Northern Everglades and Estuaries Protection Program

In 2000, the Legislature passed the Lake Okeechobee Protection Act (LOPA), which established a restoration and protection program for the lake. In 2007, the Legislature amended the LOPA,[110] which is now known as the Northern Everglades and Estuaries Protection Program (NEEPP). The NEEPP promotes a comprehensive, interconnected watershed approach to protect Lake Okeechobee and the Caloosahatchee and St. Lucie Rivers. It includes the Lake Okeechobee, Caloosahatchee River, and the St. Lucie River Watershed Protection Programs.[111]

The plans developed under the NEEPP for each of the three Northern Everglades watersheds identify actions to help achieve water quality and water quantity objectives for the watersheds and to restore habitat. Water quality objectives are based on TMDLs developed by the DEP. The TMDL for Lake Okeechobee is 140 metric tons of total phosphorus per year, of which 105 metric tons can come from the watershed tributaries and 35 metric tons can come from atmospheric deposition.[112]

The South Florida Water Management District (SFWMD), in cooperation with the DACS and the DEP, collectively known as the coordinating agencies, developed the Lake Okeechobee Watershed Protection Plan (LOWPP), which is reevaluated every three years pursuant to NEEPP. The LOWPP's three main components are the:

- Lake Okeechobee Watershed Construction Project, which includes the Phase I and Phase II Technical Plans;
- Lake Okeechobee Watershed Phosphorus Control Program; and
- Lake Okeechobee Watershed Research and Water Quality Monitoring Program.

It also includes the Lake Okeechobee Exotic Species Control Program and the Lake Okeechobee Internal Phosphorus Management Program.[113]

Section 373.4595, F.S., describes the purposes of the five programs. The Lake Okeechobee Watershed Construction Project improves the hydrology and water quality of Lake Okeechobee and downstream receiving waters, including the Caloosahatchee and St. Lucie Rivers and Estuaries. The Lake Okeechobee Phosphorus Control Program is designed to be a multifaceted approach to reducing phosphorus loads by improving the management of phosphorus sources within the Lake Okeechobee watershed. The Lake Okeechobee Watershed Research and Water Quality Monitoring Program assesses sources of phosphorus, evaluates the feasibility of alternative nutrient reduction technologies, and evaluates water quality data. The Lake

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[109] Section 288.0656(2)(c), F.S.
[110] Chapter 2007-253, LAWS of Fla.
[111] SFWMD, *2014 South Florida Environmental Report: Lake Okeechobee Watershed Protection Program Annual and Three-Year Update*, 8-2 (2014), *available at* http://my.sfwmd.gov/portal/page/portal/pg_grp_sfwmd_sfer/portlet_prevreport/2014_sfer/v1/chapters/v1_ch8.pdf (last visited Mar. 26, 2015).
[112] *Id.* at 8-10.
[113] *Id.* at 8-10.

Okeechobee Internal Phosphorus Management Program addresses phosphorus removal. Lastly, the Lake Okeechobee Watershed Research and Water Quality Monitoring Program assesses sources of phosphorus, evaluates the feasibility of alternative nutrient reduction technologies, and evaluates water quality data.

Lake Okeechobee Basin Management Action Plan

The Lake Okeechobee BMAP was adopted in December 2014. For the first phase of the BMAP, the DEP is focusing on project implementation in the following six sub-watersheds north of the lake:

- The Upper Kissimmee;
- The Lower Kissimmee;
- Taylor Creek/Nubbin Slough;
- Lake Istokpoga;
- Indian Prairie; and
- Fisheating Creek.[114]

The anticipated outcomes of the BMAP's implementation are:

- Improvements in water quality trends in the Lake Okeechobee Watershed;
- Decreased loading of total phosphorus and total nitrogen;
- Decreased loading of total phosphorus and total nitrogen to the St. Lucie and Caloosahatchee Estuaries;
- Increased coordination between state and local governments to achieve surface water quality restoration;
- Determination of effective projects through the stakeholder decision-making and priority-setting processes;
- Enhanced public awareness of stormwater runoff, pollutant sources, pollutant impacts on water quality, and corresponding corrective actions; and
- Enhanced understanding of basin hydrology, water quality, pollutant sources, and legacy loads.

The DEP states the plan will reduce total phosphorus entering the lake by 33 percent over the next 10 years.[115]

The Caloosahatchee and St. Lucie River Watershed Protection Programs

The Caloosahatchee and St. Lucie River Watershed Protection programs are designed to protect and restore surface water resources by addressing the reduction of pollutant loadings, restoration of natural hydrology, and compliance with applicable state water quality standards through a phased program. The program objective is to reduce pollutant loads based upon adopted TMDLs.

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[114] DEP, *Basin Management Action Plan for the Implementation of Total Maximum Daily Loads for Total Phosphorus*, xii (Dec. 2014), *available at* http://www.dep.state.fl.us/water/watersheds/docs/bmap/LakeOkeechobeeBMAP.pdf (last accessed Mar. 26, 2015).

[115] DEP, *DEP Adopts Restoration Plan for Lake Okeechobee*, (Dec. 16, 2014), https://depnewsroom.wordpress.com/2014/12/24/dep-adopts-restoration-plan-for-lake-okeechobee/ (last visited Mar. 16, 2015).

Both the Caloosahatchee and St. Lucie River Watershed Protection Plans consist of a river watershed construction project, a watershed pollutant control program, and watershed research and water quality monitoring program.[116] To address nutrient pollution in the Caloosahatchee and St. Lucie Watersheds, the DEP adopted the Caloosahatchee Estuary BMAP in November 2012, and the St. Lucie River and Estuary BMAP in May 2013. The BMAP for the upper Caloosahatchee River watershed is under development.

Central Florida Water Initiative (CFWI)

The areas encompassed by the CFWI Planning Area, which consists of all of Orange, Osceola, Seminole, and Polk counties and southern Lake County, have traditionally relied on groundwater from the Floridan aquifer system as the primary source of water. The three WMDs serving the area are the SFWMD, the Southwest Florida Water Management District (SWFWMD), and the St. Johns River Water Management District (SJRWMD).[117]

In the past, the three WMDs worked independently to resolve water resource issues, but the decisions of one district can affect the water resources of another. Currently, the WMDs are working collaboratively with other agencies and stakeholders to implement consistent water resource planning, development, and management through the CFWI. However, each WMD currently relies on its own existing criteria to review CUP applications, which leads to inconsistencies and confusion as it relates to permit applications for projects that overlap multiple WMD boundaries.[118]

In 2006, the three WMDs agreed to a Central Florida Coordination Area Action Plan to address the near-term and long-term development of water supplies in the central Florida region.[119] Phase I of the action plan created a framework to deal with the short-term water resource issues and concluded with interim water use regulations limiting groundwater withdrawals to projected 2013 demands and required development of alternative water supplies for future needs. The interim Central Florida Coordination Area rules expired on December 31, 2013, and additional rules specific to the Central Florida Coordination Area have not been promulgated.[120]

Phase II of the action plan began in 2009. The initial objective was to establish new rules prior to the December 31, 2013, sunset date and to implement a long-term approach to water resource management in central Florida. Phase II of the action plan involved coordinated activities on a variety of issues including:

- Regional water supply planning;
- Investigations and development of traditional and alternative water supply projects;

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[116] SFWMD, *2014 South Florida Environmental Report: Lake Okeechobee Watershed Protection Program Annual and Three-Year Update*, App. 10-2-3 (2012), *available at* http://www.sfwmd.gov/portal/page/portal/xrepository/sfwmd_repository_pdf/crwpp_2012update_sfer_voli_app10_2.pdf (last visited Mar. 26, 2015).
[117] Central Florida Water Initiative, *An Overview*, http://cfwiwater.com/pdfs/2012/06-28/CFWI_Overview_fact_sheet.pdf (last accessed Mar. 16, 2015).
[118] *Id.*
[119] Central Florida Water Initiative, *Central Florida Water Initiative Guiding Document*, 2 (Jan. 30, 2015), *available at* http://cfwiwater.com/pdfs/CFWI_Guiding_Document_2015-01-30.pdf (last visited Mar. 26, 2015).
[120] *Id.*

- Assessment of environmental impacts and groundwater sustainability; and
- Development of water use rules and permitting criteria.[121]

The main planning tool for the Phase II process was the development and calibration of the necessary hydrologic models to determine the sustainability of the groundwater supplies. The Phase II process was suspended, however, because of the complexity of the effort and the desire for consensus among stakeholders. Because of those problems, the Phase II effort did not meet the rulemaking deadlines prior to expiration of the interim rule. Additionally, because of the economic downturn in central Florida, the need for and use of permitted water demands in 2013 was lower than expected.[122]

To address the limitations of the 2006 Central Florida Coordination Area Action Plan schedule and still fulfill the overarching objectives outlined in that plan, the CFWI was created in 2011. The CFWI builds on the work of the Central Florida Coordination Area. Both efforts focus on an area that includes all of Orange, Osceola, Seminole, and Polk counties, and southern Lake County. The three affected WMDs, along with the DEP, the DACS, regional public water supply utilities, and other stakeholders are collaborating to develop a unified process to address central Florida's current and long-term water supply needs.[123] It is led by a steering committee comprised of:

- A public water supply utility representative;
- One designated governing board member from each of the WMDs;
- A representative from the DEP; and
- A representative from the DACS.[124]

The guiding principles of the CFWI are:

- Identify the sustainable quantities of traditional groundwater sources available for water supply that can be used without causing unacceptable harm to the water resources and associated natural systems;
- Develop strategies to meet water demands that are in excess of the sustainable yield of existing traditional groundwater sources, implement demand management, and identify alternative water supplies that can be permitted and will be implemented as demands approach the sustainable yield of existing sources; and
- Establish consistent rules and regulations for the three WMDs that meet the goals of the CFWI.[125]

The goals of the CFWI are:

- One hydrologic model;
- A uniform definition of harm;
- One reference condition;
- A process for permit reviews;
- A consistent process, where appropriate, to set MFLs and reservations; and

[121] *Id.*
[122] *Id.* at 3.
[123] *Id.* at 3.
[124] *Id.* at 5.
[125] *Id.* at 5

- A coordinated regional water supply plan, including any needed recovery and prevention strategies.[126]

Works of the District Permits

The Works of the District rule[127] was implemented in 1989. The scope of the original rule was to implement the Surface Water Improvement and Management Plan for Lake Okeechobee, which was designed to reduce loading to Lake Okeechobee to 397 tons of phosphorus per year. In 2000, the passage of the Lake Okeechobee Protection Act required landowners in the Lake Okeechobee watershed to either implement BMPs or monitor to demonstrate compliance with the Works of the District program.

In Lake Okeechobee, a Works of the District permit is required if an entity owns a parcel of land half an acre or greater within a Lake Okeechobee Drainage Basin that connects to or makes use of the Works of the District within the Lake Okeechobee Drainage Basin. The land areas and uses subject to the permits are described in Rules 40E-61.041 and 40E-61.042, F.A.C., both of which relate to permits required in the Lake Okeechobee Drainage Basin. Works of the District Permits are also required for activities in the Everglades Agricultural Area and the C-139 Basin. Rules concerning permits in the Everglades Agricultural Area may be found in Rule 40E-63, F.A.C.

The Harris Chain of Lakes Restoration Council

The Harris Chain of Lakes is located north and west of the Orlando metropolitan area and is in Lake and Orange counties.[128] It contains tens of thousands of acres of lakes and wetlands and is at the headwaters of the Ocklawaha River.[129]

The council was created by the Legislature in 2001 and consists of nine voting members. The members are:

- A representative of waterfront property owners;
- A representative of the sport fishing industry;
- An environmental engineer;
- A person with training in biology or another scientific discipline;
- A person with training as an attorney;
- A physician;
- A person with training as an engineer; and
- Two residents of Lake County appointed by the Lake County legislative delegation who do not meet any of the other qualifications for membership on the council.[130]

The council's duties are to:

[126] *Id*. at 5
[127] Fla. Admin. Code R. 40E-61.
[128] Harris Chain of Lakes Restoration Council, *Where is the Harris Chain of Lakes and What Does the Restoration Council Do?*, http://harrischainoflakescouncil.com/ (last visited Apr. 8, 2015).
[129] *Id*.
[130] Section 373.467, F.S.

- Review audits and all data related to lake restoration techniques and sport fish population recovery strategies;
- Evaluate whether additional studies are needed;
- Explore all possible sources of funding to conduct the restoration activities; and
- Report to the President of the Senate and the Speaker of the House of Representatives yearly before November 25 on the progress of the Harris Chain of Lakes restoration program and provide any recommendations for the next fiscal year.[131]

The council works with an advisory group composed of one representative from:
- The St. Johns River Water Management District, which also provides staff for the council;
- The DEP;
- The Department of Transportation;
- The Fish and Wildlife Conservation Commission;
- The Lake County Water Authority;
- The U.S. Army Corps of Engineers; and
- The University of Florida.[132]

III. Effect of Proposed Changes:

Section 1 amends s. 259.032, F.S., to require the Department of Environmental Protection (DEP) to develop, publish, update, and maintain a database of state conservation and recreation lands that allow public access. The bill requires the database to be available online by July 1, 2016. The database must include, at a minimum:
- The location of the lands;
- The types of allowable recreational opportunities;
- The points of public access;
- Facilities or other amenities; and
- Land use restrictions.

The DEP is to include any additional information that is appropriate to increase the public awareness of recreational opportunities on conservation lands. The database must be electronically accessible, searchable, and downloadable in a generally acceptable format.

The bill directs the DEP, through its own efforts or in partnership with a third party, to create a downloadable mobile application to locate state lands available for public access using the user's current location or activity of interest. The database and application must include information for all publicly accessible state conservation lands that serve a recreational purpose.

The bill requires that beginning January 1, 2018, to the greatest extent practicable, the database must include similar information for recreational lands with public access that are owned by the federal and local governments.

[131] *Id.*
[132] *Id.*

The bill requires the DEP to submit a report by January 1 of each year to the Governor, the President of the Senate, and the Speaker of the House of Representatives, describing the percentage of public lands with public access acquired under s. 259.032, F.S., and efforts taken by the DEP to increase public access to such lands.

Section 2 amends s. 260.0144 F.S., to specify the Shared-Use Nonmotorized Trail (SunTrail) Network is not included in the sponsorship provisions of state greenways and trails under s. 260.0144, F.S.

The bill removes the Florida Keys Overseas Heritage Tail, the Blackwater Heritage Trail, the Tallahassee-St. Marks Historic Railroad State Trail, the Nature Coast State Trail, the Withlacoochee State Trail, the General James A. Van Fleet State Trail, and the Palatka-Lake Butler State Trail trails from the sponsorship provisions under s. 260.0144, F. S. They are addressed in section 6 of the bill.

Section 3 amends s. 335.065, F.S., to remove the Florida Department of Transportation's (FDOT) authority to enter contracts for commercial sponsorship of multiuse trails. The authority to enter into contracts for commercial sponsorship of multiuse trails is addressed in section 6 of the bill.

Section 4 creates s. 339.81, F.S., to establish the SunTrail as a component of the Florida Greenways and Trails System (FGTS) established in ch. 260, F.S. The network consists of multiuse trails or shared use paths that are independent of motor vehicle traffic.

The bill provides legislative findings:

- Increasing demands continue to be placed on the state's transportation system;
- Significant challenges exist in providing additional capacity to the conventional transportation system and require alternative travel modes; and
- Improving bicyclist and pedestrian safety for both residents and visitors remains a high priority.

Provides the legislative declaration that the development of a nonmotorized trail network will increase mobility and recreational alternatives that enrich quality of life, enhance safety, and that reflect responsible environmental stewardship.

Provides the legislative intent, that the FDOT should make use of its expertise to develop the SunTrail network to access a variety of origins and destinations with limited exposure to motorized vehicles.

The bill specifies that SunTrails are constructed with asphalt, concrete, or another hard surface, and by the virtue of the design, location, extent of connectivity or potential connectivity, and allowable uses, provide nonmotorized transportation opportunities for bicyclists and pedestrians between and within many points of origin and destinations including, but not limited to, communities, conservation areas, state parks, beaches, and other natural or cultural attractions for a variety of trip purposes including work, school, shopping, social, recreational, and personal fitness purposes.

The SunTrail components do not include sidewalks, nature trails, or loop trails in a single park or natural area, or on-road facilities, other than:

- On-road facilities that are no greater than one-half mile in length connecting two or more nonmotorized trails, if the provision of the non-road facility is unfeasible and if the on-road facility is signed and marked for nonmotorized use; and
- On-road components of the Florida Keys Overseas Heritage Trail.

The bill requires the FDOT to include SunTrail projects within the five-year work program. The FDOT and other agencies and units of government are authorized to expend funds and accept gifts and grants of funds, property, and property rights for the development of the SunTrail network. The FDOT is required to allocate $50 million per year to fund and maintain projects within the network. The FDOT is authorized to enter into memoranda of agreement with other governmental entities and may contract with private entities to provide maintenance services on individual components of the network. The FDOT is authorized to adopt rules to assist in developing and maintaining the network.

Section 5 creates s. 339.82, F.S., to direct the FDOT to develop the SunTrail Network Plan in coordination with the DEP, metropolitan planning organizations, local governments, other public agencies, and the Florida Greenways and Trails Council. The plan must be consistent with the FGTS plan developed under s. 260.014, F.S., and be updated at least once every five years. The SunTrail plan must include:

- A needs assessment, including a comprehensive inventory of existing facilities;
- A process that prioritizes projects that:
  - Are identified by the Florida Greenways and Trails Council as priority projects under ch. 260, F.S.;
  - Connect components by closing gaps in the network; and
  - Maximize use of federal, local, and private funds.
- A map showing existing and planned facilities;
- A finance plan in five and 10-year cost-feasible increments;
- Performance measures focusing on trail access and connectivity;
- A timeline for completion of the base network; and
- A marketing plan prepared in conjunction with the Florida Tourism Industry Marketing Corporation.

Section 6 creates s. 339.83, F.S., to provide for sponsorship of SunTrail components by not-for-profit or private sector entities. The bill provides guidance on sponsor signs, pavement markings, and exhibits on nonmotorized trails and related facilities constructed as part of the SunTrail network.

The bill authorizes concession agreements to provide for recognition of trail sponsors in any brochure, map, or website providing trail information. The bill also allows trail websites to provide links to sponsors. Revenue from the agreements may be used for the maintenance of the nonmotorized trails and the related facilities.

The bill requires the concession agreements to be administered the FDOT. The signage, pavement markings, or exhibits must comply with s. 337.407, F.S., and ch. 479, F.S., and are limited as follows:

- A large sign, pavement marking, or exhibit may not be greater than 16 square feet in area and may be located at the trailhead or parking area;
- A small sign, pavement marking, or exhibit may not be greater than four square feet in area and may be located at the designated trail access point where parking is not provided;
- The pavement markings denoting specified distances must be located at least one mile apart;
- Prior to installation, the sign, pavement marking, or exhibit must be approved by the FDOT;
- The FDOT must ensure:
  - The size, color, materials, construction, and location of the signs are consistent with the management plan of the property and the standards of the DEP or the FDOT;
  - The signs do not intrude on natural and historic settings; and
  - The signs only contain the logo selected by the sponsor and the wording: "(Name of the sponsor)…proudly sponsors the costs of maintaining the …(Name of the greenway or trail)";
- Exhibits may provide additional information and materials including, but not limited to, maps and brochures for trail user services related to or in the vicinity of the trail;
- Pavement markings may display mile marker information; and
- All costs associated with a sign, pavement marking, or exhibit must be the responsibility of the concessionaire.

The bill limits the concession agreement to one year unless extended by a multiyear agreement and the FDOT may terminate the agreement for just cause with 60 days advance notice to the concessionaire.

The bill authorizes the FDOT to contract for the provision of services related to the trail sponsorship program including recruitment and qualifications of businesses, review of applications, permit issuance, and fabrication, installation, and maintenance of signs, pavement markings, and exhibits. The FDOT is authorized to reject proposals and to seek other requests for proposals or otherwise perform the work. The contract may allow the contractor to retain a portion of the annual fees as compensation for services.

The bill does not create a proprietary or compensable interest in any sponsorship site and the FDOT may terminate permits or change locations of sponsorship sites as it deems necessary.

The FDOT is authorized to adopt rules to establish the requirements for qualification of businesses, qualification and location of sponsorship sites, permit application and processing, and any rules necessary to implement the criteria of the section.

The bill allows the FDOT to provide variances when necessary to serve the interest of the public or when required to ensure equitable treatment of program participants.

Section 7 amends s. 373.019, F.S., to amend the definition of "water resource development" to add "self-suppliers" to the list of entities that may receive technical assistance as long as such assistance is consistent with the declaration of policy in s. 373.016, F.S.

Section 8 amends s. 373.036, F.S., to provide additional information to be included in the Consolidated Water Management District Annual Report. The information required is related to all water quality or water quantity projects as part of a five-year work program. The following must be included:

- All projects identified to implement a Basin Management Action Plan (BMAP) or recovery or prevention strategy;
- Priority ranking of each listed project, for which state funding through the water resources work program is requested, which must be available for public comment at least 30 days before submission of the consolidated annual report;
- Estimated cost of each project;
- Estimated completion date for each project;
- Source and amount of financial assistance that will be made available by the DEP, a water management district (WMD), or some other entity for each project; and
- A quantitative estimate of each project's benefit to the watershed, water body, or water segment in which it is located.
- A grade for each watershed, water body, or water segment where a project is located representing the level of impairment and violations of adopted or interim minimum flow or minimum water level. The system must reflect the severity of the impairment.

Section 9 creates s. 373.037, F.S., to provide for a pilot program for alternative water supply development in restricted allocation areas.

The bill provides definitions for:

- Central Florida Water Initiative Area;
- Lower East Coast Regional Water Supply Planning Authority;
- Restricted Allocation Area;
- Southern Water Use Caution Area; and
- Upper East Coast Regional Water Supply Planning Area.

The bill provides legislative findings:

- There are significant challenges to securing funds for implementing large-scale alternative water supply projects in certain restricted allocation areas;
- These challenges have resulted in the failure to:
  - Achieve minimum flows and levels (MFLs);
  - Mitigate and avoid harm to the water resources and related natural systems;
  - Provide adequate water supply for all existing and projected reasonable-beneficial uses; and
  - Sustain the water resources and related natural systems within certain restricted allocation areas;
- These factors make it necessary for the South Florida Water Management District (SFWMD), the Southwest Florida Water Management District (SWFWMD), and the St. Johns River Water Management District (SJRWMD) to each take the lead in developing and implementing one alternative water supply project within a restricted allocation area as a pilot alternative water supply development project;

- The traditional role of local governments, regional water supply authorities, and government-owned and privately owned water utilities will be maintained by requiring the WMDs to turn over ownership and control of a pilot project to the project participants if they can secure the funds to implement the pilot project and resolve any governance issues over the development, implementation, and operation of the pilot project;
- The development and implementation of one alternative water supply project each by the SFWMD, SWFWMD, and the SJRWMD within restricted allocation areas as pilot projects is for the benefit of the public health, safety, and welfare and is in the public interest.
- The pilot projects must provide water supply and environmental benefits; and
- Consideration shall be given to projects that provide reductions in damaging discharges to tide or are part of a recovery or prevention strategy for MFLs.

The bill requires the SFWMD, SWFWMD, and the SJRWMD to each designate and implement an existing alternative water supply project, or amend its regional water supply plan, to add a new alternative water supply project as its one pilot project.

The bill provides a deadline of July 1, 2016, to designate a pilot project and provides that it is not subject to rulemaking requirements under ch. 120, F.S., or subject to legal challenge pursuant to ss. 120.569 and 120.57, F.S.

The bill provides that once designated, the pilot project will be considered a use resulting in an enhancement of the water resources of the area and entitled to a preference over other uses in the event of competing applications pursuant to s. 373.036(5), F.S., which concerns the preference of certain uses in the event of competing applications for permits for water under ch. 373, F.S.

The bill allows a WMD to designate an alternative water supply project located in another WMD if the project is located in a restricted allocation area designated by the other WMD and a substantial quantity of water provided by the alternative water supply project will be used within the designating WMD's boundaries.

The bill details powers and restrictions for the SFWMD, SWFWMD, and SJRWMD in implementing their respective pilot projects under this section:

- The WMDs may establish, design, construct, operate, and maintain water production, treatment and transmission, or other related facilities for the purpose of supplying water to counties, municipalities, special districts, publicly owned and privately owned water utilities, multijurisdictional water supply entities, other large water users, or regional water supply authorities.
- The WMDs may not engage in local water supply distribution.
- The WMDs may supply water at a cost not to exceed expenses directly related to the planning, design, development, implementation, operation, and maintenance of the pilot project. The cost of such water will be established by the governing board only after a public hearing at which pilot project customers have an opportunity to be heard concerning the proposed cost.
- The WMDs must provide credit toward the pro rata cost of the water to be supplied from the pilot project to a customer equal to any expenses incurred by the customer toward the

implementation of the pilot project before the WMD's designation and implementation of the pilot project.

- The WMDs are given the power to issue revenue bonds to pay the costs and expenses incurred by carrying out the purposes of this section or refunding obligations of the WMD issued under this section. The bill provides that the provisions of s. 373.584, F.S., relating to issuing revenue bonds, which are consistent with this section, apply to the issuance of revenue bonds pursuant to this section. The bill also provides that the WMDs may also issue bond anticipation notes in accordance with s. 373.584, F.S.
- For the purpose of carrying out their powers, the WMDs to join with:
  - One or more WMDs;
  - Counties;
  - Municipalities;
  - Special districts;
  - Publicly owned or privately owned water utilities;
  - Multijurisdictional water supply entities;
  - Regional water supply authorities;
  - Self-suppliers; or
  - Other entities.
- The WMDs may also contract with any of those entities to finance or otherwise implement acquisitions, construction, and operation and maintenance, if the contracts are consistent with the public interest and based upon independent cost estimates, including comparisons with other alternative water supply projects. The contracts may provide for contributions to be made by each party to the contract for the division and apportionment of resulting costs, including capital, operation and maintenance, benefits, services, and products. The contracts may contain other covenants and agreements necessary and appropriate to accomplish their purposes.

The bill allows the WMDs to provide up to 50 percent funding assistance for the pilot projects. If the pilot project selected by a WMD is the subject of a cooperative funding agreement, the WMD may not reduce the level of funding assistance previously committed to the project.

The bill prohibits a WMD from proceeding with implementation and development of a selected pilot project if the pilot project customers form a multijurisdictional water supply entity to implement and develop the selected pilot project by July 1, 2017, and take substantive steps to develop and implement the project. Examples of substantive steps to develop and implement a project are:

- Entering into water supply contracts;
- Issuing revenue bonds or bond anticipation notes to finance the project; or
- Awarding construction contracts to construct the project in whole or in part.

The WMD may designate a new pilot project within one year after the creation of the multijurisdictional entity, and the completion of at least one substantive step by the multijurisdictional entity to implement the project.

If the pilot project customers form a multijurisdictional water supply entity to take over construction, operation, maintenance, and control of the pilot project at any time during the life of the pilot project, the WMD must transfer ownership and control of the pilot project to the pilot

project customers. It may do so upon the repayment of any revenue bonds or other obligations issued by the WMD to develop and implement the pilot project and any outstanding expenses incurred by the WMD in constructing, operating, and maintaining the pilot project.

The bill provides that pilot project customers are not responsible for repayment of any cooperative funding provided by a WMD for the pilot projects. If that happens, the WMD may develop and implement another pilot project within a restricted allocation area.

The bill provides that no later than three years following designation of the pilot project, the SFWMD, SWFWMD, and the SJRWMD must submit a report to the Governor, the President of the Senate, and the Speaker of the House or Representatives on the effectiveness of its pilot project, including the following information:

- A description of the alternative water supply project selected as a pilot project by the respective WMDs, including the quantity of water the project has produced or is expected to produce and the consumptive users who are expected to use the water produced by the pilot project to meet their existing and projected reasonable-beneficial need;
- Progress made in developing and implementing the pilot project in comparison to development and implementation of other alternative water supply projects in the restricted allocation area;
- The capital and operation costs to be expended by the WMD in implementing the pilot project in comparison to other alternative water supply projects being developed and implemented in the restricted allocation area;
- The source of funds used or to be used by the WMD in developing and implementing the pilot project;
- The unit cost of water produced from the pilot project in comparison to the unit cost of water from other alternative water supply projects being developed in the restricted allocation area;
- The benefits to the water resources and natural systems from implementation of the pilot project; and
- A recommendation as to whether the traditional role of WMDs regarding the development and implementation of alternative water supply projects should be revised and, if so, identification of the statutory changes necessary to expand the scope of the pilot program.

Section 10 amends s. 373.042, F.S., to provide that if an MFL has been established for an OFS, a WMD or the DEP will use emergency rulemaking authority to adopt an MFL no later than July 1, 2016, except for the Northwest Florida Water Management District (NWFWMD), which must expeditiously adopt MFLs for Outstanding Florida Springs (OFSs) no later than July 1, 2026.

For OFSs identified on a WMD's priority list developed pursuant to (3) of this section, which have the potential to be affected by withdrawals in an adjacent district, the adjacent WMD or WMDs and the DEP will collaboratively develop and implement a recovery or prevention strategy for an OFS not meeting an adopted MFL. Subsection (3) provides priority lists and schedules for the establishment of MFLs prepared by the respective WMDs and submitted to the DEP for review and approval,

The bill specifies that the Legislature finds the failure to adopt MFLs or recovery or prevention strategies for OFSs has resulted in an immediate danger to public health, safety, and welfare and immediate action must be taken.

The bill directs the WMDs or the DEP to use emergency rulemaking provisions to adopt MFLs under this section and recovery or prevention strategies adopted concurrently with a MFL pursuant to 373.805(2), F.S., (which is created by this bill and relates to the adoption or modification of a recovery or prevention strategy if an OFS is below or is projected within 20 years to fall below its MFL).

The bill provides that rules adopted pursuant to s. 373.042, F.S., are not subject to s. 120.541(3), F.S., regarding legislative ratification of rules under certain circumstances.

Section 11 amends s. 373.0421, F.S., to provide that a recovery or prevention strategy must be adopted and implemented concurrent with the adoption of an MFL and that a recovery or prevention strategy may not depend solely on water shortage restrictions.

The bill requires applicable regional water supply plans developed by the WMDs to be amended to include any water supply and resource development projects identified in a recovery or prevention strategy. The amendment must be approved concurrently with the relevant portions of the recovery or prevention strategy.

The bill requires a WMD to notify the DEP is an application for a water use permit is denied based upon the impact that the use will have on an adopted MFL. If notified, the DEP, in cooperation with the WMD, must conduct a review of the regional water supply plan to determine the plan's adequacy to provide sufficient water for all current and future users and natural systems and to avoid competition. If needed, the WMD must immediately initiate an update of the plan.

Section 12 creates s. 373.0465, F.S., to codify the Central Florida Water Initiative (CFWI) in statute. It provides the following legislative findings:

- The Floridan aquifer has historically supplied the majority of the water used in the Central Florida Coordination Area;
- It has been determined that water supplies within the Central Florida Coordination Area is locally approaching the sustainable limits of use and the need to develop sources of water to meet long-term water needs of the area and are being explored by the DEP and the South Florida Water Management District (SFWMD), the Southwest Florida Water Management District (SWFWMD), and the St. Johns Water Management District (SJRWMD);
- The CFWI has developed an initial framework for a unified process to address the current and long-term water supply needs of central Florida without causing harm to the water resources and associated natural systems; and
- Developing water sources as an alternative to continued reliance on the Floridan aquifer will benefit existing and future water users and natural systems beyond the boundaries of the CFWI.

The bill defines the "Central Florida Water Initiative Area" as all of Orange, Osceola, Polk, and Seminole Counties, and southern Lake County, as designated by the CFWI Guiding Document of January 30, 2015.

It directs the DEP, the SFWMD, the SWFWMD, the SJRWMD, and the Department of Agriculture and Consumer Services (DACS) to:

- Provide for the continuation of the collaborative process in the CFWI area among the state agencies, affected WMDs, regional public water supply utilities, and other stakeholders;
- Build on the guiding principles and goals in the CFWI Guiding Document of January 30, 2015, and the work that has already been accomplished by the CFWI participants;
- Develop and implement a single multidistrict regional water supply plan, including any needed recovery or prevention strategies and a list of water resource or supply development projects; and
- Provide for a single hydrologic planning model to assess the availability of groundwater in the CFWI area.

The bill specifies that the water supply planning program must:

- Consider limitations on groundwater use together with opportunities for new, increased, or redistributed groundwater uses based on conditions established under s. 373.223, F.S.;
- Establish a coordinated process for identification of water resources requiring new or revised conditions established under s. 373.223, F.S.;
- Consider existing recovery or prevention strategies;
- Include a list of water supply options sufficient to meet the water needs of all existing and future reasonable-beneficial uses which meet conditions established under s. 373.223, F.S.; and
- Identify, as necessary, which of the water supply sources are preferred water supply sources pursuant to s. 373.2234, F.S.

The bill directs the DEP, in consultation with the SFWMD, the SWFWMD, the SJRWMD, and the DACS to adopt uniform rules for the CFWI Area that include:

- A single, uniform definition of "harmful to the water resources" consistent with its usage in s. 373.219, F.S.;
- A single method for calculating residential per capita water use;
- A single process for permit reviews;
- A single, consistent process, as appropriate, to set MFLs and water reservations;
- A goal for residential per capita water use for each consumptive use permit; and
- An annual conservation goal for each Consumptive Use Permit (CUP) consistent with the regional water supply plan.

It further provides that the uniform rules must include existing recovery strategies within the CFWI Area adopted before July 1, 2015, and that the DEP may grant variances to the uniform rules if there are unique circumstances or hydrogeological factors that make application of the uniform rules unrealistic or impractical.

The DEP is required to initiate rulemaking for the uniform rules by December 31, 2015. Those rules must be applied by the WMDs only in the CFWI Area. The rules must be implemented by the WMDs without further rulemaking and will be considered WMD rules.

The planning programs developed under this section of the bill may not serve to modify planning programs in areas of the affected WMDs that are not within the CFWI Area, but may include interregional projects located outside the CFWI Area if they are consistent with the planning and regulatory programs in the area they are located.

Section 13 amends s. 373.1501, F.S., to provide that the SFWMD will exercise the authority of the state to allocate water within its jurisdiction, including water supply in relation to the Central and Southern Florida (C&SF) Project, and be responsible for allocating water and assigning priorities among the other water uses served by the project.

The bill requires the SFWMD to provide recommendations to the U.S. Army Corps of Engineers when developing or implementing water control plans or regulation schedules required for the operation of the C&SF Project.

Section 14 amends s. 373.219, F.S., to require the DEP to adopt by rule a uniform definition of the term "harmful to the water resources" for OFSs to provide WMDs with minimum standards necessary to be consistent with the overall water policy of the state. The bill provides that this does not prohibit a WMD from adopting a definition that is more protective of the water resources consistent with local or regional conditions or objectives.

Section 15 amends s. 373.223, F.S., to require a new, renewal of, or modification to a CUP authorizing withdrawal of 100,000 gallons or more per day, and authorizing the use of a well or wells with an inside diameter of eight inches or more must be monitored and the results must be reported to the applicable WMD at least annually.

Section 16 amends s. 373.2234, F.S., to direct the governing boards of the WMDs to consider the identification of preferred water supply sources for water users for whom access to or development of new water supplies is not technically or financially feasible. The identification of preferred water supply sources for such water users must be consistent with s. 373.016, F.S., which concerns the policy of Florida with respect to water resources.

Section 17 amends s. 373.227, F.S., to prevent modifying a CUP in areas not included in a regional water supply plan and in areas not included in a declaration of water shortage or emergency during the term of the permit when actual water use is less than permitted water use due to documented implementation of water conservation measures. WMDs are required to adopt rules to provide water conservation incentives, which may include limited permit extensions.

The bill also prevents modifying a permit if actual water use is less than the amount permitted due to:

- Weather events;
- Crop diseases;
- Nursery stock availability;

- Market conditions; or
- Changes in crop type.

Section 18 amends s. 373.233, F.S., to require a WMD or the DEP to give preference to the use closest to the preferred water source when deciding between two new applications that qualify equally.

Section 19 amends s. 373.4591, F.S., to provide that public-private partnerships may be entered into for groundwater recharge on private agricultural lands. It also provides that priority consideration will be given to public-private partnerships for such lands that:
- Store or treat water on private lands for purposes of enhancing hydrologic improvement, improving water quality, or assisting in water supply;
- Provide critical groundwater recharge; or
- Provide for changes in land use to activities that minimize nutrient loads and maximize water conservation.

Section 20 amends s. 373.4595, F.S., to make changes to the Northern Everglades and Estuaries Protection Program.

- The bill provides legislative intent that the Lake Okeechobee, the Caloosahatchee River, and the St. Lucie River Watershed Protection Programs should be expeditiously implemented.
- The bill defines the terms "biosolids" and "soil amendment" and removes the definitions of "District's Works of the District Program" and the "Lake Okeechobee Watershed Phosphorous Control Program," as all references to those programs are removed throughout this section of the bill.
- The definition of "Lake Okeechobee Watershed Protection Plan" (LOWPP) is amended to conform to other changes in the bill. The bill amends the definition to specify that the term means the Lake Okeechobee Watershed Construction Project and the Lake Okeechobee Watershed Research and Water Quality Monitoring Program.

The bill provides that the LOWPP consists of the:
- Lake Okeechobee Watershed Protection Plan;
- Lake Okeechobee Basin Management Action Plan;
- Lake Okeechobee Exotic Species Control Program; and
- Lake Okeechobee Internal Phosphorous Management Program.

The bill stipulates that the Lake Okeechobee BMAP is the component of the LOWPP that achieves phosphorus load reductions for the lake.

The bill provides the following requirements for the Lake Okeechobee, Caloosahatchee River, and St. Lucie River BMAPs in three parts of this section of the bill:
- The BMAPs must include milestones for implementation and water quality improvement and an associated water quality monitoring component sufficient to evaluate whether reasonable progress in pollutant load reductions is being achieved over time;

- The DEP must develop a schedule to establish five, ten, and 15-year milestones and a target for achieving water quality improvement. The schedule is to be used to provide guidance for planning and funding purposes and is not subject to rulemaking;
- An assessment of progress toward the milestones must be conducted every five years and revisions to the plan will be made, as appropriate, as a result of each five-year review;
- The bill requires the assessment to be provided to the Governor, the President of the Senate, and the Speaker of the House of Representatives;
- Upon the first five-year review, a schedule, measureable milestones, and a target for achieving water quality improvement shall be adopted into the BMAP;
- The DEP will make revisions to the BMAP in cooperation with basin stakeholders; and
- Revisions to the management strategies must follow the procedures of s. 403.067(7)(c)4., F.S., and the revised BMAPs must be adopted pursuant to s. 403.067(7)(a)4., F.S.

The bill amends s. 373.4595(3)(a), F.S., relating to the LOWPP, to:

- Require the SFWMD, beginning March 1, 2020, and every five years after, to update the LOWPP to ensure it is consistent with the Lake Okeechobee BMAP;
- Specify that the Lake Okeechobee Watershed Protection Plan includes the Lake Okeechobee Watershed Construction Project and the Lake Okeechobee Watershed Research and Water Quality Monitoring Program;
- Specify that the SFWMD is to cooperate with the other coordinating agencies when designing and constructing the Lake Okeechobee Watershed Construction Project;
- Specify that the Phase II technical plan of the Lake Okeechobee Watershed Construction Project provides the basis for the Lake Okeechobee BMAP and removes a requirement that it be ratified by the Legislature. According to the DEP, it was submitted for ratification on February 1, 2008;
- Direct the DEP, within five years after adoption of the Lake Okeechobee BMAP, and every five years thereafter, to evaluate the Lake Okeechobee Watershed Construction Project to identify any further load reductions needed to achieve compliance with the Lake Okeechobee Total Maximum Daily Load (TMDL). Any modification to the Lake Okeechobee Watershed Construction Project resulting from the evaluation must be incorporated into the Lake Okeechobee BMAP;
- Require the coordinating agencies to implement the Lake Okeechobee Watershed Research and Water Quality Monitoring Program and provide requirements for the program, and for the DEP to use the results, in cooperation with the coordinating agencies, to modify the Lake Okeechobee BMAP, as appropriate. In order to accomplish this, the program shall:
    - Evaluate all available existing water quality data concerning total phosphorus in the Lake Okeechobee watershed, develop a water quality baseline to represent existing conditions for total phosphorus, monitor long-term ecological changes, and measure compliance with Water Quality Standards (WQSs) for total phosphorus;
    - Require the DEP, beginning March 1, 2020, and every five years thereafter, to reevaluate water quality and quantity data to ensure the appropriate projects are being designated and incorporated into the Lake Okeechobee BMAP;
    - Require the SFWMD to implement a total phosphorus monitoring program at appropriate structures owned or operated by it within the Lake Okeechobee watershed;

- Develop a Lake Okeechobee water quality model that reasonably represents the phosphorus dynamics of Lake Okeechobee and incorporate an uncertainty analysis associated with model predictions;
- Determine the relative contribution of phosphorus from all identifiable sources and all primary and secondary land uses;
- Conduct an assessment of the sources of phosphorus from the Upper Kissimmee Chain-of-Lakes and Lake Istokpoga, and their relative contributions to water quality in Lake Okeechobee. The results must be used as part of the Lake Okeechobee BMAP to develop interim measures, best management practices (BMPs), or regulations, as applicable;
- Assess current water management practices within the Lake Okeechobee watershed and develop recommendations for structural and operational improvements, which must balance water supply, flood control, estuarine salinity, maintenance of a healthy lake littoral zone, and water quality considerations;
- Evaluate the feasibility of alternative nutrient reduction technologies and include those technologies determined to be feasible in the Lake Okeechobee BMAP; and
- Conduct an assessment of the water volumes and timing from the Lake Okeechobee watershed and their relative contribution to the water level changes in Lake Okeechobee and to the timing and volume of water delivered to the estuaries.

The bill amends s. 373.4595(3)(b), F.S., to specify that the Lake Okeechobee BMAP is the watershed phosphorus control component for Lake Okeechobee. The bill provides that the Lake Okeechobee BMAP will be a multifaceted approach designed to achieve the TMDL.

The bill provides the following requirements for the Lake Okeechobee BMAP:

- It must contain an implementation schedule for pollutant load reductions consistent with the adopted TMDL;
- The DEP must develop a schedule to establish 5, 10, and 15-year milestones and a target to achieve the adopted total maximum daily load no more than 20 years after adoption of the plan;
- The schedule will be used to provide guidance for planning and funding purposes and is exempt from rulemaking;
- If achieving the adopted TMDL within 20 years is not practicable, the schedule will contain an explanation of the constraints that prevent achieving the TMDL within 20 years and an estimate of the time needed to achieve the TMDL and additional 5-year measurable milestones, as necessary.

The bill requires that the coordinating agencies must develop an interagency agreement. The bill assigns responsibilities to the DEP, the SFWMD, and the DACS. The interagency agreement must specify how BMPs for nonagricultural nonpoint sources are developed and how all BMPs are implemented and verified and must address measures to be taken by the coordinating agencies during any BMP reevaluation. The DEP is required to use best professional judgment in making the initial determination of a BMP's effectiveness. The coordinating agencies are authorized to develop an intergovernmental agreement with local governments to implement nonagricultural nonpoint source BMPs within their respective geographic boundaries.

The bill also:

- States that agricultural nonpoint source BMPs are part of a phased approach of management strategies within the Lake Okeechobee BMAP;
- Adds that where water quality problems are detected for agricultural nonpoint sources despite the appropriate implementation of adopted BMPs, BMPs may be revised and reevaluated;
- Specifies that the DEP, in consultation with the SFWMD and affected parties, shall develop nonagricultural nonpoint source interim measures, BMPs, or other measures necessary for Lake Okeechobee watershed TMDL reduction. It directs the DEP or the SFWMD to adopt new practices by rule;
- Provides that where water quality problems are detected for agricultural and nonagricultural nonpoint sources despite the appropriate implementation of adopted BMPs, a reevaluation of BMPs will be conducted. If the reevaluation determines that the BMPs or other measures require modification, the rule will be revised to require implementation of the modified practice within a reasonable time period as specified in the rule;
- Provides that the requirements of the Lake Okeechobee BMAP and s. 403.067(7), F.S., for the Lake Okeechobee watershed are met through the implementation of agricultural BMPs set forth in a permit issued pursuant to Rule 40E-63, F.A.C., regarding the Everglades Program of the district. An entity in compliance with agricultural BMPs in Rule 40E-63, F.A.C., may elect to use the permit issued under Rule 40E-63, F.A.C., in lieu of the requirements of the Lake Okeechobee BMAP. The agricultural BMPs implemented through a permit issued under Rule 40E-63, F.A.C., are subject to reevaluation as provided for in s. 373.4595(3)(b)5., F.S.;
- Requires the DACS, in cooperation with the DEP and the SFWMD, to provide technical and financial assistance for implementation of agricultural and nonagricultural nonpoint source BMPs, subject to the availability of funds;
- Requires the DEP to require all entities disposing of biosolids within the Lake Okeechobee watershed and the remaining areas of Okeechobee, Glades, and Hendry Counties to develop and submit to the DEP an agricultural use plan that limits applications based upon phosphorus loading consistent with the Lake Okeechobee BMAP instead of the phosphorus limits established in the SFWMD's Works of the District (WOD) program;
- Mandates that rules developed by the DACS that require entities within the Lake Okeechobee watershed that land-apply animal manure to develop resource management system level conservation plans, must include criteria and thresholds for the requirement to develop a conservation or nutrient management plan, requirements for plan approval, site inspection requirements, and recordkeeping requirements. This same provision is included under the sections concerning the Caloosahatchee River and St. Lucie River BMAPs.
- Requires the SFWMD to revise Rule 40E-61, F.A.C., regarding the Works of the District (WOD) program, to be consistent with the provisions of the Lake Okeechobee Watershed Protection Program and s. 403.067, F.S., and to provide for a monitoring program for nonpoint source dischargers required to monitor water quality by s. 403.067, F.S., and to provide the results to be reported to the coordinating agencies; and
- Requires the SFWMD, in cooperation with the other coordinating agencies, to evaluate the feasibility of Lake Okeechobee internal phosphorous load removal projects. The evaluation must consider all reasonable methods of phosphorous removal.

The bill amends s. 373.4595(4), F.S., to include the following revisions to the Caloosahatchee and St. Lucie River Watershed Protection Programs:

- Regarding the Caloosahatchee Watershed Protection Program, the bill:
  - Specifies the Caloosahatchee River Watershed Protection Plan includes the Caloosahatchee River Watershed Construction Project and the Caloosahatchee River Watershed Research and Water Quality Monitoring Program;
  - Requires the SFWMD, in cooperation with other coordinating agencies and local governments, to implement a Caloosahatchee River Watershed Research and Water Quality Monitoring Program and provides requirements for the program; and
  - Specifies the Caloosahatchee River Watershed BMAPs make up the Caloosahatchee River Watershed Pollutant Control Program;
- Regarding the St. Lucie River Watershed Protection Program, the bill:
  - Specifies the St. Lucie River Watershed Protection Plan includes the St. Lucie River Watershed Construction project and the St. Lucie River Watershed Research and Water Quality Monitoring Programs;
  - Requires the SFWMD, in cooperation with other coordinating agencies and local governments, to establish a St. Lucie River Watershed Research and Water Quality Monitoring Program and provides requirements for the program;
  - Specifies the St. Lucie River Watershed BMAPs make up the St. Lucie River Watershed Pollutant Control Program.

For both programs, the bill requires the SFWMD to initiate rulemaking to provide for a monitoring program for nonpoint source dischargers required to monitor water quality and report the results to the coordinating agencies.

The bill requires evaluation of pollutant load reduction goals, and any other objectives and goals contained in the River Watershed Protection Programs beginning March 1, 2020, and every five years thereafter, concurrent with the updates to the BMAPs for both programs.

The bill amends s. 373.4595(5), F.S., to require the DEP to initiate development of BMAPs for the Lake Okeechobee watershed, the Caloosahatchee River watershed and estuary, and the St. Lucie River watershed and estuary, although all the BMAPs listed here are underway or already adopted.

It provides that management strategies and pollution reduction requirements set forth in a BMAP subject to permitting in s. 373.4595(7), F.S., must be completed pursuant to the schedule set forth in the BMAP, and specifies that the implementation schedule may extend beyond the five-year permit term.

The bill provides that management strategies and pollution reduction requirements set forth in a BMAP are not subject to challenge under ch. 120, F.S., at the time they are incorporated, in an identical form, into a DEP or SFWMD issued permit, or a permit modification issued in accordance s. 373.4595(7), F.S., regarding Lake Okeechobee Protection Permits.

The bill amends s. 373.4595(6), F.S., to require the DEP to report March 1 of every year on the status of the Lake Okeechobee, Caloosahatchee River Watershed, and St. Lucie River Watershed BMAPs. It also requires the DACS to report on the status of the implementation of agricultural nonpoint source BMPs, including an implementation assurance report summarizing survey

responses and response rates, site inspections, and other methods used to verify implementation and compliance with BMPs in the Lake Okeechobee, Caloosahatchee, and St. Lucie watersheds.

The bill amends s. 373.4596(7), F.S., to include the following changes to the permitting requirements in s. 373.4595, F.S.:

- Owners and operators of existing structures that discharge into or from Lake Okeechobee that were subject to certain DEP consent orders and are subject to requirements for the Everglades Construction Project do not require a permit under this section and must be governed by permits issued under ss. 373.413 and 373.416, F.S., and the Lake Okeechobee BMAP;
- Owners and operators of existing structures that are subject to s. 373.4592(4)(a), F.S., relating to the Everglades Construction Project, that discharge into or from Lake Okeechobee, are considered in compliance with the requirements of s. 373.4596(7)(c), F.S., if they are fully compliant with the conditions of permits issued under Rule 40E-63, F.A.C., regarding the Everglades Program of the district;
- The SFWMD must submit a complete application for a permit modification from the DEP to the Lake Okeechobee structure permits to incorporate proposed changes necessary to ensure that discharges through the structures covered by the permit are consistent with the BMAP by January 1, 2016. It removes the provision stating that these changes must be designed to achieve compliance with WQSs by January 1, 2015;
- The DEP must require permits for SFWMD regional projects that are part of the Lake Okeechobee Watershed Construction Project. SFWMD regional projects that are part of the Lake Okeechobee Watershed Construction Project must achieve certain design objectives for phosphorus; and
- The SFWMD must demonstrate reasonable assurances that the regional projects will achieve the design objectives for phosphorus.

Section 21 amends s. 373.467, F.S., to revise the membership requirements for the Harris Chain of Lakes Restoration Council. One member must be a person with experience in environmental science or regulation, rather than an environmental engineer. It requires an attorney and an engineer, rather than individuals that have training in either discipline. It also clarifies that the two members, who are residents of the county, are not required to meet any of the other requirements of membership to be appointed to the council. As the statute is currently written, it appears those two members are prohibited from meeting any of the other requirements for membership. The bill provides that the Lake County legislative delegation may waive the qualifications for membership on a case-by-case basis for good cause. The bill provides that resignation by a council member or the failure of a member to attend three consecutive meetings without being excused by the chair of the committee results in a vacancy.

Section 22 amends s. 373.536, F.S., to require the WMDs to include an annual funding plan for each of the five years included in their plans for water resource and water supply development components.

The bill specifies that the plan must include the water supply projects proposed for funding and assistance. The plan will identify both anticipated available district funding and additional funding needs for the second through fifth years of the funding plan. Funding requests for projects submitted to the Florida Water Resources Advisory Council for consideration for state

funding must be identified separately. Projects included in the work program must be shown how they support the implementation of MFLs and water reservations and how they help to avoid the adverse effects of competition for water supplies.

The bill requires the DEP to post the work program on its website.

Section 23 amends s. 373.703, F.S., regarding water production, to include private landowners on the list of entities that a WMD is authorized to join with in carrying out its duties. It also provides that the section does not apply to the development and implementation of pilot projects pursuant to s. 373.037, F.S.

Section 24 amends s. 373.705, F.S., to specify that it is the intent of the Legislature that WMDs identify and implement water resource development projects, and are responsible for securing necessary funding for regionally significant projects that prevent or limit adverse water resource impacts, avoid competition among water users, or support the provision of new water supplies in order to meet an MFL, implement a recovery or prevention strategy or water reservation.

It also requires the WMDs to include in their annual budget submittals the amount of funds for each project in the annual funding plan pursuant to s. 373.536(6)(a)4., F.S., (amended in section 19 of the bill) and the amount of funds requested for each project submitted for consideration for state funding to the Florida Water Resources Advisory Council.

The bill provides that water supply development projects that are consistent with the relevant regional water supply plans and that meet one or more of the following criteria will receive priority consideration for state or WMD funding assistance:

- The project supports establishment of a dependable, sustainable supply of water that is not otherwise financially feasible;
- The project provides substantial environmental benefits by preventing or limiting adverse water resource impacts, but requires funding assistance to be economically competitive with other options; or
- The project significantly implements reuse, storage, recharge, or conservation of water in a manner that contributes to the sustainability of regional water resources.

The bill adds projects that reduce or eliminate the adverse effects of competition between legal users and the natural system to the list of projects that will be given first consideration for state or WMD funding assistance.

The bill adds “if the project reduces or eliminates the adverse effects of competition between legal users and the natural system,” to the list of considerations when choosing projects for state or WMD funding assistance.

The bill provides that despite the criteria for first consideration for funding water supply development projects, first consideration for state or WMD funding for water supply development projects will be given to pilot projects pursuant to s. 373.037, F.S.

The bill requires the WMDs to promote expanded cost-share criteria for additional conservation practices, such as soil and moisture sensors and other irrigation improvements, water-saving

equipment, and water-saving household fixtures, and software technologies that can achieve verifiable water conservation by providing water use information to utility customers.

Section 25 amends s. 373.707, F.S., to include self-suppliers as entities that may receive technical and financial assistance from a WMD for alternative water supply projects if the projects reduce competition for limited water supplies and are in the public interest.

The bill provides that when state funds are provided through specific appropriation for a priority project of the water resource work program selected by the Water Resources Advisory Council, those funds serve to supplement existing WMD or basin board funding for alternative water supply development assistance and should not result in a reduction of such funding.

The bill replaces projects selected for inclusion in the Water Protection and Sustainability Program with projects identified in plans prepared pursuant to s. 373.536(6)(a)4., F.S., regarding projects included in the WMDs' annual tentative and adopted budget submittals.

The bill expands the eligibility of local sponsors that a WMD may waive matching construction costs for an alternative water supply project for. Under existing law, only fiscally disadvantaged small local governments qualify. The bill authorizes the WMDs to waive the match requirement for any water user for projects determined by the WMD to be in the public interest and that are not otherwise financially feasible.

The bill provides that the WMD governing boards will determine the projects that will be selected for financial assistance. In addition to factors the governing boards choose to use, the bill provides factors that will be given significant weight, which are:

- Whether the project provides substantial environmental benefits by preventing or limiting adverse water resource impacts;
- Whether the project reduces competition for water supplies;
- Whether the project brings about replacement of traditional sources in order to help implement an MFL or a reservation;
- Whether the project will be implemented by a CUP permittee that has achieved the targets contained in a goal-based water conservation program approved pursuant to s. 373.227, F.S., concerning water conservation;
- The quantity of water supplied by the project as compared to its cost;
- Projects in which the construction and delivery to end users of reuse water is a major component;
- Whether the project will be implemented by a multijurisdictional water supply entity or regional water supply authority;
- Whether the project implements reuse that assists in the elimination of domestic wastewater ocean outfalls as provided in s. 403.086(9), F.S.;
- Whether the county or municipality, or the multiple counties or municipalities, in which the project is located has implemented a high-water recharge protection tax assessment program as provided in s. 193.625, F.S.; and
- Whether the project is a pilot project under s. 373.037, F.S.

Section 26 amends s. 373.709, F.S., to require regional water supply plans to contain a list of water supply projects options that are technically and financially feasible.

It also requires the DEP to report on the status of regional water supply planning in each WMD to include an analysis of the sufficiency of potential sources of funding from all sources for water resource development and water supply development projects. The report must also include an explanation of how each project identified in the five-year water resource development work program will contribute to additional water for MFLs or water reservations

Section 27 creates Part VIII of ch. 373, F.S., to consist of ss. 373.801, 373.802, 373.803, 373.805, 373.807, 373.811, and 373.813, F.S., and provides the title, "Florida Springs and Aquifer Protection Act."

Section 28 creates s. 373.801, F.S., to provide legislative findings and intent:

- Detailing the importance of Florida's springs, and various benefits they provide to the state including providing critical habitat for plants and animals. Springs provide immeasurable natural, recreational, economic, and inherent value. Water quality in springs is an indicator of local conditions of the Floridan Aquifer. Water flows in springs reflect regional aquifer conditions. Springs also provide recreational opportunities for Floridians and visitors to the state and economically benefit local and state economies.
- Stating that water quantity and water quality in springs may be related. It also specifies the primary responsibilities of the DEP, WMDs, DACS, and local governments.
- Recognizing that springs are only as healthy as their springsheds and identifying several of the problems affecting springs, including pollution runoff from urban and agricultural lands, stormwater runoff, and reduced water levels of the Floridan aquifer, which may have led to the degradation of many of Florida's springs.
- Recognizing that without significant action, the quality of Florida's springs will continue to degrade.
- Stating that springshed boundaries need to be delineated using the best available data.
- Recognizing that springsheds often cross WMD and local government jurisdictional boundaries, which requires a coordinated response.
- Recognizing that aquifers and springs are complex systems affected by many variables and influences.
- Recognizing that action is urgently needed, and action can be modified as additional data is acquired.

Section 29 creates s. 373.802, F.S., to provide definitions for "department," "local government," "onsite sewage and treatment disposal system," "spring run," "springshed," and "spring vent."

The bill also defines:

- "Outstanding Florida Springs," which includes all historic first magnitude springs, as determined by the DEP using the most recent version of the Florida Geological Survey's springs bulletin. The following springs are also considered OFSs: Deleon Spring, Peacock Spring, Poe Spring Rock Springs, Wekiwa Spring, and Gemini Spring. The term does not include submarine springs.

- "Priority Focus Area," meaning "the area or areas of a basin where the Floridan Aquifer is most vulnerable to groundwater withdrawals or pollutant inputs, where the groundwater travel times are the fastest, and where there is a known connectivity between groundwater pathways and an Outstanding Florida Spring, as determined by the department in consultation with the appropriate water management districts, and delineated in a basin management action plan."

Section 30 creates s. 373.803, F.S., to direct the DEP, in consultation with the WMDs, to delineate priority focus areas for each OFS or group of springs that contain one or more OFS, and is identified as impaired, using the best available data. The bill requires the delineation of the priority focus areas to be completed by July 1, 2018, and provides that a priority focus area will be effective upon incorporation in a BMAP. It directs the DEP to consider groundwater travel time, hydrogeology, and nutrient load when delineating the areas.

Section 31 creates s. 373.805, F.S., to direct either a WMD or the DEP to adopt a recovery or prevention strategy concurrently with the adoption of an MFL for an OFS, if it is below, or projected within 20 years to fall below, an MFL.

When an MFL for an OFS is revised, if the spring is below or projected within 20 years to fall below the MFL, a WMD or the DEP must concurrently adopt or modify a recovery or prevention strategy. The bill provides that a WMD or the DEP may adopt the revised MFL before the adoption of a recovery or prevention strategy if the revised MFL is less constraining on existing or projected future consumptive uses.

For any OFS without an adopted recovery or prevention strategy, a WMD or the DEP must expeditiously adopt a recovery or prevention strategy if the WMD or the DEP determines that the OFS has fallen below, or is projected within 20 years to fall below, the adopted MFL.

The bill provides the following minimum requirements for a recovery or prevention strategy for OFSs:

- A list of all specific projects identified for implementation of the plan;
- A priority listing of each project;
- For each project, the estimated cost and date of completion;
- The source and amount of financial assistance from the WMD for each project. Except for the Northwest and Suwanee River WMDs, it may not be less than 25 percent of the total cost unless there are funding sources that provide more than 75 percent of the total cost of the project;
- An estimate of each project's benefit to an OFS; and
- An implementation plan designed with a target to achieve the adopted MFL within 20 years or less after the adoption of a recovery or prevention strategy, with a schedule of five, ten, and 15-year measurable interim milestones intended to achieve the adopted MFL. The schedule is not a rule but is intended to provide guidance for planning and funding purposes.

The bill also provides for extensions of up to five years for local governments for any project in an adopted recovery or prevention strategy, which may be granted if the local government

provides sufficient evidence that an extension is in the best interest of the public. If the local government is in a rural area of opportunity, the DEP may grant an extension of up to 10 years.

Section 32 creates s. 373.807, F.S., to provide a deadline of July 1, 2015, for the DEP to initiate assessment of any OFS for which a determination of impairment has not been made and complete the assessment of them under the numeric nutrient standards for spring vents by July 1, 2018. The bill requires that:

- When a TMDL is adopted, the DEP, or the DEP in coordination with a WMD, will concurrently initiate development of a BMAP;
- For an OFS that has an adopted nutrient TMDL before July 1, 2015, the DEP, or the DEP in coordination with a WMD, will initiate development of a BMAP by July 1, 2015; and
- As the BMAP is developed, if Onsite Sewage Treatment and Disposal Systems (OSTDSs) are identified as contributors of at least 20 percent of nonpoint source nutrient pollution that needs to be addressed within local government jurisdictions, the BMAP will include an OSTDS remediation plan for those systems identified as requiring remediation.

BMAPs for OFSs must be adopted within three years of their initiation and must include:

- A list of all projects and programs for implementing a TMDL;
- A list of all projects in any incorporated OSTDS remediation plan, if applicable;
- A priority ranking of all projects;
- A planning level cost estimate and completion date of each project;
- The source and amount of any financial assistance from the DEP, WMD, or other entity;
- The estimate of each project's nutrient load reduction;
- The identification of each point source or category of nonpoint sources with an estimated allocation of the pollutant load for each point source and category of nonpoint sources; and
- An implementation plan designed with a target to achieve the adopted TMDL no more than 20 years after the adoption of a BMAP. The plan must include a schedule of five, ten, and 15-year measureable milestones intended to achieve the adopted nutrient TMDL. The schedule is not a rule but is intended to provide guidance for planning and funding purposes and is exempt from rulemaking.

The bill requires BMAPs adopted by July 1, 2015, that affect an OFS to be revised if necessary to comply with this section by the DEP, or the DEP in conjunction with a WMD, by July 1, 2018. Any OSTDS remediation plans approved by the DEP will be considered incorporated in an existing BMAP pursuant to s. 403.067(7), F.S.. Additionally, a local government may apply for an extension of up to five years, or 10 years in the case of a local government within a rural area of opportunity, for any project in an adopted BMAP upon showing that an extension is in the best interest of the public.

Within 12 months after the adoption of a BMAP containing a priority focus area or areas of an OFS located fully or partially within a local government's jurisdictional boundaries, the local government must adopt an ordinance that meets or exceeds the requirements of the Model Ordinance for Florida-Friendly Fertilizer Use on Urban Landscapes. The DEP must revise the model ordinance to require that, within a priority focus area of an OFS with an adopted nutrient TMDL, the nitrogen application rate of fertilizer may not exceed the lowest, basic maintenance

rate of the most recent recommendations by the University of Florida's Institute of Food and Agricultural Sciences (IFAS).

As part of a BMPA that includes an OFS, the DEP, in consultation with the Department of Health (DOH) and relevant local governments and local public and private wastewater utilities, will develop an OSTDS remediation plan for a spring that the DEP determines OSTDSs within a priority focus area contribute at least 20 percent of nonpoint source nutrient pollution. The plan will be completed and adopted as part of the BMAP no later than the first five-year milestone required by s. 373.807(2)(b)8., F.S.

In preparing the plan, the DEP will:

- Collect and evaluate credible scientific information on the effect of nutrients, particularly forms of nitrogen, on springs and springs systems;
- Develop and implement a public education plan to provide area residents with reliable, understandable information about OSTDSs and springs; and
- Develop projects necessary to reduce the nutrient impacts from OSTDSs.

The plan must include options for:

- Repair;
- Upgrade;
- Replacement;
- Drainfield modification;
- Addition of effective nitrogen reducing features;
- Connection to a central sewerage system; or
- Other action for systems or groups of systems within a priority focus area which contribute at least 20 percent of nonpoint source nutrient pollution.

The DEP will include in the plan a priority ranking for each system or group of systems that require remediation and will award funds to implement the remediation projects identified in the BMAP, contingent on specific appropriations in the General Appropriations Act, which may include all or part of the costs necessary to match local funding for repair, upgrade, replacement, drainfield modification, initial connection to a central sewerage system, or other action.

In awarding funds, the DEP may consider expected nutrient reduction benefit per unit cost, size and scope of the project, relative local financial contribution to the project, and financial impact on property owners and the community. The DEP may waive matching funding requirements for proposed projects within an area designated as a rural area of opportunity.

The bill requires the DEP to provide notice to local governments that have any jurisdiction in a priority focus area of an OFS of any permit applicants under s. 403.814(12), F.S., which relates to general permits for the construction, alteration, and maintenance of a stormwater management system serving a total project area of up to 10 acres.

Section 33 creates s. 373.811, F.S., to prohibit activities in a priority focus area in effect for an Outstanding Florida Springs.

Activities prohibited within a priority focus area are:

- Construction of domestic wastewater disposal system with permitted capacities of 100,000 gallons per day or greater unless the system meets a treatment standard of 3 mg/L total nitrogen on an annual permitted basis, unless the DEP determines a higher standard is necessary to attain a TMDL for the OFS;
- Construction of OSTDSs on lots less than one acre, if the addition of the specific systems conflicts with an onsite treatment and disposal system remediation plan incorporated into a BMAP;
- Construction of facilities for the disposal of hazardous waste;
- Land application of class A or B domestic wastewater biosolids not in accordance with a DEP approved nutrient management plan establishing the rate at which all biosolids, soil amendments, and sources of nutrients at the land application site can be applied to the land for crop production while minimizing the amount of pollutants and nutrients discharged to groundwater or waters of the state; and
- New agriculture operations that do not implement BMPs, measures necessary to achieve pollution reduction levels established by the DEP, or groundwater monitoring plans approved by a WMD or the DEP.

Section 34 creates s. 373.813, F.S., to direct the DEP to adopt rules improve water quantity and quality to administer Part VIII of ch. 373, F.S.

The bill specifies the DACS is the lead agency for coordinating the reduction of agricultural nonpoint sources of pollution for the protection of OFSs. The DACS and the DEP will study and, if necessary, initiate rulemaking to implement new or revised agricultural BMPs, in cooperation with applicable local governments, and stakeholders, within a reasonable time.

The bill directs the DEP, the DACS, and the Institute of Food and Agriculture Sciences to conduct research into improved or additional nutrient management tools, with a sensitivity to the necessary balance between water quality improvements and agricultural productivity. If necessary, the tools must be incorporated into revised agricultural BMPs adopted by rule by DACS.

Section 35 amends s. 403.061, F.S., to require the DEP to create a consolidated water resources work plan that provides a catalog of all water resource projects and regionally significant water supply projects under construction, completed in the previous five years, or planned to begin construction in the next five years. The plan must be developed in consultation with state agencies, the WMDs, regional water supply authorities, and local governments.

For each project in the plan, there must be:

- A description of the project;
- The total cost of the project; and
- The governmental entity financing the project.

The DEP must also create and maintain a web-based, interactive map that includes:

- All watersheds and each water body within them;
- The county or counties in which the watershed or water body is located;

- The WMD or districts in which the watershed or water body is located;
- Whether an MFL has been adopted for the water body and, if it has not been adopted, when it is anticipated to be adopted;
- Whether a recovery or prevention strategy has been adopted for the watershed or water body and, if it has not been adopted, when it is anticipated to be adopted;
- The impairment status of each watershed or water body;
- Whether a TMDL has been adopted, if necessary, and, if it has not been adopted, when it is anticipated to be adopted;
- Whether a BMAP has been adopted and, if it has not been adopted, when it is anticipated to be adopted;
- Each project listed on the five-year water resources work program pursuant to s. 373.036(7), F.S., (amended in section 8 of the bill);
- The agency or agencies and local sponsor, if any, responsible for overseeing the project;
- The estimated cost and completion date of each project and the financial contribution of each entity;
- The quantitative estimated benefit to the watershed or water body; and
- The water projects completed within the last five years within the watershed or water body.

The bill requires the DEP and the WMDs to prominently display a link on their websites to the interactive map required by the bill.

The information provided in the plan and the information used to develop the web-based interactive map is intended to help facilitate the ability of the Florida Water Resources Advisory Council (described in section 34 of the bill), the Legislature, and the public to consider the projects contained in the tentative water resources work program (also described in section 34 of the bill) in relation to all projects undertaken within a 10-year period and the existing condition of water resources in the project area and in the state as a whole. The bill provides rulemaking authority to the DEP to accomplish this purpose.

The bill also requires the DEP to adopt by rule a specific surface water classification to protect surface waters used for treated potable water supply and provides criteria. Notwithstanding this classification or the inclusion of treated water supply as a designated use of a surface water, a surface water used for treated potable water supply may be reclassified as waters designated for potable water supply.

Section 36 creates s. 403.0616, F.S., to create the Florida Water Resources Advisory Council within the DEP.

The advisory council's purpose is to evaluate water resource projects prioritized and submitted by state agencies, WMDs, regional water supply authorities, or local governments. The council must evaluate and recommend projects eligible for state funding as priority projects of statewide, regional, or critical local importance under chs. 373 or 403, F.S.

The council must review and evaluate all water resource projects that are prioritized and reported by state agencies, local governments, regional water supply authorities, or by the WMDs in the consolidated annual report (described in section 8 of the bill) for the purpose of providing the

Legislature with recommendations for projects that improve or restore the water resources of the state. It is also responsible for submitting pilot projects that test the effectiveness of innovative or existing nutrient reduction or water conservation technologies or practices designed to minimize nutrient pollution or restore flows in the water bodies of the state.

The council is made up of five voting and five ex officio, nonvoting members. Those members are:

- The Secretary of Environmental Protection, who shall serve as chair of the council;
- The Commissioner of Agriculture;
- The executive director of the Fish and Wildlife Conservation Commission (FWC);
- Two members with expertise in a scientific discipline related to water resources, one appointed by the President of the Senate and one appointed by the Speaker of the House of Representatives, respectively; and
- The executive directors of the five WMDs, all of whom are non-voting members.

The appointed members serve two-year terms and may not serve more than a total of six years. The appointed members will receive reimbursement for expenses and per diem for travel. The President of the Senate and the Speaker of the House of Representatives may fill a vacancy at any time for an unexpired term of an appointed member.

If a member of the council no longer holds the position required to serve on the council, the interim agency head will represent the agency on the council.

The council is required to hold at least two separately noticed public meetings per year, with notice provided at least five days, but no more than 15 days before each meeting. The DEP will provide staff support.

By July 15 of each year, the council must release a tentative water resources work program with legislative recommendations for water resource projects. The bill provides for a 30-day period for the public to submit comments on the program.

By August 31 of each year, the council must adopt, by an affirmative vote of three of the council members, the tentative work program and submit it to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

The bill requires the council to recommend rules for adoption by the DEP to competitively evaluate, select, and rank projects for the tentative water resources work program. The council must develop specific criteria for the evaluation, selection, and ranking of projects. In ranking the projects, preference is given for projects:

- That will have a significant, measurable impact on improving water quantity or water quality;
- In areas of greatest impairment;
- Of state or regional significance;
- Recommended by multiple districts or multiple local governments cooperatively;
- With a significant monetary commitment by the local project sponsor or sponsors;
- In rural areas of opportunity;
- That may be funded through appropriate loan programs; and

- That have significant private contributions of time or money.

The section provides the DEP with rulemaking authority to implement this section of the bill in consultation with the DACS, the FWC, and the WMDs.

Section 37 creates s. 403.0617, F.S., to implement an innovative nutrient and sediment reduction and conservation pilot project program.

The bill directs the DEP to adopt rules to competitively evaluate and rank projects for selection and prioritization by the Water Resources Advisory Council. The projects are intended to test the effectiveness of innovative or existing nutrient reduction or water conservation technologies, programs or practices designed to minimize nutrient pollution or restore flows. The projects may not be harmful to the ecological resources in the study area.

The bill provides the following minimum considerations:
- Level of impairment of the waterbody, watershed, or water segment in which the project is located;
- Quantity of pollutants, especially nitrogen, the project is estimated to remove;
- The potential for the project to provide a cost effective solution to pollution caused by OSTDSs;
- The flow necessary to restore a water resource to its adopted MFL;
- The anticipated impact the project will have on restoring or increasing water flow or water level;
- The amount of matching funds for the project which will be provided by the entities responsible for implementing the project;
- Whether the project is located in a rural area of opportunity, with preference given to the local government responsible for implementing the project;
- For multiple-year projects, whether the project has funding sources that are identified and assured through the expected completion date;
- The cost of the project and length of time it will take to complete relative to its expected benefits; and
- Whether the entities responsible for implementing the project have used their own funds for projects to improve water quality or conserve water use, with preference given to those entities that have expended such funds.

Section 38 amends s. 403.0623, F.S., to direct the DEP, in coordination with the WMDs, and regional water supply authorities, to establish statewide standards for the collection of water quantity, water quality, and related data to ensure quality, reliability, and validity of the data and testing results.

The bill requires the WMDs to submit data collected after June 30, 2015, to the DEP for analysis to ensure statewide consistency. The DEP is required to maintain a centralized database for all testing results and analyses, which must be accessible by the WMDs.

The bill directs the DEP to coordinate with federal agencies, to the extent practicable, to ensure its collection and analysis of data is consistent with this section.

The bill requires state agencies and WMDs to use the DEP's testing results and analysis, if available, in order to receive state funds for the acquisition of lands or the financing of a water resource projects.

The bill provides rulemaking authority to the DEP and the WMDs to implement this section of the bill.

Section 39 amends s. 403.067, F.S., to provide that each new or revised BMAP must include:

- The appropriate management strategies available through existing water quality protection programs to achieve TMDLs, which may provide for phased implementation to promote timely, cost-effective actions;
- A description of BMPs adopted by rule;
- A list of projects in priority ranking with a planning-level cost estimate and estimated date of completion for each listed project;
- The source and amount of financial assistance to be made available by the DEP, a WMD, or other entity for each listed project, if applicable; and
- A planning-level estimate of each listed project's expected load reduction, if applicable.

The bill provides that BMAPs are enforceable pursuant to ss. 403.067, 403.121, 403.141, and 403.161, F.S., and that management strategies, including BMPs and water quality monitoring, are enforceable under ch. 403, F.S.

The bill provides that no later than January 1, 2016:

- The DEP, in consultation with the WMDs and DACS will initiate rulemaking to adopt procedures to verify implementation of water quality monitoring required in lieu of implementation of BMPs or other measures;
- The DEP, in consultation with the WMDs and DACS, will initiate rulemaking to adopt procedures to verify implementation of nonagricultural interim measures, BMPs, or other measures adopted by rule; and
- DACS, in consultation with the WMDs and the DEP, will initiate rulemaking to adopt procedures to verify implementation of agricultural interim measures, BMPs, or other measures adopted by rule.

The bill provides that rules will include enforcement procedures applicable to the landowner, discharger, or other responsible person required to implement applicable management strategies, including BMPs, or water quality monitoring as a result of noncompliance.

Section 40 creates s. 403.0675, F.S., to require the DEP, in conjunction with the WMDs, to submit progress reports to the Governor, the President of the Senate, and the Speaker of the House of Representatives on the status of each TMDL, BMAP, MFL, and recovery or prevention strategy adopted pursuant to s. 403.067, F.S., or parts I and VIII of ch. 373, F.S. The report must include the status of each project identified to achieve an adopted TMDL or an adopted minimum flow or minimum water level, as applicable.

If a report indicates that any of the five, ten, or 15-year milestones, or the 20-year target date, if applicable, for achieving a TMDL or MFL will not be met, the report must include an explanation of the possible causes and potential solutions.

If applicable, the report shall include project descriptions, estimated costs, proposed priority ranking for project implementation, and funding needed to achieve the TMDL or the MFL by the target date.

DACS will report to the Governor, the President of the Senate, and the Speaker of the House of Representatives on the status of the implementation of the agricultural nonpoint source BMPs including an implementation assurance report summarizing survey responses and response rates, site inspections and other methods used to verify implementation of and compliance with BMPs pursuant to BMAPs.

Section 41 amends s. 403.861, F.S. to require the DEP to establish rules concerning the use of surface waters for treated potable public water supply.

The bill provides that when a construction permit is issued to construct a new public water system drinking water treatment facility to provide potable water using a surface water of the state that, at the time of the permit application, is not being used as a potable water supply, and the classification of which does not include potable water supply as a designated use, the DEP must add treated potable water supply as a designated use of the surface water segment.

The bill provides that for existing public water system drinking water treatment facilities that use a surface water of the state as a treated potable water supply, and the surface water classification does not include potable water as a designated use, the DEP shall add treated potable water supply as a designated use of the surface water segment.

Section 42 provides an effective date of July 1, 2015.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Existing regulatory programs require local governments to expend funds to comply with Minimum Flows and Levels (MFLs), Water Quality Standards (WQSs), and Basin Management Action Plans (BMAPs). This bill requires additional expenditures for Onsite Sewage Treatment and Disposal Systems (OSTDS) remediation plans and implementation of those plans. A comprehensive fiscal analysis of the bill is required to determine the total impact and whether this bill is a mandate.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The exact impact of PCS/CS/SB 918 on the private sector and individuals cannot be calculated because many of the costs are dependent on activities, such as delineation of priority focus areas that have not occurred. Some examples of potential private sector impacts are:

- Provisions that will require some property owners in priority focus areas to upgrade their Onsite Sewage Treatment and Disposal Systems (OSTDSs) or connect to a central sewerage system. This could result in higher rates for sewage disposal compared to the costs of using an OSTDS. Aerobic Treatment Units (ATUs) are also more costly to operate than conventional OSTDSs;
- Rate payers may pay for ongoing operation and maintenance for advanced wastewater treatment plants through rate increases, in addition to costs associated with disposal of Class A and B biosolids in landfills;
- Property owners may have to pay more for passive nitrogen removing systems installed in OSTDSs to install in new developments with lots of less than one acre. They may also face more expensive pump out costs as a result of more expensive disposal options;
- Urban fertilizer use may decrease because of ordinances causing a reduction in revenue for fertilizer companies;
- Septic tank contractors may benefit due to increased scrutiny and required upgrades to OSTDSs;
- An indeterminate positive fiscal impact to local business and real estate prices with the creation of the Shared-Use Nonmotorized Trail (SunTrail);
- The cost of water monitoring, assuming it is for water quantity monitoring, could cost between $300 to $1,500 per well per year, though it depends heavily on how that monitoring is accomplished; and
- Significant cost savings for dischargers currently discharging into class III waters used for potable water supply.

C. Government Sector Impact:

The bill requires a number of activities that will result in significant increased costs for several government entities, including the Department of Environmental Protection (DEP), the Department of Agriculture and Consumer Services (DACS), and the Water Management Districts (WMDs).

Senate Bill 2500, the Senate's Fiscal Year 2015-2016 General Appropriations Bill, provides $50 million for Springs restoration and land acquisition, $50 million for Water Resources and land acquisition, and $25 million for SunTrail, from the Land Acquisition Trust Fund. In addition, SB 2500 appropriates six positions and $1,429,721 to the DEP

from the Land Acquisition Trust Fund for information technology initiatives and delineation of springs protection zones as required in PCS/CS/SB 918. Three positions and $299,629 from the Land Acquisition Trust Fund are appropriated to the DACS for implementation of agricultural best management practices. For the Northwest Florida Water Management District (NWFWMD), $1.5 million is provided from the Land Acquisition Trust Fund for activities related to the establishment of Minimum Flows and Levels.

Additional costs that are indeterminate include:

- Minimum Flows and Levels (MFLs) - The bill would require the Water Management Districts (WMDs) and the Department of Environmental Protection (DEP) to adopt MFLs by certain deadlines, which are expected to cost between $280,000 and $2.25 million per MFL, including agency costs for extensive data collection, analysis and modeling, stakeholder coordination, and rulemaking. Costs can vary widely depending on the complexity of the system and the amount and type of scientific and technical data that exists or must be collected. Calculation of interim MFLs will be accomplished using existing staff and resources.
- MFLs Recovery or Prevention Strategies - The WMDs (excluding the Northwest Florida and Suwannee River WMDs) would be required to fund at least 25 percent of recovery or prevention strategies projects. However, the WMDs may provide less than a 25 percent match if another specific source(s) of funding will provide more than 75 percent of the project cost. Since the number of project applicants and project costs is unknown, the fiscal impact is indeterminate at this time.
- Water Resources Advisory Council - The bill requires the creation of the Water Resources Advisory Council within, and staffed by, the DEP. Per diem for travel to attend council meetings is authorized for the two appointed council members. The estimated cost to the Land Acquisition Trust Fund is indeterminate and should be insignificant.
- Alternative Water Supply Projects – The Water Management Districts that provide technical and financial assistance to self-suppliers for alternative water supply projects will result in a negative fiscal impact on those WMDs that provide such assistance. The actual cost to the Land Acquisition Trust Fund is indeterminate.
- Alternative Water Supply Pilot Program – The bill requires the SFWMD, SWFWMD, and the SJRWMD to designate and implement alternative water supply projects. The bill gives the WMDs the power to issue revenue bonds to pay the costs and expenses related to these projects.

According to the DEP, creation of a database of lands where public access is available could require significant financial resources for information collection, website, and mobile application development. Development of enhancements to the Water Information Network (WIN) is estimated to cost between $4 million and $5 million over the next five years.

The DACS requested $25 million from the General Revenue Fund to continue the development and implementation of agricultural best management practices in the Northern Everglades and Florida spring sheds in the fiscal year 2015-2016 Legislative

Budget Request. The DACS estimates this amount will be sufficient to implement the provisions in this bill relating to agricultural best management practices.

There may be a positive fiscal impact to the Florida Department of Transportation (FDOT) with the increase in concession agreements for displays at shared-use nonmotorized trail (SunTrail) facilities.

VI. Technical Deficiencies:

The requirement to conduct water monitoring in section 13 of the bill does not specify what kind of monitoring is required or whether or not consumptive use permits must be revised to include monitoring.

In various sections of the bill, the terms “minimum flows and levels” and “minimum flows or levels” are used. In other sections of the bill, the term “minimum flows and minimum water levels” is used. The terms are synonymous but may be interpreted differently under the statutory construction rule that the Legislature is acting intentionally and purposefully when terms are amended in one statute but not another in the same bill.

The bill could require significant funding, which may have to come from bonding, by the affected WMDs to fund projects as part of the alternative water supply pilot program. The prioritization of projects as part of the pilot program could be inconsistent with other provisions of the bill.

The bill provides that if an MFL has been established for an OFS, a WMD (other than the NWFWMD) or the DEP will use emergency rulemaking authority to adopt MFLs no later than July 1, 2016. It is unclear if emergency rulemaking authority will be available if MFLs for an OFS have not been established by July 1, 2016.

The phrase “results in a vacancy on the council” in Section 21 of the bill, concerning the Harris Chain of Lakes Restoration Council, may be misinterpreted and may need to be reworded to specify that resignation of a council member or the failure of a member to attend three consecutive meetings without an excuse approved by the chair of the committee results in the removal of the committee member.

VII. Related Issues:

The Florida Water Resources Advisory Council is required to release a tentative water resources work program by July 15 of each year. The bill should indicate what year the first work program must be released.

The bill defines outstanding Florida springs as all first magnitude springs in Florida, as defined in the most recent version of the Florida Geological Survey’s springs bulletin. A future bulletin could remove one of the first magnitude springs from its list, creating problems for ongoing projects by removing the regulatory structure established in this bill.

It is unclear what happens if the Department of Environmental Protection (DEP) determines that data submitted by a Water Management District (WMD) is inconsistent with statewide standards established by the DEP in coordination with the WMDs.

It is unclear what the definition of "self-suppliers" is.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 259.032, 373.019, 373.036, 373.042, 373.0421, 373.1501, 373.219, 373.223, 373.2234, 373.227, 373.233, 373.4591, 373.4595, 373.467, 373.536, 373.703, 373.705, 373.707, 373.709, 403.061, 403.0623, 403.067, and 403.861.

The bill makes conforming changes to the following section of the Florida Statutes: 260.0144 and 335.065.

This bill creates the following sections of the Florida Statutes: 339.81, 339.82, 339.83, 373.037, 373.0465, 373.801, 373.802, 373.803, 373.805, 373.807, 373.811, 373.813, 403.0616, 403.0617, and 403.0675.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

Recommended CS/CS by Appropriations Subcommittee on General Government on April 8, 2015:

The committee substitute:

- Removes guidance for setting interim minimum water flows or minimum water levels and removes all references to interim minimum water flows or minimum water levels;
- Creates a pilot program for alternative water supply development in restricted allocation areas:
  - Provides definitions;
  - Provides legislative findings;
  - Requires the South Florida Water Management District (SFWMD), Southwest Florida Water Management District (SWFWMD), and the St. Johns River Water Management District (SJRWMD) to designate and implement alternative water supply projects;
  - Specifies the powers and restrictions of the SFWMD, the SWFWMD, and the SJRWMD with respect to implementing pilot projects under the section;
  - Provides for funding assistance from the Water Management Districts (WMDs) for pilot projects; and
  - Provides reporting requirements.
- Removes definition of the minimum flow or minimum water level for an Outstanding Florida Springs (OFS) as being the limit and level, respectively, at which further withdrawals would be harmful to the water resources or ecology of the area;
- Provides a WMD and the DEP with emergency rulemaking authority to adopt an established minimum flow or minimum water level for an OFS no later than July 1,

2016, except for the NWFWMD, which must adopt minimum water flows and minimum water levels by July 1, 2026;

- Provides that rules adopted pursuant to s. 373.042, F.S., concerning minimum flows and minimum water levels, are not subject to s 120.541(3), F.S., concerning ratification of rules by the legislature;
- Directs the DEP to adopt by rule a uniform definition of the term "harmful to the water resources" for OFSs;
- Clarifies that the requirement for monitoring water use under a Consumptive Use Permit (CUP) authorizing 100,000 or more gallons per day applies to a new, renewal of, or modification to a CUP and that in addition to 100,000 gallons per day, the well or wells subject to monitoring must have an inside diameter of eight inches or more and that the results must be reported to the applicable WMD at least annually;
- Clarifies that the requirement that permitted water allocations may not be modified due to water conservation during the term of the CUP does not apply to areas included in a regional water supply plan or to areas included in a declaration of water shortage or emergency, pursuant to s. 373.246, F.S.;
- Clarifies that when the WMDs adopt rules that provide water conservation incentives, those incentives may include limited permit extensions;
- Clarifies that CUPs may not be reduced during the term of the permit due to actual water use being less than permitted water use due to market conditions;
- Specifies that the Lake Okeechobee basin management action plan (BMAP) is designed to achieve the Total Maximum Daily Load (TMDL), rather than to reduce phosphorus loads;
- Provides requirements for the Lake Okeechobee, the Caloosahatchee River, and the St. Lucie River BMAPs:
  - They must include milestones for implementation and water quality improvement and an associated water quality monitoring component;
  - The DEP must develop schedules to establish 5, 10, and 15 year measurable milestones and a target for achieving water quality improvement to be used to provide guidance for planning and funding purposes and exempts the schedule from the provisions of s. 120.54(1)(a), concerning rulemaking;
  - Assessments of progress toward the 5, 10, and 15 year milestones must be conducted every 5 years and revisions to the BMAPs must be made, as appropriate, as a result of each 5-year review;
  - The assessments must be provided to the Governor, the President of the Senate, and the Speaker of the House of Representatives;
  - Upon the first 5-year review, a schedule, measureable milestones, and a target for achieving water quality improvement consistent with certain provisions must be adopted into the BMAPs;
  - Revisions to the BMAPs must be made by the DEP in cooperation with basin stakeholders;
  - Revisions to the management strategies must follow certain procedures; and
  - Revised BMAPs must be adopted pursuant to s. 403.067(7)(a)4., F.S.;
- Specifies that for Lake Okeechobee, where water quality problems are detected for agricultural and nonagricultural nonpoint sources despite the appropriate implementation of best management practices (BMPs), the BMPs must be

reevaluated to determine whether the BMPs or other measures require modification. If so, the rule must be revised to require modified BMPs to be implemented within a reasonable amount of time;

- Concerning entities within the Lake Okeechobee, Caloosahatchee River, and St. Lucie River watersheds, the bill requires, rather than allows, rules adopted by DACS relating to the land application of animal manure to include site inspection requirements. Existing requirements are criteria and thresholds for the requirement to develop a conservation or nutrient management plan, requirements for plan approval, and recordkeeping requirement;
- Specifies that the DEP, rather than the SFWMD must conduct an evaluation of any pollutant load reduction goals, as well as any other specific objectives and goals, as stated in the River Watershed Protection Programs;
- Requires the DEP to include an implementation assurance report in its annual progress report;
- Requires the SFWMD to submit a complete application for a permit modification to the Lake Okeechobee structure permits by January 1, 2016;
- Provides that a member of the Harris Chain of Lakes Restoration Council must be a person with experience in environmental science or regulation, rather than an environmental engineer;
- Provides the Lake County legislative delegation with the authority to waive the qualifications for membership on the council on a case-by-case basis if good cause is shown;
- Provides that resignation by a council member, or failure by a council member to attend three consecutive meetings without an excuse approved by the chair of the council, will result in a vacancy;
- Provides that the provisions of s. 373.703, F.S., concerning water production, do not apply to the development and implementation of pilot projects pursuant to s. 373.037;
- Provides criteria for priority consideration for state funding for water supply development projects;
- Adds certain software technologies to list of examples for WMDs to promote expanded cost-share criteria for additional conservation practices;
- Provides criteria for WMDs to consider when determining which alternative water supply projects are selected for financial assistance;
- Specifies that “priority focus areas” are delineated in a BMAP;
- Provides that priority focus areas in OFSs are effective when incorporated in a BMAP;
- Provides that when a MFL for an OFS is revised, a WMD or the DEP must concurrently adopt a recovery or prevention strategy or modify an existing one;
- Provides that a schedule of 5, 10, and 15 year milestones as part of a recovery or prevention strategy or a BMAP is not a rule but is intended to provide guidance for planning and funding purposes and is exempt from s. 120.54(1)(a), regarding rulemaking;
- Provides that if Onsite Sewage Treatment and Disposal Systems (OSTDSs) are identified as 20 percent of nonpoint source nutrient pollution, the relevant BMAP must include an OSTDS remediation plan;

- Requires the implementation of an ordinance that meets or exceeds the requirements of the Model Ordinance for Florida-Friendly Fertilizer Use on Urban Landscapes within 12 months, rather than 6 months, of the adoption of a BMAP containing a priority focus area of an OFS, rather than after the delineation of a priority focus area;
- Makes the development of an OSTDS remediation plan the responsibility of the DEP as part of the BMAP process rather than the responsibility of local governments and provides requirements;
- Removes requirements associated with local governments with respect to OSTDS remediation plans;
- Adds public and private wastewater utilities as entities the DEP must consult with when developing an OSTDS remediation plan;
- Provides that an OSTDS remediation plan must be completed by the DEP and adopted as part of a BMAP no later than the first 5 year milestone of the BMAP;
- Provides for funding for OSTDS remediation projects;
- Prohibits new domestic wastewater disposal facilities, rather than municipal or industrial wastewater disposal facilities within priority focus areas in effect for an OFS when necessary to attain a TMDL;
- Removes references to passive nitrogen removing OSTDSs and prohibits the installation of specific systems that conflict with a remediation plan incorporated into a BMAP for an OFS;
- Clarifies when the land application of Class A or B domestic wastewater biosolids may not be applied within a priority focus area of an OFS;
- Requires the DEP to adopt rules to improve water quantity and water quality to administer the Florida Springs and Aquifer Protection Act, rather than adopting rules to create a program;
- Removes rulemaking authority for the DOH, DACS, and the WMDs to administer the Florida Springs and Aquifer Protection Act;
- Removes a required yearly report under the Florida Springs and Aquifer Protection Act;
- Adds regional water supply authorities to list of entities the DEP is required to consult with when creating a consolidated water resources work plan and adds regionally significant water supply projects to list of items that must be reported;
- Adds regional water supply authorities to list of entities the Florida Water Resources Advisory Council may accept water resource project submissions from;
- Provides requirements for new or revised BMAPs;
- Adds site inspection requirements to what must be incorporated into rules adopted by DACS concerning interim measures, BMPs or other measures necessary to achieve pollution reduction; and
- Provides for the enforcement and verification of BMAPs and management strategies.

CS by Environmental Preservation and Conservation on March 24, 2015:

- Changes the implementation date to create a database and website providing information on conservation lands the public may access from January 1, 2016, to July 1, 2016;
- Clarifies that the addition of local and federal land to the database is a continuing endeavor and should be accomplished to the extent practicable;

- Requires the Florida Department of Transportation (FDOT) to budget $50 million yearly for SunTrails;
- Clarifies that the provision of technical assistance to self-suppliers (requiring the expenditure of public funds) must be consistent with the public policy of the state set forth in s. 373.016, F.S., related to water resources;
- Clarifies the grading system required for the status of water resources must reflect the severity of the impairment;
- Clarifies that the list of prioritized projects is for projects for which the water management district or local government are requesting state funding through the water resources work program;
- Changes the date for using an interim Minimum Flow Level (MFL) from January 1, 2016, to July 1, 2016, to align the use of the interim MFL with the adoption of recovery or prevention strategies;
- Adds a provision to ensure natural weather variations do not trigger an interim MFL violation;
- Provides emergency rulemaking authority for the adoption of an interim MFL and recovery or prevention strategies;
- Allows interim MFLs and recovery or prevention strategies to remain in effect until January 1, 2018, and specifies they are renewable during any pending rule challenge or request for ratification;
- Defines the term "Central Florida Water Initiative";
- Provides for an interagency agreement between the Department of Environmental Protection (DEP), South Florida Water Management District (SFWMD), Southwest Florida Water Management District (SWFWMD), St. Johns River Water Management District (SJRWMD), and the Department of Agriculture and Consumer Services (DACS) to develop and implement a multi-district regional water supply plan and provides plan criteria and requirements, including:
  - Uniform rules for regulatory programs;
  - Uniform rules to include a goal for residential per capita water use for each consumptive use permit;
  - A single definition of "harmful to the water course" as it relates to the issuance of Consumptive Use Permits (CUPs);
  - Rules to include existing recovery strategies;
- Requires the DEP to initiate rulemaking by December 31, 2015 to be applied by the WMDs only within the Central Florida Water Initiative (CFWI);
- Allows the DEP to grant variances where there are unique circumstances or hydrogeological factors that make application of uniform rules unrealistic or impractical;
- Specifies the authority of the SFWMD as sponsor of the Central and Southern Florida (C&SF) Project to allocate quantities of, and assign priorities for the use of, water within its jurisdiction;
- Directs the district to provide recommendations to the U.S. Army Corps of Engineers when developing or implementing certain water control plans or regulations schedules;

- Directs the WMD governing boards to give consideration to the identification of preferred water supply sources for water users for whom access to or development of new water supplies is not technically or financially feasible;
- Provides conditions under which the DEP and the WMD governing boards are directed to give preference to certain applications where the use of alternative water supply is not technically or financially feasible;
- Provides that when giving preference to new competing water use applicants for whom alternative water supplies are not technically or financially feasible, the preference must be given to the applicant for whom the water source is nearest;
- Provides priority consideration to certain public-private partnerships for water storage, groundwater recharge, water quality improvements, and water supply on private agricultural lands;
- Clarifies that the role of private land owners is in enhancing hydrologic improvement, improving water quality and assisting in water supply;
- Revises and provides definitions relating to the Northern Everglades and Estuaries Protection Program, including:
  - Deletes definition for "district Works of the District (WOD) program";
  - Clarifies provisions of the Lake Okeechobee Watershed Protection Program;
  - Provides requirements for the Lake Okeechobee BMAP;
  - Provides for technical and financial assistance for implementation of agricultural best management practices;
  - Directs the SFWMD to revise certain rules and provide for a water quality monitoring program;
  - Revises provisions for the Caloosahatchee River Watershed Protection Program and the St. Lucie River Watershed Protection Program;
  - Revises permitting and annual reporting requirements relating to Northern Everglades Estuary Protection Program (NEEPP);
  - Clarifies that reevaluation of agricultural best management practices include revision, if necessary, pursuant to s. 403.067(7)(c)4, F.S.;
  - Changes reference to Rule 40E-63, F.A.C., to "the Everglades Program,"
  - Adds provisions requiring the district to initiate rulemaking to provide for a monitoring program for nonpoint source discharges to monitor water quality in the Caloosahatchee Watershed;
  - Adds provisions requiring the district to initiate rulemaking to provide for a monitoring program for nonpoint source dischargers required to monitor water quality in the St. Lucie watershed;
  - Provides that the Basin Management Action Plans for Lake Okeechobee, the Caloosahatchee River watershed and estuary and The St. Lucie River watershed and estuary are enforceable pursuant to ss. 403.067, 403.121, 403.141 and 403.161, F.S.;
- Requires a WMD to include an annual funding plan in the water resource development work program;
- Directs the DEP to post the work program on its website;
- Requires the separate identification of projects submitted for state funding through the water resources work program pursuant to s. 403.0616, F.S.;

- Directs WMDs to consider funding assistance for certain water supply development projects;
- Requiring governing boards to include certain information in their annual budget submittals;
- Authorizes water management districts to provide technical and financial assistance to self-suppliers and to waive certain construction costs of alternative water supply development projects if they are in the public interest and not otherwise financially feasible;
- Clarifies that the provision of technical assistance to self-suppliers (requiring the expenditure of public funds) must be consistent with the public policy of the state set forth in s. 373.707(1)(f), F.S.;
- Includes reference to water resources work program in provisions related to state funding;
- Requires water supply plans to include traditional and alternative water supply project options that are technically and financially feasible;
- Directs the department to report certain funding analyses and project explanations in regional water supply planning reports;
- Revises language to replace "spring protection and management zones" with "priority focus areas";
- Excludes "submarine springs" from definition of "Outstanding Florida Springs";
- Recognizes that priority focus areas may encompass a spring or group of springs;
- Requires the delineation of priority focus areas by July 1, 2018;
- Removes the requirement for a map and legal description depicting spring protection and management zones;
- Revises language to make it clear that implementation plans are intended to achieve certain goals with respect to MFLs and Total Maximum Daily Loads (TMDLs);
- Provides that requirements for local governments to create septic tank remediation plans are notwithstanding other conflicting provisions of law;
- Requires the identification of Onsite Sewage Treatment and Disposal Systems (OSTDS) contributing at least 20 percent of nonpoint source nutrient pollution to Outstanding Florida Springs (OFSs);
- Includes drainfield modification in the types of repairs and upgrades that can be identified for OSTDSs;
- Specifies the types of costs that a property owner is not required to pay if an OSTDS requires remediation;
- Requires the department notify local governments of all permit applicants under s. 403.814(12), F.S., in priority focus areas of OFSs;
- Removes the term "septage" from the types of prohibited land applications in priority focus areas;
- Directs the department to adopt by rule a specific surface water classification to protect surface waters used for treated potable water supply and provides criteria for the rule;
- Reduces the number of required meetings by the Water Resources Advisory Council from eight to two;
- Provides for the Innovative Nutrient and Sediment Reduction and Conservation Pilot Project Program;

- Requires the department to adopt rules to competitively evaluate and rank projects for selection and prioritization by the Water Resources Advisory Council pursuant to s. 403.0616, F.S., for submission to the Legislature for funding of pilot projects;
- Provides eligibility for projects that test the effectiveness of innovative or existing nutrient reduction or water conservation technologies or practices designed to minimize nutrient pollution or restore flows in the water bodies of the state;

B. Amendments:

None.

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

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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/22/2015	.	
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The Committee on Appropriations (Hays) recommended the following:

Senate Amendment (with title amendment)

Delete lines 725 - 903
and insert:
(b) These factors make it necessary to provide other options for the Southwest Florida Water Management District, the South Florida Water Management District, and the St. Johns River Water Management District to be able to take the lead in developing and implementing one alternative water supply project within a restricted allocation area as a pilot alternative water

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11 supply development project.
12 (c) The development and implementation of an alternative
13 water supply project by the water management districts specified
14 in paragraph (b) within a restricted allocation area as a pilot
15 project is for the benefit of the public health, safety, and
16 welfare and is in the public interest. Each pilot project must
17 provide water supply and environmental benefits. Consideration
18 should be given to projects that provide reductions in damaging
19 discharges to tide or that are part of a recovery or prevention
20 strategy for minimum flows and minimum water levels.
21 (3) The water management districts specified in paragraph
22 (2)(b) may, at their sole discretion, designate and implement an
23 existing alternative water supply project that is identified in
24 each district's regional water supply plan as its one pilot
25 project or amend their respective regional water supply plans to
26 add a new alternative water supply project as their district
27 pilot project. A pilot project designation made pursuant to this
28 section should be made no later than July 1, 2016, and is not
29 subject to the rulemaking requirements of chapter 120 or subject
30 to legal challenge pursuant to ss. 120.569 and 120.57. A water
31 management district may designate an alternative water supply
32 project located within another water management district if the
33 project is located in a restricted allocation area designated by
34 the other water management district and a substantial quantity
35 of water provided by the alternative water supply project will
36 be used within the designating water management district's
37 boundaries.
38 (4) In addition to the other powers granted and duties
39 imposed under this chapter, if a district specified in paragraph

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40 (2)(b) elects to implement a pilot project pursuant to this
41 section, its governing board has the following powers and is
42 subject to the following restrictions in implementing the pilot
43 project:
44 (a) The governing board may not develop and implement a
45 pilot project on privately owned land without the voluntary
46 consent of the landowner, which consent may be evidenced by
47 deed, easement, license, contract, or other written legal
48 instrument executed by the landowner after July 1, 2015.
49 (b) The governing board may not engage in local water
50 supply distribution or sell water to the pilot project
51 participants.
52 (c) The governing board may join with one or more other
53 water management districts and counties, municipalities, special
54 districts, publicly owned or privately owned water utilities,
55 multijurisdictional water supply entities, regional water supply
56 authorities, self-suppliers, or other entities for the purpose
57 of carrying out its powers, and may contract with any such other
58 entities to finance or otherwise implement acquisitions,
59 construction, and operation and maintenance, if such contracts
60 are consistent with the public interest and based upon
61 independent cost estimates, including comparisons with other
62 alternative water supply projects. The contracts may provide for
63 contributions to be made by each party to the contract for the
64 division and apportionment of resulting costs, including
65 operations and maintenance, benefits, services, and products.
66 The contracts may contain other covenants and agreements
67 necessary and appropriate to accomplish their purposes.
68 (5) A water management district may provide up to 50

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69 percent of funding assistance for a pilot project.
70 (6) If a water management district specified in paragraph
71 (2)(b) elects to implement a pilot project, it shall submit a
72 report to the Governor, the President of the Senate, and the
73 Speaker of the House of Representatives by July 1, 2019, on the
74 effectiveness of its pilot project. The report must include all
75 of the following information:
76 (a) A description of the alternative water supply project
77 selected as a pilot project, including the quantity of water the
78 project has produced or is expected to produce and the
79 consumptive users who are expected to use the water produced by
80 the pilot project to meet their existing and future reasonable-
81 beneficial uses.
82 (b) Progress made in developing and implementing the pilot
83 project in comparison to the development and implementation of
84 other alternative water supply projects in the restricted
85 allocation area.
86 (c) The capital and operating costs to be expended by the
87 water management district in implementing the pilot project in
88 comparison to other alternative water supply projects being
89 developed and implemented in the restricted allocation area.
90 (d) The source of funds to be used by the water management
91 district in developing and implementing the pilot project.
92 (e) The benefits to the district’s water resources and
93 natural systems from implementation of the pilot project.
94 (f) A recommendation as to whether the traditional role of
95 water management districts regarding the development and
96 implementation of alternative water supply projects, as
97 specified in ss. 373.705 and 373.707, should be revised and, if

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98 so, identification of the statutory changes necessary to expand
99 the scope of the pilot program.
100
101 ========== T I T L E A M E N D M E N T ==========
102 And the title is amended as follows:
103 Delete lines 41 - 47
104 and insert:
105 authorizing certain water management districts to
106 designate and implement pilot projects; providing
107 powers and limitations for the governing boards of
108 such water management districts; requiring a
109 participating water management district to submit a
110 report to the Governor and the Legislature on the
111 effectiveness of its pilot project by a certain date;

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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/22/2015	.	
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The Committee on Appropriations (Hays) recommended the following:

Senate Amendment (with title amendment)

Delete lines 928 - 1414
and insert:
(2)(a) If a minimum flow or minimum water level has not been adopted for an Outstanding Florida Spring, a water management district or the department shall use the emergency rulemaking authority provided in paragraph (c) to adopt a minimum flow or minimum water level no later than July 1, 2017, except for the Northwest Florida Water Management District,

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11 which shall use such authority to adopt minimum flows and
12 minimum water levels for Outstanding Florida Springs no later
13 than July 1, 2026.
14 (b) For Outstanding Florida Springs identified on a water
15 management district's priority list developed pursuant to
16 subsection (3) which have the potential to be affected by
17 withdrawals in an adjacent district, the adjacent district or
18 districts and the department shall collaboratively develop and
19 implement a recovery or prevention strategy for an Outstanding
20 Florida Spring not meeting an adopted minimum flow or minimum
21 water level.
22 (c) The Legislature finds as provided in s. 373.801(3)(b)
23 that the adoption of minimum flows and minimum water levels or
24 recovery or prevention strategies for Outstanding Florida
25 Springs requires immediate action. The department and the
26 districts are authorized, and all conditions are deemed to be
27 met, to use emergency rulemaking provisions pursuant to s.
28 120.54(4) to adopt minimum flows and minimum water levels
29 pursuant to this subsection and recovery or prevention
30 strategies adopted concurrently with a minimum flow or minimum
31 water level pursuant to s. 373.805(2).
32 (3) ~~(2)~~ By November 15, 1997, and annually thereafter, each
33 water management district shall submit to the department for
34 review and approval a priority list and schedule for the
35 establishment of minimum flows and minimum water levels for
36 surface watercourses, aquifers, and surface waters within the
37 district. The priority list and schedule shall identify those
38 listed water bodies for which the district will voluntarily
39 undertake independent scientific peer review; any reservations

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40 proposed by the district to be established pursuant to s.
41 373.223(4); and those listed water bodies that have the
42 potential to be affected by withdrawals in an adjacent district
43 for which the department's adoption of a reservation pursuant to
44 s. 373.223(4) or a minimum flow or minimum water level pursuant
45 to subsection (1) may be appropriate. By March 1, 2006, and
46 annually thereafter, each water management district shall
47 include its approved priority list and schedule in the
48 consolidated annual report required by s. 373.036(7). The
49 priority list shall be based upon the importance of the waters
50 to the state or region and the existence of or potential for
51 significant harm to the water resources or ecology of the state
52 or region, and shall include those waters which are experiencing
53 or may reasonably be expected to experience adverse impacts.
54 Each water management district's priority list and schedule
55 shall include all first magnitude springs, and all second
56 magnitude springs within state or federally owned lands
57 purchased for conservation purposes. The specific schedule for
58 establishment of spring minimum flows and minimum water levels
59 shall be commensurate with the existing or potential threat to
60 spring flow from consumptive uses. Springs within the Suwannee
61 River Water Management District, or second magnitude springs in
62 other areas of the state, need not be included on the priority
63 list if the water management district submits a report to the
64 Department of Environmental Protection demonstrating that
65 adverse impacts are not now occurring nor are reasonably
66 expected to occur from consumptive uses during the next 20
67 years. The priority list and schedule is not subject to any
68 proceeding pursuant to chapter 120. Except as provided in

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69 subsection (4) ~~(3)~~, the development of a priority list and
70 compliance with the schedule for the establishment of minimum
71 flows and minimum water levels pursuant to this subsection
72 satisfies the requirements of subsection (1).
73 (4) ~~(3)~~ Minimum flows or minimum water levels for priority
74 waters in the counties of Hillsborough, Pasco, and Pinellas
75 shall be established by October 1, 1997. Where a minimum flow or
76 minimum water level for the priority waters within those
77 counties has not been established by the applicable deadline,
78 the secretary of the department shall, if requested by the
79 governing body of any local government within whose jurisdiction
80 the affected waters are located, establish the minimum flow or
81 minimum water level in accordance with the procedures
82 established by this section. The department's reasonable costs
83 in establishing a minimum flow or minimum water level shall,
84 upon request of the secretary, be reimbursed by the district.
85 (5) ~~(4)~~ A water management district shall provide the
86 department with technical information and staff support for the
87 development of a reservation, minimum flow or minimum water
88 level, or recovery or prevention strategy to be adopted by the
89 department by rule. A water management district shall apply any
90 reservation, minimum flow or minimum water level, or recovery or
91 prevention strategy adopted by the department by rule without
92 the district's adoption by rule of such reservation, minimum
93 flow or minimum water level, or recovery or prevention strategy.
94 (6) ~~(5)~~(a) Upon written request to the department or
95 governing board by a substantially affected person, or by
96 decision of the department or governing board, prior to the
97 establishment of a minimum flow or minimum water level and prior

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98 to the filing of any petition for administrative hearing related
99 to the minimum flow or minimum water level, all scientific or
100 technical data, methodologies, and models, including all
101 scientific and technical assumptions employed in each model,
102 used to establish a minimum flow or minimum water level shall be
103 subject to independent scientific peer review. Independent
104 scientific peer review means review by a panel of independent,
105 recognized experts in the fields of hydrology, hydrogeology,
106 limnology, biology, and other scientific disciplines, to the
107 extent relevant to the establishment of the minimum flow or
108 minimum water level.
109 (b) If independent scientific peer review is requested, it
110 shall be initiated at an appropriate point agreed upon by the
111 department or governing board and the person or persons
112 requesting the peer review. If no agreement is reached, the
113 department or governing board shall determine the appropriate
114 point at which to initiate peer review. The members of the peer
115 review panel shall be selected within 60 days of the point of
116 initiation by agreement of the department or governing board and
117 the person or persons requesting the peer review. If the panel
118 is not selected within the 60-day period, the time limitation
119 may be waived upon the agreement of all parties. If no waiver
120 occurs, the department or governing board may proceed to select
121 the peer review panel. The cost of the peer review shall be
122 borne equally by the district and each party requesting the peer
123 review, to the extent economically feasible. The panel shall
124 submit a final report to the governing board within 120 days
125 after its selection unless the deadline is waived by agreement
126 of all parties. Initiation of peer review pursuant to this

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127 paragraph shall toll any applicable deadline under chapter 120
128 or other law or district rule regarding permitting, rulemaking,
129 or administrative hearings, until 60 days following submittal of
130 the final report. Any such deadlines shall also be tolled for 60
131 days following withdrawal of the request or following agreement
132 of the parties that peer review will no longer be pursued. The
133 department or the governing board shall give significant weight
134 to the final report of the peer review panel when establishing
135 the minimum flow or minimum water level.
136 (c) If the final data, methodologies, and models, including
137 all scientific and technical assumptions employed in each model
138 upon which a minimum flow or level is based, have undergone peer
139 review pursuant to this subsection, by request or by decision of
140 the department or governing board, no further peer review shall
141 be required with respect to that minimum flow or minimum water
142 level.
143 (d) No minimum flow or minimum water level adopted by rule
144 or formally noticed for adoption on or before May 2, 1997, shall
145 be subject to the peer review provided for in this subsection.
146 (7) ~~(6)~~ If a petition for administrative hearing is filed
147 under chapter 120 challenging the establishment of a minimum
148 flow or minimum water level, the report of an independent
149 scientific peer review conducted under subsection (5) ~~(4)~~ is
150 admissible as evidence in the final hearing, and the
151 administrative law judge must render the order within 120 days
152 after the filing of the petition. The time limit for rendering
153 the order shall not be extended except by agreement of all the
154 parties. To the extent that the parties agree to the findings of
155 the peer review, they may stipulate that those findings be

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156 incorporated as findings of fact in the final order.
157 (8) The rules adopted pursuant to this section are not
158 subject to s. 120.541(3).
159 Section 11. Section 373.0421, Florida Statutes, is amended
160 to read:
161 373.0421 Establishment and implementation of minimum flows
162 and minimum levels.—
163 (1) ESTABLISHMENT.—
164 (a) *Considerations.*—When establishing minimum flows and
165 minimum water levels pursuant to s. 373.042, the department or
166 governing board shall consider changes and structural
167 alterations to watersheds, surface waters, and aquifers and the
168 effects such changes or alterations have had, and the
169 constraints such changes or alterations have placed, on the
170 hydrology of an affected watershed, surface water, or aquifer,
171 provided that nothing in this paragraph shall allow significant
172 harm as provided by s. 373.042(1) caused by withdrawals.
173 (b) *Exclusions.*—
174 1. The Legislature recognizes that certain water bodies no
175 longer serve their historical hydrologic functions. The
176 Legislature also recognizes that recovery of these water bodies
177 to historical hydrologic conditions may not be economically or
178 technically feasible, and that such recovery effort could cause
179 adverse environmental or hydrologic impacts. Accordingly, the
180 department or governing board may determine that setting a
181 minimum flow or minimum water level for such a water body based
182 on its historical condition is not appropriate.
183 2. The department or the governing board is not required to
184 establish minimum flows or minimum water levels pursuant to s.

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185 373.042 for surface water bodies less than 25 acres in area,
186 unless the water body or bodies, individually or cumulatively,
187 have significant economic, environmental, or hydrologic value.
188 3. The department or the governing board shall not set
189 minimum flows or minimum water levels pursuant to s. 373.042 for
190 surface water bodies constructed prior to the requirement for a
191 permit, or pursuant to an exemption, a permit, or a reclamation
192 plan which regulates the size, depth, or function of the surface
193 water body under the provisions of this chapter, chapter 378, or
194 chapter 403, unless the constructed surface water body is of
195 significant hydrologic value or is an essential element of the
196 water resources of the area.
197
198 The exclusions of this paragraph shall not apply to the
199 Everglades Protection Area, as defined in s. 373.4592(2)(i).
200 (2) If the existing flow or water level in a water body is
201 below, or is projected to fall within 20 years below, the
202 applicable minimum flow or minimum water level established
203 pursuant to s. 373.042, the department or governing board,
204 concurrent with the adoption of the minimum flow or minimum
205 water level and as part of the regional water supply plan
206 described in s. 373.709, shall adopt and ~~expeditiously~~ implement
207 a recovery or prevention strategy, which includes the
208 development of additional water supplies and other actions,
209 consistent with the authority granted by this chapter, to:
210 (a) Achieve recovery to the established minimum flow or
211 minimum water level as soon as practicable; or
212 (b) Prevent the existing flow or water level from falling
213 below the established minimum flow or minimum water level.

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214

215 The recovery or prevention strategy must ~~shall~~ include a phased-
216 in approach ~~phasing~~ or a timetable which will allow for the
217 provision of sufficient water supplies for all existing and
218 projected reasonable-beneficial uses, including development of
219 additional water supplies and implementation of conservation and
220 other efficiency measures concurrent with and, to the maximum
221 extent practical, ~~and~~ to offset~~,~~ reductions in permitted
222 withdrawals, consistent with ~~the provisions of~~ this chapter. The
223 recovery or prevention strategy may not depend solely on water
224 shortage restrictions declared pursuant to s. 373.175 or s.
225 373.246.
226 (3) In order to ensure that sufficient water is available
227 for all existing and future reasonable-beneficial uses and the
228 natural systems, the applicable regional water supply plan
229 prepared pursuant to s. 373.709 shall be amended to include any
230 water supply development project or water resource development
231 project identified in a recovery or prevention strategy. Such
232 amendment shall be approved concurrently with relevant portions
233 of the recovery or prevention strategy.
234 (4) The water management district shall notify the
235 department if an application for a water use permit is denied
236 based upon the impact that the use will have on an adopted
237 minimum flow or minimum water level. Upon receipt of such
238 notice, the department shall, as soon as practicable and in
239 cooperation with the water management district, conduct a review
240 of the applicable regional water supply plan prepared pursuant
241 to s. 373.709. Such review shall include an assessment by the
242 department of the adequacy of the plan in addressing the

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243 legislative intent of s. 373.705(2)(b) which provides that
244 sufficient water be available for all existing and future
245 reasonable-beneficial uses and natural systems and that the
246 adverse effects of competition for water supplies be avoided. If
247 the department determines, based upon this review, that the
248 regional water supply plan does not adequately address the
249 legislative intent of s. 373.705(2)(b), the water management
250 district shall immediately initiate an update of the plan
251 consistent with s. 373.709.
252 (5) ~~(3)~~ The provisions of this section are supplemental to
253 any other specific requirements or authority provided by law.
254 Minimum flows and minimum water levels shall be reevaluated
255 periodically and revised as needed.
256 Section 12. Section 373.0465, Florida Statutes, is created
257 to read:
258 373.0465 Central Florida Water Initiative.-
259 (1) The Legislature finds that:
260 (a) Historically, the Floridan Aquifer system has supplied
261 the vast majority of the water used in the Central Florida
262 Coordination Area.
263 (b) Because the boundaries of the St. Johns River Water
264 Management District, the South Florida Water Management
265 District, and the Southwest Florida Water Management District
266 meet within the Central Florida Coordination Area, the three
267 districts and the Department of Environmental Protection have
268 worked cooperatively to determine that the Floridan Aquifer
269 system is locally approaching the sustainable limits of use and
270 are exploring the need to develop sources of water to meet the
271 long-term water needs of the area.

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272 (c) The Central Florida Water Initiative is a collaborative
273 process involving the Department of Environmental Protection,
274 the St. Johns River Water Management District, the South Florida
275 Water Management District, the Southwest Florida Water
276 Management District, the Department of Agriculture and Consumer
277 Services, regional public water supply utilities, and other
278 stakeholders. As set forth in the Central Florida Water
279 Initiative Guiding Document of January 30, 2015, the initiative
280 has developed an initial framework for a unified process to
281 address the current and long-term water supply needs of Central
282 Florida without causing harm to the water resources and
283 associated natural systems.
284 (d) Developing water sources as an alternative to continued
285 reliance on the Floridan Aquifer will benefit existing and
286 future water users and natural systems within and beyond the
287 boundaries of the Central Florida Water Initiative.
288 (2)(a) As used in this section, the term "Central Florida
289 Water Initiative Area" means all of Orange, Osceola, Polk, and
290 Seminole Counties, and southern Lake County, as designated by
291 the Central Florida Water Initiative Guiding Document of January
292 30, 2015.
293 (b) The department, the St. Johns River Water Management
294 District, the South Florida Water Management District, the
295 Southwest Florida Water Management District, and the Department
296 of Agriculture and Consumer Services shall:
297 1. Provide for a continuation of the collaborative process
298 in the Central Florida Water Initiative Area among the state
299 agencies, affected water management districts, regional public
300 water supply utilities, and other stakeholders;

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301 2. Build upon the guiding principles and goals set forth in
302 the Central Florida Water Initiative Guiding Document of January
303 30, 2015, and the work that has already been accomplished by the
304 Central Florida Water Initiative participants;
305 3. Develop and implement, as set forth in the Central
306 Florida Water Initiative Guiding Document of January 30, 2015, a
307 single multidistrict regional water supply plan, including any
308 needed recovery or prevention strategies and a list of water
309 supply development projects or water resource projects; and
310 4. Provide for a single hydrologic planning model to assess
311 the availability of groundwater in the Central Florida Water
312 Initiative Area.
313 (c) In developing the water supply planning program
314 consistent with the goals set forth in this subsection, the
315 department, the St. Johns River Water Management District, the
316 South Florida Water Management District, the Southwest Florida
317 Water Management District, and the Department of Agriculture and
318 Consumer Services shall:
319 1. Consider limitations on groundwater use together with
320 opportunities for new, increased, or redistributed groundwater
321 uses that are consistent with the conditions established under
322 s. 373.223;
323 2. Establish a coordinated process for the identification
324 of water resources requiring new or revised conditions
325 consistent with the conditions established under s. 373.223;
326 3. Consider existing recovery or prevention strategies;
327 4. Include a list of water supply options sufficient to
328 meet the water needs of all existing and future reasonable-
329 beneficial uses consistent with the conditions established under

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330 s. 373.223; and
331 5. Identify, as necessary, which of the water supply
332 sources are preferred water supply sources pursuant to s.
333 373.2234.
334 (d) The department, in consultation with the St. Johns
335 River Water Management District, the South Florida Water
336 Management District, the Southwest Florida Water Management
337 District, and the Department of Agriculture and Consumer
338 Services, shall adopt uniform rules for application within the
339 Central Florida Water Initiative Area that include:
340 1. A single, uniform definition of "harmful to the water
341 resources" consistent with the term's usage in s. 373.219;
342 2. A single method for calculating residential per capita
343 water use;
344 3. A single process for permit reviews;
345 4. A single, consistent process, as appropriate, to set
346 minimum flows and minimum water levels and water reservations;
347 5. A goal for residential per capita water use for each
348 consumptive use permit; and
349 6. An annual conservation goal for each consumptive use
350 permit consistent with the regional water supply plan.
351
352 The uniform rules shall include existing recovery strategies
353 within the Central Florida Water Initiative Area adopted before
354 July 1, 2015. The department may grant variances to the uniform
355 rules if there are unique circumstances or hydrogeological
356 factors that make application of the uniform rules unrealistic
357 or impractical.
358 (e) The department shall initiate rulemaking for the

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359 uniform rules by December 31, 2015. The department's uniform
360 rules shall be applied by the water management districts only
361 within the Central Florida Water Initiative Area. Upon adoption
362 of the rules, the water management districts shall implement the
363 rules without further rulemaking pursuant to s. 120.54. The
364 rules adopted by the department pursuant to this section are
365 considered the rules of the water management districts.
366 (f) Water management district planning programs developed
367 pursuant this subsection shall be approved or adopted as
368 required under this chapter. However, such planning programs may
369 not serve to modify planning programs in areas of the affected
370 districts that are not within the Central Florida Water
371 Initiative Area, but may include interregional projects located
372 outside the Central Florida Water Initiative Area which are
373 consistent with planning and regulatory programs in the areas in
374 which they are located.
375 Section 13. Subsection (4) of section 373.1501, Florida
376 Statutes, is amended, present subsections (7) and (8) are
377 redesignated as subsections (8) and (9), respectively, and a new
378 subsection (7) is added to that section, to read:
379 373.1501 South Florida Water Management District as local
380 sponsor.—
381 (4) The district is authorized to act as local sponsor of
382 the project for those project features within the district as
383 provided in this subsection and subject to the oversight of the
384 department as further provided in s. 373.026. The district shall
385 exercise the authority of the state to allocate quantities of
386 water within its jurisdiction, including the water supply in
387 relation to the project, and be responsible for allocating water

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388 and assigning priorities among the other water uses served by
389 the project pursuant to state law. The district may:
390 (a) Act as local sponsor for all project features
391 previously authorized by Congress.~~;~~
392 (b) Continue data gathering, analysis, research, and design
393 of project components, participate in preconstruction
394 engineering and design documents for project components, and
395 further refine the Comprehensive Plan of the restudy as a guide
396 and framework for identifying other project components.~~;~~
397 (c) Construct pilot projects that will assist in
398 determining the feasibility of technology included in the
399 Comprehensive Plan of the restudy.~~; and~~
400 (d) Act as local sponsor for project components.
401 (7) When developing or implementing water control plans or
402 regulation schedules required for the operation of the project,
403 the district shall provide recommendations to the United States
404 Army Corps of Engineers which are consistent with all district
405 programs and plans.
406 Section 14. Subsection (3) is added to section 373.219,
407 Florida Statutes, to read:
408 373.219 Permits required.—
409 (3) The department shall adopt uniform rules for issuing
410 permits which prevent groundwater withdrawals that are harmful
411 to the water resources and adopt by rule a uniform definition of
412 the term “harmful to the water resources” for Outstanding
413 Florida Springs to provide water management districts with
414 minimum standards necessary to be consistent with the overall
415 water policy of the state. This subsection does not prohibit a
416 water management district from adopting a definition that is

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417 more protective of the water resources consistent with local or
418 regional conditions and objectives.
419 Section 15. Subsection (6) is added to section 373.223,
420 Florida Statutes, to read:
421 373.223 Conditions for a permit.—
422 (6) A new, renewal of, or modification to a consumptive use
423 permit authorizing groundwater withdrawals of 100,000 gallons or
424 more per day shall be monitored for water usage at intervals and
425 using methods determined by the applicable water management
426 district, the results of which shall be reported to the water
427 management district at least annually. The water management
428 districts may adopt rules to implement this subsection.
429 Section 16. Section 373.2234, Florida Statutes, is amended
430 to read:
431 373.2234 Preferred water supply sources.—
432 (1) The governing board of a water management district is
433 authorized to adopt rules that identify preferred water supply
434 sources for consumptive uses for which there is sufficient data
435 to establish that a preferred source will provide a substantial
436 new water supply to meet the existing and projected reasonable-
437 beneficial uses of a water supply planning region identified
438 pursuant to s. 373.709(1), while sustaining existing water
439 resources and natural systems. At a minimum, such rules must
440 contain a description of the preferred water supply source and
441 an assessment of the water the preferred source is projected to
442 produce.
443 (2)(a) If an applicant proposes to use a preferred water
444 supply source, that applicant’s proposed water use is subject to
445 s. 373.223(1), except that the proposed use of a preferred water

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446 supply source must be considered by a water management district
447 when determining whether a permit applicant's proposed use of
448 water is consistent with the public interest pursuant to s.
449 373.223(1)(c).
450 (b) The governing board of a water management district
451 shall consider the identification of preferred water supply
452 sources for water users for whom access to or development of new
453 water supplies is not technically or financially feasible.
454 Identification of preferred water supply sources for such water
455 users must be consistent with s. 373.016.
456 (c) A consumptive use permit issued for the use of a
457 preferred water supply source must be granted, when requested by
458 the applicant, for at least a 20-year period and may be subject
459 to the compliance reporting provisions of s. 373.236(4).
460 (3)(a) ~~Nothing in~~ This section does not: ~~shall be construed~~
461 ~~to~~
462 1. Exempt the use of preferred water supply sources from
463 ~~the provisions of~~ ss. 373.016(4) and 373.223(2) and (3);~~, or be~~
464 ~~construed to~~
465 2. Provide that permits issued for the use of a
466 nonpreferred water supply source must be issued for a duration
467 of less than 20 years or that the use of a nonpreferred water
468 supply source is not consistent with the public interest; or~~.~~
469 3. ~~Additionally, nothing in this section shall be~~
470 ~~interpreted to~~ Require the use of a preferred water supply
471 source or to restrict or prohibit the use of a nonpreferred
472 water supply source.
473 (b) Rules adopted by the governing board of a water
474 management district to implement this section shall specify that

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475 the use of a preferred water supply source is not required and
476 that the use of a nonpreferred water supply source is not
477 restricted or prohibited.
478 Section 17. Present subsection (5) of section 373.227,
479 Florida Statutes, is redesignated as subsection (7), and a new
480 subsection (5) and a subsection (6) are added to that section,
481 to read:
482 373.227 Water conservation; legislative findings and
483 intent; objectives; comprehensive statewide water conservation
484 program requirements.—
485 (5) In order to incentivize water conservation, if actual
486 water use is less than permitted water use due to documented
487 implementation of water conservation measures beyond those
488 required in a consumptive use permit, including, but not limited
489 to, those measures identified in best management practices
490 pursuant to s. 570.93, the permitted allocation may not be
491 modified solely due to such water conservation during the term
492
493 ========== T I T L E A M E N D M E N T ==========
494 And the title is amended as follows:
495 Delete lines 88 - 90
496 and insert:
497 s. 373.219, F.S.; requiring the department to adopt
498 certain uniform rules; amending s. 373.223, F.S.;
499 requiring

346008

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/22/2015	.	
	.	
	.	
	.	

The Committee on Appropriations (Joyner) recommended the following:

1 **Senate Amendment to Amendment (841792)**
2
3 Delete lines 422 - 428
4 and insert:
5 (6) All water use permits authorizing more than 100,000
6 gallons per day shall be monitored on a monthly basis, with the
7 cost of such monitoring to be borne by the permittee. Water
8 management districts shall implement this subsection by
9 following the general procedures in the Southwest Florida Water
10 Management District’s Water Use Permit Applicant’s Handbook,

346008

11 Part B, May 19, 2014.

938604

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/22/2015	.	
	.	
	.	
	.	

The Committee on Appropriations (Joyner) recommended the following:

1 **Senate Amendment**
2
3 Delete lines 1344 - 1349
4 and insert:
5 (6) All water use permits authorizing more than 100,000
6 gallons per day shall be metered on a monthly basis, with the
7 cost of such monitoring to be borne by the permittee. Water
8 management districts shall implement this subsection by
9 following the general procedures in the Southwest Florida Water
10 Management District’s Water Use Permit Applicant’s Handbook,

938604

11 Part B, May 19, 2014.

534254

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/22/2015	.	
	.	
	.	
	.	

The Committee on Appropriations (Hays) recommended the following:

Senate Amendment

Delete lines 1615 - 2591
and insert:
~~immediately implemented as specified in this subsection~~. The Lake Okeechobee Watershed Protection Program shall address the reduction of phosphorus loading to the lake from both internal and external sources. Phosphorus load reductions shall be achieved through a phased program of implementation. ~~Initial implementation actions shall be technology-based, based upon a~~

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11 ~~consideration of both the availability of appropriate technology~~
12 ~~and the cost of such technology, and shall include phosphorus~~
13 ~~reduction measures at both the source and the regional level.~~
14 ~~The initial phase of phosphorus load reductions shall be based~~
15 ~~upon the district's Technical Publication 81-2 and the~~
16 ~~district's WOD program, with subsequent phases of phosphorus~~
17 ~~load reductions based upon the total maximum daily loads~~
18 ~~established in accordance with s. 403.067.~~ In the development
19 and administration of the Lake Okeechobee Watershed Protection
20 Program, the coordinating agencies shall maximize opportunities
21 provided by federal cost-sharing programs and opportunities for
22 partnerships with the private sector.
23 (a) *Lake Okeechobee Watershed Protection Plan.*—In order to
24 protect and restore surface water resources, the district, in
25 cooperation with the other coordinating agencies, shall complete
26 a Lake Okeechobee Watershed Protection Plan in accordance with
27 this section and ss. 373.451-373.459. Beginning March 1, 2020,
28 and every 5 years thereafter, the district shall update the Lake
29 Okeechobee Watershed Protection Plan to ensure that it is
30 consistent with the Lake Okeechobee Basin Management Action Plan
31 adopted pursuant to s. 403.067. The Lake Okeechobee Watershed
32 Protection Plan shall identify the geographic extent of the
33 watershed, be coordinated with the plans developed pursuant to
34 paragraphs (4)(a) and (c) ~~(b)~~, and include the Lake Okeechobee
35 Watershed Construction Project and the Lake Okeechobee Watershed
36 Research and Water Quality Monitoring Program ~~contain an~~
37 ~~implementation schedule for subsequent phases of phosphorus load~~
38 ~~reduction consistent with the total maximum daily loads~~
39 ~~established in accordance with s. 403.067~~. The plan shall

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40 consider and build upon a review and analysis of ~~the following~~:
41 ~~1.~~ the performance of projects constructed during Phase I
42 and Phase II of the Lake Okeechobee Watershed Construction
43 Project, pursuant to subparagraph 1.; ~~paragraph (b).~~
44 ~~2.~~ relevant information resulting from the Lake Okeechobee
45 Basin Management Action Plan ~~Watershed Phosphorus Control~~
46 ~~Program~~, pursuant to paragraph (b); ~~(c).~~
47 ~~3.~~ relevant information resulting from the Lake Okeechobee
48 Watershed Research and Water Quality Monitoring Program,
49 pursuant to subparagraph 2.; ~~paragraph (d).~~
50 ~~4.~~ relevant information resulting from the Lake Okeechobee
51 Exotic Species Control Program, pursuant to paragraph (c); and
52 ~~(e).~~
53 ~~5.~~ relevant information resulting from the Lake Okeechobee
54 Internal Phosphorus Management Program, pursuant to paragraph
55 (d) ~~(f)~~.
56 1.~~(b)~~ Lake Okeechobee Watershed Construction Project.—To
57 improve the hydrology and water quality of Lake Okeechobee and
58 downstream receiving waters, including the Caloosahatchee and
59 St. Lucie Rivers and their estuaries, the district, in
60 cooperation with the other coordinating agencies, shall design
61 and construct the Lake Okeechobee Watershed Construction
62 Project. The project shall include:
63 a.~~1.~~ Phase I.—Phase I of the Lake Okeechobee Watershed
64 Construction Project shall consist of a series of project
65 features consistent with the recommendations of the South
66 Florida Ecosystem Restoration Working Group's Lake Okeechobee
67 Action Plan. Priority basins for such projects include S-191, S-
68 154, and Pools D and E in the Lower Kissimmee River. In order to

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69 obtain phosphorus load reductions to Lake Okeechobee as soon as
70 possible, the following actions shall be implemented:
71 (I)~~a.~~ The district shall serve as a full partner with the
72 Corps of Engineers in the design and construction of the Grassy
73 Island Ranch and New Palm Dairy stormwater treatment facilities
74 as components of the Lake Okeechobee Water Retention/Phosphorus
75 Removal Critical Project. The Corps of Engineers shall have the
76 lead in design and construction of these facilities. Should
77 delays be encountered in the implementation of either of these
78 facilities, the district shall notify the department and
79 recommend corrective actions.
80 (II)~~b.~~ The district shall obtain permits and complete
81 construction of two of the isolated wetland restoration projects
82 that are part of the Lake Okeechobee Water Retention/Phosphorus
83 Removal Critical Project. The additional isolated wetland
84 projects included in this critical project shall further reduce
85 phosphorus loading to Lake Okeechobee.
86 (III)~~c.~~ The district shall work with the Corps of Engineers
87 to expedite initiation of the design process for the Taylor
88 Creek/Nubbins Slough Reservoir Assisted Stormwater Treatment
89 Area, a project component of the Comprehensive Everglades
90 Restoration Plan. The district shall propose to the Corps of
91 Engineers that the district take the lead in the design and
92 construction of the Reservoir Assisted Stormwater Treatment Area
93 and receive credit towards the local share of the total cost of
94 the Comprehensive Everglades Restoration Plan.
95 b.~~2.~~ Phase II technical plan and construction.~~ By February~~
96 ~~1, 2008,~~ The district, in cooperation with the other
97 coordinating agencies, shall develop a detailed technical plan

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98 for Phase II of the Lake Okeechobee Watershed Construction
99 Project which provides the basis for the Lake Okeechobee Basin
100 Management Action Plan adopted by the department pursuant to s.
101 403.067. The detailed technical plan shall include measures for
102 the improvement of the quality, quantity, timing, and
103 distribution of water in the northern Everglades ecosystem,
104 including the Lake Okeechobee watershed and the estuaries, and
105 for facilitating the achievement of water quality standards. Use
106 of cost-effective biologically based, hybrid wetland/chemical
107 and other innovative nutrient control technologies shall be
108 incorporated in the plan where appropriate. The detailed
109 technical plan shall also include a Process Development and
110 Engineering component to finalize the detail and design of Phase
111 II projects and identify additional measures needed to increase
112 the certainty that the overall objectives for improving water
113 quality and quantity can be met. Based on information and
114 recommendations from the Process Development and Engineering
115 component, the Phase II detailed technical plan shall be
116 periodically updated. Phase II shall include construction of
117 additional facilities in the priority basins identified in sub-
118 subparagraph a. ~~subparagraph 1.~~, as well as facilities for other
119 basins in the Lake Okeechobee watershed. ~~This detailed technical~~
120 ~~plan will require legislative ratification pursuant to paragraph~~
121 ~~(i).~~ The technical plan shall:
122 (I)~~a.~~ Identify Lake Okeechobee Watershed Construction
123 Project facilities designed to contribute to achieving all
124 applicable total maximum daily loads established pursuant to s.
125 403.067 within the Lake Okeechobee watershed.
126 (II)~~b.~~ Identify the size and location of all such Lake

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127 Okeechobee Watershed Construction Project facilities.
128 (III)~~c.~~ Provide a construction schedule for all such Lake
129 Okeechobee Watershed Construction Project facilities, including
130 the sequencing and specific timeframe for construction of each
131 Lake Okeechobee Watershed Construction Project facility.
132 (IV)~~d.~~ Provide a schedule for the acquisition of lands or
133 sufficient interests necessary to achieve the construction
134 schedule.
135 (V)~~e.~~ Provide a detailed schedule of costs associated with
136 the construction schedule.
137 (VI)~~f.~~ Identify, to the maximum extent practicable, impacts
138 on wetlands and state-listed species expected to be associated
139 with construction of such facilities, including potential
140 alternatives to minimize and mitigate such impacts, as
141 appropriate.
142 (VII)~~g.~~ Provide for additional measures, including
143 voluntary water storage and quality improvements on private
144 land, to increase water storage and reduce excess water levels
145 in Lake Okeechobee and to reduce excess discharges to the
146 estuaries.
147 (VIII) ~~The technical plan shall also~~ Develop the
148 appropriate water quantity storage goal to achieve the desired
149 Lake Okeechobee range of lake levels and inflow volumes to the
150 Caloosahatchee and St. Lucie estuaries while meeting the other
151 water-related needs of the region, including water supply and
152 flood protection.
153 (IX)~~h.~~ Provide for additional source controls needed to
154 enhance performance of the Lake Okeechobee Watershed
155 Construction Project facilities. Such additional source controls

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156 shall be incorporated into the Lake Okeechobee Basin Management
157 Action Plan ~~Watershed Phosphorous Control Program~~ pursuant to
158 paragraph (b) ~~(c)~~.
159 c.~~3.~~ Evaluation.—Within 5 years after the adoption of the
160 Lake Okeechobee Basin Management Action Plan pursuant to s.
161 403.067 and every 5 ~~By January 1, 2004, and every 3~~ years
162 thereafter, the department ~~district~~, in cooperation with the
163 other coordinating agencies, shall conduct an evaluation of the
164 Lake Okeechobee Watershed Construction Project and identify any
165 further load reductions necessary to achieve compliance with the
166 ~~all~~ Lake Okeechobee ~~watershed~~ total maximum daily loads
167 established pursuant to s. 403.067. ~~Additionally,~~ The district
168 shall identify modifications to facilities of the Lake
169 Okeechobee Watershed Construction Project as appropriate to meet
170 the total maximum daily loads. Modifications to the Lake
171 Okeechobee Watershed Construction Project resulting from this
172 evaluation shall be incorporated into the Lake Okeechobee Basin
173 Management Action Plan and ~~The evaluation shall be~~ included in
174 the applicable annual progress report submitted pursuant to
175 subsection (6).
176 d.~~4.~~ Coordination and review.—To ensure the timely
177 implementation of the Lake Okeechobee Watershed Construction
178 Project, the design of project facilities shall be coordinated
179 with the department and other interested parties, including
180 affected local governments, to the maximum extent practicable.
181 Lake Okeechobee Watershed Construction Project facilities shall
182 be reviewed and commented upon by the department before ~~prior to~~
183 the execution of a construction contract by the district for
184 that facility.

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185 2. Lake Okeechobee Watershed Research and Water Quality
186 Monitoring Program.—The coordinating agencies shall implement a
187 Lake Okeechobee Watershed Research and Water Quality Monitoring
188 Program. Results from the program shall be used by the
189 department, in cooperation with the other coordinating agencies,
190 to make modifications to the Lake Okeechobee Basin Management
191 Action Plan adopted pursuant to s. 403.067, as appropriate. The
192 program shall:
193 a. Evaluate all available existing water quality data
194 concerning total phosphorus in the Lake Okeechobee watershed,
195 develop a water quality baseline to represent existing
196 conditions for total phosphorus, monitor long-term ecological
197 changes, including water quality for total phosphorus, and
198 measure compliance with water quality standards for total
199 phosphorus, including any applicable total maximum daily load
200 for the Lake Okeechobee watershed as established pursuant to s.
201 403.067. Beginning March 1, 2020, and every 5 years thereafter,
202 the department shall reevaluate water quality and quantity data
203 to ensure that the appropriate projects are being designated and
204 incorporated into the Lake Okeechobee Basin Management Action
205 Plan adopted pursuant to s. 403.067. The district shall
206 implement a total phosphorus monitoring program at appropriate
207 structures owned or operated by the district and within the Lake
208 Okeechobee watershed.
209 b. Develop a Lake Okeechobee water quality model that
210 reasonably represents the phosphorus dynamics of Lake Okeechobee
211 and incorporates an uncertainty analysis associated with model
212 predictions.
213 c. Determine the relative contribution of phosphorus from

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214 all identifiable sources and all primary and secondary land
215 uses.
216 d. Conduct an assessment of the sources of phosphorus from
217 the Upper Kissimmee Chain-of-Lakes and Lake Istokpoga, and their
218 relative contribution to the water quality of Lake Okeechobee.
219 The results of this assessment shall be used by the coordinating
220 agencies as part of the Lake Okeechobee Basin Management Action
221 Plan adopted pursuant to s. 403.067 to develop interim measures,
222 best management practices, or regulations, as applicable.
223 e. Assess current water management practices within the
224 Lake Okeechobee watershed and develop recommendations for
225 structural and operational improvements. Such recommendations
226 shall balance water supply, flood control, estuarine salinity,
227 maintenance of a healthy lake littoral zone, and water quality
228 considerations.
229 f. Evaluate the feasibility of alternative nutrient
230 reduction technologies, including sediment traps, canal and
231 ditch maintenance, fish production or other aquaculture,
232 bioenergy conversion processes, and algal or other biological
233 treatment technologies and include any alternative nutrient
234 reduction technologies determined to be feasible in the Lake
235 Okeechobee Basin Management Action Plan adopted pursuant to s.
236 403.067.
237 g. Conduct an assessment of the water volumes and timing
238 from the Lake Okeechobee watershed and their relative
239 contribution to the water level changes in Lake Okeechobee and
240 to the timing and volume of water delivered to the estuaries.
241 (b) ~~(c)~~ *Lake Okeechobee Basin Management Action Plan*
242 ~~*Watershed Phosphorus Control Program.*~~ The Lake Okeechobee Basin

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243 Management Action Plan adopted pursuant to s. 403.067 shall be
244 the watershed phosphorus control component for Lake Okeechobee.
245 The Lake Okeechobee Basin Management Action Plan shall be
246 ~~Program is designed to be~~ a multifaceted approach designed to
247 achieve the total maximum daily load ~~reducing phosphorus loads~~
248 by improving the management of phosphorus sources within the
249 Lake Okeechobee watershed through implementation of regulations
250 and best management practices, continued development and
251 continued implementation of improved best management practices,
252 improvement and restoration of the hydrologic function of
253 natural and managed systems, and use ~~utilization~~ of alternative
254 technologies for nutrient reduction. The plan must include an
255 implementation schedule pursuant to this subsection for
256 pollutant load reductions. As provided in s. 403.067(7)(a)6.,
257 the Lake Okeechobee Basin Management Action Plan must include
258 milestones for implementation and water quality improvement and
259 an associated water quality monitoring component sufficient to
260 evaluate whether reasonable progress in pollutant load
261 reductions is being achieved over time. The department shall
262 develop a schedule to establish 5-, 10-, and 15-year measurable
263 milestones and a target to achieve the adopted total maximum
264 daily load no more than 20 years after adoption of the plan. The
265 schedule shall be used to provide guidance for planning and
266 funding purposes and is exempt from s. 120.54(1)(a). An
267 assessment of progress toward these milestones shall be
268 conducted every 5 years and revisions to the plan shall be made,
269 as appropriate, as a result of each 5-year review. The
270 assessment shall be provided to the Governor, the President of
271 the Senate, and the Speaker of the House of Representatives.

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272 Upon the first 5-year review, the schedule of measurable
273 milestones and a target to achieve water quality improvement
274 consistent with this section shall be adopted into the plan.
275 Revisions to the basin management action plan shall be made by
276 the department in cooperation with the basin stakeholders.
277 Revisions to best management practices or other measures must
278 follow the procedures set forth in s. 403.067(7)(c)4. Revised
279 basin management plans must be adopted pursuant to s.
280 403.067(7)(a)4. If achieving the adopted total maximum daily
281 load within 20 years is not practicable, the schedule must
282 contain an explanation of the constraints that prevent the
283 achievement of the total maximum daily load within 20 years, an
284 estimate of the time needed to achieve the total maximum daily
285 load, and additional 5-year measurable milestones, as necessary.
286 The coordinating agencies shall develop an interagency agreement
287 pursuant to ss. 373.046 and 373.406 which is consistent with the
288 department taking the lead on water quality protection measures
289 through the Lake Okeechobee Basin Management Action Plan adopted
290 pursuant to s. 403.067; the district taking the lead on
291 hydrologic improvements pursuant to paragraph (a); and the
292 Department of Agriculture and Consumer Services taking the lead
293 on agricultural interim measures, best management practices, and
294 other measures adopted pursuant to s. 403.067. The interagency
295 agreement must specify how best management practices for
296 nonagricultural nonpoint sources are developed and how all best
297 management practices are implemented and verified consistent
298 with s. 403.067 and this section. The interagency agreement must
299 address measures to be taken by the coordinating agencies during
300 any best management practice reevaluation performed pursuant to

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301 subparagraphs 5. and 10. The department shall use best
302 professional judgment in making the initial determination of
303 best management practice effectiveness. The coordinating
304 agencies may develop an intergovernmental agreement with local
305 governments to implement nonagricultural nonpoint source best
306 management practices within their respective geographic
307 boundaries. The coordinating agencies shall facilitate the
308 application of federal programs that offer opportunities for
309 water quality treatment, including preservation, restoration, or
310 creation of wetlands on agricultural lands.
311 1. Agricultural nonpoint source best management practices,
312 developed in accordance with s. 403.067 and designed to achieve
313 the objectives of the Lake Okeechobee Watershed Protection
314 Program as part of a phased approach of management strategies
315 within the Lake Okeechobee Basin Management Action Plan, shall
316 be implemented on an expedited basis. ~~The coordinating agencies~~
317 ~~shall develop an interagency agreement pursuant to ss. 373.046~~
318 ~~and 373.406(5) that assures the development of best management~~
319 ~~practices that complement existing regulatory programs and~~
320 ~~specifies how those best management practices are implemented~~
321 ~~and verified. The interagency agreement shall address measures~~
322 ~~to be taken by the coordinating agencies during any best~~
323 ~~management practice reevaluation performed pursuant to sub-~~
324 ~~subparagraph d. The department shall use best professional~~
325 ~~judgment in making the initial determination of best management~~
326 ~~practice effectiveness.~~
327 2.~~a.~~ As provided in s. 403.067~~(7)(c)~~, the Department of
328 Agriculture and Consumer Services, in consultation with the
329 department, the district, and affected parties, shall initiate

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330 rule development for interim measures, best management
331 practices, conservation plans, nutrient management plans, or
332 other measures necessary for Lake Okeechobee watershed total
333 maximum daily load reduction. The rule shall include thresholds
334 for requiring conservation and nutrient management plans and
335 criteria for the contents of such plans. Development of
336 agricultural nonpoint source best management practices shall
337 initially focus on those priority basins listed in sub-
338 subparagraph (a)1.a. ~~subparagraph (b)1.~~ The Department of
339 Agriculture and Consumer Services, in consultation with the
340 department, the district, and affected parties, shall conduct an
341 ongoing program for improvement of existing and development of
342 new agricultural nonpoint source interim measures and ~~or~~ best
343 management practices. The Department of Agriculture and Consumer
344 Services shall adopt ~~for the purpose of adoption of~~ such
345 practices by rule. The Department of Agriculture and Consumer
346 Services shall work with the University of Florida ~~Florida's~~
347 Institute of Food and Agriculture Sciences to review and, where
348 appropriate, develop revised nutrient application rates for all
349 agricultural soil amendments in the watershed.
350 3.~~b.~~ As provided in s. 403.067, where agricultural nonpoint
351 source best management practices or interim measures have been
352 adopted by rule of the Department of Agriculture and Consumer
353 Services, the owner or operator of an agricultural nonpoint
354 source addressed by such rule shall either implement interim
355 measures or best management practices or demonstrate compliance
356 with state water quality standards addressed by the Lake
357 Okeechobee Basin Management Action Plan adopted pursuant to s.
358 403.067 ~~the district's WOD program~~ by conducting monitoring

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359 prescribed by the department or the district. Owners or
360 operators of agricultural nonpoint sources who implement interim
361 measures or best management practices adopted by rule of the
362 Department of Agriculture and Consumer Services shall be subject
363 to ~~the provisions of~~ s. 403.067~~(7)~~. ~~The Department of~~
364 ~~Agriculture and Consumer Services, in cooperation with the~~
365 ~~department and the district, shall provide technical and~~
366 ~~financial assistance for implementation of agricultural best~~
367 ~~management practices, subject to the availability of funds.~~
368 4.~~c.~~ The district or department shall conduct monitoring at
369 representative sites to verify the effectiveness of agricultural
370 nonpoint source best management practices.
371 5.~~d.~~ Where water quality problems are detected for
372 agricultural nonpoint sources despite the appropriate
373 implementation of adopted best management practices, ~~the~~
374 ~~Department of Agriculture and Consumer Services, in consultation~~
375 ~~with the other coordinating agencies and affected parties, shall~~
376 ~~institute~~ a reevaluation of the best management practices shall
377 be conducted pursuant to s. 403.067(7)(c)4. Should the
378 reevaluation determine that the best management practices or
379 other measures require modification, the rule shall be revised
380 to require implementation of the modified practice within a
381 reasonable period as specified in the rule ~~and make appropriate~~
382 ~~changes to the rule adopting best management practices~~.
383 6.~~2.~~ As provided in s. 403.067, nonagricultural nonpoint
384 source best management practices, developed in accordance with
385 s. 403.067 and designed to achieve the objectives of the Lake
386 Okeechobee Watershed Protection Program as part of a phased
387 approach of management strategies within the Lake Okeechobee

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388 Basin Management Action Plan, shall be implemented on an
389 expedited basis. ~~The department and the district shall develop~~
390 ~~an interagency agreement pursuant to ss. 373.046 and 373.406(5)~~
391 ~~that assures the development of best management practices that~~
392 ~~complement existing regulatory programs and specifies how those~~
393 ~~best management practices are implemented and verified. The~~
394 ~~interagency agreement shall address measures to be taken by the~~
395 ~~department and the district during any best management practice~~
396 ~~reevaluation performed pursuant to sub-subparagraph d.~~
397 7.~~a.~~ The department and the district are directed to work
398 with the University of Florida ~~Florida's~~ Institute of Food and
399 Agricultural Sciences to develop appropriate nutrient
400 application rates for all nonagricultural soil amendments in the
401 watershed. As provided in s. 403.067 ~~s. 403.067(7)(c)~~, the
402 department, in consultation with the district and affected
403 parties, shall develop nonagricultural nonpoint source interim
404 measures, best management practices, or other measures necessary
405 for Lake Okeechobee watershed total maximum daily load
406 reduction. Development of nonagricultural nonpoint source best
407 management practices shall initially focus on those priority
408 basins listed in sub-subparagraph (a)1.a. ~~subparagraph (b)1.~~ The
409 department, the district, and affected parties shall conduct an
410 ongoing program for improvement of existing and development of
411 new interim measures and ~~or~~ best management practices. The
412 department or the district shall adopt such practices by rule
413 ~~The district shall adopt technology-based standards under the~~
414 ~~district's WOD program for nonagricultural nonpoint sources of~~
415 ~~phosphorus~~. ~~Nothing in this sub-subparagraph shall affect the~~
416 ~~authority of the department or the district to adopt basin-~~

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417 ~~specific criteria under this part to prevent harm to the water~~
418 ~~resources of the district.~~
419 8.~~b.~~ Where nonagricultural nonpoint source best management
420 practices or interim measures have been developed by the
421 department and adopted by the district, the owner or operator of
422 a nonagricultural nonpoint source shall implement interim
423 measures or best management practices and be subject to ~~the~~
424 ~~provisions of~~ s. 403.067~~(7)~~. ~~The department and district shall~~
425 ~~provide technical and financial assistance for implementation of~~
426 ~~nonagricultural nonpoint source best management practices,~~
427 ~~subject to the availability of funds.~~
428 9.~~c.~~ As provided in s. 403.067, the district or the
429 department shall conduct monitoring at representative sites to
430 verify the effectiveness of nonagricultural nonpoint source best
431 management practices.
432 10.~~d.~~ Where water quality problems are detected for
433 nonagricultural nonpoint sources despite the appropriate
434 implementation of adopted best management practices, ~~the~~
435 ~~department and the district shall institute~~ a reevaluation of
436 the best management practices shall be conducted pursuant to s.
437 403.067(7)(c)4. Should the reevaluation determine that the best
438 management practices or other measures require modification, the
439 rule shall be revised to require implementation of the modified
440 practice within a reasonable time period as specified in the
441 rule.
442 11.~~3.~~ ~~The provisions of~~ Subparagraphs ~~1. and~~ 2. and 7. do
443 ~~may~~ not preclude the department or the district from requiring
444 compliance with water quality standards or with current best
445 management practices requirements set forth in any applicable

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446 regulatory program authorized by law for the purpose of
447 protecting water quality. ~~Additionally,~~ Subparagraphs ~~1. and~~ 2.
448 and 7. are applicable only to the extent that they do not
449 conflict with any rules adopted by the department that are
450 necessary to maintain a federally delegated or approved program.
451 12. The program of agricultural best management practices
452 set forth in the Everglades Program of the district, meets the
453 requirements of this paragraph and s. 403.067(7) for the Lake
454 Okeechobee watershed. An entity in compliance with best
455 management practices set forth in the Everglades Program of the
456 district, may elect to use that permit in lieu of the
457 requirements of this paragraph. The provisions of s.
458 373.4595(3)(b)5. apply to this subparagraph. This subparagraph
459 does not alter any requirement under s. 373.4592.
460 13. The Department of Agriculture and Consumer Services, in
461 cooperation with the department and the district, shall provide
462 technical and financial assistance for implementation of
463 agricultural best management practices, subject to the
464 availability of funds. The department and district shall provide
465 technical and financial assistance for implementation of
466 nonagricultural nonpoint source best management practices,
467 subject to the availability of funds.
468 14.~~4.~~ Projects that reduce the phosphorus load originating
469 from domestic wastewater systems within the Lake Okeechobee
470 watershed shall be given funding priority in the department's
471 revolving loan program under s. 403.1835. The department shall
472 coordinate and provide assistance to those local governments
473 seeking financial assistance for such priority projects.
474 15.~~5.~~ Projects that make use of private lands, or lands

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475 held in trust for Indian tribes, to reduce nutrient loadings or
476 concentrations within a basin by one or more of the following
477 methods: restoring the natural hydrology of the basin, restoring
478 wildlife habitat or impacted wetlands, reducing peak flows after
479 storm events, increasing aquifer recharge, or protecting range
480 and timberland from conversion to development, are eligible for
481 grants available under this section from the coordinating
482 agencies. For projects of otherwise equal priority, special
483 funding priority will be given to those projects that make best
484 use of the methods outlined above that involve public-private
485 partnerships or that obtain federal match money. Preference
486 ranking above the special funding priority will be given to
487 projects located in a rural area of opportunity designated by
488 the Governor. Grant applications may be submitted by any person
489 or tribal entity, and eligible projects may include, but are not
490 limited to, the purchase of conservation and flowage easements,
491 hydrologic restoration of wetlands, creating treatment wetlands,
492 development of a management plan for natural resources, and
493 financial support to implement a management plan.
494 16.~~6.a.~~ The department shall require all entities disposing
495 of domestic wastewater biosolids ~~residuals~~ within the Lake
496 Okeechobee watershed and the remaining areas of Okeechobee,
497 Glades, and Hendry Counties to develop and submit to the
498 department an agricultural use plan that limits applications
499 based upon phosphorus loading consistent with the Lake
500 Okeechobee Basin Management Action Plan adopted pursuant to s.
501 403.067. ~~By July 1, 2005, phosphorus concentrations originating~~
502 ~~from these application sites may not exceed the limits~~
503 ~~established in the district's WOD program. After December 31,~~

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504 ~~2007,~~ The department may not authorize the disposal of domestic
505 wastewater biosolids ~~residuals~~ within the Lake Okeechobee
506 watershed unless the applicant can affirmatively demonstrate
507 that the phosphorus in the biosolids ~~residuals~~ will not add to
508 phosphorus loadings in Lake Okeechobee or its tributaries. This
509 demonstration shall be based on achieving a net balance between
510 phosphorus imports relative to exports on the permitted
511 application site. Exports shall include only phosphorus removed
512 from the Lake Okeechobee watershed through products generated on
513 the permitted application site. This prohibition does not apply
514 to Class AA biosolids ~~residuals~~ that are marketed and
515 distributed as fertilizer products in accordance with department
516 rule.
517 17.~~b.~~ Private and government-owned utilities within Monroe,
518 Miami-Dade, Broward, Palm Beach, Martin, St. Lucie, Indian
519 River, Okeechobee, Highlands, Hendry, and Glades Counties that
520 dispose of wastewater biosolids ~~residual~~ sludge from utility
521 operations and septic removal by land spreading in the Lake
522 Okeechobee watershed may use a line item on local sewer rates to
523 cover wastewater biosolids ~~residual~~ treatment and disposal if
524 such disposal and treatment is done by approved alternative
525 treatment methodology at a facility located within the areas
526 designated by the Governor as rural areas of opportunity
527 pursuant to s. 288.0656. This additional line item is an
528 environmental protection disposal fee above the present sewer
529 rate and may not be considered a part of the present sewer rate
530 to customers, notwithstanding provisions to the contrary in
531 chapter 367. The fee shall be established by the county
532 commission or its designated assignee in the county in which the

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533 alternative method treatment facility is located. The fee shall
534 be calculated to be no higher than that necessary to recover the
535 facility's prudent cost of providing the service. Upon request
536 by an affected county commission, the Florida Public Service
537 Commission will provide assistance in establishing the fee.
538 Further, for utilities and utility authorities that use the
539 additional line item environmental protection disposal fee, such
540 fee may not be considered a rate increase under the rules of the
541 Public Service Commission and shall be exempt from such rules.
542 Utilities using ~~the provisions of~~ this section may immediately
543 include in their sewer invoicing the new environmental
544 protection disposal fee. Proceeds from this environmental
545 protection disposal fee shall be used for treatment and disposal
546 of wastewater biosolids ~~residuals~~, including any treatment
547 technology that helps reduce the volume of biosolids ~~residuals~~
548 that require final disposal, but such proceeds may not be used
549 for transportation or shipment costs for disposal or any costs
550 relating to the land application of biosolids ~~residuals~~ in the
551 Lake Okeechobee watershed.
552 18.~~c.~~ No less frequently than once every 3 years, the
553 Florida Public Service Commission or the county commission
554 through the services of an independent auditor shall perform a
555 financial audit of all facilities receiving compensation from an
556 environmental protection disposal fee. The Florida Public
557 Service Commission or the county commission through the services
558 of an independent auditor shall also perform an audit of the
559 methodology used in establishing the environmental protection
560 disposal fee. The Florida Public Service Commission or the
561 county commission shall, within 120 days after completion of an

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562 audit, file the audit report with the President of the Senate
563 and the Speaker of the House of Representatives and shall
564 provide copies to the county commissions of the counties set
565 forth in subparagraph 17. ~~sub-subparagraph b.~~ The books and
566 records of any facilities receiving compensation from an
567 environmental protection disposal fee shall be open to the
568 Florida Public Service Commission and the Auditor General for
569 review upon request.
570 19.~~7.~~ The Department of Health shall require all entities
571 disposing of septage within the Lake Okeechobee watershed to
572 develop and submit to that agency an agricultural use plan that
573 limits applications based upon phosphorus loading consistent
574 with the Lake Okeechobee Basin Management Action Plan adopted
575 pursuant to s. 403.067. ~~By July 1, 2005, phosphorus~~
576 ~~concentrations originating from these application sites may not~~
577 ~~exceed the limits established in the district's WOD program.~~
578 20.~~8.~~ The Department of Agriculture and Consumer Services
579 shall initiate rulemaking requiring entities within the Lake
580 Okeechobee watershed which land-apply animal manure to develop
581 resource management system level conservation plans, according
582 to United States Department of Agriculture criteria, which limit
583 such application. Such rules shall ~~may~~ include criteria and
584 thresholds for the requirement to develop a conservation or
585 nutrient management plan, requirements for plan approval, site
586 inspection requirements, and recordkeeping requirements.
587 21. The district shall revise chapter 40E-61, Florida
588 Administrative Code, to be consistent with this section and s.
589 403.067; provide for a monitoring program for nonpoint source
590 dischargers required to monitor water quality by s. 403.067; and

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591 provide for the results of such monitoring to be reported to the
592 coordinating agencies.
593 ~~9. The district, the department, or the Department of~~
594 ~~Agriculture and Consumer Services, as appropriate, shall~~
595 ~~implement those alternative nutrient reduction technologies~~
596 ~~determined to be feasible pursuant to subparagraph (d)6.~~
597 ~~(d) *Lake Okeechobee Watershed Research and Water Quality*~~
598 ~~*Monitoring Program.*—The district, in cooperation with the other~~
599 ~~coordinating agencies, shall establish a Lake Okeechobee~~
600 ~~Watershed Research and Water Quality Monitoring Program that~~
601 ~~builds upon the district's existing Lake Okeechobee research~~
602 ~~program. The program shall:~~
603 ~~1. Evaluate all available existing water quality data~~
604 ~~concerning total phosphorus in the Lake Okeechobee watershed,~~
605 ~~develop a water quality baseline to represent existing~~
606 ~~conditions for total phosphorus, monitor long-term ecological~~
607 ~~changes, including water quality for total phosphorus, and~~
608 ~~measure compliance with water quality standards for total~~
609 ~~phosphorus, including any applicable total maximum daily load~~
610 ~~for the Lake Okeechobee watershed as established pursuant to s.~~
611 ~~403.067. Every 3 years, the district shall reevaluate water~~
612 ~~quality and quantity data to ensure that the appropriate~~
613 ~~projects are being designated and implemented to meet the water~~
614 ~~quality and storage goals of the plan. The district shall also~~
615 ~~implement a total phosphorus monitoring program at appropriate~~
616 ~~structures owned or operated by the South Florida Water~~
617 ~~Management District and within the Lake Okeechobee watershed.~~
618 ~~2. Develop a Lake Okeechobee water quality model that~~
619 ~~reasonably represents phosphorus dynamics of the lake and~~

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620 ~~incorporates an uncertainty analysis associated with model~~
621 ~~predictions.~~
622 ~~3. Determine the relative contribution of phosphorus from~~
623 ~~all identifiable sources and all primary and secondary land~~
624 ~~uses.~~
625 ~~4. Conduct an assessment of the sources of phosphorus from~~
626 ~~the Upper Kissimmee Chain-of-Lakes and Lake Istokpoga, and their~~
627 ~~relative contribution to the water quality of Lake Okeechobee.~~
628 ~~The results of this assessment shall be used by the coordinating~~
629 ~~agencies to develop interim measures, best management practices,~~
630 ~~or regulation, as applicable.~~
631 ~~5. Assess current water management practices within the~~
632 ~~Lake Okeechobee watershed and develop recommendations for~~
633 ~~structural and operational improvements. Such recommendations~~
634 ~~shall balance water supply, flood control, estuarine salinity,~~
635 ~~maintenance of a healthy lake littoral zone, and water quality~~
636 ~~considerations.~~
637 ~~6. Evaluate the feasibility of alternative nutrient~~
638 ~~reduction technologies, including sediment traps, canal and~~
639 ~~ditch maintenance, fish production or other aquaculture,~~
640 ~~bioenergy conversion processes, and algal or other biological~~
641 ~~treatment technologies.~~
642 ~~7. Conduct an assessment of the water volumes and timing~~
643 ~~from the Lake Okeechobee watershed and their relative~~
644 ~~contribution to the water level changes in Lake Okeechobee and~~
645 ~~to the timing and volume of water delivered to the estuaries.~~
646 (c) ~~(e)~~ *Lake Okeechobee Exotic Species Control Program.*—The
647 coordinating agencies shall identify the exotic species that
648 threaten the native flora and fauna within the Lake Okeechobee

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649 watershed and develop and implement measures to protect the
650 native flora and fauna.
651 (d) ~~(f)~~ *Lake Okeechobee Internal Phosphorus Management*
652 *Program.*—The district, in cooperation with the other
653 coordinating agencies and interested parties, shall evaluate the
654 feasibility of ~~complete a~~ Lake Okeechobee internal phosphorus
655 load removal projects ~~feasibility study~~. The evaluation
656 ~~feasibility study~~ shall be based on technical feasibility, as
657 well as economic considerations, and shall consider ~~address~~ all
658 reasonable methods of phosphorus removal. If projects ~~methods~~
659 are found to be feasible, the district shall immediately pursue
660 the design, funding, and permitting for implementing such
661 projects ~~methods~~.
662 (e) ~~(g)~~ *Lake Okeechobee Watershed Protection Program ~~Plan~~*
663 *implementation.*—The coordinating agencies shall be jointly
664 responsible for implementing the Lake Okeechobee Watershed
665 Protection Program ~~Plan~~, consistent with the statutory authority
666 and responsibility of each agency. Annual funding priorities
667 shall be jointly established, and the highest priority shall be
668 assigned to programs and projects that address sources that have
669 the highest relative contribution to loading and the greatest
670 potential for reductions needed to meet the total maximum daily
671 loads. In determining funding priorities, the coordinating
672 agencies shall also consider the need for regulatory compliance,
673 the extent to which the program or project is ready to proceed,
674 and the availability of federal matching funds or other nonstate
675 funding, including public-private partnerships. Federal and
676 other nonstate funding shall be maximized to the greatest extent
677 practicable.

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678 (f) ~~(h)~~ *Priorities and implementation schedules.*—The
679 coordinating agencies are authorized and directed to establish
680 priorities and implementation schedules for the achievement of
681 total maximum daily loads, compliance with the requirements of
682 s. 403.067, and compliance with applicable water quality
683 standards within the waters and watersheds subject to this
684 section.
685 ~~(i) *Legislative ratification.*—The coordinating agencies~~
686 ~~shall submit the Phase II technical plan developed pursuant to~~
687 ~~paragraph (b) to the President of the Senate and the Speaker of~~
688 ~~the House of Representatives prior to the 2008 legislative~~
689 ~~session for review. If the Legislature takes no action on the~~
690 ~~plan during the 2008 legislative session, the plan is deemed~~
691 ~~approved and may be implemented.~~
692 (4) CALOOSAHATCHEE RIVER WATERSHED PROTECTION PROGRAM AND
693 ST. LUCIE RIVER WATERSHED PROTECTION PROGRAM.—A protection
694 program shall be developed and implemented as specified in this
695 subsection. In order to protect and restore surface water
696 resources, the program shall address the reduction of pollutant
697 loadings, restoration of natural hydrology, and compliance with
698 applicable state water quality standards. The program shall be
699 achieved through a phased program of implementation. In
700 addition, pollutant load reductions based upon adopted total
701 maximum daily loads established in accordance with s. 403.067
702 shall serve as a program objective. In the development and
703 administration of the program, the coordinating agencies shall
704 maximize opportunities provided by federal and local government
705 cost-sharing programs and opportunities for partnerships with
706 the private sector and local government. The program ~~plan~~ shall

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707 include a goal for salinity envelopes and freshwater inflow
708 targets for the estuaries based upon existing research and
709 documentation. The goal may be revised as new information is
710 available. This goal shall seek to reduce the frequency and
711 duration of undesirable salinity ranges while meeting the other
712 water-related needs of the region, including water supply and
713 flood protection, while recognizing the extent to which water
714 inflows are within the control and jurisdiction of the district.
715 (a) *Caloosahatchee River Watershed Protection Plan.*—~~No~~
716 ~~later than January 1, 2009,~~ The district, in cooperation with
717 the other coordinating agencies, Lee County, and affected
718 counties and municipalities, shall complete a River Watershed
719 Protection Plan in accordance with this subsection. The
720 Caloosahatchee River Watershed Protection Plan shall identify
721 the geographic extent of the watershed, be coordinated as needed
722 with the plans developed pursuant to paragraph (3)(a) and
723 paragraph (c) ~~(b)~~ of this subsection, and ~~contain an~~
724 ~~implementation schedule for pollutant load reductions consistent~~
725 ~~with any adopted total maximum daily loads and compliance with~~
726 ~~applicable state water quality standards. The plan shall~~ include
727 the Caloosahatchee River Watershed Construction Project and the
728 Caloosahatchee River Watershed Research and Water Quality
729 Monitoring Program.~~:~~
730 1. Caloosahatchee River Watershed Construction Project.—To
731 improve the hydrology, water quality, and aquatic habitats
732 within the watershed, the district shall, no later than January
733 1, 2012, plan, design, and construct the initial phase of the
734 Watershed Construction Project. In doing so, the district shall:
735 a. Develop and designate the facilities to be constructed

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736 to achieve stated goals and objectives of the Caloosahatchee
737 River Watershed Protection Plan.
738 b. Conduct scientific studies that are necessary to support
739 the design of the Caloosahatchee River Watershed Construction
740 Project facilities.
741 c. Identify the size and location of all such facilities.
742 d. Provide a construction schedule for all such facilities,
743 including the sequencing and specific timeframe for construction
744 of each facility.
745 e. Provide a schedule for the acquisition of lands or
746 sufficient interests necessary to achieve the construction
747 schedule.
748 f. Provide a schedule of costs and benefits associated with
749 each construction project and identify funding sources.
750 g. To ensure timely implementation, coordinate the design,
751 scheduling, and sequencing of project facilities with the
752 coordinating agencies, Lee County, other affected counties and
753 municipalities, and other affected parties.
754 2. Caloosahatchee River Watershed Research and Water
755 Quality Monitoring Program.—The district, in cooperation with
756 the other coordinating agencies and local governments, shall
757 implement a Caloosahatchee River Watershed Research and Water
758 Quality Monitoring Program that builds upon the district's
759 existing research program and that is sufficient to carry out,
760 comply with, or assess the plans, programs, and other
761 responsibilities created by this subsection. The program shall
762 also conduct an assessment of the water volumes and timing from
763 Lake Okeechobee and the Caloosahatchee River watershed and their
764 relative contributions to the timing and volume of water

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765 delivered to the estuary.
766 (b)~~2.~~ *Caloosahatchee River Watershed Basin Management*
767 *Action Plans* ~~Pollutant Control Program.~~ The basin management
768 action plans adopted pursuant to s. 403.067 for the
769 Caloosahatchee River watershed shall be the Caloosahatchee River
770 Watershed Pollutant Control Program. The plans shall be ~~is~~
771 designed to be a multifaceted approach to reducing pollutant
772 loads by improving the management of pollutant sources within
773 the Caloosahatchee River watershed through implementation of
774 regulations and best management practices, development and
775 implementation of improved best management practices,
776 improvement and restoration of the hydrologic function of
777 natural and managed systems, and utilization of alternative
778 technologies for pollutant reduction, such as cost-effective
779 biologically based, hybrid wetland/chemical and other innovative
780 nutrient control technologies. The plans must include an
781 implementation schedule pursuant to this subsection for
782 pollutant load reductions. As provided in s. 403.067(7)(a)6.,
783 the Caloosahatchee River Watershed Basin Management Action Plan
784 must include milestones for implementation and water quality
785 improvement and an associated water quality monitoring component
786 sufficient to evaluate whether reasonable progress in pollutant
787 load reductions is being achieved over time. The department
788 shall develop a schedule to establish 5-, 10-, and 15-year
789 measurable milestones and a target to achieve the total maximum
790 daily load no more than 20 years after adoption of the plan. The
791 schedule shall be used to provide guidance for planning and
792 funding purposes and is exempt from s. 120.54(1)(a). An
793 assessment of progress toward these milestones shall be

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794 conducted every 5 years, and revisions to the plan shall be
795 made, as appropriate, as a result of each 5-year review. The
796 assessment shall be provided to the Governor, the President of
797 the Senate, and the Speaker of the House of Representatives.
798 Upon the first 5-year review, the schedule of measurable
799 milestones and a target to achieve water quality improvement
800 consistent with this section shall be adopted into the plan.
801 Revisions to the basin management action plan shall be made by
802 the department in cooperation with the basin stakeholders.
803 Revisions to best management practices or other measures must
804 follow the procedures set forth in s. 403.067(7)(c)4. Revised
805 basin management action plans must be adopted pursuant to s.
806 403.067(7)(a)4. If achieving the adopted total maximum daily
807 load within 20 years is not practicable, the schedule must
808 contain an explanation of the constraints that prevent
809 achievement of the total maximum daily load within 20 years, an
810 estimate of the time needed to achieve the total maximum daily
811 load, and additional 5-year measurable milestones, as necessary.
812 The coordinating agencies shall facilitate the use ~~utilization~~
813 of federal programs that offer opportunities for water quality
814 treatment, including preservation, restoration, or creation of
815 wetlands on agricultural lands.
816 1.~~a.~~ Nonpoint source best management practices consistent
817 with s. 403.067 ~~paragraph (3)(c)~~, designed to achieve the
818 objectives of the Caloosahatchee River Watershed Protection
819 Program, shall be implemented on an expedited basis. The
820 coordinating agencies may develop an intergovernmental agreement
821 with local governments to implement the nonagricultural,
822 nonpoint-source best management practices within their

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823 respective geographic boundaries.
824 2.~~b.~~ This subsection does not preclude the department or
825 the district from requiring compliance with water quality
826 standards, adopted total maximum daily loads, or current best
827 management practices requirements set forth in any applicable
828 regulatory program authorized by law for the purpose of
829 protecting water quality. This subsection applies only to the
830 extent that it does not conflict with any rules adopted by the
831 department or district which are necessary to maintain a
832 federally delegated or approved program.
833 3.~~c.~~ Projects that make use of private lands, or lands held
834 in trust for Indian tribes, to reduce pollutant loadings or
835 concentrations within a basin, or that reduce the volume of
836 harmful discharges by one or more of the following methods:
837 restoring the natural hydrology of the basin, restoring wildlife
838 habitat or impacted wetlands, reducing peak flows after storm
839 events, or increasing aquifer recharge, are eligible for grants
840 available under this section from the coordinating agencies.
841 4.~~d.~~ The Caloosahatchee River Watershed Basin Management
842 Action Plans ~~Pollutant Control Program~~ shall require assessment
843 of current water management practices within the watershed and
844 shall require development of recommendations for structural,
845 nonstructural, and operational improvements. Such
846 recommendations shall consider and balance water supply, flood
847 control, estuarine salinity, aquatic habitat, and water quality
848 considerations.
849 5.~~e.~~ ~~After December 31, 2007,~~ The department may not
850 authorize the disposal of domestic wastewater biosolids
851 ~~residuals~~ within the Caloosahatchee River watershed unless the

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852 applicant can affirmatively demonstrate that the nutrients in
853 the biosolids ~~residuals~~ will not add to nutrient loadings in the
854 watershed. This demonstration shall be based on achieving a net
855 balance between nutrient imports relative to exports on the
856 permitted application site. Exports shall include only nutrients
857 removed from the watershed through products generated on the
858 permitted application site. This prohibition does not apply to
859 Class AA biosolids ~~residuals~~ that are marketed and distributed
860 as fertilizer products in accordance with department rule.
861 6.~~f.~~ The Department of Health shall require all entities
862 disposing of septage within the Caloosahatchee River watershed
863 to develop and submit to that agency an agricultural use plan
864 that limits applications based upon nutrient loading consistent
865 with any basin management action plan adopted pursuant to s.
866 403.067. ~~By July 1, 2008, nutrient concentrations originating~~
867 ~~from these application sites may not exceed the limits~~
868 ~~established in the district's WOD program.~~
869 7.~~g.~~ The Department of Agriculture and Consumer Services
870 shall require ~~initiate rulemaking requiring~~ entities within the
871 Caloosahatchee River watershed which land-apply animal manure to
872 develop a resource management system level conservation plan,
873 according to United States Department of Agriculture criteria,
874 which limit such application. Such rules shall ~~may~~ include
875 criteria and thresholds for the requirement to develop a
876 conservation or nutrient management plan, requirements for plan
877 approval, site inspection requirements, and recordkeeping
878 requirements.
879 8. The district shall initiate rulemaking to provide for a
880 monitoring program for nonpoint source dischargers required to

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881 monitor water quality pursuant to s. 403.067(7)(b)2.g. or s.
882 403.067(7)(c)3. The results of such monitoring must be reported
883 to the coordinating agencies.
884 ~~3. Caloosahatchee River Watershed Research and Water~~
885 ~~Quality Monitoring Program. The district, in cooperation with~~
886 ~~the other coordinating agencies and local governments, shall~~
887 ~~establish a Caloosahatchee River Watershed Research and Water~~
888 ~~Quality Monitoring Program that builds upon the district's~~
889 ~~existing research program and that is sufficient to carry out,~~
890 ~~comply with, or assess the plans, programs, and other~~
891 ~~responsibilities created by this subsection. The program shall~~
892 ~~also conduct an assessment of the water volumes and timing from~~
893 ~~the Lake Okeechobee and Caloosahatchee River watersheds and~~
894 ~~their relative contributions to the timing and volume of water~~
895 ~~delivered to the estuary.~~
896 (c) ~~(b)~~ *St. Lucie River Watershed Protection Plan.* ~~No later~~
897 ~~than January 1, 2009,~~ The district, in cooperation with the
898 other coordinating agencies, Martin County, and affected
899 counties and municipalities shall complete a plan in accordance
900 with this subsection. The St. Lucie River Watershed Protection
901 Plan shall identify the geographic extent of the watershed, be
902 coordinated as needed with the plans developed pursuant to
903 paragraph (3)(a) and paragraph (a) of this subsection, and
904 ~~contain an implementation schedule for pollutant load reductions~~
905 ~~consistent with any adopted total maximum daily loads and~~
906 ~~compliance with applicable state water quality standards. The~~
907 ~~plan shall~~ include the St. Lucie River Watershed Construction
908 Project and St. Lucie River Watershed Research and Water Quality
909 Monitoring Program. ~~:~~

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910 1. St. Lucie River Watershed Construction Project.—To
911 improve the hydrology, water quality, and aquatic habitats
912 within the watershed, the district shall, no later than January
913 1, 2012, plan, design, and construct the initial phase of the
914 Watershed Construction Project. In doing so, the district shall:
915 a. Develop and designate the facilities to be constructed
916 to achieve stated goals and objectives of the St. Lucie River
917 Watershed Protection Plan.
918 b. Identify the size and location of all such facilities.
919 c. Provide a construction schedule for all such facilities,
920 including the sequencing and specific timeframe for construction
921 of each facility.
922 d. Provide a schedule for the acquisition of lands or
923 sufficient interests necessary to achieve the construction
924 schedule.
925 e. Provide a schedule of costs and benefits associated with
926 each construction project and identify funding sources.
927 f. To ensure timely implementation, coordinate the design,
928 scheduling, and sequencing of project facilities with the
929 coordinating agencies, Martin County, St. Lucie County, other
930 interested parties, and other affected local governments.
931 2. St. Lucie River Watershed Research and Water Quality
932 Monitoring Program.—The district, in cooperation with the other
933 coordinating agencies and local governments, shall establish a
934 St. Lucie River Watershed Research and Water Quality Monitoring
935 Program that builds upon the district's existing research
936 program and that is sufficient to carry out, comply with, or
937 assess the plans, programs, and other responsibilities created
938 by this subsection. The district shall also conduct an

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939 assessment of the water volumes and timing from Lake Okeechobee
940 and the St. Lucie River watershed and their relative
941 contributions to the timing and volume of water delivered to the
942 estuary.
943 (d)~~2.~~ *St. Lucie River Watershed Basin Management Action*
944 *Plan* ~~Pollutant Control Program.~~ Basin management action plan for
945 the St. Lucie River watershed adopted pursuant to s. 403.067
946 shall be the St. Lucie River Watershed Pollutant Control Program
947 and shall be ~~is~~ designed to be a multifaceted approach to
948 reducing pollutant loads by improving the management of
949 pollutant sources within the St. Lucie River watershed through
950 implementation of regulations and best management practices,
951 development and implementation of improved best management
952 practices, improvement and restoration of the hydrologic
953 function of natural and managed systems, and use ~~utilization~~ of
954 alternative technologies for pollutant reduction, such as cost-
955 effective biologically based, hybrid wetland/chemical and other
956 innovative nutrient control technologies. The plan must include
957 an implementation schedule pursuant to this subsection for
958 pollutant load reductions. As provided in s. 403.067(7)(a)6.,
959 the St. Lucie Watershed Basin Management Action Plan must
960 include milestones for implementation and water quality
961 improvement and an associated water quality monitoring component
962 sufficient to evaluate whether reasonable progress in pollutant
963 load reductions is being achieved over time. The department
964 shall develop a schedule to establish 5-, 10-, and 15-year
965 measurable milestones and a target to achieve the adopted total
966 maximum daily load no more than 20 years after adoption of the
967 plan. The schedule shall be used to provide guidance for

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968 planning and funding purposes and is exempt from s.
969 120.54(1)(a). An assessment of progress toward these milestones
970 shall be conducted every 5 years, and revisions to the plan
971 shall be made, as appropriate, as a result of each 5-year
972 review. The assessment shall be provided to the Governor, the
973 President of the Senate, and the Speaker of the House of
974 Representatives. Upon the first 5-year review, the schedule of
975 measurable milestones and a target to achieve water quality
976 improvement consistent with this section shall be adopted into
977 the plan. Revisions to the basin management action plan shall be
978 made by the department in cooperation with the basin
979 stakeholders. Revisions to best management practices or other
980 measures must follow the procedures set forth in s.
981 403.067(7)(c)4. Revised basin management action plans must be
982 adopted pursuant to s. 403.067(7)(a)4. If achieving the adopted
983 total maximum daily load is not practicable, the schedule must
984 contain an explanation of the constraints that prevent
985 achievement of the total maximum daily load within 20 years, an
986 estimate of the time needed to achieve the total maximum daily
987 load, and additional 5-year measurable milestones, as necessary.
988 The coordinating agencies shall facilitate the

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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/22/2015	.	
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The Committee on Appropriations (Hays) recommended the following:

1 **Senate Amendment (with title amendment)**
2
3 Delete lines 3002 - 3187
4 and insert:
5 Statutes, is amended to read:
6 373.703 Water production; general powers and duties.—In the
7 performance of, and in conjunction with, its other powers and
8 duties, the governing board of a water management district
9 existing pursuant to this chapter:
10 (9) May join with one or more other water management

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11 districts, counties, municipalities, special districts, publicly
12 owned or privately owned water utilities, multijurisdictional
13 water supply entities, regional water supply authorities,
14 private landowners, or self-suppliers for the purpose of
15 carrying out its powers, and may contract with such other
16 entities to finance acquisitions, construction, operation, and
17 maintenance, provided that such contracts are consistent with
18 the public interest. The contract may provide for contributions
19 to be made by each party to the contract for the division and
20 apportionment of the expenses of acquisitions, construction,
21 operation, and maintenance, and for the division and
22 apportionment of resulting benefits, services, and products. The
23 contracts may contain other covenants and agreements necessary
24 and appropriate to accomplish their purposes.
25 Section 24. Paragraph (b) of subsection (2), subsection
26 (3), and paragraph (b) of subsection (4) of section 373.705,
27 Florida Statutes, are amended, and subsection (5) is added to
28 that section, to read:
29 373.705 Water resource development; water supply
30 development.—
31 (2) It is the intent of the Legislature that:
32 (b) Water management districts take the lead in identifying
33 and implementing water resource development projects, and be
34 responsible for securing necessary funding for regionally
35 significant water resource development projects, including
36 regionally significant projects that prevent or limit adverse
37 water resource impacts, avoid competition among water users, or
38 support the provision of new water supplies in order to meet a
39 minimum flow or minimum water level or to implement a recovery

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40 or prevention strategy or water reservation.
41 (3)(a) The water management districts shall fund and
42 implement water resource development as defined in s. 373.019.
43 The water management districts are encouraged to implement water
44 resource development as expeditiously as possible in areas
45 subject to regional water supply plans.
46 (b) Each governing board shall include in its annual budget
47 submittals required under this chapter:
48 1. The amount of funds for each project in the annual
49 funding plan developed pursuant to s. 373.536(6)(a)4.;
50 2. The total amount needed for the fiscal year to implement
51 water resource development projects, as prioritized in its
52 regional water supply plans; and
53 3. The amount of funds requested for each project submitted
54 for consideration for state funding pursuant to s. 403.0616.
55 (4)
56 (b) Water supply development projects that meet the
57 criteria in paragraph (a) and that meet one or more of the
58 following additional criteria shall be given first consideration
59 for state or water management district funding assistance:
60 1. The project brings about replacement of existing sources
61 in order to help implement a minimum flow or minimum water
62 level; ~~or~~
63 2. The project implements reuse that assists in the
64 elimination of domestic wastewater ocean outfalls as provided in
65 s. 403.086(9); or
66 3. The project reduces or eliminates the adverse effects of
67 competition between legal users and the natural system.
68 (5) The water management districts shall promote expanded

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69 cost-share criteria for additional conservation practices, such
70 as soil and moisture sensors and other irrigation improvements,
71 water-saving equipment and water-saving household fixtures, and
72 software technologies that can achieve verifiable water
73 conservation by providing water use information to utility
74 customers.
75 Section 25. Paragraph (f) of subsection (3), paragraph (a)
76 of subsection (6), and paragraph (e) of subsection (8) of
77 section 373.707, Florida Statutes, are amended to read:
78 373.707 Alternative water supply development.—
79 (3) The primary roles of the water management districts in
80 water resource development as it relates to supporting
81 alternative water supply development are:
82 (f) The provision of technical and financial assistance to
83 local governments and publicly owned and privately owned water
84 utilities for alternative water supply projects and for self-
85 suppliers for alternative water supply projects to the extent
86 assistance for self-suppliers promotes the policies in paragraph
87 (1)(f).
88 (6)(a) If state ~~The statewide~~ funds are provided through
89 specific appropriation for a priority project of the water
90 resources work program pursuant to s. 403.0616, or pursuant to
91 the Water Protection and Sustainability Program, such funds
92 serve to supplement existing water management district or basin
93 board funding for alternative water supply development
94 assistance and should not result in a reduction of such funding.
95 For each project identified in the annual funding plans prepared
96 pursuant to s. 373.536(6)(a)4. ~~Therefore~~, the water management
97 districts shall include in the annual tentative and adopted

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98 budget submittals required under this chapter the amount of
99 funds allocated for water resource development that supports
100 alternative water supply development and the funds allocated for
101 alternative water supply projects ~~selected for inclusion in the~~
102 ~~Water Protection and Sustainability Program~~. It shall be the
103 goal of each water management district and basin boards that the
104 combined funds allocated annually for these purposes be, at a
105 minimum, the equivalent of 100 percent of the state funding
106 provided to the water management district for alternative water
107 supply development. If this goal is not achieved, the water
108 management district shall provide in the budget submittal an
109 explanation of the reasons or constraints that prevent this goal
110 from being met, an explanation of how the goal will be met in
111 future years, and affirmation of match is required during the
112 budget review process as established under s. 373.536(5). The
113 Suwannee River Water Management District and the Northwest
114 Florida Water Management District shall not be required to meet
115 the match requirements of this paragraph; however, they shall
116 try to achieve the match requirement to the greatest extent
117 practicable.
118 (8)
119 (e) Applicants for projects that may receive funding
120 assistance pursuant to the Water Protection and Sustainability
121 Program shall, at a minimum, be required to pay 60 percent of
122 the project's construction costs. The water management districts
123 may, at their discretion, totally or partially waive this
124 requirement for projects sponsored by:
125 1. Financially disadvantaged small local governments as
126 defined in former s. 403.885(5); or

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127 2. Water users for projects determined by a water
128 management district governing board to be in the public interest
129 pursuant to paragraph (1)(f), if the projects are not otherwise
130 financially feasible.
131
132 The water management districts or basin boards may, at their
133 discretion, use ad valorem or federal revenues to assist a
134 project applicant in meeting the requirements of this paragraph.
135
136 ========== T I T L E A M E N D M E N T ==========
137 And the title is amended as follows:
138 Delete lines 133 - 149
139 and insert:
140 for the purpose of carrying out its powers; amending
141 s. 373.705, F.S.; revising legislative intent;
142 requiring water management district governing boards
143 to include certain information in their annual budget
144 submittals; requiring water management districts to
145 promote expanded cost-share criteria for additional
146 conservation practices; amending s. 373.707, F.S.;
147 authorizing water management districts to provide
148 technical and financial assistance to certain self-
149 suppliers and to waive certain construction costs of
150 alternative water supply development projects
151 sponsored by certain water users; amending s.

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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/22/2015	.	
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The Committee on Appropriations (Hays) recommended the following:

1 **Senate Amendment (with title amendment)**
2
3 Delete lines 3321 - 3609
4 and insert:
5 governments have primary responsibility for providing domestic
6 wastewater collection and treatment services and stormwater
7 management. The foregoing responsible entities must coordinate
8 to restore and maintain the water quantity and water quality of
9 the Outstanding Florida Springs.
10 (3) The Legislature recognizes that:

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11 (a) A spring is only as healthy as its local aquifer
12 system. The groundwater that supplies springs is derived from
13 water that recharges the aquifer system in the form of seepage
14 from the land surface and through direct conduits, such as
15 sinkholes. Springs may be adversely affected by polluted runoff
16 from urban and agricultural lands; discharges resulting from
17 inadequate wastewater and stormwater management practices;
18 stormwater runoff; and reduced water levels of the Floridan
19 Aquifer. As a result, the hydrologic and environmental
20 conditions of a spring or spring run are directly influenced by
21 activities and land uses within a springshed and by water
22 withdrawals from the Floridan Aquifer.
23 (b) Springs, whether found in urban or rural settings, or
24 on public or private lands, may be threatened by actual or
25 potential flow reductions and declining water quality. Many of
26 this state’s springs are demonstrating signs of significant
27 ecological imbalance, increased nutrient loading, and declining
28 flow. Without effective remedial action, further declines in
29 water quality and water quantity may occur.
30 (c) Springshed boundaries and areas of high vulnerability
31 within a springshed need to be identified and delineated using
32 the best available data.
33 (d) Springsheds typically cross water management district
34 boundaries and local government jurisdictional boundaries, so a
35 coordinated statewide springs protection plan is needed.
36 (e) The aquifers and springs of this state are complex
37 systems affected by many variables and influences.
38 (4) The Legislature recognizes that action is urgently
39 needed and, as additional data is acquired, action must be

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40 modified.
41 Section 29. Section 373.802, Florida Statutes, is created
42 to read:
43 373.802 Definitions.—As used in this part, the term:
44 (1) "Department" means the Department of Environmental
45 Protection, which includes the Florida Geological Survey or its
46 successor agencies.
47 (2) "Local government" means a county or municipal
48 government the jurisdictional boundaries of which include an
49 Outstanding Florida Spring or any part of a springshed or
50 delineated priority focus area of an Outstanding Florida Spring.
51 (3) "Onsite sewage treatment and disposal system" means a
52 system that contains a standard subsurface, filled, or mound
53 drainfield system; an aerobic treatment unit; a graywater system
54 tank; a laundry wastewater system tank; a septic tank; a grease
55 interceptor; a pump tank; a solids or effluent pump; a
56 waterless, incinerating, or organic waste-composting toilet; or
57 a sanitary pit privy that is installed or proposed to be
58 installed beyond the building sewer on land of the owner or on
59 other land on which the owner has the legal right to install
60 such system. The term includes any item placed within, or
61 intended to be used as a part of or in conjunction with, the
62 system. The term does not include package sewage treatment
63 facilities and other treatment works regulated under chapter
64 403.
65 (4) "Outstanding Florida Spring" includes all historic
66 first magnitude springs, including their associated spring runs,
67 as determined by the department using the most recent Florida
68 Geological Survey springs bulletin, and the following additional

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69 springs, including their associated spring runs:
70 (a) De Leon Springs;
71 (b) Peacock Springs;
72 (c) Poe Springs;
73 (d) Rock Springs;
74 (e) Wekiwa Springs; and
75 (f) Gemini Springs.
76
77 The term does not include submarine springs or river rises.
78 (5) “Priority focus area” means the area or areas of a
79 basin where the Floridan Aquifer is generally most vulnerable to
80 pollutant inputs where there is a known connectivity between
81 groundwater pathways and an Outstanding Florida Spring, as
82 determined by the department in consultation with the
83 appropriate water management districts, and delineated in a
84 basin management action plan.
85 (6) “Springshed” means the areas within the groundwater and
86 surface water basins which contribute, based upon all relevant
87 facts, circumstances, and data, to the discharge of a spring as
88 defined by potentiometric surface maps and surface watershed
89 boundaries.
90 (7) “Spring run” means a body of flowing water that
91 originates from a spring or whose primary source of water is a
92 spring or springs under average rainfall conditions.
93 (8) “Spring vent” means a location where groundwater flows
94 out of a natural, discernible opening in the ground onto the
95 land surface or into a predominantly fresh surface water body.
96 Section 30. Section 373.803, Florida Statutes, is created
97 to read:

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98 373.803 Delineation of priority focus areas for Outstanding
99 Florida Springs.—Using the best data available from the water
100 management districts and other credible sources, the department,
101 in coordination with the water management districts, shall
102 delineate priority focus areas for each Outstanding Florida
103 Spring or group of springs that contains one or more Outstanding
104 Florida Springs and is identified as impaired in accordance with
105 s. 373.807. In delineating priority focus areas, the department
106 shall consider groundwater travel time to the spring,
107 hydrogeology, nutrient load, and any other factors that may lead
108 to degradation of an Outstanding Florida Spring. The delineation
109 of priority focus areas must be completed by July 1, 2018, shall
110 use understood and identifiable boundaries such as roads or
111 political jurisdictions for ease of implementation, and is
112 effective upon incorporation in a basin management action plan.
113 Section 31. Section 373.805, Florida Statutes, is created
114 to read:
115 373.805 Minimum flows and minimum water levels for
116 Outstanding Florida Springs.—
117 (1) At the time a minimum flow or minimum water level is
118 adopted pursuant to s. 373.042 for an Outstanding Florida
119 Spring, if the spring is below or is projected within 20 years
120 to fall below the minimum flow or minimum water level, a water
121 management district or the department shall concurrently adopt a
122 recovery or prevention strategy.
123 (2) When a minimum flow or minimum water level for an
124 Outstanding Florida Spring is revised pursuant to s.
125 373.0421(3), if the spring is below or is projected within 20
126 years to fall below the minimum flow or minimum water level, a

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127 water management district or the department shall concurrently
128 adopt a recovery or prevention strategy or modify an existing
129 recovery or prevention strategy. A district or the department
130 may adopt the revised minimum flow or minimum water level before
131 the adoption of a recovery or prevention strategy if the revised
132 minimum flow or minimum water level is less constraining on
133 existing or projected future consumptive uses.
134 (3) For an Outstanding Florida Spring without an adopted
135 recovery or prevention strategy, if a district or the department
136 determines the spring has fallen below, or is projected within
137 20 years to fall below, the adopted minimum flow or minimum
138 water level, a water management district or the department shall
139 expeditiously adopt a recovery or prevention strategy.
140 (4) The recovery or prevention strategy for each
141 Outstanding Florida Spring must, at a minimum, include:
142 (a) A listing of all specific projects identified for
143 implementation of the plan;
144 (b) A priority listing of each project;
145 (c) For each listed project, the estimated cost of and the
146 estimated date of completion;
147 (d) The source and amount of financial assistance to be
148 made available by the water management district for each listed
149 project, which may not be less than 25 percent of the total
150 project cost unless a specific funding source or sources are
151 identified which will provide more than 75 percent of the total
152 project cost. The Northwest Florida Water Management District
153 and the Suwannee River Water Management District are not
154 required to meet the minimum requirement to receive financial
155 assistance pursuant to this paragraph;

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156 (e) An estimate of each listed project's benefit to an
157 Outstanding Florida Spring; and
158 (f) An implementation plan designed with a target to
159 achieve the adopted minimum flow or minimum water level no more
160 than 20 years after the adoption of a recovery or prevention
161 strategy. The implementation plan must include a schedule of 5-,
162 10-, and 15-year measureable milestones intended to achieve the
163 adopted minimum flow or minimum water level. The schedule is not
164 a rule but is intended to provide guidance for planning and
165 funding purposes and is exempt from s. 120.54(1)(a).
166 (5) A local government may apply to the department for a
167 single extension of up to 5 years for any project in an adopted
168 recovery or prevention strategy. The department may grant the
169 extension if the local government provides to the department
170 sufficient evidence that an extension is in the best interest of
171 the public. For a local government in a rural area of
172 opportunity, as defined in s. 288.0656, the department may grant
173 a single extension of up to 10 years.
174 Section 32. Section 373.807, Florida Statutes, is created
175 to read:
176 373.807 Protection of water quality in Outstanding Florida
177 Springs.—By July 1, 2015, the department shall initiate
178 assessment, pursuant to s. 403.067(3), of each Outstanding
179 Florida Spring for which an impairment determination has not
180 been made under the numeric nutrient standards in effect for
181 spring vents. Assessments must be completed by July 1, 2018.
182 (1)(a) Concurrent with the adoption of a nutrient total
183 maximum daily load for an Outstanding Florida Spring, the
184 department, or the department in conjunction with a water

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185 management district, shall initiate development of a basin
186 management action plan, as specified in s. 403.067. For an
187 Outstanding Florida Spring with a nutrient total maximum daily
188 load adopted before July 1, 2015, the department, or the
189 department in conjunction with a water management district,
190 shall initiate development of a basin management action plan by
191 July 1, 2015. During the development of a basin management
192 action plan, if the department identifies onsite sewage
193 treatment and disposal systems as contributors of at least 20
194 percent of nonpoint source nitrogen pollution or if the
195 department determines remediation is necessary to achieve the
196 total maximum daily load, the basin management action plan shall
197 include an onsite sewage treatment and disposal system
198 remediation plan pursuant to subsection (3) for those systems
199 identified as requiring remediation.
200 (b) A basin management action plan for an Outstanding
201 Florida Spring shall be adopted within 2 years after its
202 initiation and must include, at a minimum:
203 1. A list of all specific projects and programs identified
204 to implement a nutrient total maximum daily load;
205 2. A list of all specific projects identified in any
206 incorporated onsite sewage treatment and disposal system
207 remediation plan, if applicable;
208 3. A priority rank for each listed project;
209 4. For each listed project, a planning level cost estimate
210 and the estimated date of completion;
211 5. The source and amount of financial assistance to be made
212 available by the department, a water management district, or
213 other entity for each listed project;

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214 6. An estimate of each listed project's nutrient load
215 reduction;
216 7. Identification of each point source or category of
217 nonpoint sources, including, but not limited to, urban turf
218 fertilizer, sports turf fertilizer, agricultural fertilizer,
219 onsite sewage treatment and disposal systems, wastewater
220 treatment facilities, animal wastes, and stormwater facilities.
221 An estimated allocation of the pollutant load must be provided
222 for each point source or category of nonpoint sources; and
223 8. An implementation plan designed with a target to achieve
224 the adopted nutrient total maximum daily load no more than 20
225 years after the adoption of a basin management action plan. The
226 plan must include a schedule of 5-, 10-, and 15-year measureable
227 milestones intended to achieve the adopted nutrient total
228 maximum daily load. The schedule is not a rule but is intended
229 to provide guidance for planning and funding purposes and is
230 exempt from s. 120.54(1)(a).
231 (c) For a basin management action plan adopted before July
232 1, 2015, which addresses an Outstanding Florida Spring, the
233 department or the department in conjunction with a water
234 management district must revise the plan if necessary to comply
235 with this section by July 1, 2018.
236 (d) A local government may apply to the department for an
237 extension of up to 5 years for any project in an adopted basin
238 management action plan. A local government in a rural area of
239 opportunity, as defined in s. 288.0656, may apply for an
240 extension of up to 10 years for such a project. The department
241 may grant the extension if the local government provides to the
242 department sufficient evidence that an extension is in the best

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243 interest of the public.
244 (2) By July 1, 2016, each local government, as defined in
245 s. 373.802(2), that has not adopted an ordinance pursuant to s.
246 403.9337, shall develop, enact, and implement an ordinance
247 pursuant to that section. It is the intent of the Legislature
248 that ordinances required to be adopted under this subsection
249 reflect the latest scientific information, advancements, and
250 technological improvements in the industry.
251 (3) As part of a basin management action plan that includes
252 an Outstanding Florida Spring, the department, in consultation
253 with the Department of Health, relevant local governments, and
254 relevant local public and private wastewater utilities, shall
255 develop an onsite sewage treatment and disposal system
256 remediation plan for a spring if the department determines
257 onsite sewage treatment and disposal systems within a priority
258 focus area contribute at least 20 percent of nonpoint source
259 nitrogen pollution or if the department determines remediation
260 is necessary to achieve the total daily maximum load. This plan
261 shall be completed and adopted as part of the basin management
262 action plan no later than the first 5-year milestone required by
263 subparagraph (1)(b)8. In preparing this plan, the department
264 shall:
265 (a) Collect and evaluate credible scientific information on
266 the effect of nutrients, particularly forms of nitrogen, on
267 springs and springs systems;
268 (b) Develop a public education plan to provide area
269 residents with reliable, understandable information about onsite
270 sewage treatment and disposal systems and springs;
271 and

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272 (c) Identify projects necessary to reduce the nutrient
273 impacts from onsite sewage treatment and disposal systems.
274
275 In addition to the requirements in s. 403.067, the plan shall
276 include options for repair, upgrade, replacement, drainfield
277 modification, addition of effective nitrogen reducing features,
278 connection to a central sewerage system, or other action for an
279 onsite sewage treatment and disposal system or group of systems
280 within a priority focus area that contribute at least 20 percent
281 of nonpoint source nitrogen pollution or if the department
282 determines remediation is necessary to achieve a total maximum
283 daily load. For these systems, the department shall include in
284 the plan a priority ranking for each system or group of systems
285 that requires remediation and shall award funds to implement the
286 remediation projects contingent on an appropriation in the
287 General Appropriations Act, which may include all or part of the
288 costs necessary for repair, upgrade, replacement, drainfield
289 modification, addition of effective nitrogen reducing features,
290 initial connection to a central sewerage system, or other
291 action. In awarding funds, the
292
293 ========== T I T L E A M E N D M E N T ==========
294 And the title is amended as follows:
295 Delete lines 179 - 186
296 and insert:
297 department in consultation with the Department of
298 Health and relevant local governments and utilities,
299 to develop onsite sewage treatment and disposal system
300 remediation plans under certain circumstances;

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301 creating s.

714538

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/22/2015	.	
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The Committee on Appropriations (Hays) recommended the following:

Senate Amendment (with title amendment)

Delete lines 3741 - 3944
and insert:
4. Whether, if applicable, a minimum flow or minimum water level has been adopted for the water body and if such minimum flow or minimum water level has not been adopted, the anticipated adoption date;
5. Whether, if applicable, a recovery or prevention strategy has been adopted for the watershed or water body and,

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11 if such a plan has not been adopted, the anticipated adoption
12 date;
13 6. The impairment status of each water body;
14 7. Whether, if applicable, a total maximum daily load has
15 been adopted if the water body is listed as impaired and, if
16 such total maximum daily load has not been adopted, the
17 anticipated adoption date;
18 8. Whether, if applicable, a basin management action plan
19 has been adopted for the watershed and, if such a plan has not
20 been adopted, the anticipated adoption date;
21 9. Each project listed on the 5-year water resources work
22 program developed pursuant to s. 373.036(7);
23 10. The agency or agencies and local sponsor, if any,
24 responsible for overseeing the project;
25 11. The total or estimated cost and completion date of each
26 project and the financial contribution of each entity;
27 12. The estimated quantitative benefit to the watershed or
28 water body; and
29 13. The water projects completed within the last 5 years
30 within the watershed or water body.
31 (b) The department and each water management district shall
32 prominently display on their respective websites a hyperlink to
33 the interactive map required by this subsection.
34
35 The department shall implement such programs in conjunction with
36 its other powers and duties and shall place special emphasis on
37 reducing and eliminating contamination that presents a threat to
38 humans, animals or plants, or to the environment.
39 Section 36. Section 403.0616, Florida Statutes, is created

714538

40 to read:
41 403.0616 Florida Water Resources Advisory Council.—
42 (1) The Florida Water Resources Advisory Council is hereby
43 created within the department for the purpose of evaluating
44 water resource projects prioritized and submitted by state
45 agencies, water management districts, regional water supply
46 authorities, or local governments. The council shall evaluate
47 and recommend projects that are eligible for state funding as
48 priority projects of statewide, regional, or critical local
49 importance under this chapter or chapter 373. The council must
50 review and evaluate all water resource projects that are
51 prioritized and reported by state agencies or water management
52 districts pursuant to s. 373.036(7)(b)8.b., or by local
53 governments, or regional water supply authorities, if
54 applicable, in order to provide the Legislature with
55 recommendations for projects that improve or restore the water
56 resources of this state. The council is also responsible for
57 submitting a prioritization of pilot projects that test the
58 effectiveness of innovative or existing nutrient reduction or
59 water conservation technologies or practices designed to
60 minimize nutrient pollution or restore flows in the water bodies
61 of the state as provided in s. 403.0617.
62 (2) The Florida Water Resources Advisory Council consists
63 of five voting members and five ex officio, nonvoting members as
64 follows:
65 (a) The Secretary of Environmental Protection, who shall
66 serve as chair of the council; the Commissioner of Agriculture;
67 the executive director of the Fish and Wildlife Conservation
68 Commission; one member with expertise in a scientific discipline

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69 related to water resources, appointed by the President of the
70 Senate; and one member with expertise in a scientific discipline
71 related to water resources, appointed by the Speaker of the
72 House of Representatives, all of whom shall be voting members.
73 (b) The executive directors of each of the five water
74 management districts, all of whom shall be nonvoting members.
75 (3) Members appointed by the President of the Senate and
76 Speaker of the House of Representatives shall serve 2-year
77 terms, but may not serve more than a total of 6 years. The
78 President of the Senate and the Speaker of the House of
79 Representatives may fill a vacancy at any time for an unexpired
80 term of an appointed member.
81 (4) If a member of the council is disqualified from serving
82 because he or she no longer holds the position required to serve
83 under this section, the interim head of the agency shall serve
84 as the agency representative.
85 (5) The two appointed council members shall receive
86 reimbursement for expenses and per diem for travel to attend
87 council meetings authorized pursuant to s. 112.061 while in the
88 performance of their duties.
89 (6) The council shall hold periodic meetings at the request
90 of the chair, but must hold at least two public meetings,
91 separately noticed, each year in which the public has the
92 opportunity to participate and comment. Unless otherwise
93 provided by law, notice for each meeting must be published in a
94 newspaper of general circulation in the area where the meeting
95 is to be held at least 5 days but no more than 15 days before
96 the meeting date.
97 (a) By July 15, 2016, and on or before July 15 of each year

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98 thereafter, the council shall release a tentative water
99 resources work program containing its legislative
100 recommendations for water resource projects. The public has 30
101 days to submit comments regarding the tentative program.
102 (b) The council shall adopt the tentative work program
103 containing its legislative recommendations and submit it to the
104 Governor, the President of the Senate, and the Speaker of the
105 House of Representatives by August 31, 2016, and on or before
106 August 31 of each year thereafter. An affirmative vote of three
107 members of the council is required to adopt the tentative work
108 program.
109 (7) The department shall provide primary staff support to
110 the council and shall ensure that council meetings are
111 electronically recorded. Such recordings must be preserved
112 pursuant to chapters 119 and 257.
113 (8) The council shall recommend rules for adoption by the
114 department to competitively evaluate, select, and rank projects
115 for the tentative water resources work program. The council
116 shall develop specific criteria for the evaluation, selection,
117 and ranking of projects, including a preference for projects
118 that will have a significant, measurable impact on improving
119 water quantity or water quality; projects in areas of greatest
120 impairment; projects of state or regional significance; projects
121 recommended by multiple districts or multiple local governments
122 cooperatively; projects with a significant monetary commitment
123 by the local project sponsor or sponsors; projects in rural
124 areas of opportunity as defined in s. 288.0656; projects that
125 may be funded through appropriate loan programs; and projects
126 that have significant private contributions of time or money.

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127 (9) The department, in consultation with the Department of
128 Agriculture and Consumer Services, the Fish and Wildlife
129 Conservation Commission, and the water management districts,
130 shall adopt rules to implement this section.
131 Section 37. Section 403.0617, Florida Statutes, is created
132 to read:
133 403.0617 Innovative nutrient and sediment reduction and
134 conservation pilot project program.—
135 (1) By October 1, 2015, the department shall propose rules
136 for adoption to competitively evaluate and rank projects for
137 selection and prioritization by the Water Resources Advisory
138 Council, pursuant to s. 403.0616, for submission to the
139 Legislature for funding. These pilot projects are intended to
140 test the effectiveness of innovative or existing nutrient
141 reduction or water conservation technologies, programs or
142 practices designed to minimize nutrient pollution or restore
143 flows in the water bodies of the state. The department must
144 include in the evaluation criteria a determination by the
145 department that the pilot project will not be harmful to the
146 ecological resources in the study area.
147 (2) In developing these rules, the department shall give
148 preference to the projects that will result in the greatest
149 improvement to water quality and water quantity for the dollars
150 to be expended for the project. At a minimum, the department
151 shall consider all of the following:
152 (a) The level of nutrient impairment of the waterbody,
153 watershed, or water segment in which the project is located.
154 (b) The quantity of nutrients the project is estimated to
155 remove from a water body, watershed, or water segment with an

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156 adopted nutrient total maximum daily load.
157 (c) The potential for the project to provide a cost-
158 effective solution to pollution, including pollution caused by
159 onsite sewage treatment and disposal systems.
160 (d) The anticipated impact the project will have on
161 restoring or increasing flow or water level.
162 (e) The amount of matching funds for the project which will
163 be provided by the entities responsible for implementing the
164 project.
165 (f) Whether the project is located in a rural area of
166 opportunity, as defined in s. 288.0656, with preference given to
167 the local government responsible for implementing the project.
168 (g) For multiple-year projects, whether the project has
169 funding sources that are identified and assured through the
170 expected completion date of the project.
171 (h) The cost of the project and the length of time it will
172 take to complete relative to its expected benefits.
173 (i) Whether the entities responsible for implementing the
174 project have used their own funds for projects to improve water
175 quality or conserve water use with preference given to those
176 entities that have expended such funds.
177 Section 38. Section 403.0623, Florida Statutes, is amended
178 to read:
179 403.0623 Environmental data; quality assurance.—
180 (1) The department must establish, by rule, appropriate
181 quality assurance requirements for environmental data submitted
182 to the department and the criteria by which environmental data
183 may be rejected by the department. The department may adopt and
184 enforce rules to establish data quality objectives and specify

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185 requirements for training of laboratory and field staff, sample
186 collection methodology, proficiency testing, and audits of
187 laboratory and field sampling activities. Such rules may be in
188 addition to any laboratory certification provisions under ss.
189 403.0625 and 403.863.
190 (2)(a) The department, in coordination with the water
191 management districts, regional water supply authorities, and the
192 Department of Agriculture and Consumer Services shall establish
193 standards for the collection and analysis of water quantity,
194 water quality, and related data to ensure quality, reliability,
195 and validity of the data and testing results.
196 (b) To the extent practicable, the department shall
197 coordinate with federal agencies to ensure that its collection
198 and analysis of water quality, water quantity, and related data,
199 which may be used by any state agency, water management
200 district, or local government, is consistent with this
201 subsection.
202 (c) In order to receive state funds for the acquisition of
203 lands or the financing of a water resource project, state
204 agencies and water management districts must show that they
205 followed the department's collection and analysis standards, if
206 available, as a
207
208 ========== T I T L E A M E N D M E N T ==========
209 And the title is amended as follows:
210 Delete lines 206 - 214
211 and insert:
212 403.0617, F.S.; requiring the department to propose
213 for adoption rules to competitively evaluate and rank

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214 projects for selection and prioritization by the Water
215 Resources Advisory Council by a certain date; amending
216 s. 403.0623, F.S.; requiring the department to
217 establish certain standards to ensure statewide
218 consistency; requiring state agencies and water
219 management districts to show that they followed the
220 department’s standards in order to receive

312606

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/22/2015	.	
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The Committee on Appropriations (Hays) recommended the following:

Senate Amendment (with title amendment)

Delete lines 4304 - 4323
and insert:
management districts, shall post on its website and submit electronically an annual progress report to the Governor, the President of the Senate, and the Speaker of the House of Representatives on the status of each total maximum daily load, basin management action plan, minimum flow or minimum water level, and recovery or prevention strategy adopted pursuant to

312606

11 s. 403.067 or parts I and VIII of chapter 373. The report must
12 include the status of each project identified to achieve an
13 adopted total maximum daily load or an adopted minimum flow or
14 minimum water level, as applicable. If a report indicates that
15 any of the 5-, 10-, or 15-year milestones, or the 20-year target
16 date, if applicable, for achieving a total maximum daily load or
17 a minimum flow or minimum water level will not be met, the
18 report must include an explanation of the possible causes and
19 potential solutions. If applicable, the report must include
20 project descriptions, estimated costs, proposed priority ranking
21 for project implementation, and funding needed to achieve the
22 total maximum daily load or the minimum flow or minimum water
23 level by the target date. Each water management district shall
24 post the department's report on its website.
25 (2) The Department of Agriculture and Consumer Services
26 shall post on its website and submit electronically an annual
27 progress report to the Governor, the President of the Senate,
28 and
29
30 ========== T I T L E A M E N D M E N T ==========
31 And the title is amended as follows:
32 Delete lines 220 - 221
33 and insert:
34 403.0675, F.S.; requiring the department and the
35 Department of Agriculture and Consumer Services to
36 post annual progress reports on their websites and
37 submit such reports to the Governor and the
38 Legislature; requiring each water management district
39 to post the Department of Environmental Protection's

312606

40 report on its website; amending s. 403.861, F.S.;
41 directing

442270

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/22/2015	.	
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The Committee on Appropriations (Hays) recommended the following:

Senate Amendment (with title amendment)

Between lines 343 and 344
insert:
Section 3. Subsection (34) is added to section 334.044, Florida Statutes, to read:
334.044 Department; powers and duties.—The department shall have the following general powers and duties:
(34) At the department's discretion, the ability:
(a) To assume the responsibilities of the United States

442270

11 Department of Transportation with respect to highway projects
12 within the state under the National Environmental Policy Act of
13 1969, 42 U.S.C. ss. 4321 et seq., and with respect to the
14 related responsibilities for environmental review, consultation,
15 or other action required under any federal environmental law
16 pertaining to review or approval of a highway project within the
17 state;
18 (b) To assume responsibilities under 23 U.S.C. s. 327 and
19 enter into one or more agreements, including memoranda of
20 understanding, with the United States Secretary of
21 Transportation related to the federal surface transportation
22 project delivery program for the delivery of highway projects,
23 as provided in 23 U.S.C. s. 327; and
24 (c) To adopt rules to implement this subsection and to
25 adopt relevant federal environmental standards as the standards
26 for this state for a program described in this subsection.
27
28 Sovereign immunity from civil suit in federal court is waived
29 consistent with 23 U.S.C. s. 327 and is limited to the
30 compliance, discharge, or enforcement of a responsibility
31 assumed by the department under this subsection.
32
33 ========== T I T L E A M E N D M E N T ==========
34 And the title is amended as follows:
35 Delete lines 10 - 11
36 and insert:
37 has undertaken to increase public access; amending s.
38 260.0144, F.S.; conforming provisions to changes made
39 by the act; amending s. 334.044, F.S.; authorizing the

442270

40 Department of Transportation to participate in certain
41 federal transportation programs; amending s. 335.065,
42 F.S.; conforming provisions to

279658

576-03716A-15

Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on General Government)

A bill to be entitled

An act relating to environmental resources; amending s. 259.032, F.S.; requiring the Department of Environmental Protection to publish, update, and maintain a database of conservation lands; requiring the department to submit a report by a certain date each year to the Governor and the Legislature identifying the percentage of such lands which the public has access to and the efforts the department has undertaken to increase public access; amending ss. 260.0144 and 335.065, F.S.; conforming provisions to changes made by the act; creating s. 339.81, F.S.; creating the Florida Shared-Use Nonmotorized Trail Network; specifying the composition of the network; requiring the network to be included in the Department of Transportation's work program; declaring the planning, development, operation, and maintenance of the network to be a public purpose; authorizing the department to transfer maintenance responsibilities to certain state agencies and contract with not-for-profit or private sector entities to provide maintenance services; authorizing the department to adopt rules; providing an appropriation; creating s. 339.82, F.S.; requiring the department to develop a network plan for the Florida Shared-Use Nonmotorized Trail Network; creating s. 339.83, F.S.; authorizing the department to enter into concession agreements

279658

576-03716A-15

with not-for-profit or private sector entities for certain commercial sponsorship signs, markings, and exhibits; authorizing the department to contract for the provision of certain services related to the trail sponsorship program; authorizing the department to adopt rules; amending s. 373.019, F.S.; revising the definition of the term "water resource development" to include technical assistance to self-suppliers under certain circumstances; amending s. 373.036, F.S.; requiring certain information to be included in the consolidated annual report for all projects related to water quality or water quantity; creating s. 373.037, F.S.; defining terms; providing legislative findings; requiring certain water management districts to designate and implement certain pilot projects; providing powers and limitations for the governing boards of such water management districts; providing funding for certain pilot projects; requiring such districts to submit a report to the Governor and the Legislature on the effectiveness of its pilot project; amending s. 373.042, F.S.; requiring the Department of Environmental Protection or the governing board of a water management district to adopt a minimum flow or minimum water level for an Outstanding Florida Spring using emergency rulemaking authority under certain circumstances; requiring collaboration in the development and implementation of recovery or prevention strategies under certain circumstances; authorizing the department to use emergency rulemaking

procedures under certain circumstances; amending s. 373.0421, F.S.; directing the department or the water management district governing boards to adopt and implement certain recovery or prevention strategies concurrent with the adoption of minimum flows and minimum water levels; providing criteria for such recovery or prevention strategies; requiring certain amendments to regional water supply plans to be concurrent with relevant portions of the recovery or prevention strategy; directing water management districts to notify the department when water use permit applications are denied for a specified reason; providing for the review and update of regional water supply plans in such cases; creating s. 373.0465, F.S.; providing legislative intent; defining the term "Central Florida Water Initiative Area"; requiring the department, the St. Johns River Water Management District, the South Florida Water Management District, the Southwest Florida Water Management District, and the Department of Agriculture and Consumer Services to develop and implement a multidistrict regional water supply plan; providing plan criteria and requirements; providing applicability; requiring the department to adopt rules; amending s. 373.1501, F.S.; specifying authority of the South Florida Water Management District to allocate quantities of, and assign priorities for the use of, water within its jurisdiction; directing the district to provide recommendations to the United States Army Corps of

Engineers when developing or implementing certain water control plans or regulation schedules; amending s. 373.219, F.S.; requiring the department to adopt a uniform definition of the term "harmful to the water resources"; amending s. 373.223, F.S.; requiring consumptive use permits authorizing over a certain amount to be monitored on a specified basis; amending s. 373.2234, F.S.; directing water management district governing boards to consider the identification of preferred water supply sources for certain water users; amending s. 373.227, F.S.; prohibiting water management districts from modifying permitted allocation amounts under certain circumstances; requiring the water management districts to adopt rules to promote water conservation incentives; amending s. 373.233, F.S.; providing conditions under which the department and water management district governing boards are directed to give preference to certain applications; amending s. 373.4591, F.S.; providing priority consideration to certain public-private partnerships for water storage, groundwater recharge, and water quality improvements on private agricultural lands; amending s. 373.4595, F.S.; revising and providing definitions relating to the Northern Everglades and Estuaries Protection Program; clarifying provisions of the Lake Okeechobee Watershed Protection Program; directing the South Florida Water Management District to revise certain rules and provide for a watershed research and water quality

115 monitoring program; revising provisions for the
116 Caloosahatchee River Watershed Protection Program and
117 the St. Lucie River Watershed Protection Program;
118 revising permitting and annual reporting requirements
119 relating to the Northern Everglades and Estuaries
120 Protection Program; providing enforcement provisions
121 for certain basin management action plans; amending s.
122 373.467, F.S.; revising the qualifications for
123 membership on the Harris Chain of Lakes Restoration
124 Council; authorizing the Lake County legislative
125 delegation to waive such membership qualifications for
126 good cause; providing for council vacancies; amending
127 s. 373.536, F.S.; requiring a water management
128 district to include an annual funding plan in the
129 water resource development work program; directing the
130 department to post the work program on its website;
131 amending s. 373.703, F.S.; authorizing water
132 management districts to join with private landowners
133 for the purpose of carrying out its powers; providing
134 an exception for certain pilot projects; amending s.
135 373.705, F.S.; revising legislative intent; requiring
136 water management district governing boards to include
137 certain information in their annual budget submittals;
138 providing first consideration for funding assistance
139 to certain water supply development projects;
140 requiring water management districts to promote
141 expanded cost-share criteria for additional
142 conservation practices; amending s. 373.707, F.S.;
143 authorizing water management districts to provide

144 technical and financial assistance to certain self-
145 suppliers and to waive certain construction costs of
146 alternative water supply development projects
147 sponsored by certain water users; requiring governing
148 boards to give significant weight for project funding
149 to whether the project is a pilot project; amending s.
150 373.709, F.S.; requiring regional water supply plans
151 to include traditional and alternative water supply
152 project options that are technically and financially
153 feasible; directing the department to include certain
154 funding analyses and project explanations in regional
155 water supply planning reports; creating part VIII of
156 ch. 373, F.S., entitled the "Florida Springs and
157 Aquifer Protection Act"; creating s. 373.801, F.S.;
158 providing legislative findings and intent; creating s.
159 373.802, F.S.; defining terms; creating s. 373.803,
160 F.S.; requiring the department to delineate a priority
161 focus area for each Outstanding Florida Spring by a
162 certain date; creating s. 373.805, F.S.; requiring a
163 water management district or the department to adopt
164 or revise various recovery or prevention strategies
165 under certain circumstances by a certain date;
166 providing minimum requirements for recovery or
167 prevention strategies for Outstanding Florida Springs;
168 authorizing local governments to apply for an
169 extension for projects in an adopted recovery or
170 prevention strategy; creating s. 373.807, F.S.;
171 requiring the department to initiate assessments of
172 Outstanding Florida Springs by a certain date;

173 requiring the department to develop basin management
174 action plans; authorizing local governments to apply
175 for an extension for projects in an adopted basin
176 management action plan; requiring certain local
177 governments to develop, enact, and implement an urban
178 fertilizer ordinance by a certain date; requiring the
179 department, the Department of Health, and local
180 governments to identify onsite sewage treatment and
181 disposal systems within each priority focus area;
182 requiring certain local governments to develop onsite
183 sewage treatment and disposal system remediation
184 plans; prohibiting property owners with identified
185 onsite sewage treatment and disposal systems from
186 being required to pay certain costs; creating s.
187 373.811, F.S.; specifying prohibited activities within
188 a priority focus area of an Outstanding Florida
189 Spring; creating s. 373.813, F.S.; providing
190 rulemaking authority; amending s. 403.061, F.S.;
191 requiring the department to create a consolidated
192 water resources work plan; directing the department to
193 adopt by rule a specific surface water classification
194 to protect surface waters used for treated potable
195 water supply; providing criteria for such rule;
196 authorizing the reclassification of surface waters
197 used for treated potable water supply notwithstanding
198 such rule; requiring the department to create and
199 maintain a web-based interactive map; creating s.
200 403.0616, F.S.; creating the Florida Water Resources
201 Advisory Council to provide the Legislature with

202 recommendations for projects submitted by governmental
203 entities; requiring the council to consolidate various
204 reports to enhance the water resources of this state;
205 requiring the department to adopt rules; creating s.
206 403.0617, F.S.; requiring the department to adopt
207 rules to fund certain pilot projects; amending s.
208 403.0623, F.S.; requiring the department to establish
209 certain standards to ensure statewide consistency;
210 requiring the department to maintain a centralized
211 database for testing results and analysis of water
212 quantity and quality data; requiring state agencies
213 and water management districts to use the department's
214 testing results and analyses in order to receive
215 certain funding; amending s. 403.067, F.S.; providing
216 requirements for new or revised best management action
217 plans; requiring the department adopt rules relating
218 to the enforcement and verification of best management
219 action plans and management strategies; creating s.
220 403.0675, F.S.; requiring the department to submit
221 annual reports; amending s. 403.861, F.S.; directing
222 the department to add treated potable water supply as
223 a designated use of a surface water segment under
224 certain circumstances; providing an effective date.
225
226 Be It Enacted by the Legislature of the State of Florida:
227
228 Section 1. Paragraph (g) is added to subsection (11) of
229 section 259.032, Florida Statutes, to read:
230 259.032 Conservation and Recreation Lands Trust Fund;

231 purpose.—
232 (11)
233 (g) In order to ensure that the public has knowledge of and
234 access to conservation lands, as defined in s. 253.034(2)(c),
235 the department shall publish, update, and maintain a database of
236 such lands where public access is compatible with conservation
237 and recreation purposes.
238 1. By July 1, 2016, the database must be available to the
239 public online and must include, at a minimum, the location,
240 types of allowable recreational opportunities, points of public
241 access, facilities or other amenities, restrictions, and any
242 other information the department deems appropriate to increase
243 public awareness of recreational opportunities on conservation
244 lands. Such data must be electronically accessible, searchable,
245 and downloadable in a generally acceptable format.
246 2. The department, through its own efforts or through
247 partnership with a third-party entity, shall create an
248 application downloadable on mobile devices to be used to locate
249 state lands available for public access using the user's
250 locational information or based upon an activity of interest.
251 3. The database and application must include information
252 for all state conservation lands to which the public has a right
253 of access for recreational purposes. Beginning January 1, 2018,
254 to the greatest extent practicable, the database shall include
255 similar information for lands owned by federal and local
256 government entities that allow access for recreational purposes.
257 4. By January 1 of each year, the department shall provide
258 a report to the Governor, the President of the Senate, and the
259 Speaker of the House of Representatives describing the

260 percentage of public lands acquired under this chapter to which
261 the public has access and efforts undertaken by the department
262 to increase public access to such lands.
263 Section 2. Section 260.0144, Florida Statutes, is amended
264 to read:
265 260.0144 Sponsorship of state greenways and trails.—The
266 department may enter into a concession agreement with a not-for-
267 profit entity or private sector business or entity for
268 commercial sponsorship to be displayed on state greenway and
269 trail facilities not included within the Shared-Use Nonmotorized
270 Trail Network established in chapter 339 ~~or property specified~~
271 ~~in this section~~. The department may establish the cost for
272 entering into a concession agreement.
273 (1) A concession agreement shall be administered by the
274 department and must include the requirements found in this
275 section.
276 (2)(a) Space for a commercial sponsorship display may be
277 provided through a concession agreement on certain state-owned
278 greenway or trail facilities or property.
279 (b) Signage or displays erected under this section shall
280 comply with the provisions of s. 337.407 and chapter 479, and
281 shall be limited as follows:
282 1. One large sign or display, not to exceed 16 square feet
283 in area, may be located at each trailhead or parking area.
284 2. One small sign or display, not to exceed 4 square feet
285 in area, may be located at each designated trail public access
286 point.
287 (c) Before installation, each name or sponsorship display
288 must be approved by the department.

289 (d) The department shall ensure that the size, color,
290 materials, construction, and location of all signs are
291 consistent with the management plan for the property and the
292 standards of the department, do not intrude on natural and
293 historic settings, and contain only a logo selected by the
294 sponsor and the following sponsorship wording:
295
296 ...(Name of the sponsor)... proudly sponsors the costs
297 of maintaining the ...(Name of the greenway or
298 trail)....
299
300 ~~(c) Sponsored state greenways and trails are authorized at~~
301 ~~the following facilities or property:~~
302 ~~1. Florida Keys Overseas Heritage Trail.~~
303 ~~2. Blackwater Heritage Trail.~~
304 ~~3. Tallahassee-St. Marks Historic Railroad State Trail.~~
305 ~~4. Nature Coast State Trail.~~
306 ~~5. Withlacoochee State Trail.~~
307 ~~6. General James A. Van Fleet State Trail.~~
308 ~~7. Palatka-Lake Butler State Trail.~~
309 (e) ~~(f)~~ The department may enter into commercial sponsorship
310 agreements for other state greenways or trails as authorized in
311 this section. A qualified entity that desires to enter into a
312 commercial sponsorship agreement shall apply to the department
313 on forms adopted by department rule.
314 (f) ~~(g)~~ All costs of a display, including development,
315 construction, installation, operation, maintenance, and removal
316 costs, shall be paid by the concessionaire.
317 (3) A concession agreement shall be for a minimum of 1

318 year, but may be for a longer period under a multiyear
319 agreement, and may be terminated for just cause by the
320 department upon 60 days' advance notice. Just cause for
321 termination of a concession agreement includes, but is not
322 limited to, violation of the terms of the concession agreement
323 or any provision of this section.
324 (4) Commercial sponsorship pursuant to a concession
325 agreement is for public relations or advertising purposes of the
326 not-for-profit entity or private sector business or entity, and
327 may not be construed by that not-for-profit entity or private
328 sector business or entity as having a relationship to any other
329 actions of the department.
330 (5) This section does not create a proprietary or
331 compensable interest in any sign, display site, or location.
332 (6) Proceeds from concession agreements shall be
333 distributed as follows:
334 (a) Eighty-five percent shall be deposited into the
335 appropriate department trust fund that is the source of funding
336 for management and operation of state greenway and trail
337 facilities and properties.
338 (b) Fifteen percent shall be deposited into the State
339 Transportation Trust Fund for use in the Traffic and Bicycle
340 Safety Education Program and the Safe Paths to School Program
341 administered by the Department of Transportation.
342 (7) The department may adopt rules to administer this
343 section.
344 Section 3. Subsections (3) and (4) of section 335.065,
345 Florida Statutes, are amended to read:
346 335.065 Bicycle and pedestrian ways along state roads and

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transportation facilities.—

(3) The department, in cooperation with the Department of Environmental Protection, shall establish a statewide integrated system of bicycle and pedestrian ways in such a manner as to take full advantage of any such ways which are maintained by any governmental entity. ~~The department may enter into a concession agreement with a not-for-profit entity or private sector business or entity for commercial sponsorship displays on multiuse trails and related facilities and use any concession agreement revenues for the maintenance of the multiuse trails and related facilities. Commercial sponsorship displays are subject to the requirements of the Highway Beautification Act of 1965 and all federal laws and agreements, when applicable. For the purposes of this section, bicycle facilities may be established as part of or separate from the actual roadway and may utilize existing road rights-of-way or other rights-of-way or easements acquired for public use.~~

~~(a) A concession agreement shall be administered by the department and must include the requirements of this section.~~

~~(b)1. Signage or displays erected under this section shall comply with s. 337.407 and chapter 479 and shall be limited as follows:~~

~~a. One large sign or display, not to exceed 16 square feet in area, may be located at each trailhead or parking area.~~

~~b. One small sign or display, not to exceed 4 square feet in area, may be located at each designated trail public access point.~~

~~2. Before installation, each name or sponsorship display must be approved by the department.~~

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~~3. The department shall ensure that the size, color, materials, construction, and location of all signs are consistent with the management plan for the property and the standards of the department, do not intrude on natural and historic settings, and contain only a logo selected by the sponsor and the following sponsorship wording:~~

~~...(Name of the sponsor)... proudly sponsors the costs of maintaining the ...(Name of the greenway or trail)....~~

~~4. All costs of a display, including development, construction, installation, operation, maintenance, and removal costs, shall be paid by the concessionaire.~~

~~(c) A concession agreement shall be for a minimum of 1 year, but may be for a longer period under a multiyear agreement, and may be terminated for just cause by the department upon 60 days' advance notice. Just cause for termination of a concession agreement includes, but is not limited to, violation of the terms of the concession agreement or this section.~~

~~(4)(a) The department may use appropriated funds to support the establishment of a statewide system of interconnected multiuse trails and to pay the costs of planning, land acquisition, design, and construction of such trails and related facilities. The department shall give funding priority to projects that:~~

~~1. Are identified by the Florida Greenways and Trails Council as a priority within the Florida Greenways and Trails~~

~~System under chapter 260.~~

~~2. Support the transportation needs of bicyclists and pedestrians.~~

~~3. Have national, statewide, or regional importance.~~

~~4. Facilitate an interconnected system of trails by completing gaps between existing trails.~~

~~(b) A project funded under this subsection shall:~~

~~1. Be included in the department's work program developed in accordance with s. 339.135.~~

~~2. Be operated and maintained by an entity other than the department upon completion of construction. The department is not obligated to provide funds for the operation and maintenance of the project.~~

Section 4. Section 339.81, Florida Statutes, is created to read:

339.81 Florida Shared-Use Nonmotorized Trail Network.—

(1) The Legislature finds that increasing demands continue to be placed on the state's transportation system by a growing economy, continued population growth, and increasing tourism. The Legislature also finds that significant challenges exist in providing additional capacity to the conventional transportation system and enhanced accommodation of alternative travel modes to meet the needs of residents and visitors are required. The Legislature further finds that improving bicyclist and pedestrian safety for both residents and visitors remains a high priority. Therefore, the Legislature declares that the development of a nonmotorized trail network will increase mobility and recreational alternatives for residents and visitors of this state, enhance economic prosperity, enrich

quality of life, enhance safety, and reflect responsible environmental stewardship. To that end, it is the intent of the Legislature that the department make use of its expertise in efficiently providing transportation projects and develop the Florida Shared-Use Nonmotorized Trail Network, consisting of a statewide network of nonmotorized trails, which allows nonmotorized vehicles and pedestrians to access a variety of origins and destinations with limited exposure to motorized vehicles.

(2) The Florida Shared-Use Nonmotorized Trail Network is created as a component of the Florida Greenways and Trails System established in chapter 260. The statewide network consists of multiuse trails or shared-use paths physically separated from motor vehicle traffic and constructed with asphalt, concrete, or another hard surface which, by virtue of design, location, extent of connectivity or potential connectivity, and allowable uses, provides nonmotorized transportation opportunities for bicyclists and pedestrians statewide between and within a wide range of points of origin and destinations, including, but not limited to, communities, conservation areas, state parks, beaches, and other natural or cultural attractions for a variety of trip purposes, including work, school, shopping, and other personal business, as well as social, recreational, and personal fitness purposes.

(3) Network components do not include sidewalks, nature trails, loop trails wholly within a single park or natural area, or on-road facilities, such as bicycle lanes or routes other than:

(a) On-road facilities that are no longer than one-half

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463 mile connecting two or more nonmotorized trails, if the
464 provision of a non-motorized trail without the use of the on-
465 road facility is not feasible, and if such on-road facilities
466 are signed and marked for nonmotorized use; or
467 (b) On-road components of the Florida Keys Overseas
468 Heritage Trail.
469 (4) The planning, development, operation, and maintenance
470 of the Florida Shared-Use Nonmotorized Trail Network is declared
471 to be a public purpose, and the department, together with other
472 agencies of this state and all counties, municipalities, and
473 special districts of this state, may spend public funds for such
474 purposes and accept gifts and grants of funds, property, or
475 property rights from public or private sources to be used for
476 such purposes.
477 (5) The department shall include the Florida Shared-Use
478 Nonmotorized Trail Network in its work program developed
479 pursuant to s. 339.135. For purposes of funding and maintaining
480 projects within the network, the department shall allocate in
481 its program and resource plan a minimum of $50 million annually,
482 beginning in the 2015-2016 fiscal year.
483 (6) The department may enter into a memorandum of agreement
484 with a local government or other agency of the state to transfer
485 maintenance responsibilities of an individual network component.
486 The department may contract with a not-for-profit entity or
487 private sector business or entity to provide maintenance
488 services on an individual network component.
489 (7) The department may adopt rules to aid in the
490 development and maintenance of components of the network.
491 Section 5. Section 339.82, Florida Statutes, is created to

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492 read:
493 339.82 Shared-Use Nonmotorized Trail Network Plan.—
494 (1) The department shall develop a network plan for the
495 Florida Shared-Use Nonmotorized Trail Network in coordination
496 with the Department of Environmental Protection, metropolitan
497 planning organizations, affected local governments and public
498 agencies, and the Florida Greenways and Trails Council. The plan
499 must be consistent with the Florida Greenways and Trails Plan
500 developed under s. 260.014 and must be updated at least once
501 every 5 years.
502 (2) The network plan must include all of the following:
503 (a) A needs assessment, including, but not limited to, a
504 comprehensive inventory and analysis of existing trails that may
505 be considered for inclusion in the Florida Shared-Use
506 Nonmotorized Trail Network.
507 (b) A project prioritization process that includes
508 assigning funding priority to projects that:
509 1. Are identified by the Florida Greenways and Trails
510 Council as a priority within the Florida Greenways and Trails
511 System under chapter 260;
512 2. Facilitate an interconnected network of trails by
513 completing gaps between existing facilities; and
514 3. Maximize use of federal, local, and private funding and
515 support mechanisms, including, but not limited to, donation of
516 funds, real property, and maintenance responsibilities.
517 (c) A map that illustrates existing and planned facilities
518 and identifies critical gaps between facilities.
519 (d) A finance plan based on reasonable projections of
520 anticipated revenues, including both 5-year and 10-year cost-

521 feasible components.
522 (e) Performance measures that include quantifiable
523 increases in trail network access and connectivity.
524 (f) A timeline for the completion of the base network using
525 new and existing data from the department, the Department of
526 Environmental Protection, and other sources.
527 (g) A marketing plan prepared in consultation with the
528 Florida Tourism Industry Marketing Corporation.
529 Section 6. Section 339.83, Florida Statutes, is created to
530 read:
531 339.83 Sponsorship of Shared-Use Nonmotorized Trails.—
532 (1) The department may enter into a concession agreement
533 with a not-for-profit entity or private sector business or
534 entity for commercial sponsorship signs, pavement markings, and
535 exhibits on nonmotorized trails and related facilities
536 constructed as part of the Shared-Use Nonmotorized Trail
537 Network. The concession agreement may also provide for
538 recognition of trail sponsors in any brochure, map, or website
539 providing trail information. Trail websites may provide links to
540 sponsors. Revenue from such agreements may be used for the
541 maintenance of the nonmotorized trails and related facilities.
542 (a) A concession agreement shall be administered by the
543 department.
544 (b)1. Signage, pavement markings, or exhibits erected
545 pursuant to this section must comply with s. 337.407 and chapter
546 479 and are limited as follows:
547 a. One large sign, pavement marking, or exhibit, not to
548 exceed 16 square feet in area, may be located at each trailhead
549 or parking area.

550 b. One small sign, pavement marking, or exhibit, not to
551 exceed 4 square feet in area, may be located at each designated
552 trail public access point where parking is not provided.
553 c. Pavement markings denoting specified distances must be
554 located at least 1 mile apart.
555 2. Before installation, each sign, pavement marking, or
556 exhibit must be approved by the department.
557 3. The department shall ensure that the size, color,
558 materials, construction, and location of all signs, pavement
559 markings, and exhibits are consistent with the management plan
560 for the property and the standards of the department, do not
561 intrude on natural and historic settings, and contain a logo
562 selected by the sponsor and the following sponsorship wording:
563
564 ...(Name of the sponsor)... proudly sponsors the costs
565 of maintaining the ...(Name of the greenway or
566 trail)....
567
568 4. Exhibits may provide additional information and
569 materials, including, but not limited to, maps and brochures for
570 trail user services related or proximate to the trail. Pavement
571 markings may display mile marker information.
572 5. The costs of a sign, pavement marking, or exhibit,
573 including development, construction, installation, operation,
574 maintenance, and removal costs, shall be paid by the
575 concessionaire.
576 (c) A concession agreement shall be for a minimum of 1
577 year, but may be for a longer period under a multiyear
578 agreement, and may be terminated for just cause by the

department upon 60 days' advance notice. Just cause for termination of a concession agreement includes, but is not limited to, violation of the terms of the concession agreement or this section.

(2) Pursuant to s. 287.057, the department may contract for the provision of services related to the trail sponsorship program, including recruitment and qualification of businesses, review of applications, permit issuance, and fabrication, installation, and maintenance of signs, pavement markings, and exhibits. The department may reject all proposals and seek another request for proposals or otherwise perform the work. The contract may allow the contractor to retain a portion of the annual fees as compensation for its services.

(3) This section does not create a proprietary or compensable interest in any sponsorship site or location for any permittee, and the department may terminate permits or change locations of sponsorship sites as it determines necessary for construction or improvement of facilities.

(4) The department may adopt rules to establish requirements for qualification of businesses, qualification and location of sponsorship sites, and permit applications and processing. The department may adopt rules to establish other criteria necessary to implement this section and to provide for variances when necessary to serve the interest of the public or when required to ensure equitable treatment of program participants.

Section 7. Subsection (24) of section 373.019, Florida Statutes, is amended to read:

373.019 Definitions.—When appearing in this chapter or in

any rule, regulation, or order adopted pursuant thereto, the term:

(24) "Water resource development" means the formulation and implementation of regional water resource management strategies, including the collection and evaluation of surface water and groundwater data; structural and nonstructural programs to protect and manage water resources; the development of regional water resource implementation programs; the construction, operation, and maintenance of major public works facilities to provide for flood control, surface and underground water storage, and groundwater recharge augmentation; and related technical assistance to local governments, ~~and to~~ government-owned and privately owned water utilities, and self-suppliers to the extent assistance to self-suppliers promotes the policies as set forth in s. 373.016.

Section 8. Paragraph (b) of subsection (7) of section 373.036, Florida Statutes, is amended to read:

373.036 Florida water plan; district water management plans.—

(7) CONSOLIDATED WATER MANAGEMENT DISTRICT ANNUAL REPORT.—

(b) The consolidated annual report shall contain the following elements, as appropriate to that water management district:

1. A district water management plan annual report or the annual work plan report allowed in subparagraph (2)(e)4.

2. The department-approved minimum flows and minimum water levels annual priority list and schedule required by s. 373.042(3) ~~s. 373.042(2)~~.

3. The annual 5-year capital improvements plan required by

637 s. 373.536(6)(a)3.
638 4. The alternative water supplies annual report required by
639 s. 373.707(8)(n).
640 5. The final annual 5-year water resource development work
641 program required by s. 373.536(6)(a)4.
642 6. The Florida Forever Water Management District Work Plan
643 annual report required by s. 373.199(7).
644 7. The mitigation donation annual report required by s.
645 373.414(1)(b)2.
646 8. Information on all projects related to water quality or
647 water quantity as part of a 5-year work program, including:
648 a. A list of all specific projects identified to implement
649 a basin management action plan or a recovery or prevention
650 strategy;
651 b. A priority ranking for each listed project for which
652 state funding through the water resources work program is
653 requested, which must be made available to the public for
654 comment at least 30 days before submission of the consolidated
655 annual report;
656 c. The estimated cost for each listed project;
657 d. The estimated completion date for each listed project;
658 e. The source and amount of financial assistance to be made
659 available by the department, a water management district, or
660 other entity for each listed project; and
661 f. A quantitative estimate of each listed project's benefit
662 to the watershed, water body, or water segment in which it is
663 located.
664 9. A grade for each watershed, water body, or water segment
665 in which a project listed under subparagraph 8. is located

666 representing the level of impairment and violations of adopted
667 minimum flow or minimum water level. The grading system must
668 reflect the severity of the impairment of the watershed,
669 waterbody, or water segment.
670 Section 9. Section 373.037, Florida Statutes, is created to
671 read:
672 373.037 Pilot program for alternative water supply
673 development in restricted allocation areas.—
674 (1) As used in this section, the term:
675 (a) "Central Florida Water Initiative Area" means all of
676 Orange, Osceola, Polk, and Seminole Counties, and southern Lake
677 County, as designated by the Central Florida Water Initiative
678 Guiding Document of January 30, 2015.
679 (b) "Lower East Coast Regional Water Supply Planning Area"
680 means the areas withdrawing surface and groundwater from Water
681 Conservation Areas 1, 2A, 2B, 3A, and 3B, Grassy Waters
682 Preserve/Water Catchment Area, Pal Mar, J.W. Corbett Wildlife
683 Management Area, Loxahatchee Slough, Loxahatchee River,
684 Riverbend Park, Dupuis Reserve, Jonathan Dickinson State Park,
685 Kitching Creek, Moonshine Creek, Cypress Creek, Hobe Grove
686 Ditch, the Holey Land and Rotenberger Wildlife Management Areas,
687 and the freshwater portions of the Everglades National Park, as
688 designated by the South Florida Water Management District.
689 (c) "Restricted allocation area" means an area within a
690 water supply planning region of the Southwest Florida Water
691 Management District, the South Florida Water Management
692 District, or the St. Johns River Water Management District where
693 the governing board of the water management district has
694 determined that existing sources of water are not adequate to

695 supply water for all existing and future reasonable-beneficial
696 uses and to sustain the water resources and related natural
697 systems for the planning period pursuant to ss. 373.036 and
698 373.709 and where the governing board of the water management
699 district has applied allocation restrictions with regard to the
700 use of specific sources of water. For the purposes of this
701 section, the term includes the Central Florida Water Initiative
702 Area, the Lower East Coast Regional Water Supply Planning Area,
703 the Southern Water Use Caution Area, and the Upper East Coast
704 Regional Water Supply Planning Area.
705 (d) "Southern Water Use Caution Area" means all of Desoto,
706 Hardee, Manatee, and Sarasota Counties and parts of Charlotte,
707 Highlands, Hillsborough, and Polk Counties, as designated by the
708 Southwest Florida Water Management District.
709 (e) "Upper East Coast Regional Water Supply Planning Area"
710 means the areas withdrawing surface and groundwater from the
711 Central and Southern Florida canals or the Floridan Aquifer, as
712 designated by the South Florida Water Management District.
713 (2) The Legislature finds that:
714 (a) Local governments, regional water supply authorities,
715 and government-owned and privately owned water utilities face
716 significant challenges in securing funds for implementing large-
717 scale alternative water supply projects in certain restricted
718 allocation areas due to a variety of factors, such as the
719 magnitude of the water resource challenges, the large number of
720 water users, the difficulty of developing multijurisdictional
721 solutions across district, county, or municipal boundaries, and
722 the expense of developing large-scale alternative water supply
723 projects identified in the regional water supply plans pursuant

724 to s. 373.709.
725 (b) These challenges have resulted in some cases in failure
726 to achieve minimum flows and minimum water levels, to mitigate
727 and avoid harm to the water resource and related natural
728 systems, to provide adequate water supply for all existing and
729 projected reasonable-beneficial uses, and to sustain the water
730 resources and related natural systems within certain restricted
731 allocation areas.
732 (c) These factors make it necessary for the Southwest
733 Florida Water Management District, the South Florida Water
734 Management District, and the St. Johns River Water Management
735 District to each take the lead in developing and implementing
736 one alternative water supply project within a restricted
737 allocation area as a pilot alternative water supply development
738 project.
739 (d) The traditional role of local governments, regional
740 water supply authorities, and government-owned and privately
741 owned water utilities will be maintained by requiring the water
742 management districts to turn over ownership and control of a
743 pilot project to the project participants if they can secure the
744 funds to implement the pilot project and resolve any governance
745 issues over the development, implementation, and operation of
746 the pilot project.
747 (e) The development and implementation of one alternative
748 water supply project each by the Southwest Florida Water
749 Management District, the South Florida Water Management
750 District, and the St. Johns River Water Management District
751 within a restricted allocation area as a pilot project is for
752 the benefit of the public health, safety, and welfare and is in

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753 the public interest. The pilot projects must provide water
754 supply and environmental benefits. Consideration shall be given
755 to projects that provide reductions in damaging discharges to
756 tide or are part of a recovery or prevention strategy for
757 minimum flows and minimum water levels.
758 (3) The Southwest Florida Water Management District, the
759 South Florida Water Management District, and the St. Johns River
760 Water Management District shall each designate and implement an
761 existing alternative water supply project, identified in its
762 regional water supply plan, as its one pilot project or amend
763 its regional water supply plan to add a new alternative water
764 supply project as its one pilot project. The pilot project
765 designation shall be made no later than July 1, 2016, and is not
766 subject to the rulemaking requirements of chapter 120 or subject
767 to legal challenge pursuant to ss. 120.569 and 120.57. Once
768 designated, the pilot project shall be considered a use
769 resulting in an enhancement of the water resources of the area
770 and entitled to a preference over other uses in the event of
771 competing applications pursuant to s. 373.036(5). A water
772 management district may designate an alternative water supply
773 project located within another water management district if the
774 project is located in a restricted allocation area designated by
775 the other water management district and a substantial quantity
776 of water provided by the alternative water supply project will
777 be used within the designating water management district's
778 boundaries.
779 (4) In addition to their other powers and duties under this
780 chapter, the governing boards of the Southwest Florida Water
781 Management District, the South Florida Water Management

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782 District, and the St. Johns River Water Management District have
783 the following powers and are subject to the following
784 restrictions in implementing their respective pilot projects
785 pursuant to this section:
786 (a) May establish, design, construct, operate, and maintain
787 water production, treatment and transmission, or other related
788 facilities for the purpose of supplying water to counties,
789 municipalities, special districts, publicly owned and privately
790 owned water utilities, multijurisdictional water supply
791 entities, other large water users, or regional water supply
792 authorities.
793 (b) May not engage in local water supply distribution.
794 (c) May supply water at a cost not to exceed expenses
795 directly related to the planning, design, development,
796 implementation, operation, and maintenance of the pilot project.
797 The cost of such water shall be established by the governing
798 board only after a public hearing at which pilot project
799 customers have an opportunity to be heard concerning the
800 proposed cost.
801 (d) Must provide credit toward the pro rata cost of the
802 water to be supplied from the pilot project to a customer equal
803 to any expenses incurred by the customer toward the
804 implementation of the pilot project before the water management
805 district's designation and implementation of the pilot project.
806 (e) In addition to the power to issue revenue bonds
807 pursuant to s. 373.584, may issue revenue bonds for the purpose
808 of paying the costs and expenses incurred in carrying out the
809 purposes of this section or refunding obligations of the water
810 management district issued pursuant to this section. All

811 provisions of s. 373.584 relating to the issuance of revenue
812 bonds which are not inconsistent with this section apply to the
813 issuance of revenue bonds pursuant to this section. The water
814 management districts may also issue bond anticipation notes in
815 accordance with s. 373.584.
816 (f) May join with one or more other water management
817 districts, counties, municipalities, special districts, publicly
818 owned or privately owned water utilities, multijurisdictional
819 water supply entities, regional water supply authorities, self-
820 suppliers, or other entities for the purpose of carrying out
821 their powers, and may contract with any such other entities to
822 finance or otherwise implement acquisitions, construction, and
823 operation and maintenance, if such contracts are consistent with
824 the public interest and based upon independent cost estimates,
825 including comparisons with other alternative water supply
826 projects. The contracts may provide for contributions to be made
827 by each party to the contract for the division and apportionment
828 of resulting costs, including capital, operations and
829 maintenance, benefits, services, and products. The contracts may
830 contain other covenants and agreements necessary and appropriate
831 to accomplish their purposes.
832 (5) The water management districts may provide up to 50
833 percent of funding assistance for the pilot project. If the
834 pilot project selected by a water management district is the
835 subject of a cooperative funding agreement, the water management
836 district may not reduce the level of funding assistance
837 previously committed.
838 (6) If the pilot project customers form a
839 multijurisdictional water supply entity to implement and develop

840 the pilot project selected by a water management district on or
841 before July 1, 2017, and take substantive steps to develop and
842 implement the project, such as entering into water supply
843 contracts, issuing revenue bonds or bond anticipation notes to
844 finance the project, or awarding construction contracts to
845 construct the project in whole or in part, the water management
846 district is prohibited from proceeding with implementation and
847 development of the selected pilot project. The water management
848 district may designate a new pilot project within 1 year after
849 the creation of the multijurisdictional entity and the
850 completion of at least one substantive step by the
851 multijurisdictional entity to implement the project.
852 (7) If the pilot project customers form a
853 multijurisdictional water supply entity to take over
854 construction, operation, maintenance, and control of the pilot
855 project at any time during the life of the pilot project, the
856 water management district must transfer ownership and control of
857 the pilot project to the pilot project customers upon repayment
858 of any revenue bonds or other obligations issued by the water
859 management district to develop and implement the pilot project
860 and any outstanding expenses incurred by the water management
861 district in constructing, operating, and maintaining the pilot
862 project. Pilot project customers are not responsible for
863 repayment of any cooperative funding provided by a water
864 management district for the pilot project. In such an event, the
865 water management district may develop and implement another
866 pilot project within a restricted allocation area.
867 (8) No later than 3 years following designation of the
868 pilot project pursuant to subsection (3), the Southwest Florida

869 Water Management District, the South Florida Water Management
870 District, and the St. Johns River Water Management District
871 shall each submit a report to the Governor, the President of the
872 Senate, and the Speaker of the House of Representatives on the
873 effectiveness of its pilot project, including the following
874 information:
875 (a) A description of the alternative water supply project
876 selected as a pilot project by the respective water management
877 districts, including the quantity of water the project has
878 produced or is expected to produce and the consumptive users who
879 are expected to use the water produced by the pilot project to
880 meet their existing and projected reasonable-beneficial need.
881 (b) Progress made in developing and implementing the pilot
882 project in comparison to development and implementation of other
883 alternative water supply projects in the restricted allocation
884 area.
885 (c) The capital and operation costs to be expended by the
886 water management district in implementing the pilot project in
887 comparison to other alternative water supply projects being
888 developed and implemented in the restricted allocation area.
889 (d) The source of funds used or to be used by the water
890 management district in developing and implementing the pilot
891 project.
892 (e) The unit cost of water produced from the pilot project
893 in comparison to the unit cost of water from other alternative
894 water supply projects being developed in the restricted
895 allocation area.
896 (f) The benefits to the water resources and natural systems
897 from implementation of the pilot project.

898 (g) A recommendation as to whether the traditional role of
899 water management districts regarding the development and
900 implementation of alternative water supply projects, as
901 specified in ss. 373.705 and 373.707, should be revised and, if
902 so, identification of the statutory changes necessary to expand
903 the scope of the pilot program.
904 Section 10. Section 373.042, Florida Statutes, is amended
905 to read:
906 373.042 Minimum flows and minimum water levels.—
907 (1) Within each section, or within the water management
908 district as a whole, the department or the governing board shall
909 establish the following:
910 (a) Minimum flow for all surface watercourses in the area.
911 The minimum flow for a given watercourse is ~~shall be~~ the limit
912 at which further withdrawals would be significantly harmful to
913 the water resources or ecology of the area.
914 (b) Minimum water level. The minimum water level is ~~shall~~
915 ~~be~~ the level of groundwater in an aquifer and the level of
916 surface water at which further withdrawals would be
917 significantly harmful to the water resources or ecology of the
918 area.
919
920 The minimum flow and minimum water level shall be calculated by
921 the department and the governing board using the best
922 information available. When appropriate, minimum flows and
923 minimum water levels may be calculated to reflect seasonal
924 variations. The department and the governing board shall ~~also~~
925 consider, and at their discretion may provide for, the
926 protection of nonconsumptive uses in the establishment of

927 minimum flows and minimum water levels.
928 (2)(a) If a minimum flow or minimum water level has been
929 established for an Outstanding Florida Spring, a water
930 management district or the department shall use the emergency
931 rulemaking authority provided in paragraph (c) to adopt a
932 minimum flow or minimum water level no later than July 1, 2016,
933 except for the Northwest Florida Water Management District,
934 which shall expeditiously adopt minimum flows and minimum water
935 levels for Outstanding Florida Springs no later than July 1,
936 2026.
937 (b) For Outstanding Florida Springs identified on a water
938 management district's priority list developed pursuant to
939 subsection (3) which have the potential to be affected by
940 withdrawals in an adjacent district, the adjacent district or
941 districts and the department shall collaboratively develop and
942 implement a recovery or prevention strategy for an Outstanding
943 Florida Spring not meeting an adopted minimum flow or minimum
944 water level.
945 (c) The Legislature finds that the failure to adopt minimum
946 flows and minimum water levels or recovery or prevention
947 strategies for Outstanding Florida Springs has resulted in an
948 immediate danger to the public health, safety, and welfare and
949 that immediate action must be taken to address the condition of
950 Outstanding Florida Springs. The district or the department
951 shall use emergency rulemaking provisions pursuant to s.
952 120.54(4) to adopt minimum flows and minimum water levels under
953 this subsection and recovery or prevention strategies adopted
954 concurrently with a minimum flow or minimum water level pursuant
955 to s. 373.805(2).

956 (3) ~~(2)~~ By November 15, 1997, and annually thereafter, each
957 water management district shall submit to the department for
958 review and approval a priority list and schedule for the
959 establishment of minimum flows and minimum water levels for
960 surface watercourses, aquifers, and surface waters within the
961 district. The priority list and schedule shall identify those
962 listed water bodies for which the district will voluntarily
963 undertake independent scientific peer review; any reservations
964 proposed by the district to be established pursuant to s.
965 373.223(4); and those listed water bodies that have the
966 potential to be affected by withdrawals in an adjacent district
967 for which the department's adoption of a reservation pursuant to
968 s. 373.223(4) or a minimum flow or minimum water level pursuant
969 to subsection (1) may be appropriate. By March 1, 2006, and
970 annually thereafter, each water management district shall
971 include its approved priority list and schedule in the
972 consolidated annual report required by s. 373.036(7). The
973 priority list shall be based upon the importance of the waters
974 to the state or region and the existence of or potential for
975 significant harm to the water resources or ecology of the state
976 or region, and shall include those waters which are experiencing
977 or may reasonably be expected to experience adverse impacts.
978 Each water management district's priority list and schedule
979 shall include all first magnitude springs, and all second
980 magnitude springs within state or federally owned lands
981 purchased for conservation purposes. The specific schedule for
982 establishment of spring minimum flows and minimum water levels
983 shall be commensurate with the existing or potential threat to
984 spring flow from consumptive uses. Springs within the Suwannee

985 River Water Management District, or second magnitude springs in
986 other areas of the state, need not be included on the priority
987 list if the water management district submits a report to the
988 Department of Environmental Protection demonstrating that
989 adverse impacts are not now occurring nor are reasonably
990 expected to occur from consumptive uses during the next 20
991 years. The priority list and schedule is not subject to any
992 proceeding pursuant to chapter 120. Except as provided in
993 subsection (4) ~~(3)~~, the development of a priority list and
994 compliance with the schedule for the establishment of minimum
995 flows and minimum water levels pursuant to this subsection
996 satisfies the requirements of subsection (1).
997 (4) ~~(3)~~ Minimum flows or minimum water levels for priority
998 waters in the counties of Hillsborough, Pasco, and Pinellas
999 shall be established by October 1, 1997. Where a minimum flow or
1000 minimum water level for the priority waters within those
1001 counties has not been established by the applicable deadline,
1002 the secretary of the department shall, if requested by the
1003 governing body of any local government within whose jurisdiction
1004 the affected waters are located, establish the minimum flow or
1005 minimum water level in accordance with the procedures
1006 established by this section. The department's reasonable costs
1007 in establishing a minimum flow or minimum water level shall,
1008 upon request of the secretary, be reimbursed by the district.
1009 (5) ~~(4)~~ A water management district shall provide the
1010 department with technical information and staff support for the
1011 development of a reservation, minimum flow or minimum water
1012 level, or recovery or prevention strategy to be adopted by the
1013 department by rule. A water management district shall apply any

1014 reservation, minimum flow or minimum water level, or recovery or
1015 prevention strategy adopted by the department by rule without
1016 the district's adoption by rule of such reservation, minimum
1017 flow or minimum water level, or recovery or prevention strategy.
1018 (6) ~~(5)~~(a) Upon written request to the department or
1019 governing board by a substantially affected person, or by
1020 decision of the department or governing board, prior to the
1021 establishment of a minimum flow or minimum water level and prior
1022 to the filing of any petition for administrative hearing related
1023 to the minimum flow or minimum water level, all scientific or
1024 technical data, methodologies, and models, including all
1025 scientific and technical assumptions employed in each model,
1026 used to establish a minimum flow or minimum water level shall be
1027 subject to independent scientific peer review. Independent
1028 scientific peer review means review by a panel of independent,
1029 recognized experts in the fields of hydrology, hydrogeology,
1030 limnology, biology, and other scientific disciplines, to the
1031 extent relevant to the establishment of the minimum flow or
1032 minimum water level.
1033 (b) If independent scientific peer review is requested, it
1034 shall be initiated at an appropriate point agreed upon by the
1035 department or governing board and the person or persons
1036 requesting the peer review. If no agreement is reached, the
1037 department or governing board shall determine the appropriate
1038 point at which to initiate peer review. The members of the peer
1039 review panel shall be selected within 60 days of the point of
1040 initiation by agreement of the department or governing board and
1041 the person or persons requesting the peer review. If the panel
1042 is not selected within the 60-day period, the time limitation

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1043 may be waived upon the agreement of all parties. If no waiver
1044 occurs, the department or governing board may proceed to select
1045 the peer review panel. The cost of the peer review shall be
1046 borne equally by the district and each party requesting the peer
1047 review, to the extent economically feasible. The panel shall
1048 submit a final report to the governing board within 120 days
1049 after its selection unless the deadline is waived by agreement
1050 of all parties. Initiation of peer review pursuant to this
1051 paragraph shall toll any applicable deadline under chapter 120
1052 or other law or district rule regarding permitting, rulemaking,
1053 or administrative hearings, until 60 days following submittal of
1054 the final report. Any such deadlines shall also be tolled for 60
1055 days following withdrawal of the request or following agreement
1056 of the parties that peer review will no longer be pursued. The
1057 department or the governing board shall give significant weight
1058 to the final report of the peer review panel when establishing
1059 the minimum flow or minimum water level.
1060 (c) If the final data, methodologies, and models, including
1061 all scientific and technical assumptions employed in each model
1062 upon which a minimum flow or level is based, have undergone peer
1063 review pursuant to this subsection, by request or by decision of
1064 the department or governing board, no further peer review shall
1065 be required with respect to that minimum flow or minimum water
1066 level.
1067 (d) No minimum flow or minimum water level adopted by rule
1068 or formally noticed for adoption on or before May 2, 1997, shall
1069 be subject to the peer review provided for in this subsection.
1070 (7) ~~(6)~~ If a petition for administrative hearing is filed
1071 under chapter 120 challenging the establishment of a minimum

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1072 flow or minimum water level, the report of an independent
1073 scientific peer review conducted under subsection (5) ~~(4)~~ is
1074 admissible as evidence in the final hearing, and the
1075 administrative law judge must render the order within 120 days
1076 after the filing of the petition. The time limit for rendering
1077 the order shall not be extended except by agreement of all the
1078 parties. To the extent that the parties agree to the findings of
1079 the peer review, they may stipulate that those findings be
1080 incorporated as findings of fact in the final order.
1081 (8) The rules adopted pursuant to this section are not
1082 subject to s. 120.541(3).
1083 Section 11. Section 373.0421, Florida Statutes, is amended
1084 to read:
1085 373.0421 Establishment and implementation of minimum flows
1086 and minimum levels.—
1087 (1) ESTABLISHMENT.—
1088 (a) *Considerations.*—When establishing minimum flows and
1089 minimum water levels pursuant to s. 373.042, the department or
1090 governing board shall consider changes and structural
1091 alterations to watersheds, surface waters, and aquifers and the
1092 effects such changes or alterations have had, and the
1093 constraints such changes or alterations have placed, on the
1094 hydrology of an affected watershed, surface water, or aquifer,
1095 provided that nothing in this paragraph shall allow significant
1096 harm as provided by s. 373.042(1) caused by withdrawals.
1097 (b) *Exclusions.*—
1098 1. The Legislature recognizes that certain water bodies no
1099 longer serve their historical hydrologic functions. The
1100 Legislature also recognizes that recovery of these water bodies

1101 to historical hydrologic conditions may not be economically or
1102 technically feasible, and that such recovery effort could cause
1103 adverse environmental or hydrologic impacts. Accordingly, the
1104 department or governing board may determine that setting a
1105 minimum flow or minimum water level for such a water body based
1106 on its historical condition is not appropriate.
1107 2. The department or the governing board is not required to
1108 establish minimum flows or minimum water levels pursuant to s.
1109 373.042 for surface water bodies less than 25 acres in area,
1110 unless the water body or bodies, individually or cumulatively,
1111 have significant economic, environmental, or hydrologic value.
1112 3. The department or the governing board shall not set
1113 minimum flows or minimum water levels pursuant to s. 373.042 for
1114 surface water bodies constructed prior to the requirement for a
1115 permit, or pursuant to an exemption, a permit, or a reclamation
1116 plan which regulates the size, depth, or function of the surface
1117 water body under the provisions of this chapter, chapter 378, or
1118 chapter 403, unless the constructed surface water body is of
1119 significant hydrologic value or is an essential element of the
1120 water resources of the area.
1121
1122 The exclusions of this paragraph shall not apply to the
1123 Everglades Protection Area, as defined in s. 373.4592(2)(i).
1124 (2) If the existing flow or water level in a water body is
1125 below, or is projected to fall within 20 years below, the
1126 applicable minimum flow or minimum water level established
1127 pursuant to s. 373.042, the department or governing board,
1128 concurrent with the adoption of the minimum flow or minimum
1129 water level and as part of the regional water supply plan

1130 described in s. 373.709, shall adopt and ~~expeditiously~~ implement
1131 a recovery or prevention strategy, which includes the
1132 development of additional water supplies and other actions,
1133 consistent with the authority granted by this chapter, to:
1134 (a) Achieve recovery to the established minimum flow or
1135 minimum water level as soon as practicable; or
1136 (b) Prevent the existing flow or water level from falling
1137 below the established minimum flow or minimum water level.
1138
1139 The recovery or prevention strategy must ~~shall~~ include a phased
1140 in approach ~~phasing~~ or a timetable which will allow for the
1141 provision of sufficient water supplies for all existing and
1142 projected reasonable-beneficial uses, including development of
1143 additional water supplies and implementation of conservation and
1144 other efficiency measures concurrent with and, to the maximum
1145 extent practical, ~~and~~ to offset~~,~~ reductions in permitted
1146 withdrawals, consistent with ~~the provisions of~~ this chapter. The
1147 recovery or prevention strategy may not depend solely on water
1148 shortage restrictions declared pursuant to s. 373.175 or s.
1149 373.246.
1150 (3) In order to ensure that sufficient water is available
1151 for all existing and future reasonable-beneficial uses and the
1152 natural systems, the applicable regional water supply plan
1153 prepared pursuant to s. 373.709 shall be amended to include any
1154 water supply development project or water resource development
1155 project identified in a recovery or prevention strategy. Such
1156 amendment shall be approved concurrently with relevant portions
1157 of the recovery or prevention strategy.
1158 (4) The water management district shall notify the

1159 department if an application for a water use permit is denied
1160 based upon the impact that the use will have on an adopted
1161 minimum flow or minimum water level. Upon receipt of such
1162 notice, the department shall, as soon as practicable and in
1163 cooperation with the water management district, conduct a review
1164 of the applicable regional water supply plan prepared pursuant
1165 to s. 373.709. Such review shall include an assessment by the
1166 department of the adequacy of the plan in addressing the
1167 legislative intent of s. 373.705(2)(b) which provides that
1168 sufficient water be available for all existing and future
1169 reasonable-beneficial uses and natural systems and that the
1170 adverse effects of competition for water supplies be avoided. If
1171 the department determines, based upon this review, that the
1172 regional water supply plan does not adequately address the
1173 legislative intent of s. 373.705(2)(b), the water management
1174 district shall immediately initiate an update of the plan
1175 consistent with s. 373.709.
1176 (5) ~~(3)~~ The provisions of this section are supplemental to
1177 any other specific requirements or authority provided by law.
1178 Minimum flows and minimum water levels shall be reevaluated
1179 periodically and revised as needed.
1180 Section 12. Section 373.0465, Florida Statutes, is created
1181 to read:
1182 373.0465 Central Florida Water Initiative.-
1183 (1) The Legislature finds that:
1184 (a) Historically, the Floridan Aquifer system has supplied
1185 the vast majority of the water used in the Central Florida
1186 Coordination Area.
1187 (b) Because the boundaries of the St. Johns River Water

1188 Management District, the South Florida Water Management
1189 District, and the Southwest Florida Water Management District
1190 meet within the Central Florida Coordination Area, the three
1191 districts and the Department of Environmental Protection have
1192 worked cooperatively to determine that the Floridan Aquifer
1193 system is locally approaching the sustainable limits of use and
1194 are exploring the need to develop sources of water to meet the
1195 long-term water needs of the area.
1196 (c) The Central Florida Water Initiative is a collaborative
1197 process involving the Department of Environmental Protection,
1198 the St. Johns River Water Management District, the South Florida
1199 Water Management District, the Southwest Florida Water
1200 Management District, the Department of Agriculture and Consumer
1201 Services, regional public water supply utilities, and other
1202 stakeholders. As set forth in the Central Florida Water
1203 Initiative Guiding Document of January 30, 2015, the initiative
1204 has developed an initial framework, for a unified process to
1205 address the current and long-term water supply needs of Central
1206 Florida without causing harm to the water resources and
1207 associated natural systems.
1208 (d) Developing water sources as an alternative to continued
1209 reliance on the Floridan Aquifer will benefit existing and
1210 future water users and natural systems within and beyond the
1211 boundaries of the Central Florida Water Initiative.
1212 (2)(a) As used in this section, the term "Central Florida
1213 Water Initiative Area" means all of Orange, Osceola, Polk, and
1214 Seminole Counties, and southern Lake County, as designated by
1215 the Central Florida Water Initiative Guiding Document of January
1216 30, 2015.

1217 (b) The department, the St. Johns River Water Management
1218 District, the South Florida Water Management District, the
1219 Southwest Florida Water Management District, and the Department
1220 of Agriculture and Consumer Services shall:
1221 1. Provide for a continuation of the collaborative process
1222 in the Central Florida Water Initiative Area among the state
1223 agencies, affected water management districts, regional public
1224 water supply utilities, and other stakeholders;
1225 2. Build upon the guiding principles and goals set forth in
1226 the Central Florida Water Initiative Guiding Document of January
1227 30, 2015, and the work that has already been accomplished by the
1228 Central Florida Water Initiative participants;
1229 3. Develop and implement, as set forth in the Central
1230 Florida Water Initiative Guiding Document of January 30, 2015, a
1231 single multidistrict regional water supply plan, including any
1232 needed recovery or prevention strategies and a list of water
1233 supply development projects or water resource projects; and
1234 4. Provide for a single hydrologic planning model to assess
1235 the availability of groundwater in the Central Florida Water
1236 Initiative Area.
1237 (c) In developing the water supply planning program
1238 consistent with the goals set forth in this subsection, the
1239 department, the St. Johns River Water Management District, the
1240 South Florida Water Management District, the Southwest Florida
1241 Water Management District, and the Department of Agriculture and
1242 Consumer Services shall:
1243 1. Consider limitations on groundwater use together with
1244 opportunities for new, increased, or redistributed groundwater
1245 uses that are consistent with the conditions established under

1246 s. 373.223;
1247 2. Establish a coordinated process for the identification
1248 of water resources requiring new or revised conditions
1249 consistent with the conditions established under s. 373.223;
1250 3. Consider existing recovery or prevention strategies;
1251 4. Include a list of water supply options sufficient to
1252 meet the water needs of all existing and future reasonable-
1253 beneficial uses consistent with the conditions established under
1254 s. 373.223; and
1255 5. Identify, as necessary, which of the water supply
1256 sources are preferred water supply sources pursuant to s.
1257 373.2234.
1258 (d) The department, in consultation with the St. Johns
1259 River Water Management District, the South Florida Water
1260 Management District, the Southwest Florida Water Management
1261 District, and the Department of Agriculture and Consumer
1262 Services, shall adopt uniform rules for application within the
1263 Central Florida Water Initiative Area that include:
1264 1. A single, uniform definition of “harmful to the water
1265 resources” consistent with the term’s usage in s. 373.219;
1266 2. A single method for calculating residential per capita
1267 water use;
1268 3. A single process for permit reviews;
1269 4. A single, consistent process, as appropriate, to set
1270 minimum flows and minimum water levels and water reservations;
1271 5. A goal for residential per capita water use for each
1272 consumptive use permit; and
1273 6. An annual conservation goal for each consumptive use
1274 permit consistent with the regional water supply plan.

1275

1276 The uniform rules shall include existing recovery strategies
1277 within the Central Florida Water Initiative Area adopted before
1278 July 1, 2015. The department may grant variances to the uniform
1279 rules if there are unique circumstances or hydrogeological
1280 factors that make application of the uniform rules unrealistic
1281 or impractical.
1282 (e) The department shall initiate rulemaking for the
1283 uniform rules by December 31, 2015. The department's uniform
1284 rules shall be applied by the water management districts only
1285 within the Central Florida Water Initiative Area. Upon adoption
1286 of the rules, the water management districts shall implement the
1287 rules without further rulemaking pursuant to s. 120.54. The
1288 rules adopted by the department pursuant to this section are
1289 considered the rules of the water management districts.
1290 (f) Water management district planning programs developed
1291 pursuant this subsection shall be approved or adopted as
1292 required under this chapter. However, such planning programs may
1293 not serve to modify planning programs in areas of the affected
1294 districts that are not within the Central Florida Water
1295 Initiative Area, but may include interregional projects located
1296 outside the Central Florida Water Initiative Area which are
1297 consistent with planning and regulatory programs in the areas in
1298 which they are located.
1299 Section 13. Subsection (4) of section 373.1501, Florida
1300 Statutes, is amended, present subsections (7) and (8) are
1301 renumbered as subsections (8) and (9), respectively, and a new
1302 subsection (7) is added to that section, to read:
1303 373.1501 South Florida Water Management District as local

1304 sponsor.—
1305 (4) The district is authorized to act as local sponsor of
1306 the project for those project features within the district as
1307 provided in this subsection and subject to the oversight of the
1308 department as further provided in s. 373.026. The district shall
1309 exercise the authority of the state to allocate quantities of
1310 water within its jurisdiction, including the water supply in
1311 relation to the project, and be responsible for allocating water
1312 and assigning priorities among the other water uses served by
1313 the project pursuant to state law. The district may:
1314 (a) Act as local sponsor for all project features
1315 previously authorized by Congress.~~;~~
1316 (b) Continue data gathering, analysis, research, and design
1317 of project components, participate in preconstruction
1318 engineering and design documents for project components, and
1319 further refine the Comprehensive Plan of the restudy as a guide
1320 and framework for identifying other project components.~~;~~
1321 (c) Construct pilot projects that will assist in
1322 determining the feasibility of technology included in the
1323 Comprehensive Plan of the restudy.~~; and~~
1324 (d) Act as local sponsor for project components.
1325 (7) When developing or implementing water control plans or
1326 regulation schedules required for the operation of the project,
1327 the district shall provide recommendations to the United States
1328 Army Corps of Engineers which are consistent with all district
1329 programs and plans.
1330 Section 14. Subsection (3) is added to section 373.219,
1331 Florida Statutes, to read:
1332 373.219 Permits required.—

1333 (3) The department shall adopt by rule a uniform definition
1334 of the term "harmful to the water resources" for Outstanding
1335 Florida Springs to provide water management districts with
1336 minimum standards necessary to be consistent with the overall
1337 water policy of the state. This subsection does not prohibit a
1338 water management district from adopting a definition that is
1339 more protective of the water resources consistent with local or
1340 regional conditions and objectives.
1341 Section 15. Subsection (6) is added to section 373.223,
1342 Florida Statutes, to read:
1343 373.223 Conditions for a permit.—
1344 (6) A new, renewal of, or modification to a consumptive use
1345 permit authorizing groundwater withdrawals of 100,000 gallons or
1346 more per day and authorizing the use of a well or wells with an
1347 inside diameter of 8 inches or greater shall be monitored, the
1348 results of which shall be reported to the applicable water
1349 management district at least annually.
1350 Section 16. Section 373.2234, Florida Statutes, is amended
1351 to read:
1352 373.2234 Preferred water supply sources.—
1353 (1) The governing board of a water management district is
1354 authorized to adopt rules that identify preferred water supply
1355 sources for consumptive uses for which there is sufficient data
1356 to establish that a preferred source will provide a substantial
1357 new water supply to meet the existing and projected reasonable-
1358 beneficial uses of a water supply planning region identified
1359 pursuant to s. 373.709(1), while sustaining existing water
1360 resources and natural systems. At a minimum, such rules must
1361 contain a description of the preferred water supply source and

1362 an assessment of the water the preferred source is projected to
1363 produce.
1364 (2)(a) If an applicant proposes to use a preferred water
1365 supply source, that applicant's proposed water use is subject to
1366 s. 373.223(1), except that the proposed use of a preferred water
1367 supply source must be considered by a water management district
1368 when determining whether a permit applicant's proposed use of
1369 water is consistent with the public interest pursuant to s.
1370 373.223(1)(c).
1371 (b) The governing board of a water management district
1372 shall consider the identification of preferred water supply
1373 sources for water users for whom access to or development of new
1374 water supplies is not technically or financially feasible.
1375 Identification of preferred water supply sources for such water
1376 users must be consistent with s. 373.016.
1377 (c) A consumptive use permit issued for the use of a
1378 preferred water supply source must be granted, when requested by
1379 the applicant, for at least a 20-year period and may be subject
1380 to the compliance reporting provisions of s. 373.236(4).
1381 (3)(a) ~~Nothing in~~ This section does not: ~~shall be construed~~
1382 ~~to~~
1383 1. Exempt the use of preferred water supply sources from
1384 ~~the provisions of~~ ss. 373.016(4) and 373.223(2) and (3); ~~, or be~~
1385 ~~construed to~~
1386 2. Provide that permits issued for the use of a
1387 nonpreferred water supply source must be issued for a duration
1388 of less than 20 years or that the use of a nonpreferred water
1389 supply source is not consistent with the public interest; or~~.~~
1390 3. ~~Additionally, nothing in this section shall be~~

1391 ~~interpreted to~~ Require the use of a preferred water supply
1392 source or to restrict or prohibit the use of a nonpreferred
1393 water supply source.
1394 (b) Rules adopted by the governing board of a water
1395 management district to implement this section shall specify that
1396 the use of a preferred water supply source is not required and
1397 that the use of a nonpreferred water supply source is not
1398 restricted or prohibited.
1399 Section 17. Present subsection (5) of section 373.227,
1400 Florida Statutes, is redesignated as subsection (7), and a new
1401 subsection (5) and a subsection (6) are added to that section,
1402 to read:
1403 373.227 Water conservation; legislative findings and
1404 intent; objectives; comprehensive statewide water conservation
1405 program requirements.—
1406 (5) In order to incentivize water conservation, in areas
1407 not included in a regional water supply plan pursuant to s.
1408 373.709 and in areas not included in a declaration of water
1409 shortage or emergency pursuant to s. 373.246, if actual water
1410 use is less than permitted water use due to documented
1411 implementation of water conservation measures, including, but
1412 not limited to, those measures identified in best management
1413 practices pursuant to s. 570.93, the permitted allocation may
1414 not be modified due to such water conservation during the term
1415 of the permit. In order to promote water conservation and the
1416 implementation of measures that produce significant water
1417 savings beyond those required in a consumptive use permit, each
1418 water management district shall adopt rules providing water
1419 conservation incentives, which may include limited permit

1420 extensions.
1421 (6) For consumptive use permits for agricultural
1422 irrigation, if actual water use is less than permitted water use
1423 due to weather events, crop diseases, nursery stock
1424 availability, market conditions, or changes in crop type, a
1425 district may not, as a result, reduce permitted allocation
1426 amounts during the term of the permit.
1427 Section 18. Subsection (2) of section 373.233, Florida
1428 Statutes, is amended to read:
1429 373.233 Competing applications.—
1430 (2)(a) If ~~In the event that~~ two or more competing
1431 applications qualify equally under ~~the provisions of~~ subsection
1432 (1), the governing board or the department shall give preference
1433 to a renewal application over an initial application.
1434 (b) If two or more competing applications qualify equally
1435 under subsection (1) and none of the competing applications is a
1436 renewal application, the governing board or the department shall
1437 give preference to the application for the use where the source
1438 is nearest to the area of use or application consistent with s.
1439 373.016(4)(a).
1440 Section 19. Section 373.4591, Florida Statutes, is amended
1441 to read:
1442 373.4591 Improvements on private agricultural lands.—
1443 (1) The Legislature encourages public-private partnerships
1444 to accomplish water storage, groundwater recharge, and water
1445 quality improvements on private agricultural lands. Priority
1446 consideration shall be given to public-private partnerships
1447 that:
1448 (a) Store or treat water on private lands for purposes of

1449 enhancing hydrologic improvement, improving water quality, or
1450 assisting in water supply;
1451 (b) Provide critical ground water recharge; or
1452 (c) Provide for changes in land use to activities that
1453 minimize nutrient loads and maximize water conservation.
1454 (2)(a) When an agreement is entered into between the
1455 department, a water management district, or the Department of
1456 Agriculture and Consumer Services and a private landowner to
1457 establish such a public-private partnership that may create or
1458 impact wetlands or other surface waters, a baseline condition
1459 determining the extent of wetlands and other surface waters on
1460 the property shall be established and documented in the
1461 agreement before improvements are constructed.
1462 (b) When an agreement is entered into between the
1463 Department of Agriculture and Consumer Services and a private
1464 landowner to implement best management practices pursuant to s.
1465 403.067(7)(c), a baseline condition determining the extent of
1466 wetlands and other surface water on the property may be
1467 established at the option and expense of the private landowner
1468 and documented in the agreement before improvements are
1469 constructed. The Department of Agriculture and Consumer Services
1470 shall submit the landowner's proposed baseline condition
1471 documentation to the lead agency for review and approval, and
1472 the agency shall use its best efforts to complete the review
1473 within 45 days.
1474 (3) The Department of Agriculture and Consumer Services,
1475 the department, and the water management districts shall provide
1476 a process for reviewing these requests in the timeframe
1477 specified. The determination of a baseline condition shall be

1478 conducted using the methods set forth in the rules adopted
1479 pursuant to s. 373.421. The baseline condition documented in an
1480 agreement shall be considered the extent of wetlands and other
1481 surface waters on the property for the purpose of regulation
1482 under this chapter for the duration of the agreement and after
1483 its expiration.
1484 Section 20. Paragraph (h) of subsection (1) and subsections
1485 (2) through (7) of section 373.4595, Florida Statutes, are
1486 amended, and present subsections (8) through (13) of that
1487 section are redesignated as subsections (9) through (14),
1488 respectively, and a new subsection (8) is added to that section,
1489 to read:
1490 373.4595 Northern Everglades and Estuaries Protection
1491 Program.—
1492 (1) FINDINGS AND INTENT.—
1493 (h) The Legislature finds that the expeditious
1494 implementation of the Lake Okeechobee Watershed Protection
1495 Program, the Caloosahatchee River Watershed Protection Program,
1496 Plan and the St. Lucie River Watershed Protection Program Plans
1497 is needed to improve the quality, quantity, timing, and
1498 distribution of water in the northern Everglades ecosystem and
1499 that this section, in conjunction with s. 403.067, including the
1500 implementation of the plans developed and approved pursuant to
1501 subsections (3) and (4), and any related basin management action
1502 plan developed and implemented pursuant to s. 403.067(7)(a),
1503 provide a reasonable means of achieving the total maximum daily
1504 load requirements and achieving and maintaining compliance with
1505 state water quality standards.
1506 (2) DEFINITIONS.—As used in this section, the term:

1507 (a) "Best management practice" means a practice or
1508 combination of practices determined by the coordinating
1509 agencies, based on research, field-testing, and expert review,
1510 to be the most effective and practicable on-location means,
1511 including economic and technological considerations, for
1512 improving water quality in agricultural and urban discharges.
1513 Best management practices for agricultural discharges shall
1514 reflect a balance between water quality improvements and
1515 agricultural productivity.
1516 (b) "Biosolids" means the solid, semisolid, or liquid
1517 residue generated during the treatment of domestic wastewater in
1518 a domestic wastewater treatment facility, formerly known as
1519 "domestic wastewater residuals" or "residuals," and includes
1520 products and treated material from biosolids treatment
1521 facilities and septage management facilities regulated by the
1522 department. The term does not include the treated effluent or
1523 reclaimed water from a domestic wastewater treatment facility,
1524 solids removed from pump stations and lift stations, screenings
1525 and grit removed from the preliminary treatment components of
1526 domestic wastewater treatment facilities, or ash generated
1527 during the incineration of biosolids.
1528 (c) ~~(b)~~ "Caloosahatchee River watershed" means the
1529 Caloosahatchee River, its tributaries, its estuary, and the area
1530 within Charlotte, Glades, Hendry, and Lee Counties from which
1531 surface water flow is directed or drains, naturally or by
1532 constructed works, to the river, its tributaries, or its
1533 estuary.
1534 (d) ~~(c)~~ "Coordinating agencies" means the Department of
1535 Agriculture and Consumer Services, the Department of

1536 Environmental Protection, and the South Florida Water Management
1537 District.
1538 (e) ~~(d)~~ "Corps of Engineers" means the United States Army
1539 Corps of Engineers.
1540 (f) ~~(e)~~ "Department" means the Department of Environmental
1541 Protection.
1542 (g) ~~(f)~~ "District" means the South Florida Water Management
1543 District.
1544 ~~(g) "District's WOD program" means the program implemented~~
1545 ~~pursuant to rules adopted as authorized by this section and ss.~~
1546 ~~373.016, 373.044, 373.085, 373.086, 373.109, 373.113, 373.118,~~
1547 ~~373.451, and 373.453, entitled "Works of the District Basin."~~
1548 (h) "Lake Okeechobee Watershed Construction Project" means
1549 the construction project developed pursuant to this section
1550 ~~paragraph (3)(b)~~.
1551 (i) "Lake Okeechobee Watershed Protection Plan" means the
1552 Lake Okeechobee Watershed Construction Project and the Lake
1553 Okeechobee Watershed Research and Water Quality Monitoring
1554 Program ~~plan developed pursuant to this section and ss. 373.451-~~
1555 ~~373.459~~.
1556 (j) "Lake Okeechobee watershed" means Lake Okeechobee, its
1557 tributaries, and the area within which surface water flow is
1558 directed or drains, naturally or by constructed works, to the
1559 lake or its tributaries.
1560 ~~(k) "Lake Okeechobee Watershed Phosphorus Control Program"~~
1561 ~~means the program developed pursuant to paragraph (3)(c).~~
1562 (k) ~~(l)~~ "Northern Everglades" means the Lake Okeechobee
1563 watershed, the Caloosahatchee River watershed, and the St. Lucie
1564 River watershed.

1565 (l) ~~(m)~~ "Project component" means any structural or
1566 operational change, resulting from the Restudy, to the Central
1567 and Southern Florida Project as it existed and was operated as
1568 of January 1, 1999.
1569 (m) ~~(n)~~ "Restudy" means the Comprehensive Review Study of
1570 the Central and Southern Florida Project, for which federal
1571 participation was authorized by the Federal Water Resources
1572 Development Acts of 1992 and 1996 together with related
1573 Congressional resolutions and for which participation by the
1574 South Florida Water Management District is authorized by s.
1575 373.1501. The term includes all actions undertaken pursuant to
1576 the aforementioned authorizations which will result in
1577 recommendations for modifications or additions to the Central
1578 and Southern Florida Project.
1579 (n) ~~(o)~~ "River Watershed Protection Plans" means the
1580 Caloosahatchee River Watershed Protection Plan and the St. Lucie
1581 River Watershed Protection Plan developed pursuant to this
1582 section.
1583 (o) "Soil amendment" means any substance or mixture of
1584 substances sold or offered for sale for soil enriching or
1585 corrective purposes, intended or claimed to be effective in
1586 promoting or stimulating plant growth, increasing soil or plant
1587 productivity, improving the quality of crops, or producing any
1588 chemical or physical change in the soil, except amendments,
1589 conditioners, additives, and related products that are derived
1590 solely from inorganic sources and that contain no recognized
1591 plant nutrients.
1592 (p) "St. Lucie River watershed" means the St. Lucie River,
1593 its tributaries, its estuary, and the area within Martin,

1594 Okeechobee, and St. Lucie Counties from which surface water flow
1595 is directed or drains, naturally or by constructed works, to the
1596 river, its tributaries, or its estuary.
1597 (q) "Total maximum daily load" means the sum of the
1598 individual wasteload allocations for point sources and the load
1599 allocations for nonpoint sources and natural background adopted
1600 pursuant to s. 403.067. Before ~~Prior to~~ determining individual
1601 wasteload allocations and load allocations, the maximum amount
1602 of a pollutant that a water body or water segment can assimilate
1603 from all sources without exceeding water quality standards must
1604 first be calculated.
1605 (3) LAKE OKEECHOBEE WATERSHED PROTECTION PROGRAM.—The Lake
1606 Okeechobee Watershed Protection Program shall consist of the
1607 Lake Okeechobee Watershed Protection Plan, the Lake Okeechobee
1608 Basin Management Action Plan adopted pursuant to s. 403.067, the
1609 Lake Okeechobee Exotic Species Control Program, and the Lake
1610 Okeechobee Internal Phosphorus Management Program. The Lake
1611 Okeechobee Basin Management Action Plan adopted pursuant to s.
1612 403.067 shall be the component of the Lake Okeechobee Watershed
1613 Protection ~~A protection~~ Program ~~for Lake Okeechobee~~ that
1614 achieves phosphorus load reductions for Lake Okeechobee ~~shall be~~
1615 ~~immediately implemented as specified in this subsection~~. As
1616 provided in s. 403.067(7)(a)5., the Lake Okeechobee Basin
1617 Management Action Plan must include milestones for
1618 implementation and water quality improvement and an associated
1619 water quality monitoring component sufficient to evaluate
1620 whether reasonable progress in pollutant load reductions is
1621 being achieved over time. The department shall develop a
1622 schedule to establish 5-, 10-, and 15-year measurable milestones

1623 and a target for achieving water quality improvement consistent
1624 with this section. The schedule shall be used to provide
1625 guidance for planning and funding purposes and is exempt from s.
1626 120.54(l)(a). An assessment of progress toward these milestones
1627 shall be conducted every 5 years and revisions to the plan shall
1628 be made, as appropriate, as a result of each 5-year review. The
1629 assessment shall be provided to the Governor, the President of
1630 the Senate, and the Speaker of the House of Representatives.
1631 Upon the first 5-year review, a schedule, measureable
1632 milestones, and a target for achieving water quality improvement
1633 consistent with this section shall be adopted into the plan.
1634 Revisions to the basin management action plan shall be made by
1635 the department in cooperation with basin stakeholders. Revisions
1636 to the management strategies must follow the procedures set
1637 forth in s. 403.067(7)(c)4. Revised basin management action
1638 plans must be adopted pursuant to s. 403.067(7)(a)4. The Lake
1639 Okeechobee Watershed Protection Program shall address the
1640 reduction of phosphorus loading to the lake from both internal
1641 and external sources. Phosphorus load reductions shall be
1642 achieved through a phased program of implementation. ~~Initial~~
1643 ~~implementation actions shall be technology-based, based upon a~~
1644 ~~consideration of both the availability of appropriate technology~~
1645 ~~and the cost of such technology, and shall include phosphorus~~
1646 ~~reduction measures at both the source and the regional level.~~
1647 ~~The initial phase of phosphorus load reductions shall be based~~
1648 ~~upon the district's Technical Publication 81-2 and the~~
1649 ~~district's WOD program, with subsequent phases of phosphorus~~
1650 ~~load reductions based upon the total maximum daily loads~~
1651 ~~established in accordance with s. 403.067.~~ In the development

1652 and administration of the Lake Okeechobee Watershed Protection
1653 Program, the coordinating agencies shall maximize opportunities
1654 provided by federal cost-sharing programs and opportunities for
1655 partnerships with the private sector.
1656 (a) *Lake Okeechobee Watershed Protection Plan.*—In order to
1657 protect and restore surface water resources, the district, in
1658 cooperation with the other coordinating agencies, shall complete
1659 a Lake Okeechobee Watershed Protection Plan in accordance with
1660 this section and ss. 373.451-373.459. Beginning March 1, 2020,
1661 and every 5 years thereafter, the district shall update the Lake
1662 Okeechobee Watershed Protection Plan to ensure that it is
1663 consistent with the Lake Okeechobee Basin Management Action Plan
1664 adopted pursuant to s. 403.067. The Lake Okeechobee Watershed
1665 Protection Plan shall identify the geographic extent of the
1666 watershed, be coordinated with the plans developed pursuant to
1667 paragraphs (4)(a) and (c) ~~(b)~~, and include the Lake Okeechobee
1668 Watershed Construction Project and the Lake Okeechobee Watershed
1669 Research and Water Quality Monitoring Program ~~contain an~~
1670 ~~implementation schedule for subsequent phases of phosphorus load~~
1671 ~~reduction consistent with the total maximum daily loads~~
1672 ~~established in accordance with s. 403.067~~. The plan shall
1673 consider and build upon a review and analysis of ~~the following~~:
1674 ~~1.~~ the performance of projects constructed during Phase I
1675 and Phase II of the Lake Okeechobee Watershed Construction
1676 Project, pursuant to subparagraph 1.; ~~paragraph (b).~~
1677 ~~2.~~ relevant information resulting from the Lake Okeechobee
1678 Basin Management Action Plan ~~Watershed Phosphorus Control~~
1679 ~~Program~~, pursuant to paragraph (b); ~~(c).~~
1680 ~~3.~~ relevant information resulting from the Lake Okeechobee

1681 Watershed Research and Water Quality Monitoring Program,
1682 pursuant to subparagraph 2.; ~~paragraph (d).~~
1683 ~~4.~~ relevant information resulting from the Lake Okeechobee
1684 Exotic Species Control Program, pursuant to paragraph (c); and
1685 ~~(e).~~
1686 ~~5.~~ relevant information resulting from the Lake Okeechobee
1687 Internal Phosphorus Management Program, pursuant to paragraph
1688 (d) ~~(f)~~.
1689 1.~~(b)~~ *Lake Okeechobee Watershed Construction Project.*—To
1690 improve the hydrology and water quality of Lake Okeechobee and
1691 downstream receiving waters, including the Caloosahatchee and
1692 St. Lucie Rivers and their estuaries, the district, in
1693 cooperation with the other coordinating agencies, shall design
1694 and construct the Lake Okeechobee Watershed Construction
1695 Project. The project shall include:
1696 a.~~1.~~ Phase I.—Phase I of the Lake Okeechobee Watershed
1697 Construction Project shall consist of a series of project
1698 features consistent with the recommendations of the South
1699 Florida Ecosystem Restoration Working Group's Lake Okeechobee
1700 Action Plan. Priority basins for such projects include S-191, S-
1701 154, and Pools D and E in the Lower Kissimmee River. In order to
1702 obtain phosphorus load reductions to Lake Okeechobee as soon as
1703 possible, the following actions shall be implemented:
1704 (I)~~a.~~ The district shall serve as a full partner with the
1705 Corps of Engineers in the design and construction of the Grassy
1706 Island Ranch and New Palm Dairy stormwater treatment facilities
1707 as components of the Lake Okeechobee Water Retention/Phosphorus
1708 Removal Critical Project. The Corps of Engineers shall have the
1709 lead in design and construction of these facilities. Should

1710 delays be encountered in the implementation of either of these
1711 facilities, the district shall notify the department and
1712 recommend corrective actions.
1713 (II)~~b.~~ The district shall obtain permits and complete
1714 construction of two of the isolated wetland restoration projects
1715 that are part of the Lake Okeechobee Water Retention/Phosphorus
1716 Removal Critical Project. The additional isolated wetland
1717 projects included in this critical project shall further reduce
1718 phosphorus loading to Lake Okeechobee.
1719 (III)~~c.~~ The district shall work with the Corps of Engineers
1720 to expedite initiation of the design process for the Taylor
1721 Creek/Nubbins Slough Reservoir Assisted Stormwater Treatment
1722 Area, a project component of the Comprehensive Everglades
1723 Restoration Plan. The district shall propose to the Corps of
1724 Engineers that the district take the lead in the design and
1725 construction of the Reservoir Assisted Stormwater Treatment Area
1726 and receive credit towards the local share of the total cost of
1727 the Comprehensive Everglades Restoration Plan.
1728 b.~~2.~~ Phase II technical plan and construction.~~By February~~
1729 ~~1, 2008,~~ The district, in cooperation with the other
1730 coordinating agencies, shall develop a detailed technical plan
1731 for Phase II of the Lake Okeechobee Watershed Construction
1732 Project which provides the basis for the Lake Okeechobee Basin
1733 Management Action Plan adopted by the department pursuant to s.
1734 403.067. The detailed technical plan shall include measures for
1735 the improvement of the quality, quantity, timing, and
1736 distribution of water in the northern Everglades ecosystem,
1737 including the Lake Okeechobee watershed and the estuaries, and
1738 for facilitating the achievement of water quality standards. Use

1739 of cost-effective biologically based, hybrid wetland/chemical
1740 and other innovative nutrient control technologies shall be
1741 incorporated in the plan where appropriate. The detailed
1742 technical plan shall also include a Process Development and
1743 Engineering component to finalize the detail and design of Phase
1744 II projects and identify additional measures needed to increase
1745 the certainty that the overall objectives for improving water
1746 quality and quantity can be met. Based on information and
1747 recommendations from the Process Development and Engineering
1748 component, the Phase II detailed technical plan shall be
1749 periodically updated. Phase II shall include construction of
1750 additional facilities in the priority basins identified in sub-
1751 subparagraph a. ~~subparagraph 1.~~, as well as facilities for other
1752 basins in the Lake Okeechobee watershed. ~~This detailed technical~~
1753 ~~plan will require legislative ratification pursuant to paragraph~~
1754 ~~(i).~~ The technical plan shall:
1755 (I)~~a.~~ Identify Lake Okeechobee Watershed Construction
1756 Project facilities designed to contribute to achieving all
1757 applicable total maximum daily loads established pursuant to s.
1758 403.067 within the Lake Okeechobee watershed.
1759 (II)~~b.~~ Identify the size and location of all such Lake
1760 Okeechobee Watershed Construction Project facilities.
1761 (III)~~c.~~ Provide a construction schedule for all such Lake
1762 Okeechobee Watershed Construction Project facilities, including
1763 the sequencing and specific timeframe for construction of each
1764 Lake Okeechobee Watershed Construction Project facility.
1765 (IV)~~d.~~ Provide a schedule for the acquisition of lands or
1766 sufficient interests necessary to achieve the construction
1767 schedule.

1768 (V)~~e.~~ Provide a detailed schedule of costs associated with
1769 the construction schedule.
1770 (VI)~~f.~~ Identify, to the maximum extent practicable, impacts
1771 on wetlands and state-listed species expected to be associated
1772 with construction of such facilities, including potential
1773 alternatives to minimize and mitigate such impacts, as
1774 appropriate.
1775 (VII)~~g.~~ Provide for additional measures, including
1776 voluntary water storage and quality improvements on private
1777 land, to increase water storage and reduce excess water levels
1778 in Lake Okeechobee and to reduce excess discharges to the
1779 estuaries.
1780 (VIII) ~~The technical plan shall also~~ Develop the
1781 appropriate water quantity storage goal to achieve the desired
1782 Lake Okeechobee range of lake levels and inflow volumes to the
1783 Caloosahatchee and St. Lucie estuaries while meeting the other
1784 water-related needs of the region, including water supply and
1785 flood protection.
1786 (IX)~~h.~~ Provide for additional source controls needed to
1787 enhance performance of the Lake Okeechobee Watershed
1788 Construction Project facilities. Such additional source controls
1789 shall be incorporated into the Lake Okeechobee Basin Management
1790 Action Plan ~~Watershed Phosphorous Control Program~~ pursuant to
1791 paragraph (b) ~~(c)~~.
1792 c.~~3.~~ Evaluation.—Within 5 years after the adoption of the
1793 Lake Okeechobee Basin Management Action Plan pursuant to s.
1794 403.067 and every 5 ~~By January 1, 2004, and every 3~~ years
1795 thereafter, the department ~~district~~, in cooperation with the
1796 other coordinating agencies, shall conduct an evaluation of the

1797 Lake Okeechobee Watershed Construction Project and identify any
1798 further load reductions necessary to achieve compliance with the
1799 ~~all~~ Lake Okeechobee ~~watershed~~ total maximum daily loads
1800 established pursuant to s. 403.067. ~~Additionally,~~ The district
1801 shall identify modifications to facilities of the Lake
1802 Okeechobee Watershed Construction Project as appropriate to meet
1803 the total maximum daily loads. Modifications to the Lake
1804 Okeechobee Watershed Construction Project resulting from this
1805 evaluation shall be incorporated into the Lake Okeechobee Basin
1806 Management Action Plan and ~~The evaluation shall be~~ included in
1807 the applicable annual progress report submitted pursuant to
1808 subsection (6).
1809 d.~~4.~~ Coordination and review.—To ensure the timely
1810 implementation of the Lake Okeechobee Watershed Construction
1811 Project, the design of project facilities shall be coordinated
1812 with the department and other interested parties, including
1813 affected local governments, to the maximum extent practicable.
1814 Lake Okeechobee Watershed Construction Project facilities shall
1815 be reviewed and commented upon by the department before ~~prior to~~
1816 the execution of a construction contract by the district for
1817 that facility.
1818 2. Lake Okeechobee Watershed Research and Water Quality
1819 Monitoring Program.—The coordinating agencies shall implement a
1820 Lake Okeechobee Watershed Research and Water Quality Monitoring
1821 Program. Results from the program shall be used by the
1822 department, in cooperation with the other coordinating agencies,
1823 to make modifications to the Lake Okeechobee Basin Management
1824 Action Plan adopted pursuant to s. 403.067, as appropriate. The
1825 program shall:

1826 a. Evaluate all available existing water quality data
1827 concerning total phosphorus in the Lake Okeechobee watershed,
1828 develop a water quality baseline to represent existing
1829 conditions for total phosphorus, monitor long-term ecological
1830 changes, including water quality for total phosphorus, and
1831 measure compliance with water quality standards for total
1832 phosphorus, including any applicable total maximum daily load
1833 for the Lake Okeechobee watershed as established pursuant to s.
1834 403.067. Beginning March 1, 2020, and every 5 years thereafter,
1835 the department shall reevaluate water quality and quantity data
1836 to ensure that the appropriate projects are being designated and
1837 incorporated into the Lake Okeechobee Basin Management Action
1838 Plan adopted pursuant to s. 403.067. The district shall
1839 implement a total phosphorus monitoring program at appropriate
1840 structures owned or operated by the district and within the Lake
1841 Okeechobee watershed.
1842 b. Develop a Lake Okeechobee water quality model that
1843 reasonably represents the phosphorus dynamics of Lake Okeechobee
1844 and incorporates an uncertainty analysis associated with model
1845 predictions.
1846 c. Determine the relative contribution of phosphorus from
1847 all identifiable sources and all primary and secondary land
1848 uses.
1849 d. Conduct an assessment of the sources of phosphorus from
1850 the Upper Kissimmee Chain-of-Lakes and Lake Istokpoga, and their
1851 relative contribution to the water quality of Lake Okeechobee.
1852 The results of this assessment shall be used by the coordinating
1853 agencies as part of the Lake Okeechobee Basin Management Action
1854 Plan adopted pursuant to s. 403.067 to develop interim measures,

1855 best management practices, or regulations, as applicable.
1856 e. Assess current water management practices within the
1857 Lake Okeechobee watershed and develop recommendations for
1858 structural and operational improvements. Such recommendations
1859 shall balance water supply, flood control, estuarine salinity,
1860 maintenance of a healthy lake littoral zone, and water quality
1861 considerations.
1862 f. Evaluate the feasibility of alternative nutrient
1863 reduction technologies, including sediment traps, canal and
1864 ditch maintenance, fish production or other aquaculture,
1865 bioenergy conversion processes, and algal or other biological
1866 treatment technologies and include any alternative nutrient
1867 reduction technologies determined to be feasible in the Lake
1868 Okeechobee Basin Management Action Plan adopted pursuant to s.
1869 403.067.
1870 g. Conduct an assessment of the water volumes and timing
1871 from the Lake Okeechobee watershed and their relative
1872 contribution to the water level changes in Lake Okeechobee and
1873 to the timing and volume of water delivered to the estuaries.
1874 (b) ~~(c)~~ *Lake Okeechobee Basin Management Action Plan*
1875 ~~*Watershed Phosphorus Control Program*~~.—The Lake Okeechobee Basin
1876 Management Action Plan adopted pursuant to s. 403.067 shall be
1877 the watershed phosphorus control component for Lake Okeechobee.
1878 The Lake Okeechobee Basin Management Action Plan shall be
1879 ~~Program is designed to be~~ a multifaceted approach designed to
1880 achieve the total maximum daily load ~~reducing phosphorus loads~~
1881 by improving the management of phosphorus sources within the
1882 Lake Okeechobee watershed through implementation of regulations
1883 and best management practices, continued development and

1884 continued implementation of improved best management practices,
1885 improvement and restoration of the hydrologic function of
1886 natural and managed systems, and use ~~utilization~~ of alternative
1887 technologies for nutrient reduction. The plan must include an
1888 implementation schedule pursuant to this subsection for
1889 pollutant load reductions consistent with the adopted total
1890 maximum daily load. The department shall develop a schedule to
1891 establish 5-, 10-, and 15-year milestones and a target to
1892 achieve the adopted total maximum daily load no more than 20
1893 years after adoption of the plan. The schedule shall be used to
1894 provide guidance for planning and funding purposes and is exempt
1895 from s. 120.54(l)(a). If achieving the adopted total maximum
1896 daily load within 20 years is not practicable, the schedule
1897 shall contain an explanation of the constraints that prevent
1898 achieving the total maximum daily load within 20 years and an
1899 estimate of the time needed to achieve the total maximum daily
1900 load and additional 5-year measurable milestones, as necessary.
1901 The coordinating agencies shall develop an interagency agreement
1902 pursuant to ss. 373.046 and 373.406 which is consistent with the
1903 department taking the lead on water quality protection measures
1904 through the Lake Okeechobee Basin Management Action Plan adopted
1905 pursuant to s. 403.067; the district taking the lead on
1906 hydrologic improvements pursuant to paragraph (a); and the
1907 Department of Agriculture and Consumer Services taking the lead
1908 on agricultural interim measures, best management practices, and
1909 other measures adopted pursuant to s. 403.067. The interagency
1910 agreement shall specify how best management practices for
1911 nonagricultural nonpoint sources are developed and how all best
1912 management practices are implemented and verified consistent

1913 with s. 403.067 and this section. The interagency agreement
1914 shall address measures to be taken by the coordinating agencies
1915 during any best management practice reevaluation performed
1916 pursuant to subparagraphs 5. and 10. The department shall use
1917 best professional judgment in making the initial determination
1918 of best management practice effectiveness. The coordinating
1919 agencies may develop an intergovernmental agreement with local
1920 governments to implement nonagricultural nonpoint source best
1921 management practices within their respective geographic
1922 boundaries. The coordinating agencies shall facilitate the
1923 application of federal programs that offer opportunities for
1924 water quality treatment, including preservation, restoration, or
1925 creation of wetlands on agricultural lands.
1926 1. Agricultural nonpoint source best management practices,
1927 developed in accordance with s. 403.067 and designed to achieve
1928 the objectives of the Lake Okeechobee Watershed Protection
1929 Program as part of a phased approach of management strategies
1930 within the Lake Okeechobee Basin Management Action Plan, shall
1931 be implemented on an expedited basis. ~~The coordinating agencies~~
1932 ~~shall develop an interagency agreement pursuant to ss. 373.046~~
1933 ~~and 373.406(5) that assures the development of best management~~
1934 ~~practices that complement existing regulatory programs and~~
1935 ~~specifies how those best management practices are implemented~~
1936 ~~and verified. The interagency agreement shall address measures~~
1937 ~~to be taken by the coordinating agencies during any best~~
1938 ~~management practice reevaluation performed pursuant to sub-~~
1939 ~~subparagraph d. The department shall use best professional~~
1940 ~~judgment in making the initial determination of best management~~
1941 ~~practice effectiveness.~~

1942 2.~~a.~~ As provided in s. 403.067~~(7)(c)~~, the Department of
1943 Agriculture and Consumer Services, in consultation with the
1944 department, the district, and affected parties, shall initiate
1945 rule development for interim measures, best management
1946 practices, conservation plans, nutrient management plans, or
1947 other measures necessary for Lake Okeechobee watershed total
1948 maximum daily load reduction. The rule shall include thresholds
1949 for requiring conservation and nutrient management plans and
1950 criteria for the contents of such plans. Development of
1951 agricultural nonpoint source best management practices shall
1952 initially focus on those priority basins listed in sub-
1953 subparagraph (a)1.a. ~~subparagraph (b)1.~~ The Department of
1954 Agriculture and Consumer Services, in consultation with the
1955 department, the district, and affected parties, shall conduct an
1956 ongoing program for improvement of existing and development of
1957 new agricultural nonpoint source interim measures and ~~or~~ best
1958 management practices. The Department of Agriculture and Consumer
1959 Services shall adopt ~~for the purpose of adoption of~~ such
1960 practices by rule. The Department of Agriculture and Consumer
1961 Services shall work with the University of Florida ~~Florida's~~
1962 Institute of Food and Agriculture Sciences to review and, where
1963 appropriate, develop revised nutrient application rates for all
1964 agricultural soil amendments in the watershed.
1965 3.~~b.~~ As provided in s. 403.067, where agricultural nonpoint
1966 source best management practices or interim measures have been
1967 adopted by rule of the Department of Agriculture and Consumer
1968 Services, the owner or operator of an agricultural nonpoint
1969 source addressed by such rule shall either implement interim
1970 measures or best management practices or demonstrate compliance

1971 with state water quality standards addressed by the Lake
1972 Okeechobee Basin Management Action Plan adopted pursuant to s.
1973 403.067 ~~the district's WOD program~~ by conducting monitoring
1974 prescribed by the department or the district. Owners or
1975 operators of agricultural nonpoint sources who implement interim
1976 measures or best management practices adopted by rule of the
1977 Department of Agriculture and Consumer Services shall be subject
1978 to ~~the provisions of~~ s. 403.067~~(7)~~. ~~The Department of~~
1979 ~~Agriculture and Consumer Services, in cooperation with the~~
1980 ~~department and the district, shall provide technical and~~
1981 ~~financial assistance for implementation of agricultural best~~
1982 ~~management practices, subject to the availability of funds.~~
1983 4.~~c.~~ The district or department shall conduct monitoring at
1984 representative sites to verify the effectiveness of agricultural
1985 nonpoint source best management practices.
1986 5.~~d.~~ Where water quality problems are detected for
1987 agricultural nonpoint sources despite the appropriate
1988 implementation of adopted best management practices, ~~the~~
1989 ~~Department of Agriculture and Consumer Services, in consultation~~
1990 ~~with the other coordinating agencies and affected parties, shall~~
1991 ~~institute~~ a reevaluation of the best management practices shall
1992 be conducted pursuant to s. 403.067(7)(c)4. Should the
1993 reevaluation determine that the best management practices or
1994 other measures require modification, the rule shall be revised
1995 to require implementation of the modified practice within a
1996 reasonable time period as specified in the rule ~~and make~~
1997 ~~appropriate changes to the rule adopting best management~~
1998 ~~practices~~.
1999 6.~~2.~~ As provided in s. 403.067, nonagricultural nonpoint

2000 source best management practices, developed in accordance with
2001 s. 403.067 and designed to achieve the objectives of the Lake
2002 Okeechobee Watershed Protection Program as part of a phased
2003 approach of management strategies within the Lake Okeechobee
2004 Basin Management Action Plan, shall be implemented on an
2005 expedited basis. ~~The department and the district shall develop~~
2006 ~~an interagency agreement pursuant to ss. 373.046 and 373.406(5)~~
2007 ~~that assures the development of best management practices that~~
2008 ~~complement existing regulatory programs and specifies how those~~
2009 ~~best management practices are implemented and verified. The~~
2010 ~~interagency agreement shall address measures to be taken by the~~
2011 ~~department and the district during any best management practice~~
2012 ~~reevaluation performed pursuant to sub-subparagraph d.~~
2013 7.~~a.~~ The department and the district are directed to work
2014 with the University of Florida ~~Florida's~~ Institute of Food and
2015 Agricultural Sciences to develop appropriate nutrient
2016 application rates for all nonagricultural soil amendments in the
2017 watershed. As provided in s. 403.067 ~~s. 403.067(7)(c)~~, the
2018 department, in consultation with the district and affected
2019 parties, shall develop nonagricultural nonpoint source interim
2020 measures, best management practices, or other measures necessary
2021 for Lake Okeechobee watershed total maximum daily load
2022 reduction. Development of nonagricultural nonpoint source best
2023 management practices shall initially focus on those priority
2024 basins listed in sub-subparagraph (a)1.a. ~~subparagraph (b)1.~~ The
2025 department, the district, and affected parties shall conduct an
2026 ongoing program for improvement of existing and development of
2027 new interim measures and ~~or~~ best management practices. The
2028 department or the district shall adopt such practices by rule

2029 ~~The district shall adopt technology-based standards under the~~
2030 ~~district's WOD program for nonagricultural nonpoint sources of~~
2031 ~~phosphorus~~. ~~Nothing in this sub-subparagraph shall affect the~~
2032 ~~authority of the department or the district to adopt basin-~~
2033 ~~specific criteria under this part to prevent harm to the water~~
2034 ~~resources of the district.~~
2035 8.~~b.~~ Where nonagricultural nonpoint source best management
2036 practices or interim measures have been developed by the
2037 department and adopted by the district, the owner or operator of
2038 a nonagricultural nonpoint source shall implement interim
2039 measures or best management practices and be subject to ~~the~~
2040 ~~provisions of~~ s. 403.067~~(7)~~. ~~The department and district shall~~
2041 ~~provide technical and financial assistance for implementation of~~
2042 ~~nonagricultural nonpoint source best management practices,~~
2043 ~~subject to the availability of funds.~~
2044 9.~~c.~~ As provided in s. 403.067, the district or the
2045 department shall conduct monitoring at representative sites to
2046 verify the effectiveness of nonagricultural nonpoint source best
2047 management practices.
2048 10.~~d.~~ Where water quality problems are detected for
2049 nonagricultural nonpoint sources despite the appropriate
2050 implementation of adopted best management practices, ~~the~~
2051 ~~department and the district shall institute~~ a reevaluation of
2052 the best management practices shall be conducted pursuant to s.
2053 403.067(7)(c)4. Should the reevaluation determine that the best
2054 management practices or other measures require modification, the
2055 rule shall be revised to require implementation of the modified
2056 practice within a reasonable time period as specified in the
2057 rule.

2058 11.~~3.~~ ~~The provisions of~~ Subparagraphs ~~1. and~~ 2. and 7. do
2059 ~~may~~ not preclude the department or the district from requiring
2060 compliance with water quality standards or with current best
2061 management practices requirements set forth in any applicable
2062 regulatory program authorized by law for the purpose of
2063 protecting water quality. ~~Additionally,~~ Subparagraphs ~~1. and~~ 2.
2064 and 7. are applicable only to the extent that they do not
2065 conflict with any rules adopted by the department that are
2066 necessary to maintain a federally delegated or approved program.
2067 12. The program of agricultural best management practices
2068 set forth in the Everglades Program of the district, meets the
2069 requirements of this paragraph and s. 403.067(7) for the Lake
2070 Okeechobee watershed. An entity in compliance with best
2071 management practices set forth in the Everglades Program of the
2072 district, may elect to use that permit in lieu of the
2073 requirements of this paragraph. The provisions of s.
2074 373.4595(3)(b)5. apply to this subparagraph. This subparagraph
2075 does not alter any requirement under s. 373.4592.
2076 13. The Department of Agriculture and Consumer Services, in
2077 cooperation with the department and the district, shall provide
2078 technical and financial assistance for implementation of
2079 agricultural best management practices, subject to the
2080 availability of funds. The department and district shall provide
2081 technical and financial assistance for implementation of
2082 nonagricultural nonpoint source best management practices,
2083 subject to the availability of funds.
2084 14.~~4.~~ Projects that reduce the phosphorus load originating
2085 from domestic wastewater systems within the Lake Okeechobee
2086 watershed shall be given funding priority in the department's

2087 revolving loan program under s. 403.1835. The department shall
2088 coordinate and provide assistance to those local governments
2089 seeking financial assistance for such priority projects.
2090 15.~~5.~~ Projects that make use of private lands, or lands
2091 held in trust for Indian tribes, to reduce nutrient loadings or
2092 concentrations within a basin by one or more of the following
2093 methods: restoring the natural hydrology of the basin, restoring
2094 wildlife habitat or impacted wetlands, reducing peak flows after
2095 storm events, increasing aquifer recharge, or protecting range
2096 and timberland from conversion to development, are eligible for
2097 grants available under this section from the coordinating
2098 agencies. For projects of otherwise equal priority, special
2099 funding priority will be given to those projects that make best
2100 use of the methods outlined above that involve public-private
2101 partnerships or that obtain federal match money. Preference
2102 ranking above the special funding priority will be given to
2103 projects located in a rural area of opportunity designated by
2104 the Governor. Grant applications may be submitted by any person
2105 or tribal entity, and eligible projects may include, but are not
2106 limited to, the purchase of conservation and flowage easements,
2107 hydrologic restoration of wetlands, creating treatment wetlands,
2108 development of a management plan for natural resources, and
2109 financial support to implement a management plan.
2110 16.~~6.a.~~ The department shall require all entities disposing
2111 of domestic wastewater biosolids ~~residuals~~ within the Lake
2112 Okeechobee watershed and the remaining areas of Okeechobee,
2113 Glades, and Hendry Counties to develop and submit to the
2114 department an agricultural use plan that limits applications
2115 based upon phosphorus loading consistent with the Lake

2116 Okeechobee Basin Management Action Plan adopted pursuant to s.
2117 403.067. ~~By July 1, 2005, phosphorus concentrations originating~~
2118 ~~from these application sites may not exceed the limits~~
2119 ~~established in the district's WOD program. After December 31,~~
2120 ~~2007,~~ The department may not authorize the disposal of domestic
2121 wastewater biosolids ~~residuals~~ within the Lake Okeechobee
2122 watershed unless the applicant can affirmatively demonstrate
2123 that the phosphorus in the biosolids ~~residuals~~ will not add to
2124 phosphorus loadings in Lake Okeechobee or its tributaries. This
2125 demonstration shall be based on achieving a net balance between
2126 phosphorus imports relative to exports on the permitted
2127 application site. Exports shall include only phosphorus removed
2128 from the Lake Okeechobee watershed through products generated on
2129 the permitted application site. This prohibition does not apply
2130 to Class AA biosolids ~~residuals~~ that are marketed and
2131 distributed as fertilizer products in accordance with department
2132 rule.
2133 17.~~b.~~ Private and government-owned utilities within Monroe,
2134 Miami-Dade, Broward, Palm Beach, Martin, St. Lucie, Indian
2135 River, Okeechobee, Highlands, Hendry, and Glades Counties that
2136 dispose of wastewater biosolids ~~residual~~ sludge from utility
2137 operations and septic removal by land spreading in the Lake
2138 Okeechobee watershed may use a line item on local sewer rates to
2139 cover wastewater biosolids ~~residual~~ treatment and disposal if
2140 such disposal and treatment is done by approved alternative
2141 treatment methodology at a facility located within the areas
2142 designated by the Governor as rural areas of opportunity
2143 pursuant to s. 288.0656. This additional line item is an
2144 environmental protection disposal fee above the present sewer

2145 rate and may not be considered a part of the present sewer rate
2146 to customers, notwithstanding provisions to the contrary in
2147 chapter 367. The fee shall be established by the county
2148 commission or its designated assignee in the county in which the
2149 alternative method treatment facility is located. The fee shall
2150 be calculated to be no higher than that necessary to recover the
2151 facility's prudent cost of providing the service. Upon request
2152 by an affected county commission, the Florida Public Service
2153 Commission will provide assistance in establishing the fee.
2154 Further, for utilities and utility authorities that use the
2155 additional line item environmental protection disposal fee, such
2156 fee may not be considered a rate increase under the rules of the
2157 Public Service Commission and shall be exempt from such rules.
2158 Utilities using ~~the provisions of~~ this section may immediately
2159 include in their sewer invoicing the new environmental
2160 protection disposal fee. Proceeds from this environmental
2161 protection disposal fee shall be used for treatment and disposal
2162 of wastewater biosolids ~~residuals~~, including any treatment
2163 technology that helps reduce the volume of biosolids ~~residuals~~
2164 that require final disposal, but such proceeds may not be used
2165 for transportation or shipment costs for disposal or any costs
2166 relating to the land application of biosolids ~~residuals~~ in the
2167 Lake Okeechobee watershed.
2168 18.~~c.~~ No less frequently than once every 3 years, the
2169 Florida Public Service Commission or the county commission
2170 through the services of an independent auditor shall perform a
2171 financial audit of all facilities receiving compensation from an
2172 environmental protection disposal fee. The Florida Public
2173 Service Commission or the county commission through the services

2174 of an independent auditor shall also perform an audit of the
2175 methodology used in establishing the environmental protection
2176 disposal fee. The Florida Public Service Commission or the
2177 county commission shall, within 120 days after completion of an
2178 audit, file the audit report with the President of the Senate
2179 and the Speaker of the House of Representatives and shall
2180 provide copies to the county commissions of the counties set
2181 forth in subparagraph 17. ~~sub-subparagraph b.~~ The books and
2182 records of any facilities receiving compensation from an
2183 environmental protection disposal fee shall be open to the
2184 Florida Public Service Commission and the Auditor General for
2185 review upon request.
2186 19.~~7.~~ The Department of Health shall require all entities
2187 disposing of septage within the Lake Okeechobee watershed to
2188 develop and submit to that agency an agricultural use plan that
2189 limits applications based upon phosphorus loading consistent
2190 with the Lake Okeechobee Basin Management Action Plan adopted
2191 pursuant to s. 403.067. ~~By July 1, 2005, phosphorus~~
2192 ~~concentrations originating from these application sites may not~~
2193 ~~exceed the limits established in the district's WOD program.~~
2194 20.~~8.~~ The Department of Agriculture and Consumer Services
2195 shall initiate rulemaking requiring entities within the Lake
2196 Okeechobee watershed which land-apply animal manure to develop
2197 resource management system level conservation plans, according
2198 to United States Department of Agriculture criteria, which limit
2199 such application. Such rules shall ~~may~~ include criteria and
2200 thresholds for the requirement to develop a conservation or
2201 nutrient management plan, requirements for plan approval, site
2202 inspection requirements, and recordkeeping requirements.

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2203 21. The district shall revise chapter 40E-61, Florida
2204 Administrative Code, to be consistent with this section and s.
2205 403.067; provide for a monitoring program for nonpoint source
2206 dischargers required to monitor water quality by s. 403.067; and
2207 provide for the results of such monitoring to be reported to the
2208 coordinating agencies.
2209 ~~9. The district, the department, or the Department of~~
2210 ~~Agriculture and Consumer Services, as appropriate, shall~~
2211 ~~implement those alternative nutrient reduction technologies~~
2212 ~~determined to be feasible pursuant to subparagraph (d)6.~~
2213 ~~(d) *Lake Okeechobee Watershed Research and Water Quality*~~
2214 ~~*Monitoring Program.*—The district, in cooperation with the other~~
2215 ~~coordinating agencies, shall establish a Lake Okeechobee~~
2216 ~~Watershed Research and Water Quality Monitoring Program that~~
2217 ~~builds upon the district's existing Lake Okeechobee research~~
2218 ~~program. The program shall:~~
2219 ~~1. Evaluate all available existing water quality data~~
2220 ~~concerning total phosphorus in the Lake Okeechobee watershed,~~
2221 ~~develop a water quality baseline to represent existing~~
2222 ~~conditions for total phosphorus, monitor long-term ecological~~
2223 ~~changes, including water quality for total phosphorus, and~~
2224 ~~measure compliance with water quality standards for total~~
2225 ~~phosphorus, including any applicable total maximum daily load~~
2226 ~~for the Lake Okeechobee watershed as established pursuant to s.~~
2227 ~~403.067. Every 3 years, the district shall reevaluate water~~
2228 ~~quality and quantity data to ensure that the appropriate~~
2229 ~~projects are being designated and implemented to meet the water~~
2230 ~~quality and storage goals of the plan. The district shall also~~
2231 ~~implement a total phosphorus monitoring program at appropriate~~

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2232 ~~structures owned or operated by the South Florida Water~~
2233 ~~Management District and within the Lake Okeechobee watershed.~~
2234 ~~2. Develop a Lake Okeechobee water quality model that~~
2235 ~~reasonably represents phosphorus dynamics of the lake and~~
2236 ~~incorporates an uncertainty analysis associated with model~~
2237 ~~predictions.~~
2238 ~~3. Determine the relative contribution of phosphorus from~~
2239 ~~all identifiable sources and all primary and secondary land~~
2240 ~~uses.~~
2241 ~~4. Conduct an assessment of the sources of phosphorus from~~
2242 ~~the Upper Kissimmee Chain of Lakes and Lake Istokpoga, and their~~
2243 ~~relative contribution to the water quality of Lake Okeechobee.~~
2244 ~~The results of this assessment shall be used by the coordinating~~
2245 ~~agencies to develop interim measures, best management practices,~~
2246 ~~or regulation, as applicable.~~
2247 ~~5. Assess current water management practices within the~~
2248 ~~Lake Okeechobee watershed and develop recommendations for~~
2249 ~~structural and operational improvements. Such recommendations~~
2250 ~~shall balance water supply, flood control, estuarine salinity,~~
2251 ~~maintenance of a healthy lake littoral zone, and water quality~~
2252 ~~considerations.~~
2253 ~~6. Evaluate the feasibility of alternative nutrient~~
2254 ~~reduction technologies, including sediment traps, canal and~~
2255 ~~ditch maintenance, fish production or other aquaculture,~~
2256 ~~bioenergy conversion processes, and algal or other biological~~
2257 ~~treatment technologies.~~
2258 ~~7. Conduct an assessment of the water volumes and timing~~
2259 ~~from the Lake Okeechobee watershed and their relative~~
2260 ~~contribution to the water level changes in Lake Okeechobee and~~

2261 ~~to the timing and volume of water delivered to the estuaries.~~
2262 (c) ~~(e)~~ *Lake Okeechobee Exotic Species Control Program.*—The
2263 coordinating agencies shall identify the exotic species that
2264 threaten the native flora and fauna within the Lake Okeechobee
2265 watershed and develop and implement measures to protect the
2266 native flora and fauna.
2267 (d) ~~(f)~~ *Lake Okeechobee Internal Phosphorus Management*
2268 *Program.*—The district, in cooperation with the other
2269 coordinating agencies and interested parties, shall evaluate the
2270 feasibility of ~~complete a~~ Lake Okeechobee internal phosphorus
2271 load removal projects ~~feasibility study~~. The evaluation
2272 ~~feasibility study~~ shall be based on technical feasibility, as
2273 well as economic considerations, and shall consider ~~address~~ all
2274 reasonable methods of phosphorus removal. If projects ~~methods~~
2275 are found to be feasible, the district shall immediately pursue
2276 the design, funding, and permitting for implementing such
2277 projects ~~methods~~.
2278 (e) ~~(g)~~ *Lake Okeechobee Watershed Protection Program* ~~*Plan*~~
2279 *implementation.*—The coordinating agencies shall be jointly
2280 responsible for implementing the Lake Okeechobee Watershed
2281 Protection Program ~~Plan~~, consistent with the statutory authority
2282 and responsibility of each agency. Annual funding priorities
2283 shall be jointly established, and the highest priority shall be
2284 assigned to programs and projects that address sources that have
2285 the highest relative contribution to loading and the greatest
2286 potential for reductions needed to meet the total maximum daily
2287 loads. In determining funding priorities, the coordinating
2288 agencies shall also consider the need for regulatory compliance,
2289 the extent to which the program or project is ready to proceed,

2290 and the availability of federal matching funds or other nonstate
2291 funding, including public-private partnerships. Federal and
2292 other nonstate funding shall be maximized to the greatest extent
2293 practicable.
2294 (f) ~~(h)~~ *Priorities and implementation schedules.*—The
2295 coordinating agencies are authorized and directed to establish
2296 priorities and implementation schedules for the achievement of
2297 total maximum daily loads, compliance with the requirements of
2298 s. 403.067, and compliance with applicable water quality
2299 standards within the waters and watersheds subject to this
2300 section.
2301 ~~(i) *Legislative ratification.*—The coordinating agencies~~
2302 ~~shall submit the Phase II technical plan developed pursuant to~~
2303 ~~paragraph (b) to the President of the Senate and the Speaker of~~
2304 ~~the House of Representatives prior to the 2008 legislative~~
2305 ~~session for review. If the Legislature takes no action on the~~
2306 ~~plan during the 2008 legislative session, the plan is deemed~~
2307 ~~approved and may be implemented.~~
2308 (4) CALOOSAHATCHEE RIVER WATERSHED PROTECTION PROGRAM AND
2309 ST. LUCIE RIVER WATERSHED PROTECTION PROGRAM.—A protection
2310 program shall be developed and implemented as specified in this
2311 subsection. In order to protect and restore surface water
2312 resources, the program shall address the reduction of pollutant
2313 loadings, restoration of natural hydrology, and compliance with
2314 applicable state water quality standards. The program shall be
2315 achieved through a phased program of implementation. In
2316 addition, pollutant load reductions based upon adopted total
2317 maximum daily loads established in accordance with s. 403.067
2318 shall serve as a program objective. In the development and

2319 administration of the program, the coordinating agencies shall
2320 maximize opportunities provided by federal and local government
2321 cost-sharing programs and opportunities for partnerships with
2322 the private sector and local government. The program ~~plan~~ shall
2323 include a goal for salinity envelopes and freshwater inflow
2324 targets for the estuaries based upon existing research and
2325 documentation. The goal may be revised as new information is
2326 available. This goal shall seek to reduce the frequency and
2327 duration of undesirable salinity ranges while meeting the other
2328 water-related needs of the region, including water supply and
2329 flood protection, while recognizing the extent to which water
2330 inflows are within the control and jurisdiction of the district.
2331 (a) *Caloosahatchee River Watershed Protection Plan.* ~~No~~
2332 ~~later than January 1, 2009,~~ The district, in cooperation with
2333 the other coordinating agencies, Lee County, and affected
2334 counties and municipalities, shall complete a River Watershed
2335 Protection Plan in accordance with this subsection. The
2336 Caloosahatchee River Watershed Protection Plan shall identify
2337 the geographic extent of the watershed, be coordinated as needed
2338 with the plans developed pursuant to paragraph (3)(a) and
2339 paragraph (c) ~~(b)~~ of this subsection, and ~~contain an~~
2340 ~~implementation schedule for pollutant load reductions consistent~~
2341 ~~with any adopted total maximum daily loads and compliance with~~
2342 ~~applicable state water quality standards. The plan shall~~ include
2343 the Caloosahatchee River Watershed Construction Project and the
2344 Caloosahatchee River Watershed Research and Water Quality
2345 Monitoring Program.~~:~~
2346 1. Caloosahatchee River Watershed Construction Project.—To
2347 improve the hydrology, water quality, and aquatic habitats

2348 within the watershed, the district shall, no later than January
2349 1, 2012, plan, design, and construct the initial phase of the
2350 Watershed Construction Project. In doing so, the district shall:
2351 a. Develop and designate the facilities to be constructed
2352 to achieve stated goals and objectives of the Caloosahatchee
2353 River Watershed Protection Plan.
2354 b. Conduct scientific studies that are necessary to support
2355 the design of the Caloosahatchee River Watershed Construction
2356 Project facilities.
2357 c. Identify the size and location of all such facilities.
2358 d. Provide a construction schedule for all such facilities,
2359 including the sequencing and specific timeframe for construction
2360 of each facility.
2361 e. Provide a schedule for the acquisition of lands or
2362 sufficient interests necessary to achieve the construction
2363 schedule.
2364 f. Provide a schedule of costs and benefits associated with
2365 each construction project and identify funding sources.
2366 g. To ensure timely implementation, coordinate the design,
2367 scheduling, and sequencing of project facilities with the
2368 coordinating agencies, Lee County, other affected counties and
2369 municipalities, and other affected parties.
2370 2. Caloosahatchee River Watershed Research and Water
2371 Quality Monitoring Program.—The district, in cooperation with
2372 the other coordinating agencies and local governments, shall
2373 implement a Caloosahatchee River Watershed Research and Water
2374 Quality Monitoring Program that builds upon the district's
2375 existing research program and that is sufficient to carry out,
2376 comply with, or assess the plans, programs, and other

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2377 responsibilities created by this subsection. The program shall
2378 also conduct an assessment of the water volumes and timing from
2379 Lake Okeechobee and the Caloosahatchee River watershed and their
2380 relative contributions to the timing and volume of water
2381 delivered to the estuary.
2382 (b)~~2.~~ *Caloosahatchee River Watershed Basin Management*
2383 *Action Plans* ~~Pollutant Control Program.~~ The basin management
2384 action plans adopted pursuant to s. 403.067 for the
2385 Caloosahatchee River watershed shall be the Caloosahatchee River
2386 Watershed Pollutant Control Program. The plans shall be ~~is~~
2387 designed to be a multifaceted approach to reducing pollutant
2388 loads by improving the management of pollutant sources within
2389 the Caloosahatchee River watershed through implementation of
2390 regulations and best management practices, development and
2391 implementation of improved best management practices,
2392 improvement and restoration of the hydrologic function of
2393 natural and managed systems, and utilization of alternative
2394 technologies for pollutant reduction, such as cost-effective
2395 biologically based, hybrid wetland/chemical and other innovative
2396 nutrient control technologies. The plans shall contain an
2397 implementation schedule for pollutant load reductions consistent
2398 with the adopted total maximum daily load. As provided in s.
2399 403.067(7)(a)5., the Caloosahatchee River Watershed Basin
2400 Management Action Plan must include milestones for
2401 implementation and water quality improvement and an associated
2402 water quality monitoring component sufficient to evaluate
2403 whether reasonable progress in pollutant load reductions is
2404 being achieved over time. The department shall develop a
2405 schedule to establish 5-, 10-, and 15-year measurable milestones

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2406 and a target for achieving water quality improvement consistent
2407 with this section. The schedule shall be used to provide
2408 guidance for planning and funding purposes and is exempt from s.
2409 120.54(1)(a). An assessment of progress toward these milestones
2410 shall be conducted every 5 years, and revisions to the plan
2411 shall be made, as appropriate, as a result of each 5-year
2412 review. The assessment shall be provided to the Governor, the
2413 President of the Senate, and the Speaker of the House of
2414 Representatives. Upon the first 5-year review, a schedule,
2415 measureable milestones, and a target for achieving water quality
2416 improvement consistent with this section shall be adopted into
2417 the plan. Revisions to the basin management action plan shall be
2418 made by the department in cooperation with basin stakeholders.
2419 Revisions to the management strategies must follow the
2420 procedures set forth in s. 403.067(7)(c)4. Revised basin
2421 management action plans must be adopted pursuant to s.
2422 403.067(7)(a)4. The coordinating agencies shall facilitate the
2423 use ~~utilization~~ of federal programs that offer opportunities for
2424 water quality treatment, including preservation, restoration, or
2425 creation of wetlands on agricultural lands.
2426 1.~~a.~~ Nonpoint source best management practices consistent
2427 with s. 403.067 ~~paragraph (3)(c)~~, designed to achieve the
2428 objectives of the Caloosahatchee River Watershed Protection
2429 Program, shall be implemented on an expedited basis. The
2430 coordinating agencies may develop an intergovernmental agreement
2431 with local governments to implement the nonagricultural,
2432 nonpoint-source best management practices within their
2433 respective geographic boundaries.
2434 2.~~b.~~ This subsection does not preclude the department or

2435 the district from requiring compliance with water quality
2436 standards, adopted total maximum daily loads, or current best
2437 management practices requirements set forth in any applicable
2438 regulatory program authorized by law for the purpose of
2439 protecting water quality. This subsection applies only to the
2440 extent that it does not conflict with any rules adopted by the
2441 department or district which are necessary to maintain a
2442 federally delegated or approved program.
2443 3.~~c.~~ Projects that make use of private lands, or lands held
2444 in trust for Indian tribes, to reduce pollutant loadings or
2445 concentrations within a basin, or that reduce the volume of
2446 harmful discharges by one or more of the following methods:
2447 restoring the natural hydrology of the basin, restoring wildlife
2448 habitat or impacted wetlands, reducing peak flows after storm
2449 events, or increasing aquifer recharge, are eligible for grants
2450 available under this section from the coordinating agencies.
2451 4.~~d.~~ The Caloosahatchee River Watershed Basin Management
2452 Action Plans ~~Pollutant Control Program~~ shall require assessment
2453 of current water management practices within the watershed and
2454 shall require development of recommendations for structural,
2455 nonstructural, and operational improvements. Such
2456 recommendations shall consider and balance water supply, flood
2457 control, estuarine salinity, aquatic habitat, and water quality
2458 considerations.
2459 5.~~e.~~ ~~After December 31, 2007,~~ The department may not
2460 authorize the disposal of domestic wastewater biosolids
2461 ~~residuals~~ within the Caloosahatchee River watershed unless the
2462 applicant can affirmatively demonstrate that the nutrients in
2463 the biosolids ~~residuals~~ will not add to nutrient loadings in the

2464 watershed. This demonstration shall be based on achieving a net
2465 balance between nutrient imports relative to exports on the
2466 permitted application site. Exports shall include only nutrients
2467 removed from the watershed through products generated on the
2468 permitted application site. This prohibition does not apply to
2469 Class AA biosolids ~~residuals~~ that are marketed and distributed
2470 as fertilizer products in accordance with department rule.
2471 6.~~f.~~ The Department of Health shall require all entities
2472 disposing of septage within the Caloosahatchee River watershed
2473 to develop and submit to that agency an agricultural use plan
2474 that limits applications based upon nutrient loading consistent
2475 with any basin management action plan adopted pursuant to s.
2476 403.067. ~~By July 1, 2008, nutrient concentrations originating~~
2477 ~~from these application sites may not exceed the limits~~
2478 ~~established in the district's WOD program.~~
2479 7.~~g.~~ The Department of Agriculture and Consumer Services
2480 shall require ~~initiate rulemaking requiring~~ entities within the
2481 Caloosahatchee River watershed which land-apply animal manure to
2482 develop a resource management system level conservation plan,
2483 according to United States Department of Agriculture criteria,
2484 which limit such application. Such rules shall ~~may~~ include
2485 criteria and thresholds for the requirement to develop a
2486 conservation or nutrient management plan, requirements for plan
2487 approval, site inspection requirements, and recordkeeping
2488 requirements.
2489 8. The district shall initiate rulemaking to provide for a
2490 monitoring program for nonpoint source dischargers required to
2491 monitor water quality pursuant to s. 403.067(7)(b)2.g. or s.
2492 403.067(7)(c)3. The results of such monitoring must be reported

2493 to the coordinating agencies.
2494 ~~3. Caloosahatchee River Watershed Research and Water~~
2495 ~~Quality Monitoring Program. The district, in cooperation with~~
2496 ~~the other coordinating agencies and local governments, shall~~
2497 ~~establish a Caloosahatchee River Watershed Research and Water~~
2498 ~~Quality Monitoring Program that builds upon the district's~~
2499 ~~existing research program and that is sufficient to carry out,~~
2500 ~~comply with, or assess the plans, programs, and other~~
2501 ~~responsibilities created by this subsection. The program shall~~
2502 ~~also conduct an assessment of the water volumes and timing from~~
2503 ~~the Lake Okeechobee and Caloosahatchee River watersheds and~~
2504 ~~their relative contributions to the timing and volume of water~~
2505 ~~delivered to the estuary.~~
2506 (c) ~~(b)~~ *St. Lucie River Watershed Protection Plan.* ~~No later~~
2507 ~~than January 1, 2009,~~ The district, in cooperation with the
2508 other coordinating agencies, Martin County, and affected
2509 counties and municipalities shall complete a plan in accordance
2510 with this subsection. The St. Lucie River Watershed Protection
2511 Plan shall identify the geographic extent of the watershed, be
2512 coordinated as needed with the plans developed pursuant to
2513 paragraph (3)(a) and paragraph (a) of this subsection, and
2514 ~~contain an implementation schedule for pollutant load reductions~~
2515 ~~consistent with any adopted total maximum daily loads and~~
2516 ~~compliance with applicable state water quality standards. The~~
2517 ~~plan shall~~ include the St. Lucie River Watershed Construction
2518 Project and St. Lucie River Watershed Research and Water Quality
2519 Monitoring Program. ~~:~~
2520 1. St. Lucie River Watershed Construction Project.—To
2521 improve the hydrology, water quality, and aquatic habitats

2522 within the watershed, the district shall, no later than January
2523 1, 2012, plan, design, and construct the initial phase of the
2524 Watershed Construction Project. In doing so, the district shall:
2525 a. Develop and designate the facilities to be constructed
2526 to achieve stated goals and objectives of the St. Lucie River
2527 Watershed Protection Plan.
2528 b. Identify the size and location of all such facilities.
2529 c. Provide a construction schedule for all such facilities,
2530 including the sequencing and specific timeframe for construction
2531 of each facility.
2532 d. Provide a schedule for the acquisition of lands or
2533 sufficient interests necessary to achieve the construction
2534 schedule.
2535 e. Provide a schedule of costs and benefits associated with
2536 each construction project and identify funding sources.
2537 f. To ensure timely implementation, coordinate the design,
2538 scheduling, and sequencing of project facilities with the
2539 coordinating agencies, Martin County, St. Lucie County, other
2540 interested parties, and other affected local governments.
2541 2. St. Lucie River Watershed Research and Water Quality
2542 Monitoring Program.—The district, in cooperation with the other
2543 coordinating agencies and local governments, shall establish a
2544 St. Lucie River Watershed Research and Water Quality Monitoring
2545 Program that builds upon the district's existing research
2546 program and that is sufficient to carry out, comply with, or
2547 assess the plans, programs, and other responsibilities created
2548 by this subsection. The program shall also conduct an assessment
2549 of the water volumes and timing from Lake Okeechobee and the St.
2550 Lucie River watershed and their relative contributions to the

2551 timing and volume of water delivered to the estuary.
2552 (d)~~2.~~ *St. Lucie River Watershed Basin Management Action*
2553 *Plans* ~~Pollutant Control Program~~. Basin management action plans
2554 for the St. Lucie River watershed adopted pursuant to s. 403.067
2555 shall be the St. Lucie River Watershed Pollutant Control Program
2556 and shall be ~~is~~ designed to be a multifaceted approach to
2557 reducing pollutant loads by improving the management of
2558 pollutant sources within the St. Lucie River watershed through
2559 implementation of regulations and best management practices,
2560 development and implementation of improved best management
2561 practices, improvement and restoration of the hydrologic
2562 function of natural and managed systems, and use ~~utilization~~ of
2563 alternative technologies for pollutant reduction, such as cost-
2564 effective biologically based, hybrid wetland/chemical and other
2565 innovative nutrient control technologies. The plan shall contain
2566 an implementation schedule for pollutant load reductions
2567 consistent with the adopted total maximum daily load. As
2568 provided in s. 403.067(7)(a)5., the St. Lucie Watershed Basin
2569 Management Action Plan must include milestones for
2570 implementation and water quality improvement, and an associated
2571 water quality monitoring component sufficient to evaluate
2572 whether reasonable progress in pollutant load reductions is
2573 being achieved over time. The department shall develop a
2574 schedule to establish 5-, 10-, and 15-year measurable milestones
2575 and a target for achieving water quality improvement consistent
2576 with this section. The schedule shall be used to provide
2577 guidance for planning and funding purposes and is exempt from s.
2578 120.54(l)(a). An assessment of progress toward these milestones
2579 shall be conducted every 5 years, and revisions to the plan

2580 shall be made, as appropriate, as a result of each 5-year
2581 review. The assessment shall be provided to the Governor, the
2582 President of the Senate, and the Speaker of the House of
2583 Representatives. Upon the first 5-year review, a schedule,
2584 measureable milestones, and a target for achieving water quality
2585 improvement consistent with this section shall be adopted into
2586 the plan. Revisions to the basin management action plan shall be
2587 made by the department in cooperation with basin stakeholders.
2588 Revisions to the management strategies must follow the
2589 procedures set forth in s. 403.067(7)(c)4. Revised basin
2590 management action plans must be adopted pursuant to s.
2591 403.067(7)(a)4. The coordinating agencies shall facilitate the
2592 use ~~utilization~~ of federal programs that offer opportunities for
2593 water quality treatment, including preservation, restoration, or
2594 creation of wetlands on agricultural lands.
2595 1.~~a.~~ Nonpoint source best management practices consistent
2596 with s. 403.067 ~~paragraph (3)(c)~~, designed to achieve the
2597 objectives of the St. Lucie River Watershed Protection Program,
2598 shall be implemented on an expedited basis. The coordinating
2599 agencies may develop an intergovernmental agreement with local
2600 governments to implement the nonagricultural nonpoint source
2601 best management practices within their respective geographic
2602 boundaries.
2603 2.~~b.~~ This subsection does not preclude the department or
2604 the district from requiring compliance with water quality
2605 standards, adopted total maximum daily loads, or current best
2606 management practices requirements set forth in any applicable
2607 regulatory program authorized by law for the purpose of
2608 protecting water quality. This subsection applies only to the

2609 extent that it does not conflict with any rules adopted by the
2610 department or district which are necessary to maintain a
2611 federally delegated or approved program.
2612 3.~~c.~~ Projects that make use of private lands, or lands held
2613 in trust for Indian tribes, to reduce pollutant loadings or
2614 concentrations within a basin, or that reduce the volume of
2615 harmful discharges by one or more of the following methods:
2616 restoring the natural hydrology of the basin, restoring wildlife
2617 habitat or impacted wetlands, reducing peak flows after storm
2618 events, or increasing aquifer recharge, are eligible for grants
2619 available under this section from the coordinating agencies.
2620 4.~~d.~~ The St. Lucie River Watershed Basin Management Action
2621 Plans ~~Pollutant Control Program~~ shall require assessment of
2622 current water management practices within the watershed and
2623 shall require development of recommendations for structural,
2624 nonstructural, and operational improvements. Such
2625 recommendations shall consider and balance water supply, flood
2626 control, estuarine salinity, aquatic habitat, and water quality
2627 considerations.
2628 5.~~e.~~ ~~After December 31, 2007,~~ The department may not
2629 authorize the disposal of domestic wastewater biosolids
2630 ~~residuals~~ within the St. Lucie River watershed unless the
2631 applicant can affirmatively demonstrate that the nutrients in
2632 the biosolids ~~residuals~~ will not add to nutrient loadings in the
2633 watershed. This demonstration shall be based on achieving a net
2634 balance between nutrient imports relative to exports on the
2635 permitted application site. Exports shall include only nutrients
2636 removed from the St. Lucie River watershed through products
2637 generated on the permitted application site. This prohibition

2638 does not apply to Class AA biosolids ~~residuals~~ that are marketed
2639 and distributed as fertilizer products in accordance with
2640 department rule.
2641 6.~~f.~~ The Department of Health shall require all entities
2642 disposing of septage within the St. Lucie River watershed to
2643 develop and submit to that agency an agricultural use plan that
2644 limits applications based upon nutrient loading consistent with
2645 any basin management action plan adopted pursuant to s. 403.067.
2646 ~~By July 1, 2008, nutrient concentrations originating from these~~
2647 ~~application sites may not exceed the limits established in the~~
2648 ~~district's WOD program.~~
2649 7.~~g.~~ The Department of Agriculture and Consumer Services
2650 shall initiate rulemaking requiring entities within the St.
2651 Lucie River watershed which land-apply animal manure to develop
2652 a resource management system level conservation plan, according
2653 to United States Department of Agriculture criteria, which limit
2654 such application. Such rules shall ~~may~~ include criteria and
2655 thresholds for the requirement to develop a conservation or
2656 nutrient management plan, requirements for plan approval, site
2657 inspection requirements, and recordkeeping requirements.
2658 8. The district shall initiate rulemaking to provide for a
2659 monitoring program for nonpoint source dischargers required to
2660 monitor water quality pursuant to s. 403.067(7)(b)2.g. or s.
2661 403.067(7)(c)3. The results of such monitoring must be reported
2662 to the coordinating agencies.
2663 ~~3. St. Lucie River Watershed Research and Water Quality~~
2664 ~~Monitoring Program.—The district, in cooperation with the other~~
2665 ~~coordinating agencies and local governments, shall establish a~~
2666 ~~St. Lucie River Watershed Research and Water Quality Monitoring~~

2667 ~~Program that builds upon the district's existing research~~
2668 ~~program and that is sufficient to carry out, comply with, or~~
2669 ~~assess the plans, programs, and other responsibilities created~~
2670 ~~by this subsection. The program shall also conduct an assessment~~
2671 ~~of the water volumes and timing from the Lake Okeechobee and St.~~
2672 ~~Lucie River watersheds and their relative contributions to the~~
2673 ~~timing and volume of water delivered to the estuary.~~
2674 (e) ~~(c)~~ *River Watershed Protection Plan implementation.*—The
2675 coordinating agencies shall be jointly responsible for
2676 implementing the River Watershed Protection Plans, consistent
2677 with the statutory authority and responsibility of each agency.
2678 Annual funding priorities shall be jointly established, and the
2679 highest priority shall be assigned to programs and projects that
2680 have the greatest potential for achieving the goals and
2681 objectives of the plans. In determining funding priorities, the
2682 coordinating agencies shall also consider the need for
2683 regulatory compliance, the extent to which the program or
2684 project is ready to proceed, and the availability of federal or
2685 local government matching funds. Federal and other nonstate
2686 funding shall be maximized to the greatest extent practicable.
2687 (f) ~~(d)~~ *Evaluation.*—Beginning ~~By~~ March 1, 2020 ~~2012~~, and
2688 every 5 ~~3~~ years thereafter, concurrent with the updates of the
2689 basin management action plans adopted pursuant to s. 403.067,
2690 the department, ~~district~~ in cooperation with the other
2691 coordinating agencies, shall conduct an evaluation of any
2692 pollutant load reduction goals, as well as any other specific
2693 objectives and goals, as stated in the River Watershed
2694 Protection Programs ~~Plans~~. ~~Additionally,~~ The district shall
2695 identify modifications to facilities of the River Watershed

2696 Construction Projects, as appropriate, or any other elements of
2697 the River Watershed Protection Programs ~~Plans~~. The evaluation
2698 shall be included in the annual progress report submitted
2699 pursuant to this section.
2700 (g) ~~(e)~~ *Priorities and implementation schedules.*—The
2701 coordinating agencies are authorized and directed to establish
2702 priorities and implementation schedules for the achievement of
2703 total maximum daily loads, the requirements of s. 403.067, and
2704 compliance with applicable water quality standards within the
2705 waters and watersheds subject to this section.
2706 ~~(f) *Legislative ratification.* The coordinating agencies~~
2707 ~~shall submit the River Watershed Protection Plans developed~~
2708 ~~pursuant to paragraphs (a) and (b) to the President of the~~
2709 ~~Senate and the Speaker of the House of Representatives prior to~~
2710 ~~the 2009 legislative session for review. If the Legislature~~
2711 ~~takes no action on the plan during the 2009 legislative session,~~
2712 ~~the plan is deemed approved and may be implemented.~~
2713 (5) ADOPTION AND IMPLEMENTATION OF TOTAL MAXIMUM DAILY
2714 LOADS AND DEVELOPMENT OF BASIN MANAGEMENT ACTION PLANS.—The
2715 department is directed to expedite development and adoption of
2716 total maximum daily loads for the Caloosahatchee River and
2717 estuary. The department is further directed to~~, no later than~~
2718 ~~December 31, 2008,~~ propose for final agency action total maximum
2719 daily loads for nutrients in the tidal portions of the
2720 Caloosahatchee River and estuary. The department shall initiate
2721 development of basin management action plans for Lake
2722 Okeechobee, the Caloosahatchee River watershed and estuary, and
2723 the St. Lucie River watershed and estuary as provided in s.
2724 403.067 ~~s. 403.067(7)(a)~~ as follows:

2725 (a) Basin management action plans shall be developed as
2726 soon as practicable as determined necessary by the department to
2727 achieve the total maximum daily loads established for the Lake
2728 Okeechobee watershed and the estuaries.
2729 (b) The Phase II technical plan development pursuant to
2730 paragraph (3)(a) ~~(3)(b)~~, and the River Watershed Protection
2731 Plans developed pursuant to paragraphs (4)(a) and (c)~~(b)~~, shall
2732 provide the basis for basin management action plans developed by
2733 the department.
2734 (c) As determined necessary by the department in order to
2735 achieve the total maximum daily loads, additional or modified
2736 projects or programs that complement those in the legislatively
2737 ratified plans may be included during the development of the
2738 basin management action plan.
2739 (d) As provided in s. 403.067, management strategies and
2740 pollution reduction requirements set forth in a basin management
2741 action plan subject to permitting by the department under
2742 subsection (7) must be completed pursuant to the schedule set
2743 forth in the basin management action plan, as amended. The
2744 implementation schedule may extend beyond the 5-year permit
2745 term.
2746 (e) As provided in s. 403.067, management strategies and
2747 pollution reduction requirements set forth in a basin management
2748 action plan for a specific pollutant of concern are not subject
2749 to challenge under chapter 120 at the time they are
2750 incorporated, in an identical form, into a department or
2751 district issued permit or a permit modification issued in
2752 accordance with subsection (7).
2753 ~~(d) Development of basin management action plans that~~

2754 ~~implement the provisions of the legislatively ratified plans~~
2755 ~~shall be initiated by the department no later than September 30~~
2756 ~~of the year in which the applicable plan is ratified. Where a~~
2757 ~~total maximum daily load has not been established at the time of~~
2758 ~~plan ratification, development of basin management action plans~~
2759 ~~shall be initiated no later than 90 days following adoption of~~
2760 ~~the applicable total maximum daily load.~~
2761 (6) ANNUAL PROGRESS REPORT.—Each March 1 the district, in
2762 cooperation with the other coordinating agencies, shall report
2763 on implementation of this section as part of the consolidated
2764 annual report required in s. 373.036(7). The annual report shall
2765 include a summary of the conditions of the hydrology, water
2766 quality, and aquatic habitat in the northern Everglades based on
2767 the results of the Research and Water Quality Monitoring
2768 Programs, the status of the Lake Okeechobee Watershed
2769 Construction Project, the status of the Caloosahatchee River
2770 Watershed Construction Project, and the status of the St. Lucie
2771 River Watershed Construction Project. In addition, the report
2772 shall contain an annual accounting of the expenditure of funds
2773 from the Save Our Everglades Trust Fund. At a minimum, the
2774 annual report shall provide detail by program and plan,
2775 including specific information concerning the amount and use of
2776 funds from federal, state, or local government sources. In
2777 detailing the use of these funds, the district shall indicate
2778 those designated to meet requirements for matching funds. The
2779 district shall prepare the report in cooperation with the other
2780 coordinating agencies and affected local governments. The
2781 department shall report on the status of the Lake Okeechobee
2782 Basin Management Action Plan, the Caloosahatchee River Watershed

2783 Basin Management Action Plan, and the St. Lucie River Watershed
2784 Basin Management Action Plan. The Department of Agriculture and
2785 Consumer Services shall report on the status of the
2786 implementation of the agricultural nonpoint source best
2787 management practices, including an implementation assurance
2788 report summarizing survey responses and response rates, site
2789 inspections, and other methods used to verify implementation of
2790 and compliance with best management practices in the Lake
2791 Okeechobee, Caloosahatchee and St. Lucie watersheds.
2792 (7) LAKE OKEECHOBEE PROTECTION PERMITS.—
2793 (a) The Legislature finds that the Lake Okeechobee
2794 Watershed Protection Program will benefit Lake Okeechobee and
2795 downstream receiving waters and is in ~~consistent with~~ the public
2796 interest. The Lake Okeechobee Watershed Construction Project and
2797 structures discharging into or from Lake Okeechobee shall be
2798 constructed, operated, and maintained in accordance with this
2799 section.
2800 (b) Permits obtained pursuant to this section are in lieu
2801 of all other permits under this chapter or chapter 403, except
2802 those issued under s. 403.0885, if applicable. ~~No~~ Additional
2803 permits are not required for the Lake Okeechobee Watershed
2804 Construction Project, or structures discharging into or from
2805 Lake Okeechobee, if such project or structures are permitted
2806 under this section. Construction activities related to
2807 implementation of the Lake Okeechobee Watershed Construction
2808 Project may be initiated before ~~prior to~~ final agency action, or
2809 notice of intended agency action, on any permit from the
2810 department under this section.
2811 (c)1. ~~Within 90 days of completion of the diversion plans~~

2812 ~~set forth in Department Consent Orders 91-0694, 91-0707, 91-~~
2813 ~~0706, 91-0705, and RT50-205564,~~ Owners or operators of existing
2814 structures which discharge into or from Lake Okeechobee that
2815 were subject to Department Consent Orders 91-0694, 91-0705, 91-
2816 0706, 91-0707, and RT50-205564 and that are subject to ~~the~~
2817 ~~provisions of~~ s. 373.4592(4)(a) do not require a permit under
2818 this section and shall be governed by permits issued under ~~apply~~
2819 ~~for a permit from the department to operate and maintain such~~
2820 ~~structures. By September 1, 2000, owners or operators of all~~
2821 ~~other existing structures which discharge into or from Lake~~
2822 ~~Okeechobee shall apply for a permit from the department to~~
2823 ~~operate and maintain such structures. The department shall issue~~
2824 ~~one or more such permits for a term of 5 years upon the~~
2825 ~~demonstration of reasonable assurance that schedules and~~
2826 ~~strategies to achieve and maintain compliance with water quality~~
2827 ~~standards have been provided for, to the maximum extent~~
2828 ~~practicable, and that operation of the structures otherwise~~
2829 ~~complies with provisions of~~ ss. 373.413 and 373.416 and the Lake
2830 Okeechobee Basin Management Action Plan adopted pursuant to s.
2831 403.067.
2832 ~~1. Permits issued under this paragraph shall also contain~~
2833 ~~reasonable conditions to ensure that discharges of waters~~
2834 ~~through structures:~~
2835 ~~a. Are adequately and accurately monitored;~~
2836 ~~b. Will not degrade existing Lake Okeechobee water quality~~
2837 ~~and will result in an overall reduction of phosphorus input into~~
2838 ~~Lake Okeechobee, as set forth in the district's Technical~~
2839 ~~Publication 81-2 and the total maximum daily load established in~~
2840 ~~accordance with s. 403.067, to the maximum extent practicable;~~

2841 ~~and~~
2842 ~~c. Do not pose a serious danger to public health, safety,~~
2843 ~~or welfare.~~
2844 2. For the purposes of this paragraph, owners and operators
2845 of existing structures which are subject to ~~the provisions of~~ s.
2846 373.4592(4)(a) and which discharge into or from Lake Okeechobee
2847 shall be deemed in compliance with this paragraph ~~the term~~
2848 ~~"maximum extent practicable"~~ if they are in full compliance with
2849 the conditions of permits under chapter ~~chapters 40E-61 and~~ 40E-
2850 63, Florida Administrative Code.
2851 3. By January 1, 2016 ~~2004~~, the district shall submit to
2852 the department a complete application for a permit modification
2853 to the Lake Okeechobee structure permits to incorporate proposed
2854 changes necessary to ensure that discharges through the
2855 structures covered by this permit are consistent with the basin
2856 management action plan adopted pursuant to ~~achieve state water~~
2857 ~~quality standards, including the total maximum daily load~~
2858 ~~established in accordance with~~ s. 403.067. ~~These changes shall~~
2859 ~~be designed to achieve such compliance with state water quality~~
2860 ~~standards no later than January 1, 2015.~~
2861 (d) The department shall require permits for district
2862 regional projects that are part of the Lake Okeechobee Watershed
2863 Construction Project ~~facilities~~. However, projects ~~identified in~~
2864 ~~sub-subparagraph (3)(b)1.b.~~ that qualify as exempt pursuant to
2865 s. 373.406 do ~~shall~~ not require ~~need~~ permits under this section.
2866 Such permits shall be issued for a term of 5 years upon the
2867 demonstration of reasonable assurances that:
2868 1. District regional projects that are part of the Lake
2869 Okeechobee Watershed Construction Project shall ~~facility, based~~

2870 ~~upon the conceptual design documents and any subsequent detailed~~
2871 ~~design documents developed by the district, will~~ achieve the
2872 design objectives for phosphorus required in subparagraph
2873 (3)(a)1. ~~paragraph (3)(b)~~;
2874 2. For water quality standards other than phosphorus, the
2875 quality of water discharged from the facility is of equal or
2876 better quality than the inflows;
2877 3. Discharges from the facility do not pose a serious
2878 danger to public health, safety, or welfare; and
2879 4. Any impacts on wetlands or state-listed species
2880 resulting from implementation of that facility of the Lake
2881 Okeechobee Construction Project are minimized and mitigated, as
2882 appropriate.
2883 (e) At least 60 days before ~~prior to~~ the expiration of any
2884 permit issued under this section, the permittee may apply for a
2885 renewal thereof for a period of 5 years.
2886 (f) Permits issued under this section may include any
2887 standard conditions provided by department rule which are
2888 appropriate and consistent with this section.
2889 (g) Permits issued under ~~pursuant to~~ this section may be
2890 modified, as appropriate, upon review and approval by the
2891 department.
2892 Section 21. Paragraph (a) of subsection (1) and subsection
2893 (3) of section 373.467, Florida Statutes, are amended, to read:
2894 373.467 The Harris Chain of Lakes Restoration Council.—
2895 There is created within the St. Johns River Water Management
2896 District, with assistance from the Fish and Wildlife
2897 Conservation Commission and the Lake County Water Authority, the
2898 Harris Chain of Lakes Restoration Council.

2899 (1)(a) The council shall consist of nine voting members~~,~~
2900 which shall include~~:~~ a representative of waterfront property
2901 owners, a representative of the sport fishing industry, a person
2902 with experience in ~~an~~ environmental science or regulation
2903 ~~engineer~~, a person with training in biology or another
2904 scientific discipline, ~~a person with training as~~ an attorney, a
2905 physician, ~~a person with training as~~ an engineer, and two
2906 residents of the county who are ~~do~~ not required to meet any
2907 additional ~~of the other~~ qualifications for membership ~~enumerated~~
2908 ~~in this paragraph~~, each to be appointed by the Lake County
2909 legislative delegation. The Lake County legislative delegation
2910 may waive the qualifications for membership on a case-by-case
2911 basis if good cause is shown. A ~~No~~ person serving on the council
2912 may not be appointed to a council, board, or commission of any
2913 council advisory group agency. The council members shall serve
2914 as advisors to the governing board of the St. Johns River Water
2915 Management District. The council is subject to ~~the provisions of~~
2916 chapters 119 and 120.
2917 (3) The council shall meet at the call of its chair, at the
2918 request of six of its members, or at the request of the chair of
2919 the governing board of the St. Johns River Water Management
2920 District. Resignation by a council member, or failure by a
2921 council member to attend three consecutive meetings without an
2922 excuse approved by the chair, results in a vacancy on the
2923 council.
2924 Section 22. Paragraphs (a) and (b) of subsection (6) of
2925 section 373.536, Florida Statutes, are amended to read:
2926 373.536 District budget and hearing thereon.—
2927 (6) FINAL BUDGET; ANNUAL AUDIT; CAPITAL IMPROVEMENTS PLAN;

2928 WATER RESOURCE DEVELOPMENT WORK PROGRAM.—
2929 (a) Each district must, by the date specified for each
2930 item, furnish copies of the following documents to the Governor,
2931 the President of the Senate, the Speaker of the House of
2932 Representatives, the chairs of all legislative committees and
2933 subcommittees having substantive or fiscal jurisdiction over the
2934 districts, as determined by the President of the Senate or the
2935 Speaker of the House of Representatives as applicable, the
2936 secretary of the department, and the governing board of each
2937 county in which the district has jurisdiction or derives any
2938 funds for the operations of the district:
2939 1. The adopted budget, to be furnished within 10 days after
2940 its adoption.
2941 2. A financial audit of its accounts and records, to be
2942 furnished within 10 days after its acceptance by the governing
2943 board. The audit must be conducted in accordance with s. 11.45
2944 and the rules adopted thereunder. In addition to the entities
2945 named above, the district must provide a copy of the audit to
2946 the Auditor General within 10 days after its acceptance by the
2947 governing board.
2948 3. A 5-year capital improvements plan, to be included in
2949 the consolidated annual report required by s. 373.036(7). The
2950 plan must include expected sources of revenue for planned
2951 improvements and must be prepared in a manner comparable to the
2952 fixed capital outlay format set forth in s. 216.043.
2953 4. A 5-year water resource development work program to be
2954 furnished within 30 days after the adoption of the final budget.
2955 The program must describe the district's implementation strategy
2956 and include an annual funding plan for each of the 5 years

2957 included in the plan for the water resource and~~,~~ water supply~~,~~
2958 development components, including ~~and~~ alternative water supply
2959 development, ~~components~~ of each approved regional water supply
2960 plan developed or revised under s. 373.709. The work program
2961 must address all the elements of the water resource development
2962 component in the district's approved regional water supply
2963 plans, as well as the water supply projects proposed for
2964 district funding and assistance. The annual funding plan shall
2965 identify both anticipated available district funding and
2966 additional funding needs for the second through fifth years of
2967 the funding plan. Funding requests for projects submitted for
2968 consideration for state funding pursuant to s. 403.0616 shall be
2969 identified separately. The work program ~~and~~ must identify
2970 projects in the work program which will provide water; explain
2971 how each water resource and~~,~~ water supply~~, and alternative water~~
2972 ~~supply development~~ project will produce additional water
2973 available for consumptive uses; estimate the quantity of water
2974 to be produced by each project; ~~and~~ provide an assessment of the
2975 contribution of the district's regional water supply plans in
2976 supporting the implementation of minimum flows and minimum water
2977 levels and water reservations; and ensure ~~providing~~ sufficient
2978 water is available ~~needed~~ to timely meet the water supply needs
2979 of existing and future reasonable-beneficial uses for a 1-in-10-
2980 year drought event and to avoid the adverse effects of
2981 competition for water supplies.
2982 (b) Within 30 days after its submittal, the department
2983 shall review the proposed work program and submit its findings,
2984 questions, and comments to the district. The review must include
2985 a written evaluation of the program's consistency with the

2986 furtherance of the district's approved regional water supply
2987 plans, and the adequacy of proposed expenditures. As part of the
2988 review, the department shall post the work program on its
2989 website and give interested parties the opportunity to provide
2990 written comments on each district's proposed work program.
2991 Within 45 days after receipt of the department's evaluation, the
2992 governing board shall state in writing to the department which
2993 of the changes recommended in the evaluation it will incorporate
2994 into its work program submitted as part of the March 1
2995 consolidated annual report required by s. 373.036(7) or specify
2996 the reasons for not incorporating the changes. The department
2997 shall include the district's responses in a final evaluation
2998 report and shall submit a copy of the report to the Governor,
2999 the President of the Senate, and the Speaker of the House of
3000 Representatives.
3001 Section 23. Subsection (9) of section 373.703, Florida
3002 Statutes, is amended, and subsection (10) is added to that
3003 section, to read:
3004 373.703 Water production; general powers and duties.—In the
3005 performance of, and in conjunction with, its other powers and
3006 duties, the governing board of a water management district
3007 existing pursuant to this chapter:
3008 (9) May join with one or more other water management
3009 districts, counties, municipalities, special districts, publicly
3010 owned or privately owned water utilities, multijurisdictional
3011 water supply entities, regional water supply authorities,
3012 private landowners, or self-suppliers for the purpose of
3013 carrying out its powers, and may contract with such other
3014 entities to finance acquisitions, construction, operation, and

3015 maintenance, provided that such contracts are consistent with
3016 the public interest. The contract may provide for contributions
3017 to be made by each party to the contract for the division and
3018 apportionment of the expenses of acquisitions, construction,
3019 operation, and maintenance, and for the division and
3020 apportionment of resulting benefits, services, and products. The
3021 contracts may contain other covenants and agreements necessary
3022 and appropriate to accomplish their purposes.
3023 (10) This section does not apply to the development and
3024 implementation of pilot projects pursuant to s. 373.037.
3025 Section 24. Paragraph (b) of subsection (2) and subsections
3026 (3) and (4) of section 373.705, Florida Statutes, are amended,
3027 and subsection (5) is added to that section, to read:
3028 373.705 Water resource development; water supply
3029 development.—
3030 (2) It is the intent of the Legislature that:
3031 (b) Water management districts take the lead in identifying
3032 and implementing water resource development projects, and be
3033 responsible for securing necessary funding for regionally
3034 significant water resource development projects, including
3035 regionally significant projects that prevent or limit adverse
3036 water resource impacts, avoid competition among water users, or
3037 support the provision of new water supplies in order to meet a
3038 minimum flow or minimum water level or to implement a recovery
3039 or prevention strategy or water reservation.
3040 (3)(a) The water management districts shall fund and
3041 implement water resource development as defined in s. 373.019.
3042 The water management districts are encouraged to implement water
3043 resource development as expeditiously as possible in areas

3044 subject to regional water supply plans.
3045 (b) Each governing board shall include in its annual budget
3046 submittals required under this chapter:
3047 1. The amount of funds for each project in the annual
3048 funding plan developed pursuant to s. 373.536(6)(a)4.;
3049 2. The total amount needed for the fiscal year to implement
3050 water resource development projects, as prioritized in its
3051 regional water supply plans; and
3052 3. The amount of funds requested for each project submitted
3053 for consideration for state funding pursuant to s. 403.0616.
3054 (4)(a) Water supply development projects that are
3055 consistent with the relevant regional water supply plans and
3056 that meet one or more of the following criteria shall receive
3057 priority consideration for state or water management district
3058 funding assistance:
3059 1. The project supports establishment of a dependable,
3060 sustainable supply of water which is not otherwise financially
3061 feasible;
3062 2. The project provides substantial environmental benefits
3063 by preventing or limiting adverse water resource impacts, but
3064 requires funding assistance to be economically competitive with
3065 other options; or
3066 3. The project significantly implements reuse, storage,
3067 recharge, or conservation of water in a manner that contributes
3068 to the sustainability of regional water sources.
3069 (b) Except for pilot projects identified in paragraph (c),
3070 water supply development projects that meet the criteria in
3071 paragraph (a) and that meet one or more of the following
3072 additional criteria shall be given first consideration for state

3073 or water management district funding assistance:
3074 1. The project brings about replacement of existing sources
3075 in order to help implement a minimum flow or minimum water
3076 level; ~~or~~
3077 2. The project implements reuse that assists in the
3078 elimination of domestic wastewater ocean outfalls as provided in
3079 s. 403.086(9); or
3080 3. The project reduces or eliminates the adverse effects of
3081 competition between legal users and the natural system.
3082 (c) First consideration for state or water management
3083 district funding for water supply development projects shall be
3084 given to pilot projects pursuant to s. 373.037 before
3085 consideration of water supply development projects identified in
3086 paragraphs (a) and (b) within the restricted allocation area
3087 where the pilot project is located.
3088 (5) The water management districts shall promote expanded
3089 cost-share criteria for additional conservation practices, such
3090 as soil and moisture sensors and other irrigation improvements,
3091 water-saving equipment and water-saving household fixtures, and
3092 software technologies that can achieve verifiable water
3093 conservation by providing water use information to utility
3094 customers.
3095 Section 25. Paragraph (f) of subsection (3), paragraph (a)
3096 of subsection (6), and paragraphs (e) and (f) of subsection (8)
3097 of section 373.707, Florida Statutes, are amended to read:
3098 373.707 Alternative water supply development.—
3099 (3) The primary roles of the water management districts in
3100 water resource development as it relates to supporting
3101 alternative water supply development are:

3102 (f) The provision of technical and financial assistance to
3103 local governments and publicly owned and privately owned water
3104 utilities for alternative water supply projects and for self-
3105 suppliers for alternative water supply projects to the extent
3106 assistance for self-suppliers promotes the policies in paragraph
3107 (1)(f).
3108 (6)(a) If state ~~The statewide~~ funds are provided through
3109 specific appropriation for a priority project of the water
3110 resources work program pursuant to s. 403.0616, or pursuant to
3111 the Water Protection and Sustainability Program, such funds
3112 serve to supplement existing water management district or basin
3113 board funding for alternative water supply development
3114 assistance and should not result in a reduction of such funding.
3115 For each project identified in the annual funding plans prepared
3116 pursuant to s. 373.536(6)(a)4. ~~Therefore~~, the water management
3117 districts shall include in the annual tentative and adopted
3118 budget submittals required under this chapter the amount of
3119 funds allocated for water resource development that supports
3120 alternative water supply development and the funds allocated for
3121 alternative water supply projects ~~selected for inclusion in the~~
3122 ~~Water Protection and Sustainability Program~~. It shall be the
3123 goal of each water management district and basin boards that the
3124 combined funds allocated annually for these purposes be, at a
3125 minimum, the equivalent of 100 percent of the state funding
3126 provided to the water management district for alternative water
3127 supply development. If this goal is not achieved, the water
3128 management district shall provide in the budget submittal an
3129 explanation of the reasons or constraints that prevent this goal
3130 from being met, an explanation of how the goal will be met in

3131 future years, and affirmation of match is required during the
3132 budget review process as established under s. 373.536(5). The
3133 Suwannee River Water Management District and the Northwest
3134 Florida Water Management District shall not be required to meet
3135 the match requirements of this paragraph; however, they shall
3136 try to achieve the match requirement to the greatest extent
3137 practicable.
3138 (8)
3139 (e) Applicants for projects that may receive funding
3140 assistance pursuant to the Water Protection and Sustainability
3141 Program shall, at a minimum, be required to pay 60 percent of
3142 the project's construction costs. The water management districts
3143 may, at their discretion, totally or partially waive this
3144 requirement for projects sponsored by:
3145 1. Financially disadvantaged small local governments as
3146 defined in former s. 403.885(5); or
3147 2. Water users for projects determined by a water
3148 management district governing board to be in the public interest
3149 pursuant to paragraph (1)(f), if the projects are not otherwise
3150 financially feasible.
3151
3152 The water management districts or basin boards may, at their
3153 discretion, use ad valorem or federal revenues to assist a
3154 project applicant in meeting the requirements of this paragraph.
3155 (f) The governing boards shall determine those projects
3156 that will be selected for financial assistance. The governing
3157 boards may establish factors to determine project funding;
3158 however, significant weight shall be given to the following
3159 factors:

3160 1. Whether the project provides substantial environmental
3161 benefits by preventing or limiting adverse water resource
3162 impacts.
3163 2. Whether the project reduces competition for water
3164 supplies.
3165 3. Whether the project brings about replacement of
3166 traditional sources in order to help implement a minimum flow or
3167 level or a reservation.
3168 4. Whether the project will be implemented by a consumptive
3169 use permittee that has achieved the targets contained in a goal-
3170 based water conservation program approved pursuant to s.
3171 373.227.
3172 5. The quantity of water supplied by the project as
3173 compared to its cost.
3174 6. Projects in which the construction and delivery to end
3175 users of reuse water is a major component.
3176 7. Whether the project will be implemented by a
3177 multijurisdictional water supply entity or regional water supply
3178 authority.
3179 8. Whether the project implements reuse that assists in the
3180 elimination of domestic wastewater ocean outfalls as provided in
3181 s. 403.086(9).
3182 9. Whether the county or municipality, or the multiple
3183 counties or municipalities, in which the project is located has
3184 implemented a high-water recharge protection tax assessment
3185 program as provided in s. 193.625.
3186 10. Whether the project is a pilot project under s.
3187 373.037.
3188 Section 26. Paragraph (a) of subsection (2) and paragraphs

3189 (a) and (e) of subsection (6) of section 373.709, Florida
3190 Statutes, are amended to read:
3191 373.709 Regional water supply planning.—
3192 (2) Each regional water supply plan must be based on at
3193 least a 20-year planning period and must include, but need not
3194 be limited to:
3195 (a) A water supply development component for each water
3196 supply planning region identified by the district which
3197 includes:
3198 1. A quantification of the water supply needs for all
3199 existing and future reasonable-beneficial uses within the
3200 planning horizon. The level-of-certainty planning goal
3201 associated with identifying the water supply needs of existing
3202 and future reasonable-beneficial uses must be based upon meeting
3203 those needs for a 1-in-10-year drought event.
3204 a. Population projections used for determining public water
3205 supply needs must be based upon the best available data. In
3206 determining the best available data, the district shall consider
3207 the University of Florida ~~Florida's~~ Bureau of Economic and
3208 Business Research (BEBR) medium population projections and
3209 population projection data and analysis submitted by a local
3210 government pursuant to the public workshop described in
3211 subsection (1) if the data and analysis support the local
3212 government's comprehensive plan. Any adjustment of or deviation
3213 from the BEBR projections must be fully described, and the
3214 original BEBR data must be presented along with the adjusted
3215 data.
3216 b. Agricultural demand projections used for determining the
3217 needs of agricultural self-suppliers must be based upon the best

3218 available data. In determining the best available data for
3219 agricultural self-supplied water needs, the district shall
3220 consider the data indicative of future water supply demands
3221 provided by the Department of Agriculture and Consumer Services
3222 pursuant to s. 570.93 and agricultural demand projection data
3223 and analysis submitted by a local government pursuant to the
3224 public workshop described in subsection (1), if the data and
3225 analysis support the local government's comprehensive plan. Any
3226 adjustment of or deviation from the data provided by the
3227 Department of Agriculture and Consumer Services must be fully
3228 described, and the original data must be presented along with
3229 the adjusted data.
3230 2. A list of water supply development project options,
3231 including traditional and alternative water supply project
3232 options that are technically and financially feasible, from
3233 which local government, government-owned and privately owned
3234 utilities, regional water supply authorities,
3235 multijurisdictional water supply entities, self-suppliers, and
3236 others may choose for water supply development. In addition to
3237 projects listed by the district, such users may propose specific
3238 projects for inclusion in the list of alternative water supply
3239 projects. If such users propose a project to be listed as an
3240 alternative water supply project, the district shall determine
3241 whether it meets the goals of the plan, and, if so, it shall be
3242 included in the list. The total capacity of the projects
3243 included in the plan must exceed the needs identified in
3244 subparagraph 1. and take into account water conservation and
3245 other demand management measures, as well as water resources
3246 constraints, including adopted minimum flows and minimum water

3247 levels and water reservations. Where the district determines it
3248 is appropriate, the plan should specifically identify the need
3249 for multijurisdictional approaches to project options that,
3250 based on planning level analysis, are appropriate to supply the
3251 intended uses and that, based on such analysis, appear to be
3252 permittable and financially and technically feasible. The list
3253 of water supply development options must contain provisions that
3254 recognize that alternative water supply options for agricultural
3255 self-suppliers are limited.
3256 3. For each project option identified in subparagraph 2.,
3257 the following must be provided:
3258 a. An estimate of the amount of water to become available
3259 through the project.
3260 b. The timeframe in which the project option should be
3261 implemented and the estimated planning-level costs for capital
3262 investment and operating and maintaining the project.
3263 c. An analysis of funding needs and sources of possible
3264 funding options. For alternative water supply projects, the
3265 water management districts shall provide funding assistance
3266 pursuant to s. 373.707(8).
3267 d. Identification of the entity that should implement each
3268 project option and the current status of project implementation.
3269 (6) Annually and in conjunction with the reporting
3270 requirements of s. 373.536(6)(a)4., the department shall submit
3271 to the Governor and the Legislature a report on the status of
3272 regional water supply planning in each district. The report
3273 shall include:
3274 (a) A compilation of the estimated costs ~~of~~ and an analysis
3275 of the sufficiency of potential sources of funding from all

3276 sources for water resource development and water supply
3277 development projects as identified in the water management
3278 district regional water supply plans.
3279 (e) An overall assessment of the progress being made to
3280 develop water supply in each district, including, but not
3281 limited to, an explanation of how each project in the 5-year
3282 water resource development work program developed pursuant to s.
3283 373.536(6)(a)4., either alternative or traditional, will
3284 produce, contribute to, or account for additional water being
3285 made available for consumptive uses, minimum flows and minimum
3286 water levels, or water reservations; an estimate of the quantity
3287 of water to be produced by each project;~~,~~ and an assessment of
3288 the contribution of the district's regional water supply plan in
3289 providing sufficient water to meet the needs of existing and
3290 future reasonable-beneficial uses for a 1-in-10-year drought
3291 event, as well as the needs of the natural systems.
3292 Section 27. Part VIII of chapter 373, Florida Statutes,
3293 consisting of sections 373.801, 373.802, 373.803, 373.805,
3294 373.807, 373.811, and 373.813, Florida Statutes, is created and
3295 entitled the "Florida Springs and Aquifer Protection Act."
3296 Section 28. Section 373.801, Florida Statutes, is created
3297 to read:
3298 373.801 Legislative findings and intent.—
3299 (1) The Legislature finds that springs are a unique part of
3300 this state's scenic beauty. Springs provide critical habitat for
3301 plants and animals, including many endangered or threatened
3302 species. Springs also provide immeasurable natural,
3303 recreational, economic, and inherent value. Springs are of great
3304 scientific importance in understanding the diverse functions of

3305 aquatic ecosystems. Water quality of springs is an indicator of
3306 local conditions of the Floridan Aquifer, which is a source of
3307 drinking water for many residents of this state. Water flows in
3308 springs may reflect regional aquifer conditions. In addition,
3309 springs provide recreational opportunities for swimming,
3310 canoeing, wildlife watching, fishing, cave diving, and many
3311 other activities in this state. These recreational opportunities
3312 and the accompanying tourism they provide are a benefit to local
3313 economies and the economy of the state as a whole.
3314 (2) The Legislature finds that the water quantity and water
3315 quality in springs may be related. For regulatory purposes, the
3316 department has primary responsibility for water quality; the
3317 water management districts have primary responsibility for water
3318 quantity; and the Department of Agriculture and Consumer
3319 Services has primary responsibility for the development and
3320 implementation of agricultural best management practices. Local
3321 governments have primary responsibility for providing wastewater
3322 services and stormwater management. The foregoing responsible
3323 entities must coordinate to restore and maintain the water
3324 quantity and water quality of the Outstanding Florida Springs.
3325 (3) The Legislature recognizes that:
3326 (a) Springs are only as healthy as their springsheds. The
3327 groundwater that supplies springs is derived from water that
3328 recharges the aquifer system in the form of seepage from the
3329 land surface and through direct conduits, such as sinkholes.
3330 Springs may be adversely affected by polluted runoff from urban
3331 and agricultural lands; discharges resulting from inadequate
3332 wastewater and stormwater management practices; stormwater
3333 runoff; and reduced water levels of the Floridan Aquifer. As a

3334 result, the hydrologic and environmental conditions of a spring
3335 or spring run are directly influenced by activities and land
3336 uses within a springshed and by water withdrawals from the
3337 Floridan Aquifer.
3338 (b) Springs, whether found in urban or rural settings, or
3339 on public or private lands, may be threatened by actual or
3340 potential flow reductions and declining water quality. Many of
3341 this state's springs are demonstrating signs of significant
3342 ecological imbalance, increased nutrient loading, and declining
3343 flow. Without effective remedial action, further declines in
3344 water quality and water quantity may occur.
3345 (c) Springshed boundaries and areas of high vulnerability
3346 within a springshed need to be identified and delineated using
3347 the best available data.
3348 (d) Springsheds typically cross water management district
3349 boundaries and local government jurisdictional boundaries, so a
3350 coordinated statewide springs protection plan is needed.
3351 (e) The aquifers and springs of this state are complex
3352 systems affected by many variables and influences.
3353 (4) The Legislature recognizes that action is urgently
3354 needed and, as additional data is acquired, action must be
3355 modified.
3356 Section 29. Section 373.802, Florida Statutes, is created
3357 to read:
3358 373.802 Definitions.—As used in this part, the term:
3359 (1) "Department" means the Department of Environmental
3360 Protection, which includes the Florida Geological Survey or its
3361 successor agencies.
3362 (2) "Local government" means a county or municipal

3363 government the jurisdictional boundaries of which include an
3364 Outstanding Florida Spring or any part of a springshed or
3365 delineated priority focus area of an Outstanding Florida Spring.
3366 (3) "Onsite sewage treatment and disposal system" means a
3367 system that contains a standard subsurface, filled, or mound
3368 drainfield system; an aerobic treatment unit; a graywater system
3369 tank; a laundry wastewater system tank; a septic tank; a grease
3370 interceptor; a pump tank; a solids or effluent pump; a
3371 waterless, incinerating, or organic waste-composting toilet; or
3372 a sanitary pit privy that is installed or proposed to be
3373 installed beyond the building sewer on land of the owner or on
3374 other land on which the owner has the legal right to install
3375 such system. The term includes any item placed within, or
3376 intended to be used as a part of or in conjunction with, the
3377 system. The term does not include package sewage treatment
3378 facilities and other treatment works regulated under chapter
3379 403.
3380 (4) "Outstanding Florida Spring" includes all historic
3381 first magnitude springs, as determined by the department using
3382 the most recent Florida Geological Survey springs bulletin, and
3383 the following additional springs and associated spring runs:
3384 (a) De Leon Springs;
3385 (b) Peacock Springs;
3386 (c) Poe Springs;
3387 (d) Rock Springs;
3388 (e) Wekiwa Springs; and
3389 (f) Gemini Springs.
3390
3391 The term does not include submarine springs.

3392 (5) "Priority focus area" means the area or areas of a
3393 basin where the Floridan Aquifer is most vulnerable to
3394 groundwater withdrawals or pollutant inputs, where the
3395 groundwater travel times are the fastest, and where there is a
3396 known connectivity between groundwater pathways and an
3397 Outstanding Florida Spring, as determined by the department in
3398 consultation with the appropriate water management districts,
3399 and delineated in a basin management action plan.
3400 (6) "Springshed" means the areas within the groundwater and
3401 surface water basins which contribute, based upon all relevant
3402 facts, circumstances, and data, to the discharge of a spring as
3403 defined by potentiometric surface maps and surface watershed
3404 boundaries.
3405 (7) "Spring run" means a body of flowing water that
3406 originates from a spring or whose primary source of water is a
3407 spring or springs under average rainfall conditions.
3408 (8) "Spring vent" means a location where groundwater flows
3409 out of a natural, discernible opening in the ground onto the
3410 land surface or into a predominantly fresh surface water body.
3411 Section 30. Section 373.803, Florida Statutes, is created
3412 to read:
3413 373.803 Delineation of priority focus areas for Outstanding
3414 Florida Springs.—Using the best data available from the water
3415 management districts and other credible sources, the department,
3416 in coordination with the water management districts, shall
3417 delineate priority focus areas for each Outstanding Florida
3418 Spring or group of springs that contains one or more Outstanding
3419 Florida Springs and is identified as impaired in accordance with
3420 s. 373.807. In delineating priority focus areas, the department

3421 shall consider groundwater travel time to the spring,
3422 hydrogeology, nutrient load, and any other factors that may lead
3423 to degradation of an Outstanding Florida Spring. The delineation
3424 of priority focus areas must be completed by July 1, 2018, and
3425 shall be effective upon incorporation in a basin management
3426 action plan.
3427 Section 31. Section 373.805, Florida Statutes, is created
3428 to read:
3429 373.805 Minimum flows and minimum water levels for
3430 Outstanding Florida Springs.—
3431 (1) At the time a minimum flow or minimum water level is
3432 adopted pursuant to s. 373.042 for an Outstanding Florida
3433 Spring, if the spring is below or is projected within 20 years
3434 to fall below the minimum flow or minimum water level, a water
3435 management district or the department shall concurrently adopt a
3436 recovery or prevention strategy.
3437 (2) When a minimum flow or minimum water level for an
3438 Outstanding Florida Spring is revised pursuant to s.
3439 373.0421(3), if the spring is below or is projected within 20
3440 years to fall below the minimum flow or minimum water level, a
3441 water management district or the department shall concurrently
3442 adopt a recovery or prevention strategy or modify an existing
3443 recovery or prevention strategy. A district or the department
3444 may adopt the revised minimum flow or minimum water level before
3445 the adoption of a recovery or prevention strategy if the revised
3446 minimum flow or minimum water level is less constraining on
3447 existing or projected future consumptive uses.
3448 (3) For an Outstanding Florida Spring without an adopted
3449 recovery or prevention strategy, if a district or the department

3450 determines the spring has fallen below, or is projected within
3451 20 years to fall below, the adopted minimum flow or minimum
3452 water level, a water management district or the department shall
3453 expeditiously adopt a recovery or prevention strategy.
3454 (4) The recovery or prevention strategy for each
3455 Outstanding Florida Spring must, at a minimum, include:
3456 (a) A listing of all specific projects identified for
3457 implementation of the plan;
3458 (b) A priority listing of each project;
3459 (c) For each listed project, the estimated cost of and the
3460 estimated date of completion;
3461 (d) The source and amount of financial assistance to be
3462 made available by the water management district for each listed
3463 project, which may not be less than 25 percent of the total
3464 project cost unless a specific funding source or sources are
3465 identified which will provide more than 75 percent of the total
3466 project cost. The Northwest Florida Water Management District
3467 and the Suwannee River Water Management District are not
3468 required to provide matching funds pursuant to this paragraph;
3469 (e) An estimate of each listed project's benefit to an
3470 Outstanding Florida Spring; and
3471 (f) An implementation plan designed with a target to
3472 achieve the adopted minimum flow or minimum water level no more
3473 than 20 years after the adoption of a recovery or prevention
3474 strategy. The implementation plan must include a schedule of 5-,
3475 10-, and 15-year measureable milestones intended to achieve the
3476 adopted minimum flow or minimum water level. The schedule is not
3477 a rule but is intended to provide guidance for planning and
3478 funding purposes and is exempt from s. 120.54(1)(a).

3479 (5) A local government may apply to the department for an
3480 extension of up to 5 years for any project in an adopted
3481 recovery or prevention strategy. The department may grant the
3482 extension if the local government provides to the department
3483 sufficient evidence that an extension is in the best interest of
3484 the public. For a local government in a rural area of
3485 opportunity, as defined in s. 288.0656, the department may grant
3486 an extension of up to 10 years.
3487 Section 32. Section 373.807, Florida Statutes, is created
3488 to read:
3489 373.807 Protection of water quality in Outstanding Florida
3490 Springs.—By July 1, 2015, the department shall initiate
3491 assessment, pursuant to s. 403.067(3), of each Outstanding
3492 Florida Spring for which an impairment determination has not
3493 been made under the numeric nutrient standards in effect for
3494 spring vents. Assessments must be completed by July 1, 2018.
3495 (1)(a) Concurrently with the adoption of a nutrient total
3496 maximum daily load for an Outstanding Florida Spring, the
3497 department, or the department in conjunction with a water
3498 management district, shall initiate development of a basin
3499 management action plan, as specified in s. 403.067. For an
3500 Outstanding Florida Spring with a nutrient total maximum daily
3501 load adopted before July 1, 2015, the department, or the
3502 department in conjunction with a water management district,
3503 shall initiate development of a basin management action plan by
3504 July 1, 2015. During the development of a basin management
3505 action plan, if the department identifies onsite sewage
3506 treatment and disposal systems as contributors of at least 20
3507 percent of nonpoint source nutrient pollution which need to be

3508 addressed within local government jurisdictions, the basin
3509 management action plan shall include an onsite sewage treatment
3510 and disposal system remediation plan pursuant to subsection (3)
3511 for those systems identified as requiring remediation.
3512 (b) A basin management action plan for an Outstanding
3513 Florida Spring shall be adopted within 2 years after its
3514 initiation and must include, at a minimum:
3515 1. A list of all specific projects and programs identified
3516 to implement a nutrient total maximum daily load;
3517 2. A list of all specific projects identified in any
3518 incorporated onsite sewage treatment and disposal system
3519 remediation plan, if applicable;
3520 3. A priority rank for each listed project;
3521 4. For each listed project, a planning level cost estimate
3522 and the estimated date of completion;
3523 5. The source and amount of financial assistance to be made
3524 available by the department, a water management district, or
3525 other entity for each listed project;
3526 6. An estimate of each listed project's nutrient load
3527 reduction;
3528 7. Identification of each point source or category of
3529 nonpoint sources, including, but not limited to, urban turf
3530 fertilizer, sports turf fertilizer, agricultural fertilizer,
3531 onsite sewage treatment and disposal systems, wastewater
3532 treatment facilities, animal wastes, and stormwater facilities.
3533 An estimated allocation of the pollutant load must be provided
3534 for each point source or category of nonpoint sources; and
3535 8. An implementation plan designed with a target to achieve
3536 the adopted nutrient total maximum daily load no more than 20

3537 years after the adoption of a basin management action plan. The
3538 plan must include a schedule of 5-, 10-, and 15-year measureable
3539 milestones intended to achieve the adopted nutrient total
3540 maximum daily load. The schedule is not a rule but is intended
3541 to provide guidance for planning and funding purposes and is
3542 exempt from s. 120.54(1)(a).
3543 (c) For a basin management action plan adopted before July
3544 1, 2015, which addresses an Outstanding Florida Spring, the
3545 department or the department in conjunction with a water
3546 management district must revise the plan if necessary to comply
3547 with this section by July 1, 2018.
3548 (d) Upon approval of an onsite sewage treatment and
3549 disposal system remediation plan by the department, the plan
3550 shall be deemed incorporated as part of the appropriate basin
3551 management action plan pursuant to s. 403.067(7).
3552 (e) A local government may apply to the department for an
3553 extension of up to 5 years for any project in an adopted basin
3554 management action plan. A local government in a rural area of
3555 opportunity, as defined in s. 288.0656, may apply for an
3556 extension of up to 10 years for such a project. The department
3557 may grant the extension if the local government provides to the
3558 department sufficient evidence that an extension is in the best
3559 interest of the public.
3560 (2) Within 12 months after the adoption of a basin
3561 management action plan containing a priority focus area or areas
3562 of an Outstanding Florida Spring that is fully or partially
3563 within the jurisdiction of a local government, the local
3564 government must develop, enact, and implement an ordinance that
3565 meets or exceeds the requirements of the department's Model

3566 Ordinance for Florida-Friendly Fertilizer Use on Urban
3567 Landscapes. The department shall revise the model ordinance to
3568 require that, within a priority focus area of an Outstanding
3569 Florida Spring with an adopted nutrient total maximum daily
3570 load, the nitrogen application rate of any fertilizer applied to
3571 turf or landscape plants may not exceed the lowest basic
3572 maintenance rate of the most recent recommendations by the
3573 Institute of Food and Agricultural Sciences.
3574 (3) As part of a basin management action plan that includes
3575 an Outstanding Florida Spring, the department, in consultation
3576 with the Department of Health, relevant local governments, and
3577 relevant local public and private wastewater utilities, shall
3578 develop an onsite sewage treatment and disposal system
3579 remediation plan for a spring for which the department
3580 determines onsite sewage treatment and disposal systems within a
3581 priority focus area contribute at least 20 percent of nonpoint
3582 source nutrient pollution. This plan shall be completed and
3583 adopted as part of the basin management action plan no later
3584 than the first 5-year milestone required by s. 373.807(2)(b)8.
3585 In preparing this plan, the department shall:
3586 (a) Collect and evaluate credible scientific information on
3587 the effect of nutrients, particularly forms of nitrogen, on
3588 springs and springs systems;
3589 (b) Develop and implement a public education plan to
3590 provide area residents with reliable, understandable information
3591 about onsite sewage treatment and disposal systems and springs;
3592 and
3593 (c) Develop projects necessary to reduce the nutrient
3594 impacts from onsite sewage treatment and disposal systems.

3595
3596 The plan shall include options for repair, upgrade, replacement,
3597 drainfield modification, addition of effective nitrogen reducing
3598 features, connection to a central sewerage system or other
3599 action for systems or groups of systems within a priority focus
3600 area which contribute at least 20 percent of nonpoint source
3601 nutrient pollution. The department shall include in the plan a
3602 priority ranking for each system or group of systems that
3603 require remediation and shall award funds to implement the
3604 remediation projects identified in the basin management action
3605 plan contingent on specific appropriation in the General
3606 Appropriations Act, which may include all or part of the costs
3607 necessary to match local funding for repair, upgrade,
3608 replacement, drainfield modification, initial connection to a
3609 central sewerage system, or other action. In awarding funds, the
3610 department may consider expected nutrient reduction benefit per
3611 unit cost, size and scope of project, relative local financial
3612 contribution to the project, financial impact on property owners
3613 and the community. The department may waive matching funding
3614 requirements for proposed projects within an area designated as
3615 a rural area of opportunity under s. 288.0656.
3616 (4) The department shall provide notice to a local
3617 government of all permit applicants under s. 403.814(12) in a
3618 priority focus area of an Outstanding Florida Spring over which
3619 the local government has full or partial jurisdiction.
3620 Section 33. Section 373.811, Florida Statutes, is created
3621 to read:
3622 373.811 Prohibited activities within a priority focus
3623 area.—The following activities are prohibited within a priority

3624 focus area in effect for an Outstanding Florida Spring:
3625 (1) New domestic wastewater disposal facilities, including
3626 rapid infiltration basins, with permitted capacities of 100,000
3627 gallons per day or more, except for those facilities that meet
3628 an advanced wastewater treatment standard of no more than 3 mg/l
3629 total nitrogen, expressed as N, on an annual permitted basis, or
3630 a more stringent treatment standard if the department determines
3631 the more stringent standard is necessary to attain a total
3632 maximum daily load for the Outstanding Florida Spring.
3633 (2) New onsite sewage treatment and disposal systems on
3634 lots of less than 1 acre, if the addition of the specific
3635 systems conflicts with an onsite treatment and disposal system
3636 remediation plan incorporated into a basin management action
3637 plan in accordance with s. 373.807(3).
3638 (3) New facilities for the disposal of hazardous waste.
3639 (4) The land application of Class A or Class B domestic
3640 wastewater biosolids not in accordance with a department
3641 approved nutrient management plan establishing the rate at which
3642 all biosolids, soil amendments, and sources of nutrients at the
3643 land application site can be applied to the land for crop
3644 production while minimizing the amount of pollutants and
3645 nutrients discharged to groundwater or waters of the state.
3646 (5) New agriculture operations that do not implement best
3647 management practices, measures necessary to achieve pollution
3648 reduction levels established by the department, or groundwater
3649 monitoring plans approved by a water management district or the
3650 department.
3651 Section 34. Section 373.813, Florida Statutes, is created
3652 to read:

3653 373.813 Rules.—
3654 (1) The department shall adopt rules to improve water
3655 quantity and water quality to administer this part, as
3656 applicable.
3657 (2)(a) The Department of Agriculture and Consumer Services
3658 is the lead agency coordinating the reduction of agricultural
3659 nonpoint sources of pollution for the protection of Outstanding
3660 Florida Springs. The Department of Agriculture and Consumer
3661 Services and the department, pursuant to s. 403.067(7)(c)4.,
3662 shall study new or revised agricultural best management
3663 practices for improving and protecting Outstanding Florida
3664 Springs and, if necessary, in cooperation with applicable local
3665 governments and stakeholders, initiate rulemaking to require the
3666 implementation of such practices within a reasonable period.
3667 (b) The department, the Department of Agriculture and
3668 Consumer Services, and the University of Florida Institute of
3669 Food and Agricultural Sciences shall cooperate in conducting the
3670 necessary research and demonstration projects to develop
3671 improved or additional nutrient management tools, including the
3672 use of controlled release fertilizer that can be used by
3673 agricultural producers as part of an agricultural best
3674 management practices program. The development of such tools must
3675 reflect a balance between water quality improvement and
3676 agricultural productivity and, if applicable, must be
3677 incorporated into the revised agricultural best management
3678 practices adopted by rule by the Department of Agriculture and
3679 Consumer Services.
3680 Section 35. Subsections (25) and (29) of section 403.061,
3681 Florida Statutes, are amended, and subsection (45) is added to

3682 that section, to read:
3683 403.061 Department; powers and duties.—The department shall
3684 have the power and the duty to control and prohibit pollution of
3685 air and water in accordance with the law and rules adopted and
3686 promulgated by it and, for this purpose, to:
3687 (25)(a) Establish and administer a program for the
3688 restoration and preservation of bodies of water within the
3689 state. The department shall have the power to acquire lands, to
3690 cooperate with other applicable state or local agencies to
3691 enhance existing public access to such bodies of water, and to
3692 adopt all rules necessary to accomplish this purpose.
3693 (b) Create a consolidated water resources work plan, in
3694 consultation with state agencies, water management districts,
3695 regional water supply authorities, and local governments, which
3696 provides a geographic depiction of the total inventory of water
3697 resources projects and regionally significant water supply
3698 projects currently under construction, completed in the previous
3699 5 years, or planned to begin construction in the next 5 years.
3700 The consolidated work plan must include for each project a
3701 description of the project, the total cost of the project, and
3702 identification of the governmental entity financing the project.
3703 This information together with the information provided pursuant
3704 to paragraph (45)(a) is intended to facilitate the ability of
3705 the Florida Water Resources Advisory Council, the Legislature,
3706 and the public to consider the projects contained in the
3707 tentative water resources work program developed pursuant to s.
3708 403.0616 in relation to all projects undertaken within a 10-year
3709 period and the existing condition of water resources in the
3710 project area and in the state as a whole. The department may

3711 adopt rules to accomplish this purpose.
3712 (29)(a) Adopt by rule special criteria to protect Class II
3713 and Class III shellfish harvesting waters. Such rules may
3714 include special criteria for approving docking facilities that
3715 have 10 or fewer slips if the construction and operation of such
3716 facilities will not result in the closure of shellfish waters.
3717 (b) Adopt by rule a specific surface water classification
3718 to protect surface waters used for treated potable water supply.
3719 These designated surface waters shall have the same water
3720 quality criteria protections as waters designated for fish
3721 consumption, recreation, and the propagation and maintenance of
3722 a healthy, well-balanced population of fish and wildlife, and
3723 shall be free from discharged substances at a concentration
3724 that, alone or in combination with other discharged substances,
3725 would require significant alteration of permitted treatment
3726 processes at the permitted treatment facility or that would
3727 otherwise prevent compliance with applicable state drinking
3728 water standards in the treated water. Notwithstanding this
3729 classification or the inclusion of treated water supply as a
3730 designated use of a surface water, a surface water used for
3731 treated potable water supply may be reclassified to the potable
3732 water supply classification.
3733 (45)(a) Create and maintain a web-based, interactive map
3734 that includes, at a minimum:
3735 1. All watersheds and each water body within those
3736 watersheds;
3737 2. The county or counties in which the watershed or water
3738 body is located;
3739 3. The water management district or districts in which the

3740 watershed or water body is located;
3741 4. Whether a minimum flow or minimum water level has been
3742 adopted for the water body, and if such minimum flow or minimum
3743 water level has not been adopted, the anticipated adoption date;
3744 5. Whether a recovery or prevention strategy has been
3745 adopted for the watershed or water body and, if such a plan has
3746 not been adopted, the anticipated adoption date;
3747 6. The impairment status of each watershed or water body;
3748 7. Whether a total maximum daily load has been adopted if
3749 the watershed or water body is listed as impaired and, if such
3750 total maximum daily load has not been adopted, the anticipated
3751 adoption date;
3752 8. Whether a basin management action plan has been adopted
3753 for the watershed and, if such a plan has not been adopted, the
3754 anticipated adoption date;
3755 9. Each project listed on the 5-year water resources work
3756 program developed pursuant to s. 373.036(7);
3757 10. The agency or agencies and local sponsor, if any,
3758 responsible for overseeing the project;
3759 11. The estimated cost and completion date of each project
3760 and the financial contribution of each entity;
3761 12. The quantitative estimated benefit to the watershed or
3762 water body; and
3763 13. The water projects completed within the last 5 years
3764 within the watershed or water body.
3765 (b) The department and each water management district shall
3766 prominently display on their respective websites a hyperlink to
3767 the interactive map required by this subsection.
3768

3769 The department shall implement such programs in conjunction with
3770 its other powers and duties and shall place special emphasis on
3771 reducing and eliminating contamination that presents a threat to
3772 humans, animals or plants, or to the environment.
3773 Section 36. Section 403.0616, Florida Statutes, is created
3774 to read:
3775 403.0616 Florida Water Resources Advisory Council.—
3776 (1) The Florida Water Resources Advisory Council is hereby
3777 created within the department for the purpose of evaluating
3778 water resource projects prioritized and submitted by state
3779 agencies, water management districts, regional water supply
3780 authorities, or local governments. The council shall evaluate
3781 and recommend projects that are eligible for state funding as
3782 priority projects of statewide, regional, or critical local
3783 importance under this chapter or chapter 373. The council must
3784 review and evaluate all water resource projects that are
3785 prioritized and reported by state agencies or water management
3786 districts pursuant to s. 373.036(7)(b)8.b., or by local
3787 governments, or regional water supply authorities, if
3788 applicable, in order to provide the Legislature with
3789 recommendations for projects that improve or restore the water
3790 resources of this state. The council is also responsible for
3791 submitting a prioritization of pilot projects that test the
3792 effectiveness of innovative or existing nutrient reduction or
3793 water conservation technologies or practices designed to
3794 minimize nutrient pollution or restore flows in the water bodies
3795 of the state as provided in s. 403.0617.
3796 (2) The Florida Water Resources Advisory Council consists
3797 of five voting members and five ex officio, nonvoting members as

3798 follows:
3799 (a) The Secretary of Environmental Protection, who shall
3800 serve as chair of the council; the Commissioner of Agriculture;
3801 the executive director of the Fish and Wildlife Conservation
3802 Commission; one member with expertise in a scientific discipline
3803 related to water resources, appointed by the President of the
3804 Senate; and one member with expertise in a scientific discipline
3805 related to water resources, appointed by the Speaker of the
3806 House of Representatives, all of whom shall be voting members.
3807 (b) The executive directors of each of the five water
3808 management districts, all of whom shall be nonvoting members.
3809 (3) Members appointed by the President of the Senate and
3810 Speaker of the House of Representatives shall serve 2-year terms
3811 but may not serve more than a total of 6 years. The President of
3812 the Senate and the Speaker of the House of Representatives may
3813 fill a vacancy at any time for an unexpired term of an appointed
3814 member.
3815 (4) If a member of the council is disqualified from serving
3816 because he or she no longer holds the position required to serve
3817 under this section, the interim head of the agency shall serve
3818 as the agency representative.
3819 (5) The two appointed council members shall receive
3820 reimbursement for expenses and per diem for travel to attend
3821 council meetings authorized pursuant to s. 112.061 while in the
3822 performance of their duties.
3823 (6) The council shall hold periodic meetings at the request
3824 of the chair but must hold at least two public meetings,
3825 separately noticed, each year in which the public has the
3826 opportunity to participate and comment. Unless otherwise

3827 provided by law, notice for each meeting must be published in a
3828 newspaper of general circulation in the area where the meeting
3829 is to be held at least 5 days but no more than 15 days before
3830 the meeting date.
3831 (a) By July 15 of each year, the council shall release a
3832 tentative water resources work program containing legislative
3833 recommendations for water resource projects. The public has 30
3834 days to submit comments regarding the tentative program.
3835 (b) The council shall adopt the tentative work program
3836 containing its legislative recommendations and submit it to the
3837 Governor, the President of the Senate, and the Speaker of the
3838 House of Representatives by August 31 of each year. An
3839 affirmative vote of three members of the council is required to
3840 adopt the tentative work program.
3841 (7) The department shall provide primary staff support to
3842 the council and shall ensure that council meetings are
3843 electronically recorded. Such recordings must be preserved
3844 pursuant to chapters 119 and 257.
3845 (8) The council shall recommend rules for adoption by the
3846 department to competitively evaluate, select, and rank projects
3847 for the tentative water resources work program. The council
3848 shall develop specific criteria for the evaluation, selection,
3849 and ranking of projects, including a preference for projects
3850 that will have a significant, measurable impact on improving
3851 water quantity or water quality; projects in areas of greatest
3852 impairment; projects of state or regional significance; projects
3853 recommended by multiple districts or multiple local governments
3854 cooperatively; projects with a significant monetary commitment
3855 by the local project sponsor or sponsors; projects in rural

3856 areas of opportunity as defined in s. 288.0656; projects that
3857 may be funded through appropriate loan programs; and projects
3858 that have significant private contributions of time or money.
3859 (9) The department, in consultation with the Department of
3860 Agriculture and Consumer Services, the Fish and Wildlife
3861 Conservation Commission, and the water management districts,
3862 shall adopt rules to implement this section.
3863 Section 37. Section 403.0617, Florida Statutes, is created
3864 to read:
3865 403.0617 Innovative nutrient and sediment reduction and
3866 conservation pilot project program.—
3867 (1) By December 31, 2015, the department shall adopt rules
3868 to competitively evaluate and rank projects for selection and
3869 prioritization by the Water Resources Advisory Council, pursuant
3870 to s. 403.0616, for submission to the Legislature for funding.
3871 These pilot projects are intended to test the effectiveness of
3872 innovative or existing nutrient reduction or water conservation
3873 technologies, programs or practices designed to minimize
3874 nutrient pollution or restore flows in the water bodies of the
3875 state. The department must include in the evaluation criteria a
3876 determination by the department that the pilot project will not
3877 be harmful to the ecological resources in the study area.
3878 (2) In developing these rules, the department shall give
3879 preference to the projects that will result in the greatest
3880 improvement to water quality and water quantity for the dollars
3881 to be expended for the project. At a minimum, the department
3882 shall consider all of the following:
3883 (a) The level of nutrient impairment of the waterbody,
3884 watershed, or water segment in which the project is located.

3885 (b) The quantity of pollutants, particularly total
3886 nitrogen, which the project is estimated to remove from a water
3887 body, watershed, or water segment with an adopted nutrient total
3888 maximum daily load.
3889 (c) The potential for the project to provide a cost-
3890 effective solution to pollution caused by onsite sewage
3891 treatment and disposal systems.
3892 (d) The flow necessary to restore a water resource to its
3893 adopted minimum flow or minimum water level.
3894 (e) The anticipated impact the project will have on
3895 restoring or increasing flow or water level.
3896 (f) The amount of matching funds for the project which will
3897 be provided by the entities responsible for implementing the
3898 project.
3899 (g) Whether the project is located in a rural area of
3900 opportunity, as defined in s. 288.0656, with preference given to
3901 the local government responsible for implementing the project.
3902 (h) For multiple-year projects, whether the project has
3903 funding sources that are identified and assured through the
3904 expected completion date of the project.
3905 (i) The cost of the project and the length of time it will
3906 take to complete relative to its expected benefits.
3907 (j) Whether the entities responsible for implementing the
3908 project have used their own funds for projects to improve water
3909 quality or conserve water use with preference given to those
3910 entities that have expended such funds.
3911 Section 38. Section 403.0623, Florida Statutes, is amended
3912 to read:
3913 403.0623 Environmental data; quality assurance.—

3914 (1) The department must establish, by rule, appropriate
3915 quality assurance requirements for environmental data submitted
3916 to the department and the criteria by which environmental data
3917 may be rejected by the department. The department may adopt and
3918 enforce rules to establish data quality objectives and specify
3919 requirements for training of laboratory and field staff, sample
3920 collection methodology, proficiency testing, and audits of
3921 laboratory and field sampling activities. Such rules may be in
3922 addition to any laboratory certification provisions under ss.
3923 403.0625 and 403.863.
3924 (2)(a) The department, in coordination with the water
3925 management districts and regional water supply authorities,
3926 shall establish standards for the collection of water quantity,
3927 water quality, and related data to ensure quality, reliability,
3928 and validity of the data and testing results. The water
3929 management districts shall submit such data collected after June
3930 30, 2015, to the department for analysis. The department shall
3931 analyze the data to ensure statewide consistency. The department
3932 shall maintain a centralized database for all testing results
3933 and analyses, which must be accessible by the water management
3934 districts.
3935 (b) To the extent practicable, the department shall
3936 coordinate with federal agencies to ensure that its collection
3937 and analysis of water quality, water quantity, and related data,
3938 which may be used by any state agency, water management
3939 district, or local government, is consistent with this
3940 subsection.
3941 (c) In order to receive state funds for the acquisition of
3942 lands or the financing of a water resource project, state

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3943 agencies and water management districts must use the
3944 department's testing results and analysis, if available, as a
3945 prerequisite for any such request for funding.
3946 (d) The department and the water management districts may
3947 adopt rules to implement this subsection.
3948 Section 39. Subsection (7) of section 403.067, Florida
3949 Statutes, is amended to read:
3950 403.067 Establishment and implementation of total maximum
3951 daily loads.—
3952 (7) DEVELOPMENT OF BASIN MANAGEMENT PLANS AND
3953 IMPLEMENTATION OF TOTAL MAXIMUM DAILY LOADS.—
3954 (a) *Basin management action plans.*—
3955 1. In developing and implementing the total maximum daily
3956 load for a water body, the department, or the department in
3957 conjunction with a water management district, may develop a
3958 basin management action plan that addresses some or all of the
3959 watersheds and basins tributary to the water body. Such plan
3960 must integrate the appropriate management strategies available
3961 to the state through existing water quality protection programs
3962 to achieve the total maximum daily loads and may provide for
3963 phased implementation of these management strategies to promote
3964 timely, cost-effective actions as provided for in s. 403.151.
3965 The plan must establish a schedule implementing the management
3966 strategies, establish a basis for evaluating the plan's
3967 effectiveness, and identify feasible funding strategies for
3968 implementing the plan's management strategies. The management
3969 strategies may include regional treatment systems or other
3970 public works, where appropriate, and voluntary trading of water
3971 quality credits to achieve the needed pollutant load reductions.

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3972 2. A basin management action plan must equitably allocate,
3973 pursuant to paragraph (6)(b), pollutant reductions to individual
3974 basins, as a whole to all basins, or to each identified point
3975 source or category of nonpoint sources, as appropriate. For
3976 nonpoint sources for which best management practices have been
3977 adopted, the initial requirement specified by the plan must be
3978 those practices developed pursuant to paragraph (c). Where
3979 appropriate, the plan may take into account the benefits of
3980 pollutant load reduction achieved by point or nonpoint sources
3981 that have implemented management strategies to reduce pollutant
3982 loads, including best management practices, before the
3983 development of the basin management action plan. The plan must
3984 also identify the mechanisms that will address potential future
3985 increases in pollutant loading.
3986 3. The basin management action planning process is intended
3987 to involve the broadest possible range of interested parties,
3988 with the objective of encouraging the greatest amount of
3989 cooperation and consensus possible. In developing a basin
3990 management action plan, the department shall assure that key
3991 stakeholders, including, but not limited to, applicable local
3992 governments, water management districts, the Department of
3993 Agriculture and Consumer Services, other appropriate state
3994 agencies, local soil and water conservation districts,
3995 environmental groups, regulated interests, and affected
3996 pollution sources, are invited to participate in the process.
3997 The department shall hold at least one public meeting in the
3998 vicinity of the watershed or basin to discuss and receive
3999 comments during the planning process and shall otherwise
4000 encourage public participation to the greatest practicable

4001 extent. Notice of the public meeting must be published in a
4002 newspaper of general circulation in each county in which the
4003 watershed or basin lies not less than 5 days nor more than 15
4004 days before the public meeting. A basin management action plan
4005 does not supplant or otherwise alter any assessment made under
4006 subsection (3) or subsection (4) or any calculation or initial
4007 allocation.
4008 4. Each new or revised basin management action plan shall
4009 include:
4010 a. The appropriate management strategies available through
4011 existing water quality protection programs to achieve total
4012 maximum daily loads, which may provide for phased implementation
4013 to promote timely, cost-effective actions as provided for in s.
4014 403.151;
4015 b. A description of best management practices adopted by
4016 rule;
4017 c. A list of projects in priority ranking with a planning-
4018 level cost estimate and estimated date of completion for each
4019 listed project;
4020 d. The source and amount of financial assistance to be made
4021 available by the department, a water management district, or
4022 other entity for each listed project, if applicable; and
4023 e. A planning-level estimate of each listed project's
4024 expected load reduction, if applicable.
4025 5.~~4.~~ The department shall adopt all or any part of a basin
4026 management action plan and any amendment to such plan by
4027 secretarial order pursuant to chapter 120 to implement the
4028 provisions of this section.
4029 6.~~5.~~ The basin management action plan must include

4030 milestones for implementation and water quality improvement, and
4031 an associated water quality monitoring component sufficient to
4032 evaluate whether reasonable progress in pollutant load
4033 reductions is being achieved over time. An assessment of
4034 progress toward these milestones shall be conducted every 5
4035 years, and revisions to the plan shall be made as appropriate.
4036 Revisions to the basin management action plan shall be made by
4037 the department in cooperation with basin stakeholders. Revisions
4038 to the management strategies required for nonpoint sources must
4039 follow the procedures set forth in subparagraph (c)4. Revised
4040 basin management action plans must be adopted pursuant to
4041 subparagraph 4.
4042 7.~~6.~~ In accordance with procedures adopted by rule under
4043 paragraph (9)(c), basin management action plans, and other
4044 pollution control programs under local, state, or federal
4045 authority as provided in subsection (4), may allow point or
4046 nonpoint sources that will achieve greater pollutant reductions
4047 than required by an adopted total maximum load or wasteload
4048 allocation to generate, register, and trade water quality
4049 credits for the excess reductions to enable other sources to
4050 achieve their allocation; however, the generation of water
4051 quality credits does not remove the obligation of a source or
4052 activity to meet applicable technology requirements or adopted
4053 best management practices. Such plans must allow trading between
4054 NPDES permittees, and trading that may or may not involve NPDES
4055 permittees, where the generation or use of the credits involve
4056 an entity or activity not subject to department water discharge
4057 permits whose owner voluntarily elects to obtain department
4058 authorization for the generation and sale of credits.

4059 8.~~7.~~ The provisions of the department's rule relating to
4060 the equitable abatement of pollutants into surface waters do not
4061 apply to water bodies or water body segments for which a basin
4062 management plan that takes into account future new or expanded
4063 activities or discharges has been adopted under this section.
4064 (b) *Total maximum daily load implementation.*—
4065 1. The department shall be the lead agency in coordinating
4066 the implementation of the total maximum daily loads through
4067 existing water quality protection programs. Application of a
4068 total maximum daily load by a water management district must be
4069 consistent with this section and does not require the issuance
4070 of an order or a separate action pursuant to s. 120.536(1) or s.
4071 120.54 for the adoption of the calculation and allocation
4072 previously established by the department. Such programs may
4073 include, but are not limited to:
4074 a. Permitting and other existing regulatory programs,
4075 including water-quality-based effluent limitations;
4076 b. Nonregulatory and incentive-based programs, including
4077 best management practices, cost sharing, waste minimization,
4078 pollution prevention, agreements established pursuant to s.
4079 403.061(21), and public education;
4080 c. Other water quality management and restoration
4081 activities, for example surface water improvement and management
4082 plans approved by water management districts or basin management
4083 action plans developed pursuant to this subsection;
4084 d. Trading of water quality credits or other equitable
4085 economically based agreements;
4086 e. Public works including capital facilities; or
4087 f. Land acquisition.

4088 2. For a basin management action plan adopted pursuant to
4089 paragraph (a), any management strategies and pollutant reduction
4090 requirements associated with a pollutant of concern for which a
4091 total maximum daily load has been developed, including effluent
4092 limits set forth for a discharger subject to NPDES permitting,
4093 if any, must be included in a timely manner in subsequent NPDES
4094 permits or permit modifications for that discharger. The
4095 department may not impose limits or conditions implementing an
4096 adopted total maximum daily load in an NPDES permit until the
4097 permit expires, the discharge is modified, or the permit is
4098 reopened pursuant to an adopted basin management action plan.
4099 a. Absent a detailed allocation, total maximum daily loads
4100 must be implemented through NPDES permit conditions that provide
4101 for a compliance schedule. In such instances, a facility's NPDES
4102 permit must allow time for the issuance of an order adopting the
4103 basin management action plan. The time allowed for the issuance
4104 of an order adopting the plan may not exceed 5 years. Upon
4105 issuance of an order adopting the plan, the permit must be
4106 reopened or renewed, as necessary, and permit conditions
4107 consistent with the plan must be established. Notwithstanding
4108 the other provisions of this subparagraph, upon request by an
4109 NPDES permittee, the department as part of a permit issuance,
4110 renewal, or modification may establish individual allocations
4111 before the adoption of a basin management action plan.
4112 b. For holders of NPDES municipal separate storm sewer
4113 system permits and other stormwater sources, implementation of a
4114 total maximum daily load or basin management action plan must be
4115 achieved, to the maximum extent practicable, through the use of
4116 best management practices or other management measures.

4117 c. The basin management action plan does not relieve the
4118 discharger from any requirement to obtain, renew, or modify an
4119 NPDES permit or to abide by other requirements of the permit.
4120 d. Management strategies set forth in a basin management
4121 action plan to be implemented by a discharger subject to
4122 permitting by the department must be completed pursuant to the
4123 schedule set forth in the basin management action plan. This
4124 implementation schedule may extend beyond the 5-year term of an
4125 NPDES permit.
4126 e. Management strategies and pollution reduction
4127 requirements set forth in a basin management action plan for a
4128 specific pollutant of concern are not subject to challenge under
4129 chapter 120 at the time they are incorporated, in an identical
4130 form, into a subsequent NPDES permit or permit modification.
4131 f. For nonagricultural pollutant sources not subject to
4132 NPDES permitting but permitted pursuant to other state,
4133 regional, or local water quality programs, the pollutant
4134 reduction actions adopted in a basin management action plan must
4135 be implemented to the maximum extent practicable as part of
4136 those permitting programs.
4137 g. A nonpoint source discharger included in a basin
4138 management action plan must demonstrate compliance with the
4139 pollutant reductions established under subsection (6) by
4140 implementing the appropriate best management practices
4141 established pursuant to paragraph (c) or conducting water
4142 quality monitoring prescribed by the department or a water
4143 management district. A nonpoint source discharger may, in
4144 accordance with department rules, supplement the implementation
4145 of best management practices with water quality credit trades in

4146 order to demonstrate compliance with the pollutant reductions
4147 established under subsection (6).
4148 h. A nonpoint source discharger included in a basin
4149 management action plan may be subject to enforcement action by
4150 the department or a water management district based upon a
4151 failure to implement the responsibilities set forth in sub-
4152 subparagraph g.
4153 i. A landowner, discharger, or other responsible person who
4154 is implementing applicable management strategies specified in an
4155 adopted basin management action plan may not be required by
4156 permit, enforcement action, or otherwise to implement additional
4157 management strategies, including water quality credit trading,
4158 to reduce pollutant loads to attain the pollutant reductions
4159 established pursuant to subsection (6) and shall be deemed to be
4160 in compliance with this section. This subparagraph does not
4161 limit the authority of the department to amend a basin
4162 management action plan as specified in subparagraph (a)6. ~~(a)5.~~
4163 (c) *Best management practices.*—
4164 1. The department, in cooperation with the water management
4165 districts and other interested parties, as appropriate, may
4166 develop suitable interim measures, best management practices, or
4167 other measures necessary to achieve the level of pollution
4168 reduction established by the department for nonagricultural
4169 nonpoint pollutant sources in allocations developed pursuant to
4170 subsection (6) and this subsection. These practices and measures
4171 may be adopted by rule by the department and the water
4172 management districts and, where adopted by rule, shall be
4173 implemented by those parties responsible for nonagricultural
4174 nonpoint source pollution.

4175 2. The Department of Agriculture and Consumer Services may
4176 develop and adopt by rule pursuant to ss. 120.536(1) and 120.54
4177 suitable interim measures, best management practices, or other
4178 measures necessary to achieve the level of pollution reduction
4179 established by the department for agricultural pollutant sources
4180 in allocations developed pursuant to subsection (6) and this
4181 subsection or for programs implemented pursuant to paragraph
4182 (12)(b) ~~(13)(b)~~. These practices and measures may be implemented
4183 by those parties responsible for agricultural pollutant sources
4184 and the department, the water management districts, and the
4185 Department of Agriculture and Consumer Services shall assist
4186 with implementation. In the process of developing and adopting
4187 rules for interim measures, best management practices, or other
4188 measures, the Department of Agriculture and Consumer Services
4189 shall consult with the department, the Department of Health, the
4190 water management districts, representatives from affected
4191 farming groups, and environmental group representatives. Such
4192 rules must also incorporate provisions for a notice of intent to
4193 implement the practices and a system to assure the
4194 implementation of the practices, including site inspection and
4195 recordkeeping requirements.
4196 3. Where interim measures, best management practices, or
4197 other measures are adopted by rule, the effectiveness of such
4198 practices in achieving the levels of pollution reduction
4199 established in allocations developed by the department pursuant
4200 to subsection (6) and this subsection or in programs implemented
4201 pursuant to paragraph (12)(b) ~~(13)(b)~~ must be verified at
4202 representative sites by the department. The department shall use
4203 best professional judgment in making the initial verification

4204 that the best management practices are reasonably expected to be
4205 effective and, where applicable, must notify the appropriate
4206 water management district or the Department of Agriculture and
4207 Consumer Services of its initial verification before the
4208 adoption of a rule proposed pursuant to this paragraph.
4209 Implementation, in accordance with rules adopted under this
4210 paragraph, of practices that have been initially verified to be
4211 effective, or verified to be effective by monitoring at
4212 representative sites, by the department, shall provide a
4213 presumption of compliance with state water quality standards and
4214 release from the provisions of s. 376.307(5) for those
4215 pollutants addressed by the practices, and the department is not
4216 authorized to institute proceedings against the owner of the
4217 source of pollution to recover costs or damages associated with
4218 the contamination of surface water or groundwater caused by
4219 those pollutants. Research projects funded by the department, a
4220 water management district, or the Department of Agriculture and
4221 Consumer Services to develop or demonstrate interim measures or
4222 best management practices shall be granted a presumption of
4223 compliance with state water quality standards and a release from
4224 the provisions of s. 376.307(5). The presumption of compliance
4225 and release is limited to the research site and only for those
4226 pollutants addressed by the interim measures or best management
4227 practices. Eligibility for the presumption of compliance and
4228 release is limited to research projects on sites where the owner
4229 or operator of the research site and the department, a water
4230 management district, or the Department of Agriculture and
4231 Consumer Services have entered into a contract or other
4232 agreement that, at a minimum, specifies the research objectives,

4233 the cost-share responsibilities of the parties, and a schedule
4234 that details the beginning and ending dates of the project.
4235 4. Where water quality problems are demonstrated, despite
4236 the appropriate implementation, operation, and maintenance of
4237 best management practices and other measures required by rules
4238 adopted under this paragraph, the department, a water management
4239 district, or the Department of Agriculture and Consumer
4240 Services, in consultation with the department, shall institute a
4241 reevaluation of the best management practice or other measure.
4242 Should the reevaluation determine that the best management
4243 practice or other measure requires modification, the department,
4244 a water management district, or the Department of Agriculture
4245 and Consumer Services, as appropriate, shall revise the rule to
4246 require implementation of the modified practice within a
4247 reasonable time period as specified in the rule.
4248 5. Agricultural records relating to processes or methods of
4249 production, costs of production, profits, or other financial
4250 information held by the Department of Agriculture and Consumer
4251 Services pursuant to subparagraphs 3. and 4. or pursuant to any
4252 rule adopted pursuant to subparagraph 2. are confidential and
4253 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
4254 Constitution. Upon request, records made confidential and exempt
4255 pursuant to this subparagraph shall be released to the
4256 department or any water management district provided that the
4257 confidentiality specified by this subparagraph for such records
4258 is maintained.
4259 6. The provisions of subparagraphs 1. and 2. do not
4260 preclude the department or water management district from
4261 requiring compliance with water quality standards or with

4262 current best management practice requirements set forth in any
4263 applicable regulatory program authorized by law for the purpose
4264 of protecting water quality. Additionally, subparagraphs 1. and
4265 2. are applicable only to the extent that they do not conflict
4266 with any rules adopted by the department that are necessary to
4267 maintain a federally delegated or approved program.
4268 (d) Enforcement and verification of basin management action
4269 plans and management strategies.—
4270 1. Basin management action plans are enforceable pursuant
4271 to this section and ss. 403.121, 403.141, and 403.161.
4272 Management strategies, including best management practices and
4273 water quality monitoring, are enforceable under this chapter.
4274 2. No later than January 1, 2016:
4275 a. The department, in consultation with the water
4276 management districts and the Department of Agriculture and
4277 Consumer Services, shall initiate rulemaking to adopt procedures
4278 to verify implementation of water quality monitoring required in
4279 lieu of implementation of best management practices or other
4280 measures pursuant to s. 403.067(7)(b)2.g.;
4281 b. The department, in consultation with the water
4282 management districts and the Department of Agriculture and
4283 Consumer Services, shall initiate rulemaking to adopt procedures
4284 to verify implementation of nonagricultural interim measures,
4285 best management practices, or other measures adopted by rule
4286 pursuant to s. 403.067(7)(c)1.; and
4287 c. The Department of Agriculture and Consumer Services, in
4288 consultation with the water management districts and the
4289 department, shall initiate rulemaking to adopt procedures to
4290 verify implementation of agricultural interim measures, best

4291 management practices, or other measures adopted by rule pursuant
4292 to s. 403.067(7)(c)2.
4293
4294 The above rules shall include enforcement procedures applicable
4295 to the landowner, discharger, or other responsible person
4296 required to implement applicable management strategies,
4297 including best management practices, or water quality monitoring
4298 as a result of noncompliance.
4299 Section 40. Section 403.0675, Florida Statutes, is created
4300 to read:
4301 403.0675 Progress reports.—On or before July 1, beginning
4302 July 1, 2017:
4303 (1) The department, in conjunction with the water
4304 management districts, shall submit progress reports to the
4305 Governor, the President of the Senate, and the Speaker of the
4306 House of Representatives on the status of each total maximum
4307 daily load, basin management action plan, minimum flow or
4308 minimum water level, and recovery or prevention strategy adopted
4309 pursuant to s. 403.067 or parts I and VIII of chapter 373. The
4310 report must include the status of each project identified to
4311 achieve an adopted total maximum daily load or an adopted
4312 minimum flow or minimum water level, as applicable. If a report
4313 indicates that any of the 5-, 10-, or 15-year milestones, or the
4314 20-year target date, if applicable, for achieving a total
4315 maximum daily load or a minimum flow or minimum water level will
4316 not be met, the report must include an explanation of the
4317 possible causes and potential solutions. If applicable, the
4318 report shall include project descriptions, estimated costs,
4319 proposed priority ranking for project implementation, and

4320 funding needed to achieve the total maximum daily load or the
4321 minimum flow or minimum water level by the target date.
4322 (2) The Department of Agriculture and Consumer Services
4323 shall report to the Governor, the President of the Senate, and
4324 the Speaker of the House of Representatives on the status of the
4325 implementation of the agricultural nonpoint source best
4326 management practices including an implementation assurance
4327 report summarizing survey responses and response rates, site
4328 inspections and other methods used to verify implementation of
4329 and compliance with best management practices pursuant to basin
4330 management action plans.
4331 Section 41. Subsection (21) is added to section 403.861,
4332 Florida Statutes, to read:
4333 403.861 Department; powers and duties.—The department shall
4334 have the power and the duty to carry out the provisions and
4335 purposes of this act and, for this purpose, to:
4336 (21)(a) Upon issuance of a construction permit to construct
4337 a new public water system drinking water treatment facility to
4338 provide potable water supply using a surface water of the state
4339 that, at the time of the permit application, is not being used
4340 as a potable water supply, and the classification of which does
4341 not include potable water supply as a designated use, the
4342 department shall add treated potable water supply as a
4343 designated use of the surface water segment in accordance with
4344 s. 403.061(29)(b).
4345 (b) For existing public water system drinking water
4346 treatment facilities that use a surface water of the state as a
4347 treated potable water supply, which surface water classification
4348 does not include potable water as a designated use, the

4349 department shall add treated potable water supply as a
4350 designated use of the surface water segment in accordance with
4351 s. 403.061(29)(b).
4352 Section 42. This act shall take effect July 1, 2015.

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 Appropriations

BILL: CS/CS/SB 918

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on General Government); Environmental Preservation and Conservation Committee; and Senators Dean and Margolis

SUBJECT: Environmental Resources

DATE: April 23, 2015 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hinton	Uchino	EP	**Fav/CS**
2.	Howard	DeLoach	AGG	**Recommend: Fav/CS**
3.	Howard	Kynoch	AP	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 918 provides for the protection of springs and other water resources in Florida, creates a council to provide recommendations for funding water projects throughout the state, provides transparency for the process by which projects are submitted and selected, and provides for statewide consistency in data collection and analysis.

The bill directs the Department of Environmental Protection (DEP) to promote access to conservation lands using an online database and mobile application. The bill requires the DEP to submit a yearly report to the Governor, the President of the Senate, and the Speaker of the House of Representatives describing the percentage of public lands open to the public that were acquired under section 259.032, Florida Statutes, and efforts taken by the DEP to increase public access to such lands.

The bill creates the Shared-Use Nonmotorized Trail (SunTrail) network and directs the Florida Department of Transportation (FDOT) to create a SunTrail plan and include the SunTrail in the FDOT work program. The bill also provides for sponsorship of the SunTrail network.

The bill codifies the Central Florida Water Initiative (CFWI), which is a collaborative process designed to plan for future water needs in central Florida.

The bill makes extensive revisions to the Northern Everglades and Estuaries Protection Program (NEEPP).

Specifically, the bill:

- Specifies additional information to be included in the Consolidated Water Management District Annual Report;
- Provides for the application of minimum flows and levels (MFLs) in other water management districts when withdrawals in those other districts affect an MFL outside of those districts;
- Creates a pilot program for alternative water supply development projects in restricted allocation areas and allows certain water management districts (WMDs) to develop projects for the program;
- Creates the Florida Springs and Aquifer Protection Act;
- Provides findings, intent, and definitions;
- Directs the DEP to adopt a uniform definition for the term "harmful to the water resources" for Outstanding Florida Springs (OFSs);
- Directs the DEP, in coordination with the water management districts (WMDs), to delineate priority focus areas for impaired OFSs and provides considerations;
- Provides requirements for the DEP or a WMD to establish MFLs or adopt MFLs and recovery or prevention strategies, as necessary, and provides deadlines;
- Provides the DEP and WMDs with emergency rulemaking authority to adopt MFLs and recovery or prevention strategies for OFSs;
- Provides requirements for revising MFLs under certain circumstances and provides deadlines;
- Provides minimum requirements for recovery or prevention strategies for OFSs;
- Provides for extensions for local government projects included in a recovery or prevention strategy;
- Directs the DEP to assess OFSs for impairment and provides requirements and deadlines;
- Provides for the adoption of basin management action plans (BMAPs), includes requirements for BMAPs for OFSs;
- Provides for the enforcement of BMAPs;
- Requires the adoption of fertilizer use ordinances by local governments under certain circumstances;
- Provides for the identification and assessment of onsite sewage treatment and disposal systems (OSTDSs) in OFSs and directs the development of OSTDS remediation plans as necessary;
- Directs the DEP to adopt rules to fund pilot projects that address nutrient pollution or flows in Florida springs and provides deadlines;
- Directs the DEP to adopt rules to evaluate, select, and rank projects for environmental improvement, and provides considerations and deadlines;
- Prohibits certain activities within priority focus areas;
- Directs the DEP to adopt rules to improve water quantity and quality to administer the Florida Springs and Aquifer Protection Act;
- Codifies the Central Florida Water Initiative in statute;

- Provides considerations related to preferred water supply sources for entities applying for a water use permit;
- Removes references to the Works of the District program in the NEEPP;
- Amends provisions related to the NEEPP;
- Directs the South Florida Water Management District (SFWMD) to revise Rule 40E-61, Florida Administrative Code, to be consistent with the NEEPP and section 403.067, Florida Statutes, concerning Total Maximum Daily Loads (TMDLs);
- Provides for changes to the Caloosahatchee and St. Lucie River Watershed Protection Programs;
- Provides requirements for the Lake Okeechobee, Caloosahatchee River, and St. Lucie River BMAPs;
- Provides considerations and funding for water supply development and alternative water supply projects;
- Provides requirements for regional water supply planning;
- Provides for the study and reevaluation of best management practices (BMPs) that reduce pollution;
- Provides requirements for new or revised BMAPs;
- Provides for the enforcement of BMAPs;
- Provides for the verification of the implementation of BMPs;
- Requires the DEP, in conjunction with the WMDs, to report on the status of TMDLs, BMAPs, MFLs, and recovery and prevention strategies adopted pursuant to section 403.067, Florida Statutes, and under Parts I and VIII of chapter 373, Florida Statutes, and provides requirements;
- Requires the DEP to create a consolidated water resources work plan that covers all water resource projects in the state and provides requirements for the information provided;
- Directs the DEP to create a web-based, interactive map that provides information to the public on water projects being performed throughout the state, and provides requirements for the information to be provided;
- Creates the Florida Water Resources Advisory Council within the DEP to evaluate and rank water resource projects and provide recommendations to the Legislature for funding projects. The bill provides considerations for ranking projects and rulemaking authority to the DEP to implement the program;
- Requires the DEP to establish statewide standards for the collection of water quantity, water quality, and related data to ensure quality, reliability, and validity of the data and testing results;
- Requires the DEP to adopt rules concerning the reclassification of surface waters used for potable water supply;
- Provides for the monitoring of water usage to a consumptive use permit (CUP) authorizing withdrawal of 100,000 gallons or more per day;
- Provides an incentive for water conservation;
- Requires the DEP to adopt rules concerning projects focused on innovative nutrient and sediment reduction and conservation pilot projects; and
- Revises membership requirements for the Harris Chain of Lakes Restoration Council.

The bill requires a number of activities that will result in significant long-term costs for several government entities, including the DEP, the Department of Agriculture and Consumer Services

(DACS), and the Water Management Districts (WMDs). The total fiscal impact is indeterminate; however, Senate Bill 2500, the Senate's General Appropriations Bill for Fiscal Year 2015-2016, provides the following: $50 million for Florida's Springs, $50 million for Water Resources, and $25 million for the SunTrail. In addition, SB 2500 provides operational funding support to the Northwest Florida Water Management District (NWFWMD) for implementation of MFLs of $1.5 million, and nine positions and $1.73 million to the DEP and the DACS.

The bill provides an effective date of July 1, 2015.

II. Present Situation:

State Lands Database

Section 253.0325, F.S., was created in 1990 to require the Department of Environmental Protection (DEP) to establish a computerized system for state lands records. The DEP contracted with a company to create the mainframe-based land record system for documents related to lands where title is vested in the Board of Trustees of the Internal Improvement Trust Fund. In 1999, the system was updated to include new technologies and integration components and referred to as the Board of Trustees Land Document System (BTLDS). The law requires the program to include, at a minimum, a document management component, a lands and records management component, an evaluation component, and a mapping component. The DEP is responsible for ensuring the information system is compatible within the DEP and other state, local, and regional government agencies.

In 2008, s. 253.0325, F.S., was amended to require the DEP to include all lands purchased with Preservation 2000 funds and Florida Forever funds. To comply with the requirement, the DEP contracted with an outside vendor to conduct a BTLDS Feasibility Study. The study determined the DEP Division of State Lands would be the clearinghouse for all of the state lands data and solely responsible for maintaining the database.

In 2010, s. 216.0153, F.S., directed the DEP to create, administer, operate, and maintain a comprehensive system and automated inventory of all state lands and real property leased, owned, rented, occupied, or maintained by a state agency, judicial branch, or water management district (WMD). In order to meet the requirement, the DEP created the Florida State Owned Lands and Records Information System (FL-SOLARIS). The database includes all state owned lands in which the state has a fee interest, including a conservation easement acquired through a formal acquisition process for conservation.

The FL-SOLARIS system has been implemented by the DEP and the Department of Management Services (DMS) to include two main components. The Facility Information Tracking System includes 332 users and 65 different agencies, and the Lands Information Tracking System includes 140 users and 50 different agencies.[1]

[1] State of Florida Lands and Facilities Inventory Search, http://webapps.dep.state.fl.us/DslPi/splash?Create=new (last visited Mar. 6, 2015).

Trail Development

The development of Florida's bicycle and pedestrian infrastructure did not begin in earnest until the late 20th century. The American railroad industry was deregulated by the Staggers Rail Act of 1980, providing Florida with an immediate abundance of abandoned rail corridors.[2] Organizations such as The Rails-to-Trails Conservancy and The Trust for Public Land, the Florida Department of Transportation (FDOT), and the DEP coordinated to develop numerous abandoned rail corridors as shared-use "rail-trails" for nonmotorized transportation and recreation. Many of Florida's premier nonmotorized trails, including the Pinellas Trail, the Tallahassee-St. Marks Trail, and the West Orange Trail, are a result of rail-trail conversions.

The second major initiative in trail development came in 1991 when Congress shifted surface transportation policy through passage of the Intermodal Surface Transportation Efficiency Act.[3] For the first time, pedestrian and bicycle facilities were identified as components of the nation's transportation infrastructure, and a dedicated funding source was created for multiuse trails and paths with local governments serving as project sponsors.[4] Many of the resulting projects are community-centric, short-distance trails, initiated by local governments and other governmental entities not traditionally associated with transportation development, such as water management districts and school districts.

Trail Connectivity

While many locales have benefited from federal trail funding, an unintended consequence of trail development being initiated by numerous state entities and local governments is a collection of random trails rather than a statewide system. As a result, many trails lack connectivity with other trails and often serve no meaningful origins and destinations. Trail users are often required to use roads, sidewalks, and highways to connect trails or to complete a trip. Many trail trips are "out-and-back" trips in which the origin and destination are the same location. Such trips serve little to no transportation function and do not realize the full economic potential of a trail network.

In 1995, the Legislature recognized the benefits of an expanded greenways and trails network and created the Florida Greenways Coordinating Council (FGCC).[5] The Legislature tasked the FGCC with promoting the creation of a statewide greenways and trails system and designated the DEP as the lead agency of the system.[6] The FGCC published the Connecting Florida Communities with Greenways and Trails Plan in 1998. The plan contains a multiuse recreational Opportunity Trail Map and is considered the first visioning document for connecting Florida's greenways and trails. The plan provides a comprehensive approach to the Florida Greenways and Trails System (FGTS) by providing a review of existing greenways and trails and recommendations to complete the system. The plan recommends:

- The DEP establish a process to prioritize greenways and trails for ecological, recreational, and cultural significance;

[2] Pub. Law No. 96-448, H.R. 72365, 96th Cong. (Oct. 14, 1980).
[3] Pub. Law No. 102–240, H.R. 2950, 102nd Cong. (Dec. 18, 1991).
[4] Joe Maher, *Federal Funding for Conservation and Recreation Trails*, 1 (Feb. 2009), *available at* http://www.rff.org/RFF/Documents/RFF-BCK-ORRG_DOT.pdf (last visited Mar. 11, 2015).
[5] Chapter 95-260, Laws of Fla.
[6] *Id*.

- The DEP identify the critical linkages in the statewide greenways and trails system;
- The FGCC evaluate and prioritize greenways and trails proposed by the DEP based on:
  - Willingness of the landowner;
  - Ecological, recreational, and cultural significance;
  - Acquisition considerations;
  - Management considerations;
  - Community support; and
  - Identification of critical linkages.
- The DEP develop a process for designating lands for the statewide greenways and trails system;
- The FGCC promote awareness and generate support of the greenways and trails system;
- Encouraging landowners to voluntarily sell or donate conservation easements or fee simple title to land;
- Coordinating with owners to acquire linear facilities;
- Encouraging developers to include trails in residential areas and to link residential trails with the statewide system;
- Identifying a funding mechanism for the creation and maintenance of trail systems;
- The Legislature create the Florida Greenways and Trails Council; and
- Measuring the success of the statewide trails system by:
  - Tracking the current trail system and new land designations in a database;
  - Maintaining natural areas so they may be considered for designation or remain designated;
  - Creating a system that provides public access to a trail within 15 minutes of every Floridian; and
  - Ensuring a 95 percent satisfaction rate for visitors to greenways and trails facilities.[7]

In 1999, the Legislature created the Florida Greenways and Trails Council as recommended by the 1998 Connecting Communities with Greenways and Trails Plan. Section 260.0142(4), F.S., directs the council to:

- Facilitate a statewide system of interconnected landscape linkages, conservation corridors, greenbelts, recreational corridors and trails, scenic corridors, utilitarian corridors, reserves, regional parks and preserves, ecological sites, and cultural/historic/recreational sites using land-based trails that connect, urban, suburban, and rural areas of the state;
- Recommend priorities for critical links in the FGTS;
- Review recommendations for acquisition funding;
- Review designation proposals to be include in the FGTS;
- Encourage public-private partnerships;
- Review the established benchmarks and make recommendations for appropriate action;
- Recommend updates to the implementation plan for the FGTS;
- Promote greenways and trails support organizations; and

[7] DEP, Florida Greenways Coordinating Council, *Connecting Florida's Communities with Greenways and Trails*, 11-35 (1998), *available at* http://www.dep.state.fl.us/gwt/FGTS_Plan/PDF/1998FGTSPlanConnectingFlorida'sCommunities.pdf (last visited Mar. 5, 2015).

- Support the FGTS through intergovernmental coordination, budget recommendations, and any other appropriate way.

In 2008, Florida was recognized as a leader in greenways and trails and awarded the Best Trails State Award by American Trail. Although the statewide system of trails had expanded to include thousands of miles of paved, unpaved, and paddling trails to accommodate hikers, bikers, equestrians, and paddlers, many gaps to the trail system remain.[8]

In 2013, the DEP published the 2013-2017 Florida Greenways and Trails System Plan. The 2013-2017 plan was the first update to the FGTS since the Connecting Florida Communities with Greenways and Trails Plan was published in 1998. The updated plan provides goals for the FGTS to advance Florida's economy, tourism, health, transportation, recreation, conservation, and quality of life. Specifically, the plan:

- Establishes priorities for coordinating, directing, and focusing resources;
- Provides a new framework for systematically closing the gaps in trails and connecting priority corridors within the FGTS to establish a fully connected and integrated statewide trail network; and
- Provides linkages between additional state planning efforts and the FGTS. The additional state planning efforts include:
  - The Florida Five-year Strategic Plan for Economic Development;
  - The VISIT FLORIDA Marketing Plan;
  - The Florida State Health Improvement Plan;
  - The Florida Transportation Plan 2060;
  - The Florida Statewide Comprehensive Outdoor Recreation Plan; and
  - The Cooperative Conservation Blueprint and Wildlife Action Plan.[9]

The Coast-to-Coast Connector (C2C) is an essential component of the 2013-2017 FGTS plan and the Florida Greenways and Trails Foundation "Close the Gaps" campaign.[10] The C2C is an approximately 275-mile system of local, regional, state, and federal trails crossing nine counties from Titusville to St. Petersburg. Approximately 200 miles of the corridor are developed or funded for completion. The remaining portion of the C2C will cost an estimated $42 million to complete.[11]

Once complete, the C2C will link communities and provide a year-round ecotourism engine throughout the region. The C2C includes two of the state's most popular trails, the Pinellas Trail and the West Orange Trail, each of which have served approximately 1 million users per year and fueled the economic transformation of trail communities, particularly Dunedin and Winter

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[8] DEP, *Coast to Coast Connector, Status Report: July 1, 2014 to December 31, 2014*, 3 (2014), *available at* http://www.dep.state.fl.us/gwt/FGTS_Plan/Long%20Distance%20Corridors/1st%20Edition%20Jan%202015.pdf (last visited Mar. 5, 2015).
[9] DEP, *Florida Greenways & Trails System Plan, 2013-2017*, 1 (2013), *available at* *http://www.dep.state.fl.us/gwt/FGTS_Plan/PDF/FGTS_Plan_2013-17_publication.pdf* (last visited Mar. 19, 2015).
[10] The Florida Greenways and Trails Foundation is a non-profit organization that supports the mission and programs of the DEP Office of Greenways and Trails.
[11] DEP, *The Coast to Coast Connector*, http://www.dep.state.fl.us/gwt/FGTS_Plan/Long%20Distance%20Corridors/Coast_to_Coast_Connector.htm (last visited Mar. 19, 2015).

Garden.[12] Components of the C2C will also serve other planned trails including multi-day loop trails such as the 250-mile Heart of Florida Greenway[13] and the 300-mile St. Johns River-to-Sea Loop.[14]

Interagency Coordination

The FDOT created the Florida Bicycle and Pedestrian Partnership Council in 2010, which includes representatives from the FDOT, state agencies, local governments, and non-profit organizations. The council provides policy recommendations for the state's walking, biking, and trail facilities to the FDOT and its partners. The primary focus of the council is to implement bicycle and pedestrian connections, promote bicycle and pedestrian safety, promote the use of design discretion to accommodate bicycle and pedestrian needs, and to promote the State Health Improvement Plan.[15]

The council has directed the FDOT to partner with the DEP to pursue opportunities that contribute to the full implementation of the FGTS Priority Network including:

- Considering additional right of ways for separate shared-use paths during all transportation corridor planning;
- Expanding the limited access pilot-projects;
- Developing an interagency Memoranda of Agreements to promote cooperation; and
- Working with metropolitan planning organizations and other regional entities.[16]

Although both the DEP and the FDOT are tasked with creating a network of connected trails and to coordinate efforts to accomplish each agency's goals, there is no legislation requiring interagency coordination to create a statewide system of shared-use transportation trails.

Trail Benefits

In addition to the intrinsic value nonmotorized travel brings to community mobility, sustainable transportation, and personal health, trails provide access to conservation lands and create wildlife corridors. Trails also produce numerous quantifiable economic benefits, including increasing the value of nearby properties, increasing spending at local businesses, influencing business location and relocation decisions, revitalizing depressed areas, providing sustainable tourism opportunities, and creating jobs.

Property Values

Based on an analysis of comparable trails from across the country, the construction of Miami-Dade County's Ludlam Trail will increase property values within a half mile of the trail 0.32 to 0.73 percent faster than other properties throughout the county. This translates into a total

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[12] *Id.*
[13] The Florida Greenways and Trails Foundation, *Close the Gaps: Heart of Florida Greenway Map* (May 29, 2012), *available at* http://fgtf.org/maps/hof/overview.pdf) (last visited Mar. 11, 2015).
[14] *See* ETM, *St. Johns River-to-Sea Loop Trail Status Update* (Sept. 2011), *available at* http://www.etminc.com/SJR2C/sg_userfiles/SJR2C_Summary_Report_09-19-11.pdf (last visited Mar. 11, 2015).
[15] DOT, *The Florida Bicycle and Pedestrian Partnership Council: 2012/2013 Annual Progress Report*, iii (Oct. 2013), *available at* http://www.dot.state.fl.us/planning/policy/bikeped/Annualrpt2012-13.pdf (last visited Mar. 11, 2015).
[16] *Id.* at 7

property value increase over a 25-year period of $121 million to $282 million.[17] A study of property values near trails in Delaware found that properties within 50 meters of the bike paths sell for $8,800 more than similar homes.[18] A survey co-sponsored by the National Association of Home Builders and the National Association of Realtors found that proximity to nonmotorized trails came in second only to highway access when recent home buyers were asked about the "importance of community amenities."[19]

Local Businesses and Economic Development

An economic impact analysis of trails in Orange County, Florida, found in 2010 average spending per trail user was $20 per visit, representing food and beverages, transportation, books and maps, bike maintenance, rentals, and more. The West Orange Trail supports 61 jobs and represents an estimated economic impact of $5 million for downtown Winter Garden. Longer destination trails increase spending and benefit hotels, bed and breakfasts, and outdoor outfitters.[20] A study of the Great Allegheny Passage, a 132-mile corridor in Pennsylvania, found that users reporting longer average travel distances to the trail were more likely to spend successive days on or near the trail. Those who reported an overnight stay in conjunction with their trips averaged spending $203 per person.[21] A survey on the Greenbrier River Trail, an 81-mile corridor in West Virginia, found an overwhelming majority of trail users were highly educated professionals with high income levels, two-thirds were from outside of West Virginia, 93 percent were staying in the area from one to four days, 58 percent spent between $100 and $500 in the area, and 93 percent indicated that they were highly likely to plan a return trip.[22]

Revitalization of Depressed Areas

Companies often choose locations in communities that offer a high level of amenities to employees as a means of attracting and retaining top-level workers. Trails can make communities attractive to businesses looking to expand or relocate both because of the amenities they offer to employees and the opportunities they offer to trail visitors.[23]

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[17] Miami-Dade County, Park and Recreation Department, *Miami-Dade County Trail Benefits Study: Ludlam Trail Case Study*, 57 (Jan. 2011), *available at* http://atfiles.org/files/pdf/Miami-Dade-Ludlam-Trail-Benefits.pdf (last visited Mar. 11, 2015).

[18] David P. Racca and Amardeep Dhanju, *Project Report for Property Value/Desirability Effects of Bike Paths Adjacent to Residential Areas*, 30 (Nov. 2006), *available at http://128.175.63.72/projects/DOCUMENTS/bikepathfinal.pdf* (last visited Mar. 19, 2015).

[19] National Trails Training Partnership, *Benefits of Trails and Greenways*, http://www.americantrails.org/resources/benefits/homebuyers02.html (last visited Mar. 11, 2015).

[20] East Central Florida Regional Planning Council, *Economic Impact Analysis of Orange County Trails*, ii (2011), *available at* http://www.dep.state.fl.us/gwt/economic/PDF/Orange_County_Trail_Report_final_May2011.pdf (last visited Mar. 11, 2015).

[21] Compos, Inc., *The Great Allegheny Passage Economic Impact Study (2007-2008)*, 91 (2009), *available at* http://www.atatrail.org/docs/GAPeconomicImpactStudy200809.pdf (last visited Mar. 11, 2015).

[22] ATI, *Maximizing Economic Benefits from a Rails-to-Trails Project in Southern West Virginia – A Case Study of the Greenbrier River Trail*, 11 (May 2001), *available at* http://atfiles.org/files/pdf/greenbrierecon.pdf (last visited Mar. 11, 2015).

[23] *See* NPS, *Economic Impacts of Protecting Rivers, Trails, and Greenway Corridors: Corporate Relocation and Retention*. *Rivers, Trails and Conservation Assistance Program* (1995), *available at* http://www.nps.gov/pwro/rtca/econ_all.pdf (last visited Mar. 11, 2015).

In Dunedin, Florida, after the abandoned CSX railroad was transformed into the Pinellas Trail, the downtown area went from 70 percent storefront occupancy to 95 percent occupancy.[24]

Tourism Opportunities

The Outer Banks of North Carolina generates $60 million in economic activity through bicycle tourism. The one-time investment of $6.7 million on bicycle infrastructure has resulted in an annual nine-to-one return. Analysis of Outer Banks trail amenities shows bicycle tourists tend to be affluent and educated. More than half of survey respondents said bicycling had a strong influence on their decision to return to the area. Two-thirds of respondents said that riding on bike facilities made them feel safer and three-quarters said that more paths, shoulders, and lanes should be built.[25]

A widely accepted tenet in trail development holds that the longer a given trail is, the greater its propensity for becoming a "destination trail," and the greater distance users will travel to use the trail. Users traveling farther stay in the area longer and, consequently, increase spending in the area. Users of the Great Allegheny Passage/C&O Canal Towpath, a 335-mile system of biking and hiking trails that connects Pittsburgh to Washington, DC, travel an average of 131 miles to the trailhead. Those that traveled 50 miles or more had daily expenditures approximately two times that of users that traveled less.[26]

Trail Development Creates More Jobs than Road Development

A national comparison of the number of jobs created per $1 million spent on various types of transportation projects found that for every $1 million spent on the development of multiuse trails, 9.57 jobs were created while road-only development yields 7.75 jobs.[27]

Sponsorship of Trails and Related Facilities

Section 335.065(3), F.S., authorizes the FDOT to enter into a concession agreement for commercial sponsorship displays, subject to the Highway Beautification Act of 1965 and all federal laws and agreements, on multiuse trails and related facilities with a not-for-profit entity or private sector business or entity. The revenues from the concession agreements may be used for trail maintenance.

In 2012, the Legislature created s. 260.0144, F.S., to authorize the DEP to enter into concession agreements for naming rights for the display of commercial sponsorship on certain state-owned greenway and trail facilities or properties. The DEP may establish the cost for entering into a concession agreement. The law specifies the commercial display contemplated by the concession agreement is for public relations or advertising purposes for the concessionaires and is not to be

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[24] DEP, *The Impact of Trails on Communities*, 34 (2010), *available at* http://www.opportunityflorida.com/pdf/Jim%20Wood%20-%20Trails%20and%20Economic%20Impact%20-%20Rural%20Summit.pdf (last visited Mar. 11, 2015).
[25] NCDOT, *Pathways to Prosperity: The Economic Impact of Investments in Bicycling Facilities*, vi-viii (July 2004), *available at* http://www.ncdot.gov/bikeped/download/bikeped_research_eiafulltechreport.pdf (last visited Mar. 5, 2015).
[26] *Supra* note 21, at 70.
[27] PERI, *Pedestrian and Bicycle Infrastructure: A National Study of Employment Impacts*, 11 (June 2011), *available at* http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.362.5819&rep=rep1&type=pdf (last visited Mar. 11, 2015).

construed as having a relationship with the DEP other than what is set forth in the terms of the concession agreement. The law also does not grant a proprietary or compensable interest in any sign, or display site or location.

Section 260.0144, F.S., requires 85 percent of the proceeds from the concession agreement with the DEP to be distributed to the appropriate trust fund within the DEP to be used for management and operation of state greenway or trail facilities and properties. The remaining 15 percent goes to the State Transportation Trust Fund.

The signage and display requirements for ss. 335.065(3) and 260.0144, F.S., are as follows:

- The placement of signage or displays is limited to the provisions of s. 337.407, F.S., and ch. 479, F.S., and limited to trailheads, parking areas, or public access points;
- The size of the signage or display is limited to 16 square feet at trailheads and parking areas and four square feet at public access points;
- The FDOT or the DEP must approve the name or display before installation;
- The FDOT or the DEP must ensure:
  - The size, color, materials, construction, and location of the signs are consistent with the management plan of the property and the standards of the FDOT or the DEP;
  - The signs do not intrude on natural and historic settings; and
  - The signs only contain the logo selected by the sponsor and the wording: "(Name of the sponsor)…proudly sponsors the costs of maintaining the…(Name of the greenway or trail)";
- All costs associated with the signage must be the responsibility of the concessionaire;
- The concession agreement is limited to one year unless extended by a multiyear agreement; and
- The FDOT or the DEP may terminate the agreement for just cause with 60 days advance notice to the concessionaire.

Florida's Springs

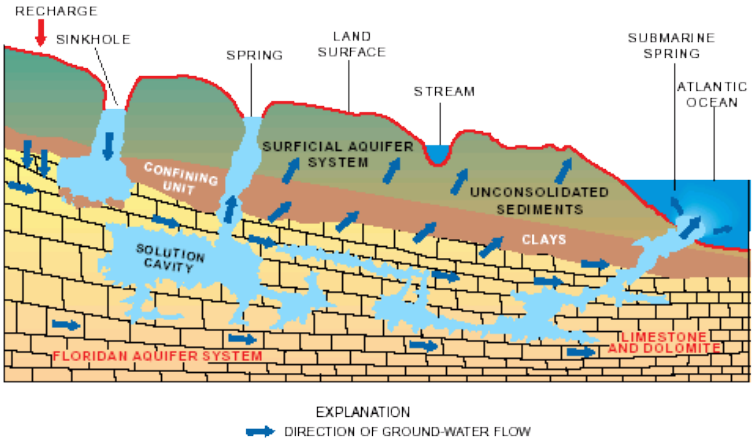
Florida's springs are unique and beautiful resources. The historically crystal clear waters provide not only a variety of recreational opportunities and habitats, but also great economic value for recreation and tourism. Springs are major sources of stream flow in a number of rivers such as the Rainbow, Chassahowitzka, Homosassa, and Ichetucknee.[28] Additionally, Florida's springs provide a "window" into the Floridan aquifer system, which provides most of the state's drinking water.

The Floridan aquifer system is a limestone aquifer that has enormous freshwater storage and transmission capacity. The upper portion of the aquifer consists of thick carbonate rocks that have been heavily eroded and covered with unconsolidated sand and clay. The surficial aquifer is located within the sand deposits and forms the land surface that is present today. In portions of Florida, the surficial aquifer lies on top of deep layers of clay sediments that prevent the

[28] Department of Community Affairs, *Protecting Florida's Springs: An Implementation Guidebook*, 3-1 (Feb. 2008), *available at* http://www.dep.state.fl.us/springs/reports/files/springsimplementguide.pdf (last visited Mar. 5, 2015).

downward movement of water. Springs form when groundwater is forced out through natural openings in the ground.[29]

The Water Cycle – Springs[30]



Florida has more than 700 recognized springs. First magnitude springs are those that discharge 100 cubic feet of water per second or greater. Florida has 33 first magnitude springs in 18 counties that discharge more than 64 million gallons of water per day. Spring discharges, primarily from the Floridan aquifer, are used to determine ground water quality and the degree of human impact on a spring's recharge area. Rainfall, surface conditions, soil type, mineralogy, the composition and porous nature of the aquifer system, flow, and length of time in the aquifer all contribute to ground water chemistry.[31]

The springshed is the area within the groundwater and surface water basins that contributes to the discharge of the spring. The spring recharge basin consists of all areas where water can be shown to contribute to groundwater flow discharging from the spring.

Spring protection zones are sub-areas of the groundwater and surface water basins of each spring or spring system that supply water to the spring and within which human activities, such as waste disposal or water use, are most likely to have negative impacts on the water discharging from the spring. When adverse conditions occur within a spring protection zone, the conditions can be minimized by:

- Land-use management and zoning by county or municipal government;
- Adoption of best management practices (BMPs);
- Educating the public concerning environmental sensitivity; and
- Regulatory action, if necessary.[32]

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[29] *Id*. at 3-1 to 3-2.
[30] U.S. Environmental Protection Agency, *The Water Cycle: Springs*, http://water.usgs.gov/edu/watercyclesprings.html (last visited Mar. 5, 2015).
[31] Florida Geological Survey, *Springs of Florida Bulletin No. 66*, *available at* http://www.dep.state.fl.us/geology/geologictopics/springs/bulletin66.htm (last visited Mar. 5, 2015).
[32] Upchurch, S.B. and Champion, K.M., *Delineation of Spring Protection Areas at Five, First-Magnitude Springs in North-Central Florida (Draft)*, 1 (Apr. 28, 2004), *available at* www.waterinstitute.ufl.edu/suwannee-hydro-observ/pdf/delineation-of-spring-protection-zones.pdf (last visited Mar. 5, 2015).

Nutrients

Phosphorus and nitrogen are essential nutrients for plants and animals and are the limiting nutrients in aquatic environments. The correct balance of both nutrients is necessary for a healthy ecosystem; however, excessive nitrogen and phosphorus can cause significant water quality problems. Typically, nitrogen is the limiting nutrient in spring systems. Therefore, even modest increases in nitrogen above optimum levels can accelerate algae growth, plant growth, and deplete oxygen levels.

Phosphorus and nitrogen are derived from natural and anthropogenic sources. Natural inputs include the atmosphere, soils, and the decay of plants and animals. Anthropogenic sources include sewage disposal systems (wastewater treatment facilities and septic tanks), overflows of storm and sanitary sewers (untreated sewage), agricultural production and irrigation practices, and stormwater runoff.

Excessive nutrients may result in harmful algal blooms, nuisance aquatic weeds, and alteration of the natural community of plants and animals. Dense, harmful algal blooms can also cause human health problems, fish kills, problems for water treatment plants, and generally impair the aesthetics and tastes of waters. Growth of nuisance aquatic weeds tends to increase in nutrient-enriched waters, which can impact recreational activities. Increased algae production, as a result of increased nutrients, can alter plant communities and affect natural systems.

In pristine conditions, spring water is high quality and lacks contaminants. It can be used directly for public water supplies or for irrigation. When pollutants are introduced to the land surface, some will be retained, but some will travel into the aquifer and later appear in spring flow. Often, nutrients introduced close to a spring will quickly reach the spring, especially in unconfined areas of the aquifer. While springs are valuable recreational and tourist attractions, they are also an indicator of reduced quality of the water in the aquifer.[33]

Urban Fertilizer Usage and Florida's Model Ordinance

Application of fertilizer in urban areas impacts springsheds when it runs off lawns and impervious surfaces into stormwater collection systems or directly into the surface water. The DEP has provided guidelines to minimize the impact of urban fertilizer use and adopted the Model Ordinance for Florida-Friendly Fertilizer Use on Urban Landscapes. The model ordinance provides counties and municipalities with a range of options to help minimize fertilizer inputs from urban applications. Some of the suggestions contained in the model ordinance are:

- Restricting the times fertilizer may be applied, such as restricting its application during the rainy season;
- Creating fertilizer free zones around sensitive waterbodies such as ponds, streams, watercourses, lakes, canals, or wetlands;
- Controlling application practices by, for example, restricting fertilizer application on impervious surfaces and requiring prompt cleanup of any fertilizer that is spilled on impervious surfaces; and

[33] *Supra* note 28, at 3-4.

- Managing grass clipping and vegetative matter by disposing of such materials properly rather than simply blowing them into the street, ditches, stormwater drains, or waterbodies.[34]

Water Pollution Control Programs

Total Maximum Daily Loads (TMDLs) and Water Quality Standards

Under s. 303 of the federal Clean Water Act (CWA), states are incentivized to adopt water quality standards (WQSs) for their navigable waters and must review and update those standards at least once every three years. These standards include:

- Designation of a waterbody's beneficial uses, such as water supply, recreation, fish propagation, and navigation;
- Water quality criteria that define the amounts of pollutants, in either numeric or narrative standards, that the waterbody can contain without impairment of the designated beneficial uses; and
- Anti-degradation requirements.[35]

In 1999, the Legislature passed the Florida Watershed Restoration Act,[36] which codified the establishment of TMDLs for pollutants of waterbodies as required by the CWA.[37] Each TMDL, which must be adopted by rule, is a scientific determination of the maximum amount of a given pollutant that can be absorbed by the waterbody while still meeting WQSs. Waterbodies that do not meet the established WQSs are deemed impaired and, pursuant to the CWA, the DEP establishes a TMDL for the waterbody or section of the waterbody that is impaired.[38] A TMDL for an impaired waterbody is defined as the sum of the individual waste load allocations for point sources and the load allocations for nonpoint sources and natural background. Waste load allocations are pollutant loads attributable to existing and future point sources, such as discharges from industry and sewage facilities. Load allocations are pollutant loads attributable to existing and future nonpoint sources such as the runoff from farms, forests, and urban areas. [39]

The U.S. Environmental Protection Agency (EPA) and the DEP enforce WQSs through the implementation and enforcement of the National Pollutant Discharge Elimination System (NPDES) permitting program. Every point source that discharges a pollutant into waters of the United States must obtain an NPDES permit establishing the amount of a particular pollutant that an individual point source can discharge into a specific waterbody. The amount of the pollutant that a point source can discharge under a NPDES permit is determined through the establishment of a technology-based effluent limitation. If a waterbody fails to meet the applicable WQS

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[34] DEP, *Model Ordinance for Florida-Friendly Fertilizer Use on Urban Landscapes*, 6-9 (2010), *available at* http://www.dep.state.fl.us/water/nonpoint/docs/nonpoint/dep-fert-modelord.pdf (last visited Mar. 5, 2015).
[35] 33 U.S.C. s. 1313(c)(2)(A) (2014); 40 C.F.R. ss. 131.6 and 131.10-131.12.
[36] Chapter 99-223, Laws of Fla.
[37] Section 403.067, F.S.
[38] *Id*.
[39] Fla. Admin. Code R. 62-620.200(37) (2006). Point source means any discernible, confined, and discrete conveyance, including any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft from which pollutants are or may be discharged. Nonpoint sources of pollution are essentially sources of pollution that are not point sources. They can include runoff from agricultural lands or residential areas; oil, grease and toxic materials from urban runoff; and sediment from improperly managed construction sites.

through the application of a technology-based effluent limitation, a more stringent pollution control program called the water quality based effluent limitation is applied.

Basin Management Action Plans (BMAPs)

The DEP is the lead agency in coordinating the implementation of TMDLs and BMAPs through existing water quality protection programs. Such programs include:

- Permitting and other existing regulatory programs, including water quality based effluent limitations;
- Non-regulatory and incentive-based programs, including BMPs, cost sharing, waste minimization, pollution prevention, agreements established pursuant to s. 403.061(21), F.S., and public education;[40]
- Public works, including capital facilities; and
- Land acquisition.[41]

The DEP may establish a BMAP as part of the development and implementation of a TMDL for a specific water body. First, the BMAP equitably allocates pollutant reductions to individual basins, as a whole to all basins, or to each identified point source or category of nonpoint sources.[42] Then the BMAP establishes the schedule for implementing projects and activities to meet the pollution reduction allocations. The BMAP process has the flexibility to allow for adaptive changes if necessary. The BMAP development process provides an opportunity for local stakeholders, local government and community leaders, and the general public to collectively determine and share water quality clean-up responsibilities. The DEP works with stakeholders to develop effective BMAPs.[43]

BMAPs must include milestones for implementation and water quality improvement. They must also include an associated water quality monitoring component sufficient to evaluate whether reasonable progress in pollutant load reductions is being achieved over time. An assessment of progress toward these milestones must be conducted every five years and revisions to the plan must be made as appropriate.[44]

Producers of nonpoint source pollution included in a BMAP must comply with the established pollutant reductions by either implementing the appropriate BMPs or by conducting water quality monitoring.[45] A nonpoint source discharger may be subject to enforcement action by the DEP or a WMD based upon a failure to implement these requirements.[46]

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[40] Section 403.061, F.S., grants the DEP the power and the duty to control and prohibit pollution of air and water in accordance with the law and rules adopted and promulgated by it. Furthermore, s. 403.061(21), F.S., allows the DEP to advise, consult, cooperate, and enter into agreements with other state agencies, the federal government, other states, interstate agencies, etc.
[41] Section 403.067(7)(b), F.S.
[42] Section 403.067(7), F.S.
[43] DEP, *Basin Management Action Plans (BMAPs)*, http://www.dep.state.fl.us/central/Home/Watershed/BMAP.htm (last visited Mar. 5, 2015).
[44] Section 403.067(7)(a)5., F.S.
[45] BMPs for agriculture, for example, include activities such as managing irrigation water to minimize losses, limiting the use of fertilizers, and waste management.
[46] Section 403.067(7)(b)1.h., F.S.

Provisions of a BMAP must be included in subsequent NPDES permits. The DEP is prohibited from imposing limits or conditions associated with an adopted TMDL in an NPDES permit until the permit expires, the discharge is modified, or the permit is reopened pursuant to an adopted BMAP.[47]

NPDES permits issued between the time a TMDL is established and a BMAP is adopted contain a compliance schedule allowing time for the BMAP to be developed. Once the BMAP is developed, a permit will be reopened and individual allocations consistent with the BMAP will be established in the permit. The timeframe for this to occur cannot exceed five years. NPDES permittees may request an individual allocation during the interim, and the DEP may include an individual allocation in the permit.[48]

For an individual point source, reducing pollutant loads established under the TMDL and water quality based effluent limitation regulatory programs can be difficult to accomplish. It may require investment in expensive technology or other costly measures to reduce pollutant loads.[49]

Agricultural Operations

Only lands that are used primarily for bona fide agricultural purposes are classified as agricultural in Florida.[50] The term "bona fide agricultural purposes" means good faith commercial agricultural use of the land. Certain factors may be taken into account in determining whether an agricultural operation is bona fide:

- The length of time the land has been used for agriculture;
- Whether the use has been continuous;
- The purchase price paid;
- Size, as it relates to specific agricultural use, but a minimum acreage may not be required for agricultural assessment;
- Whether an indicated effort has been made to care sufficiently and adequately for the land in accordance with accepted commercial agricultural practices, including fertilizing, liming, tilling, mowing, reforesting, and other accepted agricultural practices;
- Whether the land is under lease and, if so, the effective length, terms, and conditions of the lease; and
- Other factors as may be applicable.[51]

Industrial Wastewater Program

In Florida, all wastewater that is not defined as domestic wastewater is considered industrial wastewater. The DEP's Industrial Wastewater Program issues permits to facilities for activities that discharge to surface waters and ground waters of the state.[52] Industrial wastewater that

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[47] Florida Senate Committee on Environmental Preservation and Conservation, *CS/SB 754 Analysis* (Mar. 14, 2013), *available at* http://flsenate.gov/Session/Bill/2013/0754/Analyses/2013s0754.pre.ep.PDF (last visited Mar. 5, 2015).
[48] *Id*.
[49] *Id*.
[50] Section 193.461(3)(b), F.S.
[51] *Id*.
[52] DEP, *Wastewater Program: Industrial Wastewater*, http://www.dep.state.fl.us/Water/wastewater/iw/index.htm (last visited Mar. 5, 2015). Other operations that are considered sources of industrial wastewater include manufacturing, commercial

discharges to domestic wastewater treatment facilities, however, is regulated under a different program. The DEP is authorized by the EPA to issue permits for discharge to surface waters under the National Pollutant Discharge Elimination System (NPDES). Permits for discharge to ground waters are issued by the DEP under state statutes and rules. Industrial wastewater permits are issued by the district offices.

Two exceptions to the permits issued by the district offices are:

- NPDES permits for steam electric power plants, which are issued by the Industrial Wastewater Section in the Tallahassee office; and
- Industrial wastewater permitting for the phosphate industry, which is handled by the Phosphogypsum Management Section located in Tampa.[53]

Best Management Practices on Agricultural Lands

Agricultural BMPs are guidelines advising producers how to manage the water, nutrients, and pesticides they use to minimize agricultural impacts on Florida's natural resources. Agricultural activity is dependent on the application of fertilizer and pesticides and is linked to the contamination of watersheds with nutrients such as nitrogen and phosphorus. BMPs tend to cover four major areas, which overlap: nutrient management, or how producers use fertilizers; pest management, or how they use pesticides; water management, or how they use and discard water; and sediment management, or how they affect the sediments on and around their properties.[54]

BMPs reduce the amount of nutrients, sediments, and pesticides that enter the water system and help reduce water use. Because much of the state is built on limestone, which allows water to return relatively unfiltered to the aquifer, pollutants can enter the water supply quickly, endangering humans and ecosystems.[55]

The Department of Agriculture and Consumer Services (DACS) Office of Agricultural Water Policy is actively involved in developing BMPs. The DACS works cooperatively with agricultural producers, industry groups, the DEP, the state university system, the WMDs, and other interested parties to develop and implement BMP programs that are economically and technically feasible.[56]

Onsite Sewage Treatment and Disposal Systems (OSTDs)

In Florida, septic systems are referred to as onsite sewage treatment and disposal systems. An OSTDS can contain any one of the following components: a septic tank; a subsurface drainfield; an aerobic treatment unit (ATU); a graywater tank; a laundry wastewater tank; a grease interceptor; a pump tank; a waterless, incinerating or organic waste-composting toilet; and a

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businesses, mining, agricultural production and processing, and wastewater from cleanup of petroleum and chemical contaminated sites.

[53] *Id*.

[54] University of Florida Institute of Food and Agricultural Sciences, *Best Management Practices*, http://solutionsforyourlife.ufl.edu/hot_topics/agriculture/bmps.shtml (last visited Mar. 5, 2015).

[55] *Id*.

[56] DACS, Office of Agricultural Water Policy, *Home Page* (Jan. 8, 2014), http://www.freshfromflorida.com/Divisions-Offices/Agricultural-Water-Policy (last visited Mar. 5, 2015).

sanitary pit privy.[57] Septic systems are located underground and treat sewage without the presence of oxygen. Sewage flows from a home or business through a pipe into the first chamber, where solids settle out. The liquid then flows into the second chamber where anaerobic bacteria in the sewage break down the organic matter, allowing cleaner water to flow out of the second chamber into a drainfield.[58] Engineers licensed in Florida may specially design OSTDSs to meet the needs of individual property owners. Engineer-designed OSTDS plans are subject to review by the local county health department and must be certified by the engineer as complying with all requirements pertaining to such system.[59]

The Department of Health (DOH) administers onsite sewage programs, develops statewide rules, and provide training and standardization for county health department employees responsible for issuing permits for the installation and repair of OSTDSs within the state.[60] The Bureau also licenses over 700 septic tank contractors and oversees 2.6 million onsite wastewater systems in Florida. [61]

The EPA concluded in its 1997 Report to Congress that "adequately managed decentralized wastewater systems are a cost-effective and long-term option for meeting public health and water quality goals, particularly in less densely populated areas."[62] In Florida, development is dependent on OSTDSs due to the cost and time it takes to install central sewer systems. In rural areas and low-density developments, central sewer is not cost effective. Less than one percent of Florida systems are actively managed. The remainder are generally serviced only when they fail, often leading to costly repairs that could have been avoided with routine maintenance.[63]

Land Spreading of Septage

Septage is defined as a mixture of sludge, fatty materials, human feces, and wastewater removed during the pumping of an OSTDS.[64] Approximately 100,000 septic tanks are pumped each year, generating 100 million gallons of septage requiring treatment and disposal.[65] The septage is treated and disposed of at a number of septage treatment facilities regulated by the DOH. When used for land application, the septage is stabilized by raising the pH to 12 for at least two hours

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[57] DEP, *Wastewater: Septic Systems*, http://www.dep.state.fl.us/water/wastewater/dom/septic.htm (last visited Mar. 5, 2015).
[58] EPA, *Primer for Municipal Wastewater Treatment Systems*, 22 (2004), *available at* http://water.epa.gov/aboutow/owm/upload/2005_08_19_primer.pdf (last visited Mar. 5, 2015).
[59] *See* Fla. Admin. Code R. 64E-6.003 (2013) and R. 64E-6.004 (2010).
[60] The DOH does not permit the use of onsite sewage treatment and disposal systems where the estimated domestic sewage flow from the establishment is over 10,000 gallons per day (gpd) or the commercial sewage flow is over 5,000 gpd; where there is a likelihood that the system will receive toxic, hazardous or industrial wastes; where a sewer system is available; or of any system or flow from the establishment is currently regulated by the DEP. The DEP issues the permits for systems that discharge more than 10,000 gpd.
[61] Hall, P. and Clancy, S.J., *Statewide Inventory of Onsite Sewage Treatment and Disposal Systems in Florida, Final Report*, 6 (June 29, 2009), *available at* http://www.floridahealth.gov/healthy-environments/onsite-sewage/research/_documents/research-reports/_documents/inventory-report.pdf (last visited Mar. 5, 2015).
[62] EPA, *Handbook for Managing Onsite and Clustered (Decentralized) Wastewater Treatment Systems*, 1 (Dec. 2005), *available at* http://water.epa.gov/infrastructure/septic/upload/onsite_handbook.pdf (last visited Mar. 26, 2015).
[63] DOH, *Report on Range of Costs to Implement a Mandatory Statewide 5-Year Septic Tank Inspection Program*, 1 (Oct. 2008) (on file with the Senate Committee on Environmental Preservation and Conservation).
[64] Section 381.0065(2)(n), F.S.
[65] DOH, *Report on Alternative Methods for the Treatment and Disposal of Septage*, 1 (Feb. 2011), *available at* http://pk.b5z.net/i/u/6019781/f/FINAL_REPORT_ON_ALTERNATIVE_METHODS_FOR_THE_TREATMENT_AND_DISPOSAL_OF_SEPTAGE_03282011__2_.pdf (last visited Mar. 5, 2015).

or to a pH of 12.5 for 30 minutes.[66] The treated septage is then spread over land at DOH-regulated land application sites.[67] In addition to septage, onsite systems serving restaurants include tanks that separate grease from the sewage stream. The grease is collected, hauled, treated, and land applied similarly to septage. In 2011, there were 92 DOH-regulated land application sites that receive treated septage from 108 DOH-regulated septage treatment facilities. Approximately 40 percent of septage removed from septic tanks is treated at septage treatment facilities and then land applied.[68]

In 2010, the Legislature enacted ch. 2010-205, Laws of Florida., which prohibited the land application of septage from septic tanks effective January 1, 2016. In addition, the law required the DOH, in consultation with the DEP, to provide a report to the Governor and the Legislature recommending alternative methods to establish enhanced treatment levels for the land application of septage by February 1, 2011. The report provided several alternatives to the land application of septage as it is currently performed.[69]

Treatment of septage at domestic wastewater treatment facilities

Treating septage takes advantage of available wastewater treatment facilities' capacity while at the same time centralizing waste treatment operations. However, not all wastewater treatment facilities accept septage because it is a high strength waste, which has the potential to upset facilities' processes and may result in increased operation and maintenance requirements and costs. Furthermore, the distance between central facilities with available treatment capacity and the locations where septage is collected in rural areas can make transport to such facilities cost prohibitive.[70]

Disposal of septage at landfills

Acceptance of septage at Class I landfills has positive impacts because it increases microbial activity within the landfills and results in increased waste decomposition and more rapid waste stabilization. However, landfill instability may result due to disposal of the wet waste stream. Increased difficulty in operating compaction equipment may result due to creation of a slick working surface. Many landfills choose not to accept loads of septage, making land application sites one of the only available options for the disposal of septage.[71]

Advanced Treatment

While most of Florida's OSTDSs are conventional OSTDSs, or passive septic systems, there are other advanced systems capable of providing additional or advanced treatment of wastewater prior to disposal in the drainfield. Advanced OSTDSs can utilize various approaches to improve treatment before discharge to a drainfield, or the drainfield itself can be modified. On occasion,

[66] Fla. Admin. Code R. 64E-6.010(7)(a) (2013).
[67] See Fla. Admin. Code R. 64E-6.010 (2013).
[68] *Supra* note 65, at 2.
[69] *Supra* note 65, at 2.
[70] *Supra* note 65, at 2.
[71] *Supra* note 65, at 3.

engineers have included the drainfield as part of the treatment process, usually as a means to achieve fecal coliform reduction.[72]

Advanced systems differ in three respects from conventional treatment systems that consist of a septic tank with a drainfield. First, the design of advanced systems is more variable than the approach for conventional systems. Second, they need more frequent checkups and maintenance, which is the reason they require operating permits. Third, the performance expectations are more specific, while failures for advanced systems are less defined.[73] Advanced systems are significantly more expensive to purchase, install, and operate.

ATUs offer advanced treatment for wastewater. ATUs force compressed air through the liquid effluent in the tank to create a highly oxygenated (aerobic) environment for bacteria. Bacteria that thrive in oxygen-rich environments work to break down and digest the wastewater inside the ATU. Aerobic units come in a variety of sizes and shapes and can be made of concrete, fiberglass or polyurethane. They are designed to collect and treat all the water from a home, including water from toilets, showers, bathtubs, sinks, and laundry. There are as many as three stages that ATUs take wastewater through before the effluent is dispersed into the drainfield.[74]

Water Pollution Management

Urban Stormwater Management

Unmanaged urban stormwater creates a wide variety of effects on Florida's surface waters and groundwater. Factors that exacerbate unmanaged runoff include:

- Compaction of soil;
- Impervious surfaces such as roads and parking lots;
- Alteration of natural landscape features such as natural depression areas that hold water, floodplains, and wetlands;
- Construction of highly efficient drainage systems that alter the ability of the land to assimilate precipitation; and
- Pollutant loading of receiving water bodies from stormwater discharge.[75]

Urbanization within a watershed decreases the amount of rainwater that seeps into the soil. Rainwater is critical for recharging aquifers, maintaining water levels in lakes and wetlands, and maintaining spring and stream flows. The increased volume, speed, and pollutant loading in

[72] DOH, Assessment of Water Quality Protection, *Advanced Onsite Sewage Treatment and Disposal Systems: Performance, Management, Monitoring, Draft Final Report*, 14 (August 19, 2013), *available at* http://www.floridahealth.gov/healthy-environments/onsite-sewage/research/advancedostdsfinalreportdraft.pdf (last visited Mar. 5, 2015).
[73] Prepared for DEP by DOH, Bureau of Onsite Sewage Programs, *Revised Quality Assurance Project Plan Assessment of Water Quality Protection by Advanced Onsite Sewage Treatment and Disposal Systems (OSTDS): Performance, Management, Monitoring*, 8 (Aug. 22, 2011) *available at* http://www.floridahealth.gov/healthy-environments/onsite-sewage/research/_documents/final319qapp.pdf (last visited Mar. 5, 2015).
[74] Florida Health, Lee County, *Aerobic Treatment Unit Homeowner Education*, http://lee.floridahealth.gov/programs-and-services/environmental-health/onsite-sewage-disposal/permits/aerobic-treatment-units.html (last visited Mar. 5, 2015).
[75] DEP, *State Stormwater Treatment Rule Development Background*, http://www.dep.state.fl.us/water/wetlands/erp/rules/stormwater/background.htm (last visited Mar. 5, 2015).

stormwater discharged from developed areas leads to flooding, water quality problems, and loss of habitat.[76]

In 1982, to manage urban stormwater and minimize impacts to natural systems, Florida adopted a technology-based rule requiring the treatment of stormwater to a specified level of pollutant load reduction for new development. The rule included a performance standard for the minimum level of treatment and design criteria for BMPs to achieve the performance standard. It also included a rebuttable presumption that discharges from a stormwater management system would meet WQSs when designed in accordance with the BMP design criteria.[77] The performance standard was to reduce post-development stormwater pollutant loading of total suspended solids[78] by 80 percent, or by 95 percent for Outstanding Florida Waters.[79]

In 1990, the DEP developed and implemented the State Water Resource Implementation Rule (originally known as the State Water Policy rule).[80] This rule sets forth the broad guidelines for the implementation of Florida's stormwater program and describes the roles of the DEP, the WMDs, and local governments. One of the primary goals of the program is to maintain the predevelopment stormwater characteristics of a site. The rule sets a minimum performance standard for stormwater treatment systems to remove 80 percent of the post-development stormwater pollutants "that cause or contribute to violations of WQSs."[81]

The DEP and the WMDs jointly administer the Environmental Resource Permitting (ERP) program for activities that alter surface water flows.[82] Alteration or construction of new stormwater management systems in urban redevelopment areas is regulated by the ERP program pursuant to s. 373.413, F.S., and must comply with all other relevant sections of Part IV of ch. 373, F.S.

Wastewater Treatment Plants

Wastewater treatment is one of the most common forms of pollution control in the United States. Sewerage system components include collection sewers, pumping stations, and treatment plants. Sewage is collected and sent to a treatment plant to remove solids and biological contaminants. Once sewage has been treated, it is typically discharged into streams and other receiving waters, or reused.[83]

The basic function of wastewater treatment is to speed up natural processes by which water is purified. Typically, sewage is treated by primary and secondary processes. In the primary stage,

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[76] *Id*.
[77] *Id*.
[78] Total Suspended Solids is listed as a conventional pollutant under s. 304(a)(4) of the CWA. A conventional pollutant is a water pollutant that is amenable to treatment by a municipal sewage treatment plant.
[79] Fla. Admin. Code R. 62-302.700 (2006), provides that an Outstanding Florida Water is a designated water body worthy of special protection because of its natural attributes. This special designation is applied to certain water bodies, and is intended to protect and preserve their existing states.
[80] *Supra* note 75. *See generally* Fla. Admin. Code R. 62-40.
[81] *Supra* note 75.
[82] Chapter 373, Part IV, F.S. See also DEP, *Environmental Resource Permitting (ERP) Program*, http://www.dep.state.fl.us/water/wetlands/erp/index.htm (last visited Mar. 5, 2015).
[83] U.S. Environmental Protection Agency, Office of Water, *How Wastewater Treatment Works: The Basics*, Report no. 833-F-98-002, 1 (May 1998), *available at* http://www.epa.gov/npdes/pubs/bastre.pdf (last visited Mar. 5, 2015).

solids are allowed to settle and are removed from the wastewater. The secondary stage uses biological processes to further purify wastewater.[84]

Limits in Florida for effluent to surface water from wastewater treatment plants are required to contain no more than 20 mg/L carbonaceous biochemical oxygen demand (CBOD5)[85] and 20 mg/L total suspended solids (TSS)[86], or 90 percent removal of each from the wastewater influent, whichever is more stringent.[87] There are other limits depending on where the effluent is being discharged.

Advanced Wastewater Treatment

Advanced wastewater treatment (AWT) systems perform additional treatment beyond secondary treatment. AWT can remove more than 99 percent of all impurities from sewage, producing an effluent that may be drinking-water quality. The related technology can be expensive, requiring a high level of technical expertise and well trained treatment plant operators, a steady energy supply, chemicals, and specific equipment that may not be readily available. An example of an AWT process is the modification of a conventional secondary treatment plant to remove additional phosphorus and nitrogen. The effluent standards for AWT on an annual average basis are:

- CBOD5 – 5 mg/L;
- Suspended solids – 5 mg/L;
- Total nitrogen – 3 mg/L;
- Total phosphorus – 1 mg/L; and
- High levels of disinfection.[88]

Biosolids

Biosolids are the solid, semisolid, or liquid residue generated during the biological wastewater treatment process. Florida generates approximately 320,000 dry tons of biosolids annually. Biosolids are normally high in organic content and contain moderate amounts of nutrients such as nitrogen and phosphorus, making them valuable as a fertilizer or soil amendment.[89] They may be used beneficially or disposed of in landfills.[90]

Biosolids are classified as AA, A, or B. AA biosolids are considered the highest quality biosolids. They must be treated to a level that essentially eliminates pathogens and meets strict concentration limits for heavy metals. They may be used as fertilizer through commercial distribution and marketing.[91] Class A biosolids are biosolids that meet the same pathogen reduction requirements as Class AA biosolids, meet the same vector attraction (meaning the attraction of disease spreading animals) requirements as Class B biosolids, and meet a series of

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[84] *Id*.
[85] For more information on CBOD5, see Fla. Admin. Code R. 62-601.200(5) (1996).
[86] For more information on TSS, see Fla. Admin. Code R. 62-601.200(54) (1996).
[87] Fla. Admin. Code R. 62-600.420 (1993).
[88] Section 403.086(4), F.S.
[89] DEP, *Biosolids in Florida: 2012 Summary*, 1 (Dec. 2013), *available at* http://www.dep.state.fl.us/water/wastewater/dom/docs/BiosolidsFlorida-2012-Summary.pdf (last accessed Mar. 5, 2015).
[90] *Id*.
[91] *Id*.

concentration limits for nine different elements.[92] Class B biosolids must be treated to significantly reduce pathogens and must meet certain concentration limits for heavy metals. Application rates are limited to crop nutrient needs. They are subject to site application restrictions and restrictions on harvesting, grazing, and public access. Also, cumulative heavy metals must be tracked for Class A and B biosolids; however, in Florida, land applied biosolids are almost exclusively Class B. In 2012, approximately 108,272 dry tons of Class B biosolids were land applied.[93]

Minimum Flows and Levels (MFLs)

MFLs are established for water bodies in order to prevent significant harm to the water resources or ecology of an area as a result of water withdrawals. MFLs are typically determined based on evaluations of topography, soils, and vegetation data collected within plant communities and other pertinent information associated with the water resource. MFLs take into account the ability of wetlands and aquatic communities to adjust to changes in hydrologic conditions and allow for an acceptable level of hydrologic change to occur. When uses of water resources shift the hydrologic conditions below levels defined by MFLs, significant ecological harm can occur.[94] The goal of establishing an MFL is to ensure there is enough water to satisfy the consumptive use of the water resource without causing significant harm to the resource.[95] Consumptive uses of water draw down water levels and reduce pressure in the aquifer.[96] By establishing MFLs for non-consumptive uses, the WMDs are able to determine how much water is available for consumptive use. This is useful when evaluating a new consumptive use permit (CUP) application.[97]

Section 373.042, F.S., requires the DEP or WMDs to establish MFLs for priority water bodies to prevent significant harm from water withdrawals. While the DEP has the authority to adopt MFLs under ch. 373, F.S., the WMDs have the primary responsibility for MFL adoption. The WMDs submit annual MFL priority lists and schedules to the DEP for review and approval. MFLs are considered rules by the WMDs and are subject to ch. 120, F.S., challenges. MFLs are established using the best available data and are subject to independent scientific peer review at the election of the WMD, or, if requested, by a third party.[98]

MFLs apply to decisions affecting permit applications, declarations of water shortages, and assessments of water supply sources. Computer water budget models for surface waters and groundwater are used to evaluate the effects of existing and/or proposed consumptive uses and the likelihood they might cause significant harm. The WMD governing boards are required to develop recovery or prevention strategies in those cases where a water body or watercourse

[92] Fla. Admin. Code R. 62-640.200(9) (2010).
[93] *Supra* note 89.
[94] SJRWMD, *Water Supply: An Overview of Minimum Flows and Levels*, http://www.sjrwmd.com/minimumflowsandlevels/ (last visited Mar. 5, 2015).
[95] DEP, *Minimum Flows and Levels*, http://www.dep.state.fl.us/water/waterpolicy/mfl.htm (last visited Mar. 5, 2015).
[96] *Supra* note 28, at 3-5.
[97] Florida Senate Committee on Environmental Preservation and Conservation, *SB 244 Analysis*, 2 (Feb. 22, 2013), *available at* http://flsenate.gov/Session/Bill/2013/0244/Analyses/2013s0244.ep.PDF (last visited Mar. 5, 2015).
[98] *Id*.

currently does not or is anticipated to not meet an established MFL. Water uses cannot be permitted that cause any MFL to be violated.[99]

Prior to the passage of the Water Resources Act in 1972,[100] MFLs were defined in statute:

- Average minimum flow - the average of the five lowest monthly mean discharge for each month, January through December, occurring during the past twenty years of natural flow. The determination was based on available flow data or in the absence of such data, it was established by reasonable calculations; and
- Average minimum level - the average of the minimum thirty days lake water level occurring during each of the five years of lowest levels in the period of the preceding twenty consecutive years. The determination was based upon available lake level data, supplemented when available by reasonable calculations.[101]

The Water Resources Act of 1972 changed the way minimum flows and minimum levels were defined:

- The minimum flow for a given watercourse is the limit at which further withdrawals would be significantly harmful to the water resources or ecology of the area; and
- The minimum water level is the level of ground water in an aquifer and the level of surface water at which further withdrawals would be significantly harmful to the water resources of the area.[102]

The ecology of groundwater resources was thought to be non-existent at the time of the 1972 act.

Consumptive Use Permits (CUP)

A CUP establishes the duration and type of water use as well as the maximum amount of water that may be withdrawn daily. Pursuant to s. 373.219, F.S., each CUP must be consistent with the objectives of the issuing WMD or the DEP and may not be harmful to the water resources of the area. To obtain a CUP, an applicant must establish that the proposed use of water satisfies the statutory test, commonly referred to as "the three-prong test." Specifically, the proposed water use must:

- Be a "reasonable-beneficial use" as defined in s. 373.019(16), F.S.;
- Not interfere with any presently existing legal use of water; and
- Be consistent with the public interest.

Consolidated Water Management District Annual Reports

Each WMD must prepare and submit to the DEP, the Governor, the President of the Senate, and the Speaker of the House of Representatives a consolidated water management district annual report on the management of water resources. Copies of the report are available to the public.[103]

The report must contain:

[99] *Supra* note 94.
[100] Chapter 72-299, Laws of Fla.
[101] Section 373.081, F.S. (1971).
[102] *Supra* note 100.
[103] Section 373.036(7)(a), F.S.

- A district water management plan annual report. Alternatively, it may contain the annual work plan report,[104] which details the implementation of the strategic plan for the previous fiscal year, addressing success indicators, deliverables, and milestones;[105]
- The DEP approved MFLs annual priority list and schedule;
- The annual five-year capital improvements plan;
- The alternative water supplies annual report;
- The final annual five-year water resource development work program;
- The Florida Forever Water Management District Work Plan annual report;
- The mitigation donation annual report; and
- Any additional information the WMD deems appropriate.

Additionally, the South Florida WMD must include the:
- Lake Okeechobee Protection Program annual progress report;
- Everglades annual progress reports;
- Everglades restoration annual report; and
- Everglades Trust Fund annual expenditure report.[106]

Rural Areas of Opportunity

Rural areas of opportunity are rural communities and regions composed of rural communities designated by the Governor that have been adversely affected by an extraordinary economic event, severe or chronic distress, or a natural disaster, or that presents a unique economic development opportunity of regional impact.[107]

Rural communities are defined as:
- Counties with a population of 75,000 or fewer;
- Counties with a population of 125,000 or fewer that are contiguous to a county with a population of 75,000 or fewer;
- Designated municipalities within a county that meet the thresholds of the two previous criteria; or
- An unincorporated federal enterprise community or an incorporated rural city with a population of 25,000 or less and an employment base focused on traditional agricultural or resource-based industries, located in a county not defined as rural, which has at least three or more of the economic distress factors identified below:[108]
    - Low per capita income;
    - Low per capita taxable values;
    - High unemployment;
    - High underemployment;
    - Low weekly earned wages compared to the state average;
    - Low housing values compared to the state average;
    - High percentages of the population receiving public assistance;

[104] Section 373.036(7)(b)1., F.S.
[105] Section 373.036(2)(e)4., F.S.
[106] Section 373.036(7), F.S.
[107] Section 288.0656(2)(d), F.S.
[108] Section 288.0656(2)(e), F.S.

- High poverty levels compared to the state average; and
- A lack of year-round stable employment opportunities.[109]

Northern Everglades and Estuaries Protection Program

In 2000, the Legislature passed the Lake Okeechobee Protection Act (LOPA), which established a restoration and protection program for the lake. In 2007, the Legislature amended the LOPA,[110] which is now known as the Northern Everglades and Estuaries Protection Program (NEEPP). The NEEPP promotes a comprehensive, interconnected watershed approach to protect Lake Okeechobee and the Caloosahatchee and St. Lucie Rivers. It includes the Lake Okeechobee, Caloosahatchee River, and the St. Lucie River Watershed Protection Programs.[111]

The plans developed under the NEEPP for each of the three Northern Everglades watersheds identify actions to help achieve water quality and water quantity objectives for the watersheds and to restore habitat. Water quality objectives are based on TMDLs developed by the DEP. The TMDL for Lake Okeechobee is 140 metric tons of total phosphorus per year, of which 105 metric tons can come from the watershed tributaries and 35 metric tons can come from atmospheric deposition.[112]

The South Florida Water Management District (SFWMD), in cooperation with the DACS and the DEP, collectively known as the coordinating agencies, developed the Lake Okeechobee Watershed Protection Plan (LOWPP), which is reevaluated every three years pursuant to NEEPP. The LOWPP's three main components are the:

- Lake Okeechobee Watershed Construction Project, which includes the Phase I and Phase II Technical Plans;
- Lake Okeechobee Watershed Phosphorus Control Program; and
- Lake Okeechobee Watershed Research and Water Quality Monitoring Program.

It also includes the Lake Okeechobee Exotic Species Control Program and the Lake Okeechobee Internal Phosphorus Management Program.[113]

Section 373.4595, F.S., describes the purposes of the five programs. The Lake Okeechobee Watershed Construction Project improves the hydrology and water quality of Lake Okeechobee and downstream receiving waters, including the Caloosahatchee and St. Lucie Rivers and Estuaries. The Lake Okeechobee Phosphorus Control Program is designed to be a multifaceted approach to reducing phosphorus loads by improving the management of phosphorus sources within the Lake Okeechobee watershed. The Lake Okeechobee Watershed Research and Water Quality Monitoring Program assesses sources of phosphorus, evaluates the feasibility of alternative nutrient reduction technologies, and evaluates water quality data. The Lake

[109] Section 288.0656(2)(c), F.S.
[110] Chapter 2007-253, LAWS of Fla.
[111] SFWMD, *2014 South Florida Environmental Report: Lake Okeechobee Watershed Protection Program Annual and Three-Year Update*, 8-2 (2014), *available at* http://my.sfwmd.gov/portal/page/portal/pg_grp_sfwmd_sfer/portlet_prevreport/2014_sfer/v1/chapters/v1_ch8.pdf (last visited Mar. 26, 2015).
[112] *Id.* at 8-10.
[113] *Id.* at 8-10.

Okeechobee Internal Phosphorus Management Program addresses phosphorus removal. Lastly, the Lake Okeechobee Watershed Research and Water Quality Monitoring Program assesses sources of phosphorus, evaluates the feasibility of alternative nutrient reduction technologies, and evaluates water quality data.

Lake Okeechobee Basin Management Action Plan

The Lake Okeechobee BMAP was adopted in December 2014. For the first phase of the BMAP, the DEP is focusing on project implementation in the following six sub-watersheds north of the lake:

- The Upper Kissimmee;
- The Lower Kissimmee;
- Taylor Creek/Nubbin Slough;
- Lake Istokpoga;
- Indian Prairie; and
- Fisheating Creek.[114]

The anticipated outcomes of the BMAP's implementation are:

- Improvements in water quality trends in the Lake Okeechobee Watershed;
- Decreased loading of total phosphorus and total nitrogen;
- Decreased loading of total phosphorus and total nitrogen to the St. Lucie and Caloosahatchee Estuaries;
- Increased coordination between state and local governments to achieve surface water quality restoration;
- Determination of effective projects through the stakeholder decision-making and priority-setting processes;
- Enhanced public awareness of stormwater runoff, pollutant sources, pollutant impacts on water quality, and corresponding corrective actions; and
- Enhanced understanding of basin hydrology, water quality, pollutant sources, and legacy loads.

The DEP states the plan will reduce total phosphorus entering the lake by 33 percent over the next 10 years.[115]

The Caloosahatchee and St. Lucie River Watershed Protection Programs

The Caloosahatchee and St. Lucie River Watershed Protection programs are designed to protect and restore surface water resources by addressing the reduction of pollutant loadings, restoration of natural hydrology, and compliance with applicable state water quality standards through a phased program. The program objective is to reduce pollutant loads based upon adopted TMDLs.

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[114] DEP, *Basin Management Action Plan for the Implementation of Total Maximum Daily Loads for Total Phosphorus*, xii (Dec. 2014), *available at* http://www.dep.state.fl.us/water/watersheds/docs/bmap/LakeOkeechobeeBMAP.pdf (last accessed Mar. 26, 2015).

[115] DEP, *DEP Adopts Restoration Plan for Lake Okeechobee*, (Dec. 16, 2014), https://depnewsroom.wordpress.com/2014/12/24/dep-adopts-restoration-plan-for-lake-okeechobee/ (last visited Mar. 16, 2015).

Both the Caloosahatchee and St. Lucie River Watershed Protection Plans consist of a river watershed construction project, a watershed pollutant control program, and watershed research and water quality monitoring program.[116] To address nutrient pollution in the Caloosahatchee and St. Lucie Watersheds, the DEP adopted the Caloosahatchee Estuary BMAP in November 2012, and the St. Lucie River and Estuary BMAP in May 2013. The BMAP for the upper Caloosahatchee River watershed is under development.

Central Florida Water Initiative (CFWI)

The areas encompassed by the CFWI Planning Area, which consists of all of Orange, Osceola, Seminole, and Polk counties and southern Lake County, have traditionally relied on groundwater from the Floridan aquifer system as the primary source of water. The three WMDs serving the area are the SFWMD, the Southwest Florida Water Management District (SWFWMD), and the St. Johns River Water Management District (SJRWMD).[117]

In the past, the three WMDs worked independently to resolve water resource issues, but the decisions of one district can affect the water resources of another. Currently, the WMDs are working collaboratively with other agencies and stakeholders to implement consistent water resource planning, development, and management through the CFWI. However, each WMD currently relies on its own existing criteria to review CUP applications, which leads to inconsistencies and confusion as it relates to permit applications for projects that overlap multiple WMD boundaries.[118]

In 2006, the three WMDs agreed to a Central Florida Coordination Area Action Plan to address the near-term and long-term development of water supplies in the central Florida region.[119] Phase I of the action plan created a framework to deal with the short-term water resource issues and concluded with interim water use regulations limiting groundwater withdrawals to projected 2013 demands and required development of alternative water supplies for future needs. The interim Central Florida Coordination Area rules expired on December 31, 2013, and additional rules specific to the Central Florida Coordination Area have not been promulgated.[120]

Phase II of the action plan began in 2009. The initial objective was to establish new rules prior to the December 31, 2013, sunset date and to implement a long-term approach to water resource management in central Florida. Phase II of the action plan involved coordinated activities on a variety of issues including:

- Regional water supply planning;
- Investigations and development of traditional and alternative water supply projects;

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[116] SFWMD, *2014 South Florida Environmental Report: Lake Okeechobee Watershed Protection Program Annual and Three-Year Update*, App. 10-2-3 (2012), *available at* http://www.sfwmd.gov/portal/page/portal/xrepository/sfwmd_repository_pdf/crwpp_2012update_sfer_voli_app10_2.pdf (last visited Mar. 26, 2015).
[117] Central Florida Water Initiative, *An Overview*, http://cfwiwater.com/pdfs/2012/06-28/CFWI_Overview_fact_sheet.pdf (last accessed Mar. 16, 2015).
[118] *Id.*
[119] Central Florida Water Initiative, *Central Florida Water Initiative Guiding Document*, 2 (Jan. 30, 2015), *available at* http://cfwiwater.com/pdfs/CFWI_Guiding_Document_2015-01-30.pdf (last visited Mar. 26, 2015).
[120] *Id.*

- Assessment of environmental impacts and groundwater sustainability; and
- Development of water use rules and permitting criteria.[121]

The main planning tool for the Phase II process was the development and calibration of the necessary hydrologic models to determine the sustainability of the groundwater supplies. The Phase II process was suspended, however, because of the complexity of the effort and the desire for consensus among stakeholders. Because of those problems, the Phase II effort did not meet the rulemaking deadlines prior to expiration of the interim rule. Additionally, because of the economic downturn in central Florida, the need for and use of permitted water demands in 2013 was lower than expected.[122]

To address the limitations of the 2006 Central Florida Coordination Area Action Plan schedule and still fulfill the overarching objectives outlined in that plan, the CFWI was created in 2011. The CFWI builds on the work of the Central Florida Coordination Area. Both efforts focus on an area that includes all of Orange, Osceola, Seminole, and Polk counties, and southern Lake County. The three affected WMDs, along with the DEP, the DACS, regional public water supply utilities, and other stakeholders are collaborating to develop a unified process to address central Florida's current and long-term water supply needs.[123] It is led by a steering committee comprised of:

- A public water supply utility representative;
- One designated governing board member from each of the WMDs;
- A representative from the DEP; and
- A representative from the DACS.[124]

The guiding principles of the CFWI are:

- Identify the sustainable quantities of traditional groundwater sources available for water supply that can be used without causing unacceptable harm to the water resources and associated natural systems;
- Develop strategies to meet water demands that are in excess of the sustainable yield of existing traditional groundwater sources, implement demand management, and identify alternative water supplies that can be permitted and will be implemented as demands approach the sustainable yield of existing sources; and
- Establish consistent rules and regulations for the three WMDs that meet the goals of the CFWI.[125]

The goals of the CFWI are:

- One hydrologic model;
- A uniform definition of harm;
- One reference condition;
- A process for permit reviews;
- A consistent process, where appropriate, to set MFLs and reservations; and

[121] *Id.*
[122] *Id.* at 3.
[123] *Id.* at 3.
[124] *Id.* at 5.
[125] *Id.* at 5

- A coordinated regional water supply plan, including any needed recovery and prevention strategies.[126]

Works of the District Permits

The Works of the District rule[127] was implemented in 1989. The scope of the original rule was to implement the Surface Water Improvement and Management Plan for Lake Okeechobee, which was designed to reduce loading to Lake Okeechobee to 397 tons of phosphorus per year. In 2000, the passage of the Lake Okeechobee Protection Act required landowners in the Lake Okeechobee watershed to either implement BMPs or monitor to demonstrate compliance with the Works of the District program.

In Lake Okeechobee, a Works of the District permit is required if an entity owns a parcel of land half an acre or greater within a Lake Okeechobee Drainage Basin that connects to or makes use of the Works of the District within the Lake Okeechobee Drainage Basin. The land areas and uses subject to the permits are described in Rules 40E-61.041 and 40E-61.042, F.A.C., both of which relate to permits required in the Lake Okeechobee Drainage Basin. Works of the District Permits are also required for activities in the Everglades Agricultural Area and the C-139 Basin. Rules concerning permits in the Everglades Agricultural Area may be found in Rule 40E-63, F.A.C.

The Harris Chain of Lakes Restoration Council

The Harris Chain of Lakes is located north and west of the Orlando metropolitan area and is in Lake and Orange counties.[128] It contains tens of thousands of acres of lakes and wetlands and is at the headwaters of the Ocklawaha River.[129]

The council was created by the Legislature in 2001 and consists of nine voting members. The members are:

- A representative of waterfront property owners;
- A representative of the sport fishing industry;
- An environmental engineer;
- A person with training in biology or another scientific discipline;
- A person with training as an attorney;
- A physician;
- A person with training as an engineer; and
- Two residents of Lake County appointed by the Lake County legislative delegation who do not meet any of the other qualifications for membership on the council.[130]

The council's duties are to:

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[126] *Id*. at 5
[127] Fla. Admin. Code R. 40E-61.
[128] Harris Chain of Lakes Restoration Council, *Where is the Harris Chain of Lakes and What Does the Restoration Council Do?*, http://harrischainoflakescouncil.com/ (last visited Apr. 8, 2015).
[129] *Id*.
[130] Section 373.467, F.S.

- Review audits and all data related to lake restoration techniques and sport fish population recovery strategies;
- Evaluate whether additional studies are needed;
- Explore all possible sources of funding to conduct the restoration activities; and
- Report to the President of the Senate and the Speaker of the House of Representatives yearly before November 25 on the progress of the Harris Chain of Lakes restoration program and provide any recommendations for the next fiscal year.[131]

The council works with an advisory group composed of one representative from:
- The St. Johns River Water Management District, which also provides staff for the council;
- The DEP;
- The Department of Transportation;
- The Fish and Wildlife Conservation Commission;
- The Lake County Water Authority;
- The U.S. Army Corps of Engineers; and
- The University of Florida.[132]

III. Effect of Proposed Changes:

Section 1 amends s. 259.032, F.S., to require the Department of Environmental Protection (DEP) to develop, publish, update, and maintain a database of state conservation and recreation lands that allow public access. The bill requires the database to be available online by July 1, 2016. The database must include, at a minimum:
- The location of the lands;
- The types of allowable recreational opportunities;
- The points of public access;
- Facilities or other amenities; and
- Land use restrictions.

The DEP is to include any additional information that is appropriate to increase the public awareness of recreational opportunities on conservation lands. The database must be electronically accessible, searchable, and downloadable in a generally acceptable format.

The bill directs the DEP, through its own efforts or in partnership with a third party, to create a downloadable mobile application to locate state lands available for public access using the user's current location or activity of interest. The database and application must include information for all publicly accessible state conservation lands that serve a recreational purpose.

The bill requires that beginning January 1, 2018, to the greatest extent practicable, the database must include similar information for recreational lands with public access that are owned by the federal and local governments.

[131] *Id.*
[132] *Id.*

The bill requires the DEP to submit a report by January 1 of each year to the Governor, the President of the Senate, and the Speaker of the House of Representatives, describing the percentage of public lands with public access acquired under s. 259.032, F.S., and efforts taken by the DEP to increase public access to such lands.

Section 2 amends s. 260.0144 F.S., to specify the Shared-Use Nonmotorized Trail (SunTrail) Network is not included in the sponsorship provisions of state greenways and trails under s. 260.0144, F.S.

The bill removes the Florida Keys Overseas Heritage Tail, the Blackwater Heritage Trail, the Tallahassee-St. Marks Historic Railroad State Trail, the Nature Coast State Trail, the Withlacoochee State Trail, the General James A. Van Fleet State Trail, and the Palatka-Lake Butler State Trail trails from the sponsorship provisions under s. 260.0144, F. S. They are addressed in section 6 of the bill.

Section 3 amends s. 335.065, F.S., to remove the Florida Department of Transportation's (FDOT) authority to enter contracts for commercial sponsorship of multiuse trails. The authority to enter into contracts for commercial sponsorship of multiuse trails is addressed in section 6 of the bill.

Section 4 creates s. 339.81, F.S., to establish the SunTrail as a component of the Florida Greenways and Trails System (FGTS) established in ch. 260, F.S. The network consists of multiuse trails or shared use paths that are independent of motor vehicle traffic.

The bill provides legislative findings:

- Increasing demands continue to be placed on the state's transportation system;
- Significant challenges exist in providing additional capacity to the conventional transportation system and require alternative travel modes; and
- Improving bicyclist and pedestrian safety for both residents and visitors remains a high priority.

Provides the legislative declaration that the development of a nonmotorized trail network will increase mobility and recreational alternatives that enrich quality of life, enhance safety, and that reflect responsible environmental stewardship.

Provides the legislative intent, that the FDOT should make use of its expertise to develop the SunTrail network to access a variety of origins and destinations with limited exposure to motorized vehicles.

The bill specifies that SunTrails are constructed with asphalt, concrete, or another hard surface, and by the virtue of the design, location, extent of connectivity or potential connectivity, and allowable uses, provide nonmotorized transportation opportunities for bicyclists and pedestrians between and within many points of origin and destinations including, but not limited to, communities, conservation areas, state parks, beaches, and other natural or cultural attractions for a variety of trip purposes including work, school, shopping, social, recreational, and personal fitness purposes.

The SunTrail components do not include sidewalks, nature trails, or loop trails in a single park or natural area, or on-road facilities, other than:

- On-road facilities that are no greater than one-half mile in length connecting two or more nonmotorized trails, if the provision of the non-road facility is unfeasible and if the on-road facility is signed and marked for nonmotorized use; and
- On-road components of the Florida Keys Overseas Heritage Trail.

The bill requires the FDOT to include SunTrail projects within the five-year work program. The FDOT and other agencies and units of government are authorized to expend funds and accept gifts and grants of funds, property, and property rights for the development of the SunTrail network. The FDOT is required to allocate $50 million per year to fund and maintain projects within the network. The FDOT is authorized to enter into memoranda of agreement with other governmental entities and may contract with private entities to provide maintenance services on individual components of the network. The FDOT is authorized to adopt rules to assist in developing and maintaining the network.

Section 5 creates s. 339.82, F.S., to direct the FDOT to develop the SunTrail Network Plan in coordination with the DEP, metropolitan planning organizations, local governments, other public agencies, and the Florida Greenways and Trails Council. The plan must be consistent with the FGTS plan developed under s. 260.014, F.S., and be updated at least once every five years. The SunTrail plan must include:

- A needs assessment, including a comprehensive inventory of existing facilities;
- A process that prioritizes projects that:
  - Are identified by the Florida Greenways and Trails Council as priority projects under ch. 260, F.S.;
  - Connect components by closing gaps in the network; and
  - Maximize use of federal, local, and private funds.
- A map showing existing and planned facilities;
- A finance plan in five and 10-year cost-feasible increments;
- Performance measures focusing on trail access and connectivity;
- A timeline for completion of the base network; and
- A marketing plan prepared in conjunction with the Florida Tourism Industry Marketing Corporation.

Section 6 creates s. 339.83, F.S., to provide for sponsorship of SunTrail components by not-for-profit or private sector entities. The bill provides guidance on sponsor signs, pavement markings, and exhibits on nonmotorized trails and related facilities constructed as part of the SunTrail network.

The bill authorizes concession agreements to provide for recognition of trail sponsors in any brochure, map, or website providing trail information. The bill also allows trail websites to provide links to sponsors. Revenue from the agreements may be used for the maintenance of the nonmotorized trails and the related facilities.

The bill requires the concession agreements to be administered the FDOT. The signage, pavement markings, or exhibits must comply with s. 337.407, F.S., and ch. 479, F.S., and are limited as follows:

- A large sign, pavement marking, or exhibit may not be greater than 16 square feet in area and may be located at the trailhead or parking area;
- A small sign, pavement marking, or exhibit may not be greater than four square feet in area and may be located at the designated trail access point where parking is not provided;
- The pavement markings denoting specified distances must be located at least one mile apart;
- Prior to installation, the sign, pavement marking, or exhibit must be approved by the FDOT;
- The FDOT must ensure:
  - The size, color, materials, construction, and location of the signs are consistent with the management plan of the property and the standards of the DEP or the FDOT;
  - The signs do not intrude on natural and historic settings; and
  - The signs only contain the logo selected by the sponsor and the wording: "(Name of the sponsor)…proudly sponsors the costs of maintaining the …(Name of the greenway or trail)";
- Exhibits may provide additional information and materials including, but not limited to, maps and brochures for trail user services related to or in the vicinity of the trail;
- Pavement markings may display mile marker information; and
- All costs associated with a sign, pavement marking, or exhibit must be the responsibility of the concessionaire.

The bill limits the concession agreement to one year unless extended by a multiyear agreement and the FDOT may terminate the agreement for just cause with 60 days advance notice to the concessionaire.

The bill authorizes the FDOT to contract for the provision of services related to the trail sponsorship program including recruitment and qualifications of businesses, review of applications, permit issuance, and fabrication, installation, and maintenance of signs, pavement markings, and exhibits. The FDOT is authorized to reject proposals and to seek other requests for proposals or otherwise perform the work. The contract may allow the contractor to retain a portion of the annual fees as compensation for services.

The bill does not create a proprietary or compensable interest in any sponsorship site and the FDOT may terminate permits or change locations of sponsorship sites as it deems necessary.

The FDOT is authorized to adopt rules to establish the requirements for qualification of businesses, qualification and location of sponsorship sites, permit application and processing, and any rules necessary to implement the criteria of the section.

The bill allows the FDOT to provide variances when necessary to serve the interest of the public or when required to ensure equitable treatment of program participants.

Section 7 amends s. 373.019, F.S., to amend the definition of "water resource development" to add "self-suppliers" to the list of entities that may receive technical assistance as long as such assistance is consistent with the declaration of policy in s. 373.016, F.S.

Section 8 amends s. 373.036, F.S., to provide additional information to be included in the Consolidated Water Management District Annual Report. The information required is related to all water quality or water quantity projects as part of a five-year work program. The following must be included:

- All projects identified to implement a Basin Management Action Plan (BMAP) or recovery or prevention strategy;
- Priority ranking of each listed project, for which state funding through the water resources work program is requested, which must be available for public comment at least 30 days before submission of the consolidated annual report;
- Estimated cost of each project;
- Estimated completion date for each project;
- Source and amount of financial assistance that will be made available by the DEP, a water management district (WMD), or some other entity for each project; and
- A quantitative estimate of each project's benefit to the watershed, water body, or water segment in which it is located.
- A grade for each watershed, water body, or water segment where a project is located representing the level of impairment and violations of adopted or interim minimum flow or minimum water level. The system must reflect the severity of the impairment.

Section 9 creates s. 373.037, F.S., to provide for a pilot program for alternative water supply development in restricted allocation areas.

The bill provides definitions for:

- Central Florida Water Initiative Area;
- Lower East Coast Regional Water Supply Planning Authority;
- Restricted Allocation Area;
- Southern Water Use Caution Area; and
- Upper East Coast Regional Water Supply Planning Area.

The bill provides legislative findings:

- There are significant challenges to securing funds for implementing large-scale alternative water supply projects in certain restricted allocation areas due to a variety of factors including:
  - The magnitude of the water resource challenges;
  - The large number of water users;
  - The difficulty of developing multijurisdictional solutions across district, county, or municipal boundaries; and
  - The expense of developing large-scale alternative water supply projects identified in the regional water supply plans
- These factors make it necessary to provide other options for the South Florida Water Management District (SFWMD), the Southwest Florida Water Management District (SWFWMD), and the St. Johns River Water Management District (SJRWMD) to be able to take the lead in developing and implementing one alternative water supply project within a restricted allocation area as a pilot alternative water supply development project;

- The development and implementation of an alternative water supply project by the SFWMD, SWFWMD, and the SJRWMD within restricted allocation areas as pilot projects is for the benefit of the public health, safety, and welfare and is in the public interest.
- Each pilot project must provide water supply and environmental benefits; and
- Consideration should be given to projects that provide reductions in damaging discharges to tide or that are part of a recovery or prevention strategy for MFLs.

The bill allows the SFWMD, SWFWMD, and the SJRWMD, at their sole discretion, to each designate and implement an existing alternative water supply project that is identified in each WMD's regional water supply plan, or amend its regional water supply plan to add a new alternative water supply project, as its one pilot project.

The bill provides a deadline of July 1, 2016, to designate a pilot project and provides that it is not subject to rulemaking requirements under ch. 120, F.S., or subject to legal challenge pursuant to ss. 120.569 and 120.57, F.S.

The bill allows a WMD to designate an alternative water supply project located in another WMD if the project is located in a restricted allocation area designated by the other WMD and a substantial quantity of water provided by the alternative water supply project will be used within the designating WMD's boundaries.

The bill details powers and restrictions for the SFWMD, SWFWMD, and SJRWMD in implementing a pilot project under this section:

- The WMDs may not develop and implement a pilot project on privately owned land without the voluntary consent of the landowner as evidenced by deed, easement, license, contract, or other written legal instrument executed by the landowner after July 1, 2015.
- The WMDs may not engage in local water supply distribution or sell water to the pilot project participants.
- For the purpose of carrying out their powers, the WMDs may join with:
  - One or more WMDs;
  - Counties;
  - Municipalities;
  - Special districts;
  - Publicly owned or privately owned water utilities;
  - Multijurisdictional water supply entities;
  - Regional water supply authorities;
  - Self-suppliers; or
  - Other entities.
- The WMDs may also contract with any of those entities to finance or otherwise implement acquisitions, construction, and operation and maintenance, if the contracts are consistent with the public interest and based upon independent cost estimates, including comparisons with other alternative water supply projects. The contracts may provide for contributions to be made by each party to the contract for the division and apportionment of resulting costs, including operation and maintenance, benefits, services, and products. The contracts may contain other covenants and agreements necessary and appropriate to accomplish their purposes.

The bill allows a WMD to provide up to 50 percent funding assistance for a pilot project.

The bill provides that if the SFWMD, SWFWMD, or the SJRWMD elects to implement a pilot project, it must submit a report to the Governor, the President of the Senate, and the Speaker of the House or Representatives by July 1, 2019, on the effectiveness of its pilot project. The report must include:

- A description of the alternative water supply project selected as a pilot project, including the quantity of water the project has produced or is expected to produce and the consumptive users who are expected to use the water produced by the pilot project to meet their existing and future reasonable-beneficial uses;
- Progress made in developing and implementing the pilot project in comparison to development and implementation of other alternative water supply projects in the restricted allocation area;
- The capital and operating costs to be expended by the WMD in implementing the pilot project in comparison to other alternative water supply projects being developed and implemented in the restricted allocation area;
- The source of funds to be used by the WMD in developing and implementing the pilot project;
- The benefits to the WMD's water resources and natural systems from implementation of the pilot project; and
- A recommendation as to whether the traditional role of WMDs regarding the development and implementation of alternative water supply projects should be revised and, if so, identification of the statutory changes necessary to expand the scope of the pilot program.

Section 10 amends s. 373.042, F.S., to provide that if a minimum flows and levels (MFL) has not been adopted for an OFS, a WMD or the DEP will use emergency rulemaking authority to adopt an MFL no later than July 1, 2017, except for the Northwest Florida Water Management District (NWFWMD), which must use emergency rulemaking authority to adopt MFLs for Outstanding Florida Springs (OFSs) no later than July 1, 2026.

For OFSs identified on a WMD's priority list developed pursuant to subsection (3) of this section, which have the potential to be affected by withdrawals in an adjacent district, the adjacent WMD or WMDs and the DEP will collaboratively develop and implement a recovery or prevention strategy for an OFS not meeting an adopted MFL. Subsection (3) provides priority lists and schedules for the establishment of MFLs prepared by the WMDs and submitted to the DEP for review and approval,

The bill specifies that the Legislature finds the adoption of MFLs or recovery or prevention strategies for OFSs requires immediate action.

The bill authorizes the DEP and the WMDs, and provides that all conditions are deemed to be met, to use emergency rulemaking provisions to adopt MFLs pursuant to this section and recovery or prevention strategies adopted concurrently with a MFL pursuant to 373.805(2), F.S., (which is created by this bill and relates to the adoption or modification of a recovery or prevention strategy if an OFS is below or is projected within 20 years to fall below its MFL).

The bill provides that rules adopted pursuant to s. 373.042, F.S., are not subject to s. 120.541(3), F.S., regarding legislative ratification of rules under certain circumstances.

Section 11 amends s. 373.0421, F.S., to provide that a recovery or prevention strategy must be adopted and implemented concurrent with the adoption of an MFL and that a recovery or prevention strategy may not depend solely on water shortage restrictions.

The bill requires applicable regional water supply plans developed by the WMDs to be amended to include any water supply and resource development projects identified in a recovery or prevention strategy. The amendment must be approved concurrently with the relevant portions of the recovery or prevention strategy.

The bill requires a WMD to notify the DEP is an application for a water use permit is denied based upon the impact that the use will have on an adopted MFL. If notified, the DEP, in cooperation with the WMD, must conduct a review of the regional water supply plan to determine the plan's adequacy to provide sufficient water for all current and future users and natural systems and to avoid competition. If needed, the WMD must immediately initiate an update of the plan.

Section 12 creates s. 373.0465, F.S., to codify the Central Florida Water Initiative (CFWI) in statute. It provides the following legislative findings:

- The Floridan aquifer has historically supplied the majority of the water used in the Central Florida Coordination Area;
- It has been determined that water supplies within the Central Florida Coordination Area is locally approaching the sustainable limits of use and the need to develop sources of water to meet long-term water needs of the area and are being explored by the DEP and the South Florida Water Management District (SFWMD), the Southwest Florida Water Management District (SWFWMD), and the St. Johns Water Management District (SJRWMD);
- The CFWI has developed an initial framework for a unified process to address the current and long-term water supply needs of central Florida without causing harm to the water resources and associated natural systems; and
- Developing water sources as an alternative to continued reliance on the Floridan aquifer will benefit existing and future water users and natural systems beyond the boundaries of the CFWI.

The bill defines the "Central Florida Water Initiative Area" as all of Orange, Osceola, Polk, and Seminole Counties, and southern Lake County, as designated by the CFWI Guiding Document of January 30, 2015.

It directs the DEP, the SFWMD, the SWFWMD, the SJRWMD, and the Department of Agriculture and Consumer Services (DACS) to:

- Provide for the continuation of the collaborative process in the CFWI area among the state agencies, affected WMDs, regional public water supply utilities, and other stakeholders;
- Build on the guiding principles and goals in the CFWI Guiding Document of January 30, 2015, and the work that has already been accomplished by the CFWI participants;

- Develop and implement a single multidistrict regional water supply plan, including any needed recovery or prevention strategies and a list of water resource or supply development projects; and
- Provide for a single hydrologic planning model to assess the availability of groundwater in the CFWI area.

The bill specifies that the water supply planning program must:
- Consider limitations on groundwater use together with opportunities for new, increased, or redistributed groundwater uses based on conditions established under s. 373.223, F.S.;
- Establish a coordinated process for identification of water resources requiring new or revised conditions established under s. 373.223, F.S.;
- Consider existing recovery or prevention strategies;
- Include a list of water supply options sufficient to meet the water needs of all existing and future reasonable-beneficial uses which meet conditions established under s. 373.223, F.S.; and
- Identify, as necessary, which of the water supply sources are preferred water supply sources pursuant to s. 373.2234, F.S.

The bill directs the DEP, in consultation with the SFWMD, the SWFWMD, the SJRWMD, and the DACS to adopt uniform rules for the CFWI Area that include:
- A single, uniform definition of "harmful to the water resources" consistent with its usage in s. 373.219, F.S.;
- A single method for calculating residential per capita water use;
- A single process for permit reviews;
- A single, consistent process, as appropriate, to set MFLs and water reservations;
- A goal for residential per capita water use for each consumptive use permit; and
- An annual conservation goal for each Consumptive Use Permit (CUP) consistent with the regional water supply plan.

It further provides that the uniform rules must include existing recovery strategies within the CFWI Area adopted before July 1, 2015, and that the DEP may grant variances to the uniform rules if there are unique circumstances or hydrogeological factors that make application of the uniform rules unrealistic or impractical.

The DEP is required to initiate rulemaking for the uniform rules by December 31, 2015. Those rules must be applied by the WMDs only in the CFWI Area. The rules must be implemented by the WMDs without further rulemaking and will be considered WMD rules.

The planning programs developed under this section of the bill may not serve to modify planning programs in areas of the affected WMDs that are not within the CFWI Area, but may include interregional projects located outside the CFWI Area if they are consistent with the planning and regulatory programs in the area they are located.

Section 13 amends s. 373.1501, F.S., to provide that the SFWMD will exercise the authority of the state to allocate water within its jurisdiction, including water supply in relation to the Central

and Southern Florida (C&SF) Project, and be responsible for allocating water and assigning priorities among the other water uses served by the project.

The bill requires the SFWMD to provide recommendations to the U.S. Army Corps of Engineers when developing or implementing water control plans or regulation schedules required for the operation of the C&SF Project.

Section 14 amends s. 373.219, F.S., to require the DEP to adopt uniform rules for issuing permits that prevent groundwater withdrawals that are harmful to the water resources and adopt by rule a uniform definition of the term "harmful to the water resources" for OFSs to provide WMDs with minimum standards necessary to be consistent with the overall water policy of the state. The bill provides that this does not prohibit a WMD from adopting a definition that is more protective of the water resources consistent with local or regional conditions or objectives.

Section 15 amends s. 373.223, F.S., to require a new, renewal of, or modification to a CUP authorizing withdrawal of 100,000 gallons or more per day to be monitored for water usage at intervals and using methods determined by the applicable WMD and report the results to the WMD at least annually.

The bill provides rulemaking authority to the WMDs to implement this provision.

Section 16 amends s. 373.2234, F.S., to direct the governing boards of the WMDs to consider the identification of preferred water supply sources for water users for whom access to or development of new water supplies is not technically or financially feasible. The identification of preferred water supply sources for such water users must be consistent with s. 373.016, F.S., which concerns the policy of Florida with respect to water resources.

Section 17 amends s. 373.227, F.S., to provide that in order to incentivize water conservation, if actual water use is less than permitted water use due to documented implementation of water conservation measures beyond those required in the CUP including measures identified in BMPs, the permitted allocation may not be modified solely due to those water conservation measures during the term of the CUP.

WMDs are required to adopt rules to provide water conservation incentives, which may include limited permit extensions.

The bill also prevents modifying a permit if actual water use is less than the amount permitted due to:

- Weather events;
- Crop diseases;
- Nursery stock availability;
- Market conditions; or
- Changes in crop type.

Section 18 amends s. 373.233, F.S., to require a WMD or the DEP to give preference to the use closest to the preferred water source when deciding between two new applications that qualify equally.

Section 19 amends s. 373.4591, F.S., to provide that public-private partnerships may be entered into for groundwater recharge on private agricultural lands. It also provides that priority consideration will be given to public-private partnerships for such lands that:

- Store or treat water on private lands for purposes of enhancing hydrologic improvement, improving water quality, or assisting in water supply;
- Provide critical groundwater recharge; or
- Provide for changes in land use to activities that minimize nutrient loads and maximize water conservation.

Section 20 amends s. 373.4595, F.S., to make changes to the Northern Everglades and Estuaries Protection Program.

- The bill provides legislative intent that the Lake Okeechobee, the Caloosahatchee River, and the St. Lucie River Watershed Protection Programs should be expeditiously implemented.
- The bill defines the terms "biosolids" and "soil amendment" and removes the definitions of "District's Works of the District Program" and the "Lake Okeechobee Watershed Phosphorous Control Program," as all references to those programs are removed throughout this section of the bill.
- The definition of "Lake Okeechobee Watershed Protection Plan" (LOWPP) is amended to conform to other changes in the bill. The bill amends the definition to specify that the term means the Lake Okeechobee Watershed Construction Project and the Lake Okeechobee Watershed Research and Water Quality Monitoring Program.

The bill provides that the LOWPP consists of the:

- Lake Okeechobee Watershed Protection Plan;
- Lake Okeechobee Basin Management Action Plan;
- Lake Okeechobee Exotic Species Control Program; and
- Lake Okeechobee Internal Phosphorous Management Program.

The bill stipulates that the Lake Okeechobee BMAP is the component of the LOWPP that achieves phosphorus load reductions for the lake.

The bill provides the following requirements for the Lake Okeechobee, Caloosahatchee River, and St. Lucie River BMAPs in three parts of this section of the bill:

- The BMAPs must include milestones for implementation and water quality improvement and an associated water quality monitoring component sufficient to evaluate whether reasonable progress in pollutant load reductions is being achieved over time;
- The DEP must develop a schedule to establish five, ten, and 15-year measurable milestones and a target for achieving the adopted TMDL no more than 20 years after the adoption of the BMAP. The schedule is to be used to provide guidance for planning and funding purposes and is not subject to rulemaking;
- An assessment of progress toward the milestones must be conducted every five years and revisions to the plan will be made, as appropriate, as a result of each five-year review;
- The bill requires the assessment to be provided to the Governor, the President of the Senate, and the Speaker of the House of Representatives;

- Upon the first five-year review, a schedule, measureable milestones, and a target for achieving water quality improvement shall be adopted into the BMAP;
- The DEP will make revisions to the BMAP in cooperation with basin stakeholders;
- Revisions to the management strategies must follow the procedures of s. 403.067(7)(c)4., F.S., and the revised BMAPs must be adopted pursuant to s. 403.067(7)(a)4., F.S.; and
- If achieving the adopted TMDL within 20 years is not practicable, the schedule must have an explanation of the constraints that prevent achievement of the TMDL within 20 years, an estimate of the time needed to achieve the TMDL, and additional five-year measurable milestones, as necessary.

The bill amends s. 373.4595(3)(a), F.S., relating to the LOWPP, to:

- Require the SFWMD, beginning March 1, 2020, and every five years after, to update the LOWPP to ensure it is consistent with the Lake Okeechobee BMAP;
- Specify that the Lake Okeechobee Watershed Protection Plan includes the Lake Okeechobee Watershed Construction Project and the Lake Okeechobee Watershed Research and Water Quality Monitoring Program;
- Specify that the SFWMD is to cooperate with the other coordinating agencies when designing and constructing the Lake Okeechobee Watershed Construction Project;
- Specify that the Phase II technical plan of the Lake Okeechobee Watershed Construction Project provides the basis for the Lake Okeechobee BMAP and removes a requirement that it be ratified by the Legislature. According to the DEP, it was submitted for ratification on February 1, 2008;
- Direct the DEP, within five years after adoption of the Lake Okeechobee BMAP, and every five years thereafter, to evaluate the Lake Okeechobee Watershed Construction Project to identify any further load reductions needed to achieve compliance with the Lake Okeechobee Total Maximum Daily Load (TMDL). Any modification to the Lake Okeechobee Watershed Construction Project resulting from the evaluation must be incorporated into the Lake Okeechobee BMAP;
- Require the coordinating agencies to implement the Lake Okeechobee Watershed Research and Water Quality Monitoring Program and provide requirements for the program, and for the DEP to use the results, in cooperation with the coordinating agencies, to modify the Lake Okeechobee BMAP, as appropriate. In order to accomplish this, the program shall:
    - Evaluate all available existing water quality data concerning total phosphorus in the Lake Okeechobee watershed, develop a water quality baseline to represent existing conditions for total phosphorus, monitor long-term ecological changes, and measure compliance with Water Quality Standards (WQSs) for total phosphorus;
    - Require the DEP, beginning March 1, 2020, and every five years thereafter, to reevaluate water quality and quantity data to ensure the appropriate projects are being designated and incorporated into the Lake Okeechobee BMAP;
    - Require the SFWMD to implement a total phosphorus monitoring program at appropriate structures owned or operated by it within the Lake Okeechobee watershed;
    - Develop a Lake Okeechobee water quality model that reasonably represents the phosphorus dynamics of Lake Okeechobee and incorporate an uncertainty analysis associated with model predictions;
    - Determine the relative contribution of phosphorus from all identifiable sources and all primary and secondary land uses;

- Conduct an assessment of the sources of phosphorus from the Upper Kissimmee Chain-of-Lakes and Lake Istokpoga, and their relative contributions to water quality in Lake Okeechobee. The results must be used as part of the Lake Okeechobee BMAP to develop interim measures, best management practices (BMPs), or regulations, as applicable;
- Assess current water management practices within the Lake Okeechobee watershed and develop recommendations for structural and operational improvements, which must balance water supply, flood control, estuarine salinity, maintenance of a healthy lake littoral zone, and water quality considerations;
- Evaluate the feasibility of alternative nutrient reduction technologies and include those technologies determined to be feasible in the Lake Okeechobee BMAP; and
- Conduct an assessment of the water volumes and timing from the Lake Okeechobee watershed and their relative contribution to the water level changes in Lake Okeechobee and to the timing and volume of water delivered to the estuaries.

The bill amends s. 373.4595(3)(b), F.S., to specify that the Lake Okeechobee BMAP is the watershed phosphorus control component for Lake Okeechobee. The bill provides that the Lake Okeechobee BMAP will be a multifaceted approach designed to achieve the TMDL.

Regarding the Lake Okeechobee BMAP, the bill requires that the coordinating agencies must develop an interagency agreement. The bill assigns responsibilities to the DEP, the SFWMD, and the DACS. The interagency agreement must specify how BMPs for nonagricultural nonpoint sources are developed and how all BMPs are implemented and verified and must address measures to be taken by the coordinating agencies during any BMP reevaluation. The DEP is required to use best professional judgment in making the initial determination of a BMP's effectiveness. The coordinating agencies are authorized to develop an intergovernmental agreement with local governments to implement nonagricultural nonpoint source BMPs within their respective geographic boundaries.

The bill also:

- States that agricultural nonpoint source BMPs are part of a phased approach of management strategies within the Lake Okeechobee BMAP;
- Adds that where water quality problems are detected for agricultural nonpoint sources despite the appropriate implementation of adopted BMPs, BMPs may be revised and reevaluated;
- Specifies that the DEP, in consultation with the SFWMD and affected parties, shall develop nonagricultural nonpoint source interim measures, BMPs, or other measures necessary for Lake Okeechobee watershed TMDL reduction. It directs the DEP or the SFWMD to adopt new practices by rule;
- Provides that where water quality problems are detected for agricultural and nonagricultural nonpoint sources despite the appropriate implementation of adopted BMPs, a reevaluation of BMPs will be conducted. If the reevaluation determines that the BMPs or other measures require modification, the rule will be revised to require implementation of the modified practice within a reasonable time period as specified in the rule;
- Provides that the requirements of the Lake Okeechobee BMAP and s. 403.067(7), F.S., for the Lake Okeechobee watershed are met through the implementation of agricultural BMPs set forth in a permit issued pursuant to Rule 40E-63, F.A.C., regarding the Everglades Program of the district. An entity in compliance with agricultural BMPs in Rule 40E-63, F.A.C., may elect to use the permit issued under Rule 40E-63, F.A.C., in lieu of the

requirements of the Lake Okeechobee BMAP. The agricultural BMPs implemented through a permit issued under Rule 40E-63, F.A.C., are subject to reevaluation as provided for in s. 373.4595(3)(b)5., F.S.;

- Requires the DACS, in cooperation with the DEP and the SFWMD, to provide technical and financial assistance for implementation of agricultural and nonagricultural nonpoint source BMPs, subject to the availability of funds;
- Requires the DEP to require all entities disposing of biosolids within the Lake Okeechobee watershed and the remaining areas of Okeechobee, Glades, and Hendry Counties to develop and submit to the DEP an agricultural use plan that limits applications based upon phosphorus loading consistent with the Lake Okeechobee BMAP instead of the phosphorus limits established in the SFWMD's Works of the District (WOD) program;
- Mandates that rules developed by the DACS that require entities within the Lake Okeechobee watershed that land-apply animal manure to develop resource management system level conservation plans, must include criteria and thresholds for the requirement to develop a conservation or nutrient management plan, requirements for plan approval, site inspection requirements, and recordkeeping requirements. This same provision is included under the sections concerning the Caloosahatchee River and St. Lucie River BMAPs.
- Requires the SFWMD to revise Rule 40E-61, F.A.C., regarding the Works of the District (WOD) program, to be consistent with the provisions of the Lake Okeechobee Watershed Protection Program and s. 403.067, F.S., and to provide for a monitoring program for nonpoint source dischargers required to monitor water quality by s. 403.067, F.S., and to provide the results to be reported to the coordinating agencies; and
- Requires the SFWMD, in cooperation with the other coordinating agencies, to evaluate the feasibility of Lake Okeechobee internal phosphorous load removal projects. The evaluation must consider all reasonable methods of phosphorous removal.

The bill amends s. 373.4595(4), F.S., to include the following revisions to the Caloosahatchee and St. Lucie River Watershed Protection Programs:

- Regarding the Caloosahatchee Watershed Protection Program, the bill:
  - Specifies the Caloosahatchee River Watershed Protection Plan includes the Caloosahatchee River Watershed Construction Project and the Caloosahatchee River Watershed Research and Water Quality Monitoring Program;
  - Requires the SFWMD, in cooperation with other coordinating agencies and local governments, to implement a Caloosahatchee River Watershed Research and Water Quality Monitoring Program and provides requirements for the program; and
  - Specifies the Caloosahatchee River Watershed BMAPs make up the Caloosahatchee River Watershed Pollutant Control Program;
- Regarding the St. Lucie River Watershed Protection Program, the bill:
  - Specifies the St. Lucie River Watershed Protection Plan includes the St. Lucie River Watershed Construction project and the St. Lucie River Watershed Research and Water Quality Monitoring Programs;
  - Requires the SFWMD, in cooperation with other coordinating agencies and local governments, to establish a St. Lucie River Watershed Research and Water Quality Monitoring Program and provides requirements for the program;
  - Specifies the St. Lucie River Watershed BMAPs make up the St. Lucie River Watershed Pollutant Control Program.

For both programs, the bill requires the SFWMD to initiate rulemaking to provide for a monitoring program for nonpoint source dischargers required to monitor water quality and report the results to the coordinating agencies.

The bill requires evaluation of pollutant load reduction goals, and any other objectives and goals contained in the River Watershed Protection Programs beginning March 1, 2020, and every five years thereafter, concurrent with the updates to the BMAPs for both programs.

The bill amends s. 373.4595(5), F.S., to require the DEP to initiate development of BMAPs for the Lake Okeechobee watershed, the Caloosahatchee River watershed and estuary, and the St. Lucie River watershed and estuary, although all the BMAPs listed here are underway or already adopted.

It provides that management strategies and pollution reduction requirements set forth in a BMAP subject to permitting in s. 373.4595(7), F.S., must be completed pursuant to the schedule set forth in the BMAP, and specifies that the implementation schedule may extend beyond the five-year permit term.

The bill provides that management strategies and pollution reduction requirements set forth in a BMAP are not subject to challenge under ch. 120, F.S., at the time they are incorporated, in an identical form, into a DEP or SFWMD issued permit, or a permit modification issued in accordance s. 373.4595(7), F.S., regarding Lake Okeechobee Protection Permits.

The bill amends s. 373.4595(6), F.S., to require the DEP to report March 1 of every year on the status of the Lake Okeechobee, Caloosahatchee River Watershed, and St. Lucie River Watershed BMAPs. It also requires the DACS to report on the status of the implementation of agricultural nonpoint source BMPs, including an implementation assurance report summarizing survey responses and response rates, site inspections, and other methods used to verify implementation and compliance with BMPs in the Lake Okeechobee, Caloosahatchee, and St. Lucie watersheds.

The bill amends s. 373.4596(7), F.S., to include the following changes to the permitting requirements in s. 373.4595, F.S.:

- Owners and operators of existing structures that discharge into or from Lake Okeechobee that were subject to certain DEP consent orders and are subject to requirements for the Everglades Construction Project do not require a permit under this section and must be governed by permits issued under ss. 373.413 and 373.416, F.S., and the Lake Okeechobee BMAP;
- Owners and operators of existing structures that are subject to s. 373.4592(4)(a), F.S., relating to the Everglades Construction Project, that discharge into or from Lake Okeechobee, are considered in compliance with the requirements of s. 373.4596(7)(c), F.S., if they are fully compliant with the conditions of permits issued under Rule 40E-63, F.A.C., regarding the Everglades Program of the district;
- The SFWMD must submit a complete application for a permit modification from the DEP to the Lake Okeechobee structure permits to incorporate proposed changes necessary to ensure that discharges through the structures covered by the permit are consistent with the BMAP by

January 1, 2016. It removes the provision stating that these changes must be designed to achieve compliance with WQSs by January 1, 2015;

- The DEP must require permits for SFWMD regional projects that are part of the Lake Okeechobee Watershed Construction Project. SFWMD regional projects that are part of the Lake Okeechobee Watershed Construction Project must achieve certain design objectives for phosphorus; and
- The SFWMD must demonstrate reasonable assurances that the regional projects will achieve the design objectives for phosphorus.

Section 21 amends s. 373.467, F.S., to revise the membership requirements for the Harris Chain of Lakes Restoration Council. One member must be a person with experience in environmental science or regulation, rather than an environmental engineer. It requires an attorney and an engineer, rather than individuals that have training in either discipline. It also clarifies that the two members, who are residents of the county, are not required to meet any of the other requirements of membership to be appointed to the council. As the statute is currently written, it appears those two members are prohibited from meeting any of the other requirements for membership. The bill provides that the Lake County legislative delegation may waive the qualifications for membership on a case-by-case basis for good cause. The bill provides that resignation by a council member or the failure of a member to attend three consecutive meetings without being excused by the chair of the committee results in a vacancy.

Section 22 amends s. 373.536, F.S., to require the WMDs to include an annual funding plan for each of the five years included in their plans for water resource and water supply development components.

The bill specifies that the plan must include the water supply projects proposed for funding and assistance. The plan will identify both anticipated available district funding and additional funding needs for the second through fifth years of the funding plan. Funding requests for projects submitted to the Florida Water Resources Advisory Council for consideration for state funding must be identified separately. Projects included in the work program must be shown how they support the implementation of MFLs and water reservations and how they help to avoid the adverse effects of competition for water supplies.

The bill requires the DEP to post the work program on its website.

Section 23 amends s. 373.703, F.S., regarding water production, to include private landowners on the list of entities that a WMD is authorized to join with in carrying out its duties.

Section 24 amends s. 373.705, F.S., to specify that it is the intent of the Legislature that WMDs identify and implement water resource development projects, and are responsible for securing necessary funding for regionally significant projects that prevent or limit adverse water resource impacts, avoid competition among water users, or support the provision of new water supplies in order to meet an MFL, implement a recovery or prevention strategy or water reservation.

It also requires the WMDs to include in their annual budget submittals the amount of funds for each project in the annual funding plan pursuant to s. 373.536(6)(a)4., F.S., (amended in section

19 of the bill) and the amount of funds requested for each project submitted for consideration for state funding to the Florida Water Resources Advisory Council.

The bill provides that water supply development projects that are consistent with the relevant regional water supply plans and that meet one or more of the following criteria will receive priority consideration for state or WMD funding assistance:

- The project supports establishment of a dependable, sustainable supply of water that is not otherwise financially feasible;
- The project provides substantial environmental benefits by preventing or limiting adverse water resource impacts, but requires funding assistance to be economically competitive with other options; or
- The project significantly implements reuse, storage, recharge, or conservation of water in a manner that contributes to the sustainability of regional water resources.

The bill adds projects that reduce or eliminate the adverse effects of competition between legal users and the natural system to the list of projects that will be given first consideration for state or WMD funding assistance.

The bill adds "if the project reduces or eliminates the adverse effects of competition between legal users and the natural system," to the list of considerations when choosing projects for state or WMD funding assistance.

The bill requires the WMDs to promote expanded cost-share criteria for additional conservation practices, such as soil and moisture sensors and other irrigation improvements, water-saving equipment, and water-saving household fixtures, and software technologies that can achieve verifiable water conservation by providing water use information to utility customers.

Section 25 amends s. 373.707, F.S., to include self-suppliers as entities that may receive technical and financial assistance from a WMD for alternative water supply projects if the projects reduce competition for limited water supplies and are in the public interest.

The bill provides that when state funds are provided through specific appropriation for a priority project of the water resource work program selected by the Water Resources Advisory Council, those funds serve to supplement existing WMD or basin board funding for alternative water supply development assistance and should not result in a reduction of such funding.

The bill replaces projects selected for inclusion in the Water Protection and Sustainability Program with projects identified in plans prepared pursuant to s. 373.536(6)(a)4., F.S., regarding projects included in the WMDs' annual tentative and adopted budget submittals.

The bill expands the eligibility of local sponsors that a WMD may waive matching construction costs for an alternative water supply project for. Under existing law, only fiscally disadvantaged small local governments qualify. The bill authorizes the WMDs to waive the match requirement for any water user for projects determined by the WMD to be in the public interest and that are not otherwise financially feasible.

The bill provides that the WMD governing boards will determine the projects that will be selected for financial assistance. In addition to factors the governing boards choose to use, the bill provides factors that will be given significant weight, which are:

- Whether the project provides substantial environmental benefits by preventing or limiting adverse water resource impacts;
- Whether the project reduces competition for water supplies;
- Whether the project brings about replacement of traditional sources in order to help implement an MFL or a reservation;
- Whether the project will be implemented by a CUP permittee that has achieved the targets contained in a goal-based water conservation program approved pursuant to s. 373.227, F.S., concerning water conservation;
- The quantity of water supplied by the project as compared to its cost;
- Projects in which the construction and delivery to end users of reuse water is a major component;
- Whether the project will be implemented by a multijurisdictional water supply entity or regional water supply authority;
- Whether the project implements reuse that assists in the elimination of domestic wastewater ocean outfalls as provided in s. 403.086(9), F.S.; and
- Whether the county or municipality, or the multiple counties or municipalities, in which the project is located has implemented a high-water recharge protection tax assessment program as provided in s. 193.625, F.S.

Section 26 amends s. 373.709, F.S., to require regional water supply plans to contain a list of water supply projects options that are technically and financially feasible.

It also requires the DEP to report on the status of regional water supply planning in each WMD to include an analysis of the sufficiency of potential sources of funding from all sources for water resource development and water supply development projects. The report must also include an explanation of how each project identified in the five-year water resource development work program will contribute to additional water for MFLs or water reservations

Section 27 creates Part VIII of ch. 373, F.S., to consist of ss. 373.801, 373.802, 373.803, 373.805, 373.807, 373.811, and 373.813, F.S., and provides the title, "Florida Springs and Aquifer Protection Act."

Section 28 creates s. 373.801, F.S., to provide legislative findings and intent:

- Detailing the importance of Florida's springs, and various benefits they provide to the state including providing critical habitat for plants and animals. Springs provide immeasurable natural, recreational, economic, and inherent value. Water quality in springs is an indicator of local conditions of the Floridan Aquifer. Water flows in springs reflect regional aquifer conditions. Springs also provide recreational opportunities for Floridians and visitors to the state and economically benefit local and state economies.
- Stating that water quantity and water quality in springs may be related. It also specifies the primary responsibilities of the DEP, WMDs, DACS, and local governments.
- Recognizing that springs are only as healthy as their local aquifer systems and identifying several of the problems affecting springs, including pollution runoff from urban and

agricultural lands, stormwater runoff, and reduced water levels of the Floridan aquifer, which may have led to the degradation of many of Florida's springs.
- Recognizing that without significant action, the quality of Florida's springs will continue to degrade.
- Stating that springshed boundaries need to be delineated using the best available data.
- Recognizing that springsheds often cross WMD and local government jurisdictional boundaries, which requires a coordinated response.
- Recognizing that aquifers and springs are complex systems affected by many variables and influences.
- Recognizing that action is urgently needed, and action can be modified as additional data is acquired.

Section 29 creates s. 373.802, F.S., to provide definitions for "department," "local government," "onsite sewage and treatment disposal system," "spring run," "springshed," and "spring vent."

The bill also defines:
- "Outstanding Florida Springs," which includes all historic first magnitude springs, including their associated spring runs, as determined by the DEP using the most recent version of the Florida Geological Survey's springs bulletin. The following springs and their associated spring runs are also considered OFSs: Deleon Spring, Peacock Spring, Poe Spring Rock Springs, Wekiwa Spring, and Gemini Spring. The term does not include submarine springs or river rises.
- "Priority Focus Area," meaning "the area or areas of a basin where the Floridan Aquifer is generally most vulnerable to pollutant inputs where there is a known connectivity between groundwater pathways and an Outstanding Florida Spring, as determined by the department in consultation with the appropriate water management districts, and delineated in a basin management action plan."

Section 30 creates s. 373.803, F.S., to direct the DEP, in consultation with the WMDs, to delineate priority focus areas for each OFS or group of springs that contain one or more OFS, and is identified as impaired, using the best available data. The DEP must use understood and identifiable boundaries such as roads or political jurisdictions for ease of implementation. The bill requires the delineation of the priority focus areas to be completed by July 1, 2018, and provides that a priority focus area will be effective upon its incorporation in a BMAP. It directs the DEP to consider groundwater travel time, hydrogeology, nutrient load, and any other factors that may lead to degradation of an OFS when delineating the areas.

Section 31 creates s. 373.805, F.S., to direct either a WMD or the DEP to adopt a recovery or prevention strategy concurrently with the adoption of an MFL for an OFS, if it is below, or projected within 20 years to fall below, an MFL.

When an MFL for an OFS is revised, if the spring is below or projected within 20 years to fall below the MFL, a WMD or the DEP must concurrently adopt or modify a recovery or prevention strategy. The bill provides that a WMD or the DEP may adopt the revised MFL before the adoption of a recovery or prevention strategy if the revised MFL is less constraining on existing or projected future consumptive uses.

For any OFS without an adopted recovery or prevention strategy, a WMD or the DEP must expeditiously adopt a recovery or prevention strategy if the WMD or the DEP determines that the OFS has fallen below, or is projected within 20 years to fall below, the adopted MFL.

The bill provides the following minimum requirements for a recovery or prevention strategy for OFSs:

- A list of all specific projects identified for implementation of the plan;
- A priority listing of each project;
- For each project, the estimated cost and date of completion;
- The source and amount of financial assistance from the WMD for each project which may not be less than 25 percent of the total cost unless there are funding sources that provide more than 75 percent of the total cost of the project. The NWFWMD and the SRWMD are not required to meet the minimum requirement to receive financial assistance;
- An estimate of each project's benefit to an OFS; and
- An implementation plan designed with a target to achieve the adopted MFL within 20 years or less after the adoption of a recovery or prevention strategy, with a schedule of five, ten, and 15-year measurable interim milestones intended to achieve the adopted MFL. The schedule is not a rule but is intended to provide guidance for planning and funding purposes.

The bill also provides for a single extension of up to five years for local governments for any project in an adopted recovery or prevention strategy, which may be granted if the local government provides sufficient evidence that an extension is in the best interest of the public. If the local government is in a rural area of opportunity, the DEP may grant a single extension of up to 10 years.

Section 32 creates s. 373.807, F.S., to provide a deadline of July 1, 2015, for the DEP to initiate assessment of any OFS for which a determination of impairment has not been made and complete the assessment of them under the numeric nutrient standards for spring vents by July 1, 2018. The bill requires that:

- When a TMDL is adopted, the DEP, or the DEP in coordination with a WMD, will concurrently initiate development of a BMAP;
- For an OFS that has an adopted nutrient TMDL before July 1, 2015, the DEP, or the DEP in coordination with a WMD, will initiate development of a BMAP by July 1, 2015; and
- As the BMAP is developed, if Onsite Sewage Treatment and Disposal Systems (OSTDSs) are identified as contributors of at least 20 percent of nonpoint source nitrogen pollution or if the DEP determines remediation is necessary to achieve the TMDL, the BMAP will include an OSTDS remediation plan for those systems identified as requiring remediation.

BMAPs for OFSs must be adopted within two years of their initiation and must include:

- A list of all projects and programs for implementing a TMDL;
- A list of all projects in any incorporated OSTDS remediation plan, if applicable;
- A priority ranking of all projects;
- A planning level cost estimate and completion date of each project;
- The source and amount of any financial assistance from the DEP, WMD, or other entity;
- The estimate of each project's nutrient load reduction;

- The identification of each point source or category of nonpoint sources with an estimated allocation of the pollutant load for each point source and category of nonpoint sources; and
- An implementation plan designed with a target to achieve the adopted TMDL no more than 20 years after the adoption of a BMAP. The plan must include a schedule of five, ten, and 15-year measureable milestones intended to achieve the adopted nutrient TMDL. The schedule is not a rule but is intended to provide guidance for planning and funding purposes and is exempt from rulemaking.

The bill requires BMAPs adopted by July 1, 2015, that address an OFS to be revised by the DEP, or the DEP in conjunction with a WMD, if necessary to comply with this section by July 1, 2018. Additionally, a local government may apply for an extension of up to five years, or 10 years in the case of a local government within a rural area of opportunity, for any project in an adopted BMAP upon showing that an extension is in the best interest of the public.

By July 1, 2016, each local government that has not adopted an ordinance pursuant to s. 403.9337, F.S., must develop, enact, and implement an ordinance based on the model ordinance to control urban fertilizer use in springsheds or priority focus areas of an OFS.

The bill provides legislative intent that ordinances adopted under this subsection should reflect the latest scientific information, advancements, and technological improvements in the industry.

As part of a BMAP that includes an OFS, the DEP, in consultation with the Department of Health (DOH) and relevant local governments and local public and private wastewater utilities, will develop an OSTDS remediation plan for a spring if the DEP determines OSTDSs within a priority focus area contribute at least 20 percent of nonpoint source nitrogen pollution, or if the DEP determines remediation is necessary to achieve the TMDL. The plan will be completed and adopted as part of the BMAP no later than the first five-year milestone required by s. 373.807(2)(b)8., F.S.

In preparing the plan, the DEP will:
- Collect and evaluate credible scientific information on the effect of nutrients, particularly forms of nitrogen, on springs and springs systems;
- Develop a public education plan to provide area residents with reliable, understandable information about OSTDSs and springs; and
- Identify projects necessary to reduce the nutrient impacts from OSTDSs.

In addition to requirements in s. 403.067, F.S., the plan must include options for:
- Repair;
- Upgrade;
- Replacement;
- Drainfield modification;
- Addition of effective nitrogen reducing features;
- Connection to a central sewerage system; or
- Other action for an OSTDS or group of systems within a priority focus area that contribute at least 20 percent of nonpoint source nitrogen pollution, or are determined by the DEP to require remediation.

The DEP will include in the plan a priority ranking for each system or group of systems that requires remediation and will award funds to implement the remediation projects contingent on an appropriation in the General Appropriations Act, which may include all or part of the costs necessary for repair, upgrade, replacement, drainfield modification, addition of effective nitrogen reducing features, initial connection to a central sewerage system, or other action.

In awarding funds, the DEP may consider expected nutrient reduction benefit per unit cost, size and scope of the project, relative local financial contribution to the project, and financial impact on property owners and the community. The DEP may waive matching funding requirements for proposed projects within an area designated as a rural area of opportunity.

The bill requires the DEP to provide notice to local governments that have any jurisdiction in a priority focus area of an OFS of any permit applicants under s. 403.814(12), F.S., which relates to general permits for the construction, alteration, and maintenance of a stormwater management system serving a total project area of up to 10 acres.

Section 33 creates s. 373.811, F.S., to prohibit activities in a priority focus area in effect for an Outstanding Florida Springs.

Activities prohibited within a priority focus area are:

- Construction of domestic wastewater disposal system with permitted capacities of 100,000 gallons per day or greater unless the system meets a treatment standard of 3 mg/L total nitrogen on an annual permitted basis, unless the DEP determines a higher standard is necessary to attain a TMDL for the OFS;
- Construction of OSTDSs on lots less than one acre, if the addition of the specific systems conflicts with an onsite treatment and disposal system remediation plan incorporated into a BMAP;
- Construction of facilities for the disposal of hazardous waste;
- Land application of class A or B domestic wastewater biosolids not in accordance with a DEP approved nutrient management plan establishing the rate at which all biosolids, soil amendments, and sources of nutrients at the land application site can be applied to the land for crop production while minimizing the amount of pollutants and nutrients discharged to groundwater or waters of the state; and
- New agriculture operations that do not implement BMPs, measures necessary to achieve pollution reduction levels established by the DEP, or groundwater monitoring plans approved by a WMD or the DEP.

Section 34 creates s. 373.813, F.S., to direct the DEP to adopt rules improve water quantity and quality to administer Part VIII of ch. 373, F.S.

The bill specifies the DACS is the lead agency for coordinating the reduction of agricultural nonpoint sources of pollution for the protection of OFSs. The DACS and the DEP will study and, if necessary, initiate rulemaking to implement new or revised agricultural BMPs, in cooperation with applicable local governments, and stakeholders, within a reasonable time.

The bill directs the DEP, the DACS, and the Institute of Food and Agriculture Sciences to conduct research into improved or additional nutrient management tools, with a sensitivity to the necessary balance between water quality improvements and agricultural productivity. If necessary, the tools must be incorporated into revised agricultural BMPs adopted by rule by DACS.

Section 35 amends s. 403.061, F.S., to require the DEP to create a consolidated water resources work plan that provides a catalog of all water resource projects and regionally significant water supply projects under construction, completed in the previous five years, or planned to begin construction in the next five years. The plan must be developed in consultation with state agencies, the WMDs, regional water supply authorities, and local governments.

For each project in the plan, there must be:
- A description of the project;
- The total cost of the project; and
- The governmental entity financing the project.

The DEP must also create and maintain a web-based, interactive map that includes:
- All watersheds and each water body within them;
- The county or counties in which the watershed or water body is located;
- The WMD or districts in which the watershed or water body is located;
- Whether, if applicable, an MFL has been adopted for the water body and, if it has not been adopted, when it is anticipated to be adopted;
- Whether, if applicable, a recovery or prevention strategy has been adopted for the watershed or water body and, if it has not been adopted, when it is anticipated to be adopted;
- The impairment status of each water body;
- Whether, if applicable, a TMDL has been adopted if the water body is listed as impaired and, if one has not been adopted, the anticipated adoption date;
- Whether, if applicable, a BMAP has been adopted and, if it has not been adopted, when it is anticipated to be adopted;
- Each project listed on the five-year water resources work program pursuant to s. 373.036(7), F.S., (amended in section 8 of the bill);
- The agency or agencies and local sponsor, if any, responsible for overseeing the project;
- The total or estimated cost and completion date of each project and the financial contribution of each entity;
- The estimated quantitative benefit to the watershed or water body; and
- The water projects completed within the last five years within the watershed or water body.

The bill requires the DEP and the WMDs to prominently display a link on their websites to the interactive map required by the bill.

The information provided in the plan and the information used to develop the web-based interactive map is intended to help facilitate the ability of the Florida Water Resources Advisory Council (described in section 34 of the bill), the Legislature, and the public to consider the projects contained in the tentative water resources work program (also described in section 34 of the bill) in relation to all projects undertaken within a 10-year period and the existing condition

of water resources in the project area and in the state as a whole. The bill provides rulemaking authority to the DEP to accomplish this purpose.

The bill also requires the DEP to adopt by rule a specific surface water classification to protect surface waters used for treated potable water supply and provides criteria. Notwithstanding this classification or the inclusion of treated water supply as a designated use of a surface water, a surface water used for treated potable water supply may be reclassified as waters designated for potable water supply.

Section 36 creates s. 403.0616, F.S., to create the Florida Water Resources Advisory Council within the DEP.

The advisory council's purpose is to evaluate water resource projects prioritized and submitted by state agencies, WMDs, regional water supply authorities, or local governments. The council must evaluate and recommend projects eligible for state funding as priority projects of statewide, regional, or critical local importance under chs. 373 or 403, F.S.

The council must review and evaluate all water resource projects that are prioritized and reported by state agencies, local governments, regional water supply authorities, or by the WMDs in the consolidated annual report (described in section 8 of the bill) for the purpose of providing the Legislature with recommendations for projects that improve or restore the water resources of the state. It is also responsible for submitting pilot projects that test the effectiveness of innovative or existing nutrient reduction or water conservation technologies or practices designed to minimize nutrient pollution or restore flows in the water bodies of the state.

The council is made up of five voting and five ex officio, nonvoting members. Those members are:

- The Secretary of Environmental Protection, who shall serve as chair of the council;
- The Commissioner of Agriculture;
- The executive director of the Fish and Wildlife Conservation Commission (FWC);
- Two members with expertise in a scientific discipline related to water resources, one appointed by the President of the Senate and one appointed by the Speaker of the House of Representatives, respectively; and
- The executive directors of the five WMDs, all of whom are non-voting members.

The appointed members serve two-year terms and may not serve more than a total of six years. The appointed members will receive reimbursement for expenses and per diem for travel. The President of the Senate and the Speaker of the House of Representatives may fill a vacancy at any time for an unexpired term of an appointed member.

If a member of the council no longer holds the position required to serve on the council, the interim agency head will represent the agency on the council.

The council is required to hold at least two separately noticed public meetings per year, with notice provided at least five days, but no more than 15 days before each meeting. The DEP will provide staff support.

By July 15, 2016, and on or before July 15 of each year thereafter, the council must release a tentative water resources work program with legislative recommendations for water resource projects. The bill provides for a 30-day period for the public to submit comments on the program.

By August 31, 2016, and on or before August 31 of each year thereafter, the council must adopt, by an affirmative vote of three of the council members, the tentative work program and submit it to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

The bill requires the council to recommend rules for adoption by the DEP to competitively evaluate, select, and rank projects for the tentative water resources work program. The council must develop specific criteria for the evaluation, selection, and ranking of projects. In ranking the projects, preference is given for projects:

- That will have a significant, measurable impact on improving water quantity or water quality;
- In areas of greatest impairment;
- Of state or regional significance;
- Recommended by multiple districts or multiple local governments cooperatively;
- With a significant monetary commitment by the local project sponsor or sponsors;
- In rural areas of opportunity;
- That may be funded through appropriate loan programs; and
- That have significant private contributions of time or money.

The section provides the DEP with rulemaking authority to implement this section of the bill in consultation with the DACS, the FWC, and the WMDs.

Section 37 creates s. 403.0617, F.S., to implement an innovative nutrient and sediment reduction and conservation pilot project program.

The bill directs the DEP to propose rules for adoption by October 1, 2015, to competitively evaluate and rank projects for selection and prioritization by the Water Resources Advisory Council. The projects are intended to test the effectiveness of innovative or existing nutrient reduction or water conservation technologies, programs or practices designed to minimize nutrient pollution or restore flows. The projects may not be harmful to the ecological resources in the study area.

The bill provides the following minimum considerations:

- Level of impairment of the waterbody, watershed, or water segment in which the project is located;
- Quantity of nutrients the project is estimated to remove;
- The potential for the project to provide a cost effective solution to pollution, including pollution caused by OSTDSs;
- The anticipated impact the project will have on restoring or increasing water flow or water level;
- The amount of matching funds for the project which will be provided by the entities responsible for implementing the project;

- Whether the project is located in a rural area of opportunity, with preference given to the local government responsible for implementing the project;
- For multiple-year projects, whether the project has funding sources that are identified and assured through the expected completion date;
- The cost of the project and length of time it will take to complete relative to its expected benefits; and
- Whether the entities responsible for implementing the project have used their own funds for projects to improve water quality or conserve water use, with preference given to those entities that have expended such funds.

Section 38 amends s. 403.0623, F.S., to direct the DEP, in coordination with the WMDs, regional water supply authorities, and the DACS to establish statewide standards for the collection and analysis of water quantity, water quality, and related data to ensure quality, reliability, and validity of the data and testing results.

The bill directs the DEP to coordinate with federal agencies, to the extent practicable, to ensure its collection and analysis of data is consistent with this section.

The bill requires state agencies and WMDs to show that they followed the DEP's collection and analysis standards, if available, in order to request state funds for the acquisition of lands or the financing of a water resource project.

The bill provides rulemaking authority to the DEP and the WMDs to implement this section of the bill.

Section 39 amends s. 403.067, F.S., to provide that each new or revised BMAP must include:
- The appropriate management strategies available through existing water quality protection programs to achieve TMDLs, which may provide for phased implementation to promote timely, cost-effective actions;
- A description of BMPs adopted by rule;
- A list of projects in priority ranking with a planning-level cost estimate and estimated date of completion for each listed project;
- The source and amount of financial assistance to be made available by the DEP, a WMD, or other entity for each listed project, if applicable; and
- A planning-level estimate of each listed project's expected load reduction, if applicable.

The bill provides that BMAPs are enforceable pursuant to ss. 403.067, 403.121, 403.141, and 403.161, F.S., and that management strategies, including BMPs and water quality monitoring, are enforceable under ch. 403, F.S.

The bill provides that no later than January 1, 2016:
- The DEP, in consultation with the WMDs and DACS will initiate rulemaking to adopt procedures to verify implementation of water quality monitoring required in lieu of implementation of BMPs or other measures;

- The DEP, in consultation with the WMDs and DACS, will initiate rulemaking to adopt procedures to verify implementation of nonagricultural interim measures, BMPs, or other measures adopted by rule; and
- DACS, in consultation with the WMDs and the DEP, will initiate rulemaking to adopt procedures to verify implementation of agricultural interim measures, BMPs, or other measures adopted by rule.

The bill provides that rules will include enforcement procedures applicable to the landowner, discharger, or other responsible person required to implement applicable management strategies, including BMPs, or water quality monitoring as a result of noncompliance.

Section 40 creates s. 403.0675, F.S., to require the DEP, in conjunction with the WMDs, to post on its website and submit electronically an annual progress report to the Governor, the President of the Senate, and the Speaker of the House of Representatives on the status of each TMDL, BMAP, MFL, and recovery or prevention strategy adopted pursuant to s. 403.067, F.S., or parts I and VIII of ch. 373, F.S. The report must include the status of each project identified to achieve an adopted TMDL or an adopted minimum flow or minimum water level, as applicable.

If a report indicates that any of the five, ten, or 15-year milestones, or the 20-year target date, if applicable, for achieving a TMDL or MFL will not be met, the report must include an explanation of the possible causes and potential solutions.

If applicable, the report shall include project descriptions, estimated costs, proposed priority ranking for project implementation, and funding needed to achieve the TMDL or the MFL by the target date. Each WMD must also post the DEP's report on its website.

The DACS will post on its website and submit electronically an annual progress report to the Governor, the President of the Senate, and the Speaker of the House of Representatives on the status of the implementation of the agricultural nonpoint source BMPs including an implementation assurance report summarizing survey responses and response rates, site inspections and other methods used to verify implementation of and compliance with BMPs pursuant to BMAPs.

Section 41 amends s. 403.861, F.S. to require the DEP to establish rules concerning the use of surface waters for treated potable public water supply.

The bill provides that when a construction permit is issued to construct a new public water system drinking water treatment facility to provide potable water using a surface water of the state that, at the time of the permit application, is not being used as a potable water supply, and the classification of which does not include potable water supply as a designated use, the DEP must add treated potable water supply as a designated use of the surface water segment.

The bill provides that for existing public water system drinking water treatment facilities that use a surface water of the state as a treated potable water supply, and the surface water classification does not include potable water as a designated use, the DEP shall add treated potable water supply as a designated use of the surface water segment.

Section 42 provides an effective date of July 1, 2015.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Existing regulatory programs require local governments to expend funds to comply with Minimum Flows and Levels (MFLs), Water Quality Standards (WQSs), and Basin Management Action Plans (BMAPs). This bill requires additional expenditures for Onsite Sewage Treatment and Disposal Systems (OSTDS) remediation plans and implementation of those plans. A comprehensive fiscal analysis of the bill is required to determine the total impact and whether this bill is a mandate.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The exact impact of CS/CS/SB 918 on the private sector and individuals cannot be calculated because many of the costs are dependent on activities, such as delineation of priority focus areas that have not occurred. Some examples of potential private sector impacts are:

- Provisions that will require some property owners in priority focus areas to upgrade their Onsite Sewage Treatment and Disposal Systems (OSTDSs) or connect to a central sewerage system. This could result in higher rates for sewage disposal compared to the costs of using an OSTDS. Aerobic Treatment Units (ATUs) are also more costly to operate than conventional OSTDSs;
- Rate payers may pay for ongoing operation and maintenance for advanced wastewater treatment plants through rate increases, in addition to costs associated with disposal of Class A and B biosolids in landfills;
- Property owners may have to pay more for passive nitrogen removing systems installed in OSTDSs to install in new developments with lots of less than one acre. They may also face more expensive pump out costs as a result of more expensive disposal options;
- Urban fertilizer use may decrease because of ordinances causing a reduction in revenue for fertilizer companies;

- Septic tank contractors may benefit due to increased scrutiny and required upgrades to OSTDSs;
- An indeterminate positive fiscal impact to local business and real estate prices with the creation of the Shared-Use Nonmotorized Trail (SunTrail);
- The cost of water monitoring could be between $300 to $1,500 per well per year, though it depends heavily on how that monitoring is accomplished; and
- Significant cost savings for dischargers currently discharging into class III waters used for potable water supply.

C. Government Sector Impact:

The bill requires a number of activities that will result in significant increased costs for several government entities, including the Department of Environmental Protection (DEP), the Department of Agriculture and Consumer Services (DACS), and the Water Management Districts (WMDs).

Senate Bill 2500, the Senate's Fiscal Year 2015-2016 General Appropriations Bill, provides $50 million for Springs restoration and land acquisition, $50 million for Water Resources and land acquisition, and $25 million for SunTrail, from the Land Acquisition Trust Fund. In addition, SB 2500 appropriates six positions and $1,429,721 to the DEP from the Land Acquisition Trust Fund for information technology initiatives and delineation of springs protection zones as required in CS/CS/SB 918. Three positions and $299,629 from the Land Acquisition Trust Fund are appropriated to the DACS for implementation of agricultural best management practices. For the Northwest Florida Water Management District (NWFWMD), $1.5 million is provided from the Land Acquisition Trust Fund for activities related to the establishment of Minimum Flows and Levels.

Additional costs that are indeterminate include:

- Minimum Flows and Levels (MFLs) - The bill would require the Water Management Districts (WMDs) and the Department of Environmental Protection (DEP) to adopt MFLs by certain deadlines, which are expected to cost between $280,000 and $2.25 million per MFL, including agency costs for extensive data collection, analysis and modeling, stakeholder coordination, and rulemaking. Costs can vary widely depending on the complexity of the system and the amount and type of scientific and technical data that exists or must be collected. Calculation of interim MFLs will be accomplished using existing staff and resources.
- MFLs Recovery or Prevention Strategies - The WMDs (excluding the Northwest Florida and Suwannee River WMDs) would be required to fund at least 25 percent of recovery or prevention strategies projects. However, the WMDs may provide less than a 25 percent match if another specific source(s) of funding will provide more than 75 percent of the project cost. Since the number of project applicants and project costs is unknown, the fiscal impact is indeterminate at this time.
- Water Resources Advisory Council - The bill requires the creation of the Water Resources Advisory Council within, and staffed by, the DEP. Per diem for travel to attend council meetings is authorized for the two appointed council members. The

estimated cost to the Land Acquisition Trust Fund is indeterminate and should be insignificant.

- Alternative Water Supply Projects – The Water Management Districts that provide technical and financial assistance to self-suppliers for alternative water supply projects will result in a negative fiscal impact on those WMDs that provide such assistance. The actual cost to the Land Acquisition Trust Fund is indeterminate.
- Alternative Water Supply Pilot Program – The bill requires the SFWMD, SWFWMD, and the SJRWMD to designate and implement alternative water supply projects. The bill gives the WMDs the power to issue revenue bonds to pay the costs and expenses related to these projects.

According to the DEP, creation of a database of lands where public access is available could require significant financial resources for information collection, website, and mobile application development. Development of enhancements to the Water Information Network (WIN) is estimated to cost between $4 million and $5 million over the next five years.

The DACS requested $25 million from the General Revenue Fund to continue the development and implementation of agricultural best management practices in the Northern Everglades and Florida spring sheds in the fiscal year 2015-2016 Legislative Budget Request. The DACS estimates this amount will be sufficient to implement the provisions in this bill relating to agricultural best management practices.

There may be a positive fiscal impact to the Florida Department of Transportation (FDOT) with the increase in concession agreements for displays at shared-use nonmotorized trail (SunTrail) facilities.

VI. Technical Deficiencies:

The phrase "results in a vacancy on the council" in Section 21 of the bill, concerning the Harris Chain of Lakes Restoration Council, may be misinterpreted and may need to be reworded to specify that resignation of a council member or the failure of a member to attend three consecutive meetings without an excuse approved by the chair of the committee results in the removal of the committee member.

VII. Related Issues:

The bill defines outstanding Florida springs as all first magnitude springs in Florida, as defined in the most recent version of the Florida Geological Survey's springs bulletin. A future bulletin could remove one of the first magnitude springs from its list, creating problems for ongoing projects by removing the regulatory structure established in this bill.

It is unclear what the definition of "self-suppliers" is.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 259.032, 373.019, 373.036, 373.042, 373.0421, 373.1501, 373.219, 373.223, 373.2234, 373.227, 373.233,

373.4591, 373.4595, 373.467, 373.536, 373.703, 373.705, 373.707, 373.709, 403.061, 403.0623, 403.067, and 403.861.

The bill makes conforming changes to the following section of the Florida Statutes: 260.0144 and 335.065.

This bill creates the following sections of the Florida Statutes: 339.81, 339.82, 339.83, 373.037, 373.0465, 373.801, 373.802, 373.803, 373.805, 373.807, 373.811, 373.813, 403.0616, 403.0617, and 403.0675.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS/CS by Appropriations on April 21, 2015:
The committee substitute:

- Removes guidance for setting interim minimum water flows or minimum water levels and removes all references to interim minimum water flows or minimum water levels;
- Creates a pilot program for alternative water supply development:
  - Provides definitions;
  - Provides legislative findings;
  - Allows the South Florida Water Management District (SFWMD), Southwest Florida Water Management District (SWFWMD), and the St. Johns River Water Management District (SJRWMD) to designate and implement alternative water supply projects;
  - Specifies the powers and restrictions of the SFWMD, the SWFWMD, and the SJRWMD with respect to implementing pilot projects under the section;
  - Provides for funding assistance from the Water Management Districts (WMDs) for pilot projects; and
  - Provides reporting requirements.
- Removes definition of the minimum flow or minimum water level for an Outstanding Florida Springs (OFS) as being the limit and level, respectively, at which further withdrawals would be harmful to the water resources or ecology of the area;
- Provides the WMDs and the Department of Environmental Protection (DEP) with emergency rulemaking authority to adopt minimum flows and levels (MFLs) for OFSs without adopted MFLs no later than July 1, 2017, except for the NWFWMD, which must use emergency rulemaking to adopt minimum water flows and minimum water levels by July 1, 2026;
- Provides that rules adopted pursuant to s. 373.042, F.S., concerning minimum flows and minimum water levels, are not subject to s 120.541(3), F.S., concerning ratification of rules by the legislature;
- Directs the DEP to adopt by rule a uniform definition of the term “harmful to the water resources” for OFSs;
- Requires the DEP to adopt uniform rules for issuing permits to prevent groundwater withdrawals that are harmful to the water resources;

- Clarifies that the requirement for monitoring water use under a Consumptive Use Permit (CUP) authorizing 100,000 or more gallons per day applies to a new, renewal of, or modification to a CUP and that it will be done at intervals and using methods determined by a WMD, provides reporting requirements and provides rulemaking authority for WMDs to implement the provisions;
- Clarifies that permitted water allocations may not be modified solely due to water conservation during the term of the CUP;
- Clarifies that when the WMDs adopt rules that provide water conservation incentives, those incentives may include limited permit extensions;
- Clarifies that CUPs may not be reduced during the term of the permit due to actual water use being less than permitted water use due to market conditions;
- Specifies that the Lake Okeechobee basin management action plan (BMAP) is designed to achieve the Total Maximum Daily Load (TMDL), rather than to reduce phosphorus loads;
- Clarifies provisions concerning the Lake Okeechobee BMAP by removing duplicative provisions;
- Provides requirements for the Lake Okeechobee, the Caloosahatchee River, and the St. Lucie River BMAPs:
  - They must include milestones for implementation and water quality improvement and an associated water quality monitoring component;
  - The DEP must develop schedules to establish 5, 10, and 15 year measurable milestones and a target for achieving an adopted TMDL within 20 years and that the schedules are to be used to provide guidance for planning and funding purposes and exempts the schedule from the provisions of s. 120.54(1)(a), concerning rulemaking;
  - Provides that when the 20 year target for achieving a TMDL is not achievable, schedules must contain explanations concerning why a 20 year target is not possible;
  - Assessments of progress toward the 5, 10, and 15 year milestones must be conducted every 5 years and revisions to the BMAPs must be made, as appropriate, as a result of each 5-year review;
  - The assessments must be provided to the Governor, the President of the Senate, and the Speaker of the House of Representatives;
  - Upon the first 5-year review, a schedule, measureable milestones, and a target for achieving water quality improvement consistent with certain provisions must be adopted into the BMAPs;
  - Revisions to the BMAPs must be made by the DEP in cooperation with basin stakeholders;
  - Revisions to the management strategies must follow certain procedures; and
  - Revised BMAPs must be adopted pursuant to s. 403.067(7)(a)4., F.S.;
- Specifies that for Lake Okeechobee, where water quality problems are detected for agricultural and nonagricultural nonpoint sources despite the appropriate implementation of best management practices (BMPs), the BMPs must be reevaluated to determine whether the BMPs or other measures require modification. If so, the rule must be revised to require modified BMPs to be implemented within a reasonable amount of time;

- Concerning entities within the Lake Okeechobee, Caloosahatchee River, and St. Lucie River watersheds, the bill requires, rather than allows, rules adopted by Department of Agriculture and Consumer Services (DACS) relating to the land application of animal manure to include site inspection requirements. Existing requirements are criteria and thresholds for the requirement to develop a conservation or nutrient management plan, requirements for plan approval, and recordkeeping requirement;
- Specifies that the DEP, rather than the SFWMD must conduct an evaluation of any pollutant load reduction goals, as well as any other specific objectives and goals, as stated in the River Watershed Protection Programs;
- Requires the DEP to include an implementation assurance report in its annual progress report;
- Requires the SFWMD to submit a complete application for a permit modification to the Lake Okeechobee structure permits by January 1, 2016;
- Clarifies that local governments have primary responsibility for providing domestic wastewater collection and treatment services;
- Provides that a member of the Harris Chain of Lakes Restoration Council must be a person with experience in environmental science or regulation, rather than an environmental engineer;
- Provides the Lake County legislative delegation with the authority to waive the qualifications for membership on the council on a case-by-case basis if good cause is shown;
- Provides that resignation by a council member, or failure by a council member to attend three consecutive meetings without an excuse approved by the chair of the council, will result in a vacancy;
- Adds certain software technologies to list of examples for WMDs to promote expanded cost-share criteria for additional conservation practices;
- Provides criteria for WMDs to consider when determining which alternative water supply projects are selected for financial assistance;
- Clarifies the definition of "Outstanding Florida Springs" to include associated spring runs of first magnitude springs;
- Specifies that "priority focus areas" are delineated in a BMAP;
- Clarifies the definition of "priority focus area" by removing reference to groundwater withdrawals and groundwater travel times;
- Clarifies that priority focus areas should be delineated using understood and identifiable boundaries such as roads or political jurisdictions for ease of implementation;
- Provides that priority focus areas in OFSs are effective when incorporated in a BMAP;
- Clarifies that the Northwest Florida Water Management District and the Suwannee River Water Management District are not required to meet the minimum funding requirement to receive financial assistance for listed projects;
- Specifies that local governments may apply for a single extension of five years, or 10 years in the case of a local government in a rural area of opportunity;
- Provides that when a MFL for an OFS is revised, a WMD or the DEP must concurrently adopt a recovery or prevention strategy or modify an existing one;

- Provides that a schedule of 5, 10, and 15 year milestones as part of a recovery or prevention strategy or a BMAP is not a rule, but is intended to provide guidance for planning and funding purposes and is exempt from s. 120.54(1)(a), regarding rulemaking;
- Provides that if Onsite Sewage Treatment and Disposal Systems (OSTDSs) are identified as 20 percent of nonpoint source nutrient pollution or are determined by the DEP to require remediation, the relevant BMAP must include an OSTDS remediation plan, and allows the DEP to develop a remediation plan if necessary;
- Clarifies that certain local governments that have not adopted an ordinance based on the Model Ordinance for Florida-Friendly Fertilizer Use on Urban Landscapes by July 1, 2016, must develop, enact, and implement an ordinance pursuant to that section;
- Makes the development of an OSTDS remediation plan the responsibility of the DEP as part of the BMAP process rather than the responsibility of local governments and provides requirements;
- Removes the word "watershed" from provisions related to impairment;
- Removes requirements associated with local governments with respect to OSTDS remediation plans;
- Adds public and private wastewater utilities as entities the DEP must consult with when developing an OSTDS remediation plan;
- Provides that an OSTDS remediation plan must be completed by the DEP and adopted as part of a BMAP no later than the first 5 year milestone of the BMAP;
- Provides for funding for OSTDS remediation projects;
- Prohibits new domestic wastewater disposal facilities, rather than municipal or industrial wastewater disposal facilities within priority focus areas in effect for an OFS when necessary to attain a TMDL;
- Removes references to passive nitrogen removing OSTDSs and prohibits the installation of specific systems that conflict with a remediation plan incorporated into a BMAP for an OFS;
- Clarifies when the land application of Class A or B domestic wastewater biosolids may not be applied within a priority focus area of an OFS;
- Requires the DEP to adopt rules to improve water quantity and water quality to administer the Florida Springs and Aquifer Protection Act, rather than adopting rules to create a program;
- Removes rulemaking authority for the Department of Health (DOH), DACS, and the WMDs to administer the Florida Springs and Aquifer Protection Act;
- Removes a required yearly report under the Florida Springs and Aquifer Protection Act;
- Adds regional water supply authorities to list of entities the DEP is required to consult with when creating a consolidated water resources work plan and adds regionally significant water supply projects to list of items that must be reported;
- Clarifies when the tentative water resources work program must first be released and when it must first be adopted;
- Changes the deadline from December 31, 2015, to October 1, 2015, for the DEP to propose rules for adoption, rather than to adopt rules, to competitively evaluate and

rank projects for selection and prioritization by the Water Resources Advisory Council;

- Makes the following clarifications when the DEP develops rules to competitively evaluate and rank projects:
  - Changes "total nitrogen" to the broader term "nutrients" when considering the quantity of nutrients;
  - Changes a consideration regarding the potential for a project to provide a cost-effective solution to pollution caused by OSTDSs to just include pollution caused by OSTDSs; and
  - Removes the consideration of the flow necessary to restore a water resource to its adopted MFL, because that consideration is not applicable to an "innovative nutrient and sediment reduction and conservation pilot program";
- Adds regional water supply authorities to list of entities the Florida Water Resources Advisory Council may accept water resource project submissions from;
- Provides requirements for new or revised BMAPs;
- Includes DACS in the list of entities that must establish standards for the collection and analysis of water quantity, quality, and related data. The requirement for analysis is added to the provision;
- Removes the requirement that the DEP maintain a centralized database for all testing results and analyses;
- Makes conforming changes so that state agencies and WMDs must show they followed the DEP's collection and analysis standards, if applicable, in order to receive state funds for the acquisition of lands or the financing of water resource projects;
- Adds site inspection requirements to what must be incorporated into rules adopted by DACS concerning interim measures, BMPs or other measures necessary to achieve pollution reduction;
- Provides for the enforcement and verification of BMAPs and management strategies.
- Clarifies that the annual progress report provided by the DEP to the Governor and the Legislature must be posted on its website and submitted electronically. Also provides that the WMDs will post the report on their respective websites; and
- Requires the annual report required of DACS to be posted on its website and submitted electronically.

CS by Environmental Preservation and Conservation on March 24, 2015:

- Changes the implementation date to create a database and website providing information on conservation lands the public may access from January 1, 2016, to July 1, 2016;
- Clarifies that the addition of local and federal land to the database is a continuing endeavor and should be accomplished to the extent practicable;
- Requires the Florida Department of Transportation (FDOT) to budget $50 million yearly for SunTrails;
- Clarifies that the provision of technical assistance to self-suppliers (requiring the expenditure of public funds) must be consistent with the public policy of the state set forth in s. 373.016, F.S., related to water resources;

- Clarifies the grading system required for the status of water resources must reflect the severity of the impairment;
- Clarifies that the list of prioritized projects is for projects for which the water management district or local government are requesting state funding through the water resources work program;
- Changes the date for using an interim Minimum Flow Level (MFL) from January 1, 2016, to July 1, 2016, to align the use of the interim MFL with the adoption of recovery or prevention strategies;
- Adds a provision to ensure natural weather variations do not trigger an interim MFL violation;
- Provides emergency rulemaking authority for the adoption of an interim MFL and recovery or prevention strategies;
- Allows interim MFLs and recovery or prevention strategies to remain in effect until January 1, 2018, and specifies they are renewable during any pending rule challenge or request for ratification;
- Defines the term "Central Florida Water Initiative";
- Provides for an interagency agreement between the Department of Environmental Protection (DEP), South Florida Water Management District (SFWMD), Southwest Florida Water Management District (SWFWMD), St. Johns River Water Management District (SJRWMD), and the Department of Agriculture and Consumer Services (DACS) to develop and implement a multi-district regional water supply plan and provides plan criteria and requirements, including:
  - Uniform rules for regulatory programs;
  - Uniform rules to include a goal for residential per capita water use for each consumptive use permit;
  - A single definition of "harmful to the water course" as it relates to the issuance of Consumptive Use Permits (CUPs);
  - Rules to include existing recovery strategies;
- Requires the DEP to initiate rulemaking by December 31, 2015 to be applied by the WMDs only within the Central Florida Water Initiative (CFWI);
- Allows the DEP to grant variances where there are unique circumstances or hydrogeological factors that make application of uniform rules unrealistic or impractical;
- Specifies the authority of the SFWMD as sponsor of the Central and Southern Florida (C&SF) Project to allocate quantities of, and assign priorities for the use of, water within its jurisdiction;
- Directs the district to provide recommendations to the U.S. Army Corps of Engineers when developing or implementing certain water control plans or regulations schedules;
- Directs the WMD governing boards to give consideration to the identification of preferred water supply sources for water users for whom access to or development of new water supplies is not technically or financially feasible;
- Provides conditions under which the DEP and the WMD governing boards are directed to give preference to certain applications where the use of alternative water supply is not technically or financially feasible;

- Provides that when giving preference to new competing water use applicants for whom alternative water supplies are not technically or financially feasible, the preference must be given to the applicant for whom the water source is nearest;
- Provides priority consideration to certain public-private partnerships for water storage, groundwater recharge, water quality improvements, and water supply on private agricultural lands;
- Clarifies that the role of private land owners is in enhancing hydrologic improvement, improving water quality and assisting in water supply;
- Revises and provides definitions relating to the Northern Everglades and Estuaries Protection Program, including:
  - Deletes definition for "district Works of the District (WOD) program";
  - Clarifies provisions of the Lake Okeechobee Watershed Protection Program;
  - Provides requirements for the Lake Okeechobee BMAP;
  - Provides for technical and financial assistance for implementation of agricultural best management practices;
  - Directs the SFWMD to revise certain rules and provide for a water quality monitoring program;
  - Revises provisions for the Caloosahatchee River Watershed Protection Program and the St. Lucie River Watershed Protection Program;
  - Revises permitting and annual reporting requirements relating to Northern Everglades Estuary Protection Program (NEEPP);
  - Clarifies that reevaluation of agricultural best management practices include revision, if necessary, pursuant to s. 403.067(7)(c)4, F.S.;
  - Changes reference to Rule 40E-63, F.A.C., to "the Everglades Program,"
  - Adds provisions requiring the district to initiate rulemaking to provide for a monitoring program for nonpoint source discharges to monitor water quality in the Caloosahatchee Watershed;
  - Adds provisions requiring the district to initiate rulemaking to provide for a monitoring program for nonpoint source dischargers required to monitor water quality in the St. Lucie watershed;
  - Provides that the Basin Management Action Plans for Lake Okeechobee, the Caloosahatchee River watershed and estuary and The St. Lucie River watershed and estuary are enforceable pursuant to ss. 403.067, 403.121, 403.141 and 403.161, F.S.;
- Requires a WMD to include an annual funding plan in the water resource development work program;
- Directs the DEP to post the work program on its website;
- Requires the separate identification of projects submitted for state funding through the water resources work program pursuant to s. 403.0616, F.S.;
- Directs WMDs to consider funding assistance for certain water supply development projects;
- Requiring governing boards to include certain information in their annual budget submittals;
- Authorizes water management districts to provide technical and financial assistance to self-suppliers and to waive certain construction costs of alternative water supply

development projects if they are in the public interest and not otherwise financially feasible;

- Clarifies that the provision of technical assistance to self-suppliers (requiring the expenditure of public funds) must be consistent with the public policy of the state set forth in s. 373.707(1)(f), F.S.;
- Includes reference to water resources work program in provisions related to state funding;
- Requires water supply plans to include traditional and alternative water supply project options that are technically and financially feasible;
- Directs the department to report certain funding analyses and project explanations in regional water supply planning reports;
- Revises language to replace “spring protection and management zones” with “priority focus areas”;
- Excludes “submarine springs” from definition of “Outstanding Florida Springs”;
- Recognizes that priority focus areas may encompass a spring or group of springs;
- Requires the delineation of priority focus areas by July 1, 2018;
- Removes the requirement for a map and legal description depicting spring protection and management zones;
- Revises language to make it clear that implementation plans are intended to achieve certain goals with respect to MFLs and Total Maximum Daily Loads (TMDLs);
- Provides that requirements for local governments to create septic tank remediation plans are notwithstanding other conflicting provisions of law;
- Requires the identification of Onsite Sewage Treatment and Disposal Systems (OSTDS) contributing at least 20 percent of nonpoint source nutrient pollution to Outstanding Florida Springs (OFSs);
- Includes drainfield modification in the types of repairs and upgrades that can be identified for OSTDSs;
- Specifies the types of costs that a property owner is not required to pay if an OSTDS requires remediation;
- Requires the department notify local governments of all permit applicants under s. 403.814(12), F.S., in priority focus areas of OFSs;
- Removes the term “septage” from the types of prohibited land applications in priority focus areas;
- Directs the department to adopt by rule a specific surface water classification to protect surface waters used for treated potable water supply and provides criteria for the rule;
- Reduces the number of required meetings by the Water Resources Advisory Council from eight to two;
- Provides for the Innovative Nutrient and Sediment Reduction and Conservation Pilot Project Program;
- Requires the department to adopt rules to competitively evaluate and rank projects for selection and prioritization by the Water Resources Advisory Council pursuant to s. 403.0616, F.S., for submission to the Legislature for funding of pilot projects;
- Provides eligibility for projects that test the effectiveness of innovative or existing nutrient reduction or water conservation technologies or practices designed to minimize nutrient pollution or restore flows in the water bodies of the state;

B. Amendments:

None.

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

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

A bill to be entitled

An act relating to environmental resources; amending s. 259.032, F.S.; requiring the Department of Environmental Protection to publish, update, and maintain a database of conservation lands; requiring the department to submit a report to the Governor and the Legislature identifying the percentage of such lands which the public has access to and the efforts the department has undertaken to increase public access; amending ss. 260.0144 and 335.065, F.S.; conforming provisions to changes made by the act; creating s. 339.81, F.S.; creating the Florida Shared-Use Nonmotorized Trail Network; specifying the composition of the network; requiring the network to be included in the Department of Transportation's work program; declaring the planning, development, operation, and maintenance of the network to be a public purpose; authorizing the department to transfer maintenance responsibilities to certain state agencies and contract with not-for-profit or private sector entities to provide maintenance services; authorizing the department to adopt rules; creating s. 339.82, F.S.; requiring the department to develop a Shared-Use Nonmotorized Trail Network Plan; creating s. 339.83, F.S.; authorizing the department to enter into concession agreements with not-for-profit or private sector entities for certain commercial sponsorship signs, markings, and exhibits; authorizing the department to contract for the provision of certain

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services related to the trail sponsorship program; authorizing the department to adopt rules; amending s. 373.019, F.S.; revising the definition of the term "water resource development" to include self-suppliers under certain circumstances; amending s. 373.036, F.S.; requiring certain information to be included in the consolidated annual report for each project related to water quality or water quantity; amending s. 373.042, F.S.; requiring the Department of Environmental Protection or the governing board of a water management district to establish a minimum flow or minimum water level for an Outstanding Florida Spring; requiring the establishment of interim minimum flows or minimum water levels if minimum flows or minimum levels have not been adopted; requiring the application of interim minimum flows or minimum water levels in water management districts that may affect an interim minimum flow or minimum water level established in another water management district; providing a deadline for development and implementation of recovery or prevention strategies under certain circumstances; authorizing the department to use emergency rulemaking procedures under certain circumstances; amending s. 373.0421, F.S.; directing the department and water management district governing boards to adopt and implement certain recovery or prevention strategies concurrent with the adoption of minimum flows and levels; providing criteria for such recovery or prevention

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strategies; requiring amendments to regional water supply plans to be concurrent with relevant portions of the recovery or prevention strategy; directing water management districts to notify the department when water use permit applications are denied for a specified reason; providing for the review and update of regional water supply plans in such cases; conforming cross-references; creating s. 373.0465, F.S.; providing legislative intent; defining the term "Central Florida Water Initiative Area"; requiring the department, the St. Johns River Water Management District, the South Florida Water Management District, the Southwest Florida Water Management District, and the Department of Agriculture and Consumer Services to develop and implement a multidistrict regional water supply plan; providing plan criteria and requirements; providing applicability; requiring the department to adopt rules; amending s. 373.1501, F.S.; specifying authority of the South Florida Water Management District to allocate quantities of, and assign priorities for the use of, water within its jurisdiction; directing the district to provide recommendations to the United States Army Corps of Engineers when developing or implementing certain water control plans or regulation schedules; amending s. 373.223, F.S.; requiring consumptive use permits authorizing over a certain amount to be monitored on a specified basis; requiring the costs of monitoring to be borne by the permittee; amending s. 373.2234, F.S.;

directing water management district governing boards to consider the identification of preferred water supply sources for certain water users; amending s. 373.227, F.S.; prohibiting water management districts from modifying permitted allocation amounts under certain circumstances; requiring the water management districts to adopt rules to promote water conservation incentives; amending s. 373.233, F.S.; providing conditions under which the department and water management district governing boards are directed to give preference to certain applications; amending s. 373.4591, F.S.; providing priority consideration to certain public-private partnerships for water storage, groundwater recharge, and water quality improvements on private agricultural lands; amending s. 373.4595, F.S.; revising and providing definitions relating to the Northern Everglades and Estuaries Protection Program; clarifying provisions of the Lake Okeechobee Watershed Protection Program; directing the South Florida Water Management District to revise certain rules and provide for a watershed research and water quality monitoring program; revising provisions for the Caloosahatchee River Watershed Protection Program and the St. Lucie River Watershed Protection Program; revising permitting and annual reporting requirements relating to the Northern Everglades and Estuaries Protection Program; providing enforcement provisions for certain basin management action plans; amending s. 373.536, F.S.; requiring a water management district

117 to include an annual funding plan in the water
118 resource development work program; directing the
119 department to post the work program on its website;
120 amending s. 373.703, F.S.; authorizing water
121 management districts to contract with private
122 landowners for water production; amending s. 373.705,
123 F.S.; providing first consideration for funding
124 assistance to certain water supply development
125 projects; requiring governing boards to include
126 certain information in their annual budget submittals;
127 requiring water management districts to promote
128 expanded cost-share criteria for additional
129 conservation practices; amending s. 373.707, F.S.;
130 authorizing water management districts to provide
131 technical and financial assistance to self-suppliers
132 and to waive certain construction costs of alternative
133 water supply development projects by certain water
134 users; amending s. 373.709, F.S.; requiring water
135 supply plans to include traditional and alternative
136 water supply project options that are technically and
137 financially feasible; directing the department to
138 include certain funding analyses and project
139 explanations in regional water supply planning
140 reports; creating part VIII of ch. 373, F.S., entitled
141 the "Florida Springs and Aquifer Protection Act";
142 creating s. 373.801, F.S.; providing legislative
143 findings and intent; creating s. 373.802, F.S.;
144 defining terms; creating s. 373.803, F.S.; requiring
145 the department to delineate a priority focus area for

146 each Outstanding Florida Spring by a certain date;
147 creating s. 373.805, F.S.; requiring the department or
148 a water management district to adopt or revise various
149 recovery or prevention strategies under certain
150 circumstances by a certain date; providing minimum
151 requirements for recovery or prevention strategies for
152 Outstanding Florida Springs; authorizing local
153 governments to apply for an extension for projects in
154 an adopted recovery or prevention strategy; creating
155 s. 373.807, F.S.; requiring the department to initiate
156 assessments of Outstanding Florida Springs by a
157 certain date; requiring the department to develop
158 basin management action plans; authorizing local
159 governments to apply for an extension for projects in
160 an adopted basin management action plan; requiring
161 local governments to adopt an urban fertilizer
162 ordinance by a certain date; requiring the department,
163 the Department of Health, and local governments to
164 identify onsite sewage treatment and disposal systems
165 within each priority focus area; requiring local
166 governments to develop onsite sewage treatment and
167 disposal system remediation plans; prohibiting
168 property owners with identified onsite sewage
169 treatment and disposal systems from being required to
170 pay certain costs; creating s. 373.811, F.S.;
171 specifying prohibited activities within a priority
172 focus area of an Outstanding Florida Spring; creating
173 s. 373.813, F.S.; providing rulemaking authority;
174 creating s. 373.815, F.S.; requiring the department to

175 submit annual reports; amending s. 403.061, F.S.;
176 requiring the department to create a consolidated
177 water resources work plan; directing the department to
178 adopt by rule a specific surface water classification
179 to protect surface waters used for treated potable
180 water supply; providing criteria for such rule;
181 authorizing the reclassification of surface waters
182 used for treated potable water supply notwithstanding
183 such rule; requiring the department to create and
184 maintain a web-based interactive map; creating s.
185 403.0616, F.S.; creating the Florida Water Resources
186 Advisory Council to provide the Legislature with
187 recommendations for projects submitted by governmental
188 entities; requiring the council to consolidate various
189 reports to enhance the water resources of this state;
190 requiring the department to adopt rules; creating s.
191 403.0617, F.S.; requiring the department to adopt
192 rules to fund certain pilot projects; amending s.
193 403.0623, F.S.; requiring the department to establish
194 certain standards to ensure statewide consistency;
195 requiring the department to maintain a centralized
196 database for testing results and analysis of water
197 quantity and quality data; amending s. 403.861, F.S.;
198 directing the department to add treated potable water
199 supply as a designated use of a surface water segment
200 under certain circumstances; providing an effective
201 date.
202
203 Be It Enacted by the Legislature of the State of Florida:

204
205 Section 1. Paragraph (g) is added to subsection (11) of
206 section 259.032, Florida Statutes, to read:
207 259.032 Conservation and Recreation Lands Trust Fund;
208 purpose.—
209 (11)
210 (g) In order to ensure that the public has knowledge of and
211 access to conservation lands, as defined in s. 253.034(2)(c),
212 the department shall publish, update, and maintain a database of
213 such lands where public access is compatible with conservation
214 and recreation purposes.
215 1. By July 1, 2016, the database must be available to the
216 public online and must include, at a minimum, the location,
217 types of allowable recreational opportunities, points of public
218 access, facilities or other amenities, restrictions, and any
219 other information the department deems appropriate to increase
220 public awareness of recreational opportunities on conservation
221 lands. Such data must be electronically accessible, searchable,
222 and downloadable in a generally acceptable format.
223 2. The department, through its own efforts or through
224 partnership with a third-party entity, shall create an
225 application downloadable on mobile devices to be used to locate
226 state lands available for public access using the user's
227 locational information or based upon an activity of interest.
228 3. The database and application must include information
229 for all state conservation lands to which the public has a right
230 of access for recreational purposes. Beginning January 1, 2018,
231 to the greatest extent practicable, the database shall include
232 similar information for lands owned by federal and local

233 government entities that allow access for recreational purposes.
234 4. By January 1 of each year, the department shall provide
235 a report to the Governor, the President of the Senate, and the
236 Speaker of the House of Representatives describing the
237 percentage of public lands acquired under this chapter to which
238 the public has access and efforts undertaken by the department
239 to increase public access to such lands.
240 Section 2. Section 260.0144, Florida Statutes, is amended
241 to read:
242 260.0144 Sponsorship of state greenways and trails.—The
243 department may enter into a concession agreement with a not-for-
244 profit entity or private sector business or entity for
245 commercial sponsorship to be displayed on state greenway and
246 trail facilities not included within the Shared-Use Nonmotorized
247 Trail Network established in chapter 339 ~~or property specified~~
248 ~~in this section~~. The department may establish the cost for
249 entering into a concession agreement.
250 (1) A concession agreement shall be administered by the
251 department and must include the requirements found in this
252 section.
253 (2)(a) Space for a commercial sponsorship display may be
254 provided through a concession agreement on certain state-owned
255 greenway or trail facilities or property.
256 (b) Signage or displays erected under this section shall
257 comply with the provisions of s. 337.407 and chapter 479, and
258 shall be limited as follows:
259 1. One large sign or display, not to exceed 16 square feet
260 in area, may be located at each trailhead or parking area.
261 2. One small sign or display, not to exceed 4 square feet

262 in area, may be located at each designated trail public access
263 point.
264 (c) Before installation, each name or sponsorship display
265 must be approved by the department.
266 (d) The department shall ensure that the size, color,
267 materials, construction, and location of all signs are
268 consistent with the management plan for the property and the
269 standards of the department, do not intrude on natural and
270 historic settings, and contain only a logo selected by the
271 sponsor and the following sponsorship wording:
272
273 ...(Name of the sponsor)... proudly sponsors the costs
274 of maintaining the ...(Name of the greenway or
275 trail)....
276
277 ~~(c) Sponsored state greenways and trails are authorized at~~
278 ~~the following facilities or property:~~
279 ~~1. Florida Keys Overseas Heritage Trail.~~
280 ~~2. Blackwater Heritage Trail.~~
281 ~~3. Tallahassee-St. Marks Historic Railroad State Trail.~~
282 ~~4. Nature Coast State Trail.~~
283 ~~5. Withlacoochee State Trail.~~
284 ~~6. General James A. Van Fleet State Trail.~~
285 ~~7. Palatka-Lake Butler State Trail.~~
286 (e)~~(f)~~ The department may enter into commercial sponsorship
287 agreements for other state greenways or trails as authorized in
288 this section. A qualified entity that desires to enter into a
289 commercial sponsorship agreement shall apply to the department
290 on forms adopted by department rule.

(f) ~~(g)~~ All costs of a display, including development, construction, installation, operation, maintenance, and removal costs, shall be paid by the concessionaire.

(3) A concession agreement shall be for a minimum of 1 year, but may be for a longer period under a multiyear agreement, and may be terminated for just cause by the department upon 60 days' advance notice. Just cause for termination of a concession agreement includes, but is not limited to, violation of the terms of the concession agreement or any provision of this section.

(4) Commercial sponsorship pursuant to a concession agreement is for public relations or advertising purposes of the not-for-profit entity or private sector business or entity, and may not be construed by that not-for-profit entity or private sector business or entity as having a relationship to any other actions of the department.

(5) This section does not create a proprietary or compensable interest in any sign, display site, or location.

(6) Proceeds from concession agreements shall be distributed as follows:

(a) Eighty-five percent shall be deposited into the appropriate department trust fund that is the source of funding for management and operation of state greenway and trail facilities and properties.

(b) Fifteen percent shall be deposited into the State Transportation Trust Fund for use in the Traffic and Bicycle Safety Education Program and the Safe Paths to School Program administered by the Department of Transportation.

(7) The department may adopt rules to administer this

section.

Section 3. Subsections (3) and (4) of section 335.065, Florida Statutes, are amended to read:

335.065 Bicycle and pedestrian ways along state roads and transportation facilities.—

(3) The department, in cooperation with the Department of Environmental Protection, shall establish a statewide integrated system of bicycle and pedestrian ways in such a manner as to take full advantage of any such ways which are maintained by any governmental entity. ~~The department may enter into a concession agreement with a not-for-profit entity or private sector business or entity for commercial sponsorship displays on multiuse trails and related facilities and use any concession agreement revenues for the maintenance of the multiuse trails and related facilities. Commercial sponsorship displays are subject to the requirements of the Highway Beautification Act of 1965 and all federal laws and agreements, when applicable. For the purposes of this section, bicycle facilities may be established as part of or separate from the actual roadway and may utilize existing road rights-of-way or other rights-of-way or easements acquired for public use.~~

~~(a) A concession agreement shall be administered by the department and must include the requirements of this section.~~

~~(b)1. Signage or displays erected under this section shall comply with s. 337.407 and chapter 479 and shall be limited as follows:~~

~~a. One large sign or display, not to exceed 16 square feet in area, may be located at each trailhead or parking area.~~

~~b. One small sign or display, not to exceed 4 square feet~~

349 ~~in area, may be located at each designated trail public access~~
350 ~~point.~~
351 ~~2. Before installation, each name or sponsorship display~~
352 ~~must be approved by the department.~~
353 ~~3. The department shall ensure that the size, color,~~
354 ~~materials, construction, and location of all signs are~~
355 ~~consistent with the management plan for the property and the~~
356 ~~standards of the department, do not intrude on natural and~~
357 ~~historic settings, and contain only a logo selected by the~~
358 ~~sponsor and the following sponsorship wording:~~
359
360 ~~...(Name of the sponsor)... proudly sponsors the costs~~
361 ~~of maintaining the ...(Name of the greenway or~~
362 ~~trail)....~~
363
364 ~~4. All costs of a display, including development,~~
365 ~~construction, installation, operation, maintenance, and removal~~
366 ~~costs, shall be paid by the concessionaire.~~
367 ~~(c) A concession agreement shall be for a minimum of 1~~
368 ~~year, but may be for a longer period under a multiyear~~
369 ~~agreement, and may be terminated for just cause by the~~
370 ~~department upon 60 days' advance notice. Just cause for~~
371 ~~termination of a concession agreement includes, but is not~~
372 ~~limited to, violation of the terms of the concession agreement~~
373 ~~or this section.~~
374 ~~(4)(a) The department may use appropriated funds to support~~
375 ~~the establishment of a statewide system of interconnected~~
376 ~~multiuse trails and to pay the costs of planning, land~~
377 ~~acquisition, design, and construction of such trails and related~~

378 ~~facilities. The department shall give funding priority to~~
379 ~~projects that:~~
380 ~~1. Are identified by the Florida Greenways and Trails~~
381 ~~Council as a priority within the Florida Greenways and Trails~~
382 ~~System under chapter 260.~~
383 ~~2. Support the transportation needs of bicyclists and~~
384 ~~pedestrians.~~
385 ~~3. Have national, statewide, or regional importance.~~
386 ~~4. Facilitate an interconnected system of trails by~~
387 ~~completing gaps between existing trails.~~
388 ~~(b) A project funded under this subsection shall:~~
389 ~~1. Be included in the department's work program developed~~
390 ~~in accordance with s. 339.135.~~
391 ~~2. Be operated and maintained by an entity other than the~~
392 ~~department upon completion of construction. The department is~~
393 ~~not obligated to provide funds for the operation and maintenance~~
394 ~~of the project.~~
395 Section 4. Section 339.81, Florida Statutes, is created to
396 read:
397 339.81 Florida Shared-Use Nonmotorized Trail Network.—
398 (1) The Legislature finds that increasing demands continue
399 to be placed on the state's transportation system by a growing
400 economy, continued population growth, and increasing tourism.
401 The Legislature also finds that significant challenges exist in
402 providing additional capacity to the conventional transportation
403 system and will require enhanced accommodation of alternative
404 travel modes to meet the needs of residents and visitors. The
405 Legislature further finds that improving bicyclist and
406 pedestrian safety for both residents and visitors remains a high

407 priority. Therefore, the Legislature declares that the
408 development of a nonmotorized trail network will increase
409 mobility and recreational alternatives for residents and
410 visitors of this state, enhance economic prosperity, enrich
411 quality of life, enhance safety, and reflect responsible
412 environmental stewardship. To that end, it is the intent of the
413 Legislature that the department make use of its expertise in
414 efficiently providing transportation projects to develop the
415 Florida Shared-Use Nonmotorized Trail Network, consisting of a
416 statewide network of nonmotorized trails which allows
417 nonmotorized vehicles and pedestrians to access a variety of
418 origins and destinations with limited exposure to motorized
419 vehicles.
420 (2) The Florida Shared-Use Nonmotorized Trail Network is
421 created as a component of the Florida Greenways and Trails
422 System established in chapter 260. The statewide network
423 consists of multiuse trails or shared-use paths physically
424 separated from motor vehicle traffic and constructed with
425 asphalt, concrete, or another hard surface which, by virtue of
426 design, location, extent of connectivity or potential
427 connectivity, and allowable uses, provides nonmotorized
428 transportation opportunities for bicyclists and pedestrians
429 statewide between and within a wide range of points of origin
430 and destinations, including, but not limited to, communities,
431 conservation areas, state parks, beaches, and other natural or
432 cultural attractions for a variety of trip purposes, including
433 work, school, shopping, and other personal business, as well as
434 social, recreational, and personal fitness purposes.
435 (3) Network components do not include sidewalks, nature

436 trails, loop trails wholly within a single park or natural area,
437 or on-road facilities, such as bicycle lanes or routes other
438 than:
439 (a) On-road facilities that are no longer than one-half
440 mile connecting two or more nonmotorized trails, if the
441 provision of a non-motorized trail without the use of the on-
442 road facility is not feasible, and if such on-road facilities
443 are signed and marked for nonmotorized use; or
444 (b) On-road components of the Florida Keys Overseas
445 Heritage Trail.
446 (4) The planning, development, operation, and maintenance
447 of the Florida Shared-Use Nonmotorized Trail Network is declared
448 to be a public purpose, and the department, together with other
449 agencies of this state and all counties, municipalities, and
450 special districts of this state, may spend public funds for such
451 purposes and accept gifts and grants of funds, property, or
452 property rights from public or private sources to be used for
453 such purposes.
454 (5) The department shall include the Florida Shared-Use
455 Nonmotorized Trail Network in its work program developed
456 pursuant to s. 339.135. For purposes of funding and maintaining
457 projects within the network, the department shall allocate in
458 its program and resource plan a minimum of $50 million annually,
459 beginning in the 2015-2016 fiscal year.
460 (6) The department may enter into a memorandum of agreement
461 with a local government or other agency of the state to transfer
462 maintenance responsibilities of an individual network component.
463 The department may contract with a not-for-profit entity or
464 private sector business or entity to provide maintenance

465 services on an individual network component.
466 (7) The department may adopt rules to aid in the
467 development and maintenance of components of the network.
468 Section 5. Section 339.82, Florida Statutes, is created to
469 read:
470 339.82 Shared-Use Nonmotorized Trail Network Plan.—
471 (1) The department shall develop a Shared-Use Nonmotorized
472 Trail Network Plan in coordination with the Department of
473 Environmental Protection, metropolitan planning organizations,
474 affected local governments and public agencies, and the Florida
475 Greenways and Trails Council. The plan must be consistent with
476 the Florida Greenways and Trails Plan developed under s. 260.014
477 and must be updated at least once every 5 years.
478 (2) The Shared-Use Nonmotorized Trail Network Plan must
479 include all of the following:
480 (a) A needs assessment, including, but not limited to, a
481 comprehensive inventory and analysis of existing trails that may
482 be considered for inclusion in the Shared-Use Nonmotorized Trail
483 Network.
484 (b) A project prioritization process that includes
485 assigning funding priority to projects that:
486 1. Are identified by the Florida Greenways and Trails
487 Council as a priority within the Florida Greenways and Trails
488 System under chapter 260;
489 2. Facilitate an interconnected network of trails by
490 completing gaps between existing facilities; and
491 3. Maximize use of federal, local, and private funding and
492 support mechanisms, including, but not limited to, donation of
493 funds, real property, and maintenance responsibilities.

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494 (c) A map illustrating existing and planned facilities and
495 identifying critical gaps between facilities.
496 (d) A finance plan based on reasonable projections of
497 anticipated revenues, including both 5-year and 10-year cost-
498 feasible components.
499 (e) Performance measures that include quantifiable
500 increases in trail network access and connectivity.
501 (f) A timeline for the completion of the base network using
502 new and existing data from the department, the Department of
503 Environmental Protection, and other sources.
504 (g) A marketing plan prepared in consultation with the
505 Florida Tourism Industry Marketing Corporation.
506 Section 6. Section 339.83, Florida Statutes, is created to
507 read:
508 339.83 Sponsorship of Shared-Use Nonmotorized Trails.—
509 (1) The department may enter into a concession agreement
510 with a not-for-profit entity or private sector business or
511 entity for commercial sponsorship signs, pavement markings, and
512 exhibits on nonmotorized trails and related facilities
513 constructed as part of the Shared-Use Nonmotorized Trail
514 Network. The concession agreement may also provide for
515 recognition of trail sponsors in any brochure, map, or website
516 providing trail information. Trail websites may provide links to
517 sponsors. Revenue from such agreements may be used for the
518 maintenance of the nonmotorized trails and related facilities.
519 (a) A concession agreement shall be administered by the
520 department.
521 (b)1. Signage, pavement markings, or exhibits erected
522 pursuant to this section must comply with s. 337.407 and chapter

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523 479 and are limited as follows:
524 a. One large sign, pavement marking, or exhibit, not to
525 exceed 16 square feet in area, may be located at each trailhead
526 or parking area.
527 b. One small sign, pavement marking, or exhibit, not to
528 exceed 4 square feet in area, may be located at each designated
529 trail public access point where parking is not provided.
530 c. Pavement markings denoting specified distances must be
531 located at least 1 mile apart.
532 2. Before installation, each sign, pavement marking, or
533 exhibit must be approved by the department.
534 3. The department shall ensure that the size, color,
535 materials, construction, and location of all signs, pavement
536 markings, and exhibits are consistent with the management plan
537 for the property and the standards of the department, do not
538 intrude on natural and historic settings, and contain a logo
539 selected by the sponsor and the following sponsorship wording:
540
541 ...(Name of the sponsor)... proudly sponsors the costs
542 of maintaining the ...(Name of the greenway or
543 trail)....
544
545 4. Exhibits may provide additional information and
546 materials, including, but not limited to, maps and brochures for
547 trail user services related or proximate to the trail. Pavement
548 markings may display mile marker information.
549 5. The costs of a sign, pavement marking, or exhibit,
550 including development, construction, installation, operation,
551 maintenance, and removal costs, shall be paid by the

552 concessionaire.
553 (c) A concession agreement shall be for a minimum of 1
554 year, but may be for a longer period under a multiyear
555 agreement, and may be terminated for just cause by the
556 department upon 60 days' advance notice. Just cause for
557 termination of a concession agreement includes, but is not
558 limited to, violation of the terms of the concession agreement
559 or this section.
560 (2) Pursuant to s. 287.057, the department may contract for
561 the provision of services related to the trail sponsorship
562 program, including recruitment and qualification of businesses,
563 review of applications, permit issuance, and fabrication,
564 installation, and maintenance of signs, pavement markings, and
565 exhibits. The department may reject all proposals and seek
566 another request for proposals or otherwise perform the work. The
567 contract may allow the contractor to retain a portion of the
568 annual fees as compensation for its services.
569 (3) This section does not create a proprietary or
570 compensable interest in any sponsorship site or location for any
571 permittee, and the department may terminate permits or change
572 locations of sponsorship sites as it determines necessary for
573 construction or improvement of facilities.
574 (4) The department may adopt rules to establish
575 requirements for qualification of businesses, qualification and
576 location of sponsorship sites, and permit applications and
577 processing. The department may adopt rules to establish other
578 criteria necessary to implement this section and to provide for
579 variances when necessary to serve the interest of the public or
580 when required to ensure equitable treatment of program

581 participants.
582 Section 7. Subsection (24) of section 373.019, Florida
583 Statutes, is amended to read:
584 373.019 Definitions.—When appearing in this chapter or in
585 any rule, regulation, or order adopted pursuant thereto, the
586 term:
587 (24) "Water resource development" means the formulation and
588 implementation of regional water resource management strategies,
589 including the collection and evaluation of surface water and
590 groundwater data; structural and nonstructural programs to
591 protect and manage water resources; the development of regional
592 water resource implementation programs; the construction,
593 operation, and maintenance of major public works facilities to
594 provide for flood control, surface and underground water
595 storage, and groundwater recharge augmentation; and related
596 technical assistance to local governments, ~~and to~~ government-
597 owned and privately owned water utilities, and self-suppliers to
598 the extent assistance to self-suppliers promotes the policies as
599 set forth in s. 373.016.
600 Section 8. Paragraph (b) of subsection (7) of section
601 373.036, Florida Statutes, is amended, present paragraphs (d)
602 and (e) of subsection (7) are redesignated as paragraphs (e) and
603 (f), respectively, and a new paragraph (d) is added to that
604 subsection, to read:
605 373.036 Florida water plan; district water management
606 plans.—
607 (7) CONSOLIDATED WATER MANAGEMENT DISTRICT ANNUAL REPORT.—
608 (b) The consolidated annual report shall contain the
609 following elements, as appropriate to that water management

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610 district:
611 1. A district water management plan annual report or the
612 annual work plan report allowed in subparagraph (2)(e)4.
613 2. The department-approved minimum flows and levels annual
614 priority list and schedule required by s. 373.042(3) ~~s.~~
615 ~~373.042(2)~~.
616 3. The annual 5-year capital improvements plan required by
617 s. 373.536(6)(a)3.
618 4. The alternative water supplies annual report required by
619 s. 373.707(8)(n).
620 5. The final annual 5-year water resource development work
621 program required by s. 373.536(6)(a)4.
622 6. The Florida Forever Water Management District Work Plan
623 annual report required by s. 373.199(7).
624 7. The mitigation donation annual report required by s.
625 373.414(1)(b)2.
626 (d) The consolidated annual report must contain information
627 on all projects related to water quality or water quantity as
628 part of a 5-year work program, including:
629 1. A list of all specific projects identified to implement
630 a basin management action plan or a recovery or prevention
631 strategy;
632 2. A grade for each watershed, water body, or water segment
633 in which a project is located representing the level of
634 impairment and violations of adopted or interim minimum flow or
635 minimum water level. The grading system must reflect the
636 severity of the impairment of the watershed, waterbody, or water
637 segment;
638 3. A priority ranking for each listed project for which

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639 state funding through the water resources work program is
640 requested, which must be made available to the public for
641 comment at least 30 days before submission of the consolidated
642 annual report;
643 4. The estimated cost for each listed project;
644 5. The estimated completion date for each listed project;
645 6. The source and amount of financial assistance to be made
646 available by the department, a water management district, or
647 other entity for each listed project; and
648 7. A quantitative estimate of each listed project's benefit
649 to the watershed, water body, or water segment in which it is
650 located.
651 Section 9. Subsection (1) and present subsections (2) and
652 (6) of section 373.042, Florida Statutes, are amended, present
653 subsections (2) through (6) of that section are redesignated as
654 subsections (3) through (7), respectively, and a new subsection
655 (2) is added to that section, to read:
656 373.042 Minimum flows and levels.—
657 (1) Within each section, or within the water management
658 district as a whole, the department or the governing board shall
659 establish the following:
660 (a) Minimum flow for all surface watercourses in the area.
661 The minimum flow for a given watercourse is ~~shall be~~ the limit
662 at which further withdrawals would be significantly harmful to
663 the water resources or ecology of the area.
664 (b) Minimum water level. The minimum water level is ~~shall~~
665 ~~be~~ the level of groundwater in an aquifer and the level of
666 surface water at which further withdrawals would be
667 significantly harmful to the water resources or ecology of the

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668 area.
669 (c) Minimum flow or minimum water level for an Outstanding
670 Florida Spring, as defined in s. 373.802. The minimum flow or
671 minimum water level are the limit and level, respectively, at
672 which further withdrawals would be harmful to the water
673 resources or ecology of the area.
674
675 The minimum flow and minimum water level shall be calculated by
676 the department and the governing board using the best
677 information available. When appropriate, minimum flows and
678 minimum water levels may be calculated to reflect seasonal
679 variations. The department and the governing board shall ~~also~~
680 consider, and at their discretion may provide for, the
681 protection of nonconsumptive uses in the establishment of
682 minimum flows and minimum water levels.
683 (2)(a) Until such time as a minimum flow or minimum water
684 level is adopted for an Outstanding Florida Spring, the interim
685 minimum flow or minimum water level for such spring shall be
686 determined by using the best existing and available information.
687 The interim minimum flow or minimum water level is the flow or
688 water level exceeded 67 percent of the time based upon an
689 analysis of estimated long-term conditions. By July 1, 2016, the
690 districts shall use reasonable calculations to estimate the
691 long-term median flow or water level and the flow or water level
692 that would be exceeded 67 percent of the time. The analysis may
693 include construction of a flow or water level duration curve, an
694 analysis of the flow or water level at any point in the spring,
695 and historic data to extrapolate the values or other statistical
696 methods to estimate the long-term median flow or water level

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697 that would be exceeded 67 percent of the time.
698 (b) If a minimum flow or minimum water level has been
699 established but not yet adopted for an Outstanding Florida
700 Spring, a water management district shall use the established
701 minimum flow or minimum water level, instead of the minimum flow
702 or minimum water level established by the procedure in paragraph
703 (a), as the interim minimum flow or minimum water level until
704 the adoption of a minimum flow or minimum water level. Long-term
705 or short-term seasonal or annual variations in flows or water
706 levels of an Outstanding Florida Spring due to factors other
707 than water withdrawals are not considered violations of an
708 interim minimum flow or minimum water level.
709 (c) For Outstanding Florida Springs identified on a water
710 management district's priority list developed pursuant to
711 subsection (3) which have the potential to be affected by
712 withdrawals in an adjacent district, the interim minimum flow or
713 minimum water level shall be applied by the adjacent district or
714 districts. By July 1, 2017, the adjacent districts and the
715 department shall collaboratively develop and implement a
716 recovery or prevention strategy for an Outstanding Florida
717 Spring not meeting an adopted or interim minimum flow or minimum
718 water level.
719 (d) The Legislature finds that the failure to adopt minimum
720 flows and minimum water levels or recovery or prevention
721 strategies for Outstanding Florida Springs has resulted in an
722 immediate danger to the public health, safety, and welfare and
723 that immediate action must be taken to address the condition of
724 Outstanding Florida Springs. The department may use emergency
725 rulemaking provisions pursuant to s. 120.54(4) to adopt interim

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726 minimum flows and minimum water levels under this subsection and
727 recovery or prevention strategies concurrent with an interim
728 minimum flow or minimum water level pursuant to s.
729 373.805(2)(b). For purposes of this section, an interim minimum
730 flow or minimum water level and a recovery or prevention
731 strategy shall remain in effect until January 1, 2018, and may
732 not be renewable, except as otherwise provided in s.
733 120.54(4)(c).
734 (3) ~~(2)~~ By November 15, 1997, and annually thereafter, each
735 water management district shall submit to the department for
736 review and approval a priority list and schedule for the
737 establishment of minimum flows and levels for surface
738 watercourses, aquifers, and surface waters within the district.
739 The priority list and schedule shall identify those listed water
740 bodies for which the district will voluntarily undertake
741 independent scientific peer review; any reservations proposed by
742 the district to be established pursuant to s. 373.223(4); and
743 those listed water bodies that have the potential to be affected
744 by withdrawals in an adjacent district for which the
745 department's adoption of a reservation pursuant to s. 373.223(4)
746 or a minimum flow or level pursuant to subsection (1) may be
747 appropriate. By March 1, 2006, and annually thereafter, each
748 water management district shall include its approved priority
749 list and schedule in the consolidated annual report required by
750 s. 373.036(7). The priority list shall be based upon the
751 importance of the waters to the state or region and the
752 existence of or potential for significant harm to the water
753 resources or ecology of the state or region, and shall include
754 those waters which are experiencing or may reasonably be

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755 expected to experience adverse impacts. Each water management
756 district's priority list and schedule shall include all first
757 magnitude springs, and all second magnitude springs within state
758 or federally owned lands purchased for conservation purposes.
759 The specific schedule for establishment of spring minimum flows
760 and levels shall be commensurate with the existing or potential
761 threat to spring flow from consumptive uses. Springs within the
762 Suwannee River Water Management District, or second magnitude
763 springs in other areas of the state, need not be included on the
764 priority list if the water management district submits a report
765 to the Department of Environmental Protection demonstrating that
766 adverse impacts are not now occurring nor are reasonably
767 expected to occur from consumptive uses during the next 20
768 years. The priority list and schedule is not subject to any
769 proceeding pursuant to chapter 120. Except as provided in
770 subsection (4) ~~(3)~~, the development of a priority list and
771 compliance with the schedule for the establishment of minimum
772 flows and levels pursuant to this subsection satisfies the
773 requirements of subsection (1).
774 (7) ~~(6)~~ If a petition for administrative hearing is filed
775 under chapter 120 challenging the establishment of a minimum
776 flow or level, the report of an independent scientific peer
777 review conducted under subsection (5) ~~(4)~~ is admissible as
778 evidence in the final hearing, and the administrative law judge
779 must render the order within 120 days after the filing of the
780 petition. The time limit for rendering the order shall not be
781 extended except by agreement of all the parties. To the extent
782 that the parties agree to the findings of the peer review, they
783 may stipulate that those findings be incorporated as findings of

784 fact in the final order.
785 Section 10. Section 373.0421, Florida Statutes, is amended
786 to read:
787 373.0421 Establishment and implementation of minimum flows
788 and levels.—
789 (1) ESTABLISHMENT.—
790 (a) *Considerations.*—When establishing minimum flows and
791 minimum water levels pursuant to s. 373.042, the department or
792 governing board shall consider changes and structural
793 alterations to watersheds, surface waters, and aquifers and the
794 effects such changes or alterations have had, and the
795 constraints such changes or alterations have placed, on the
796 hydrology of an affected watershed, surface water, or aquifer,
797 provided that nothing in this paragraph shall allow significant
798 harm as provided by s. 373.042(1)(a) and (b), or harm as
799 provided by s. 373.042(1)(c), caused by withdrawals.
800 (b) *Exclusions.*—
801 1. The Legislature recognizes that certain water bodies no
802 longer serve their historical hydrologic functions. The
803 Legislature also recognizes that recovery of these water bodies
804 to historical hydrologic conditions may not be economically or
805 technically feasible, and that such recovery effort could cause
806 adverse environmental or hydrologic impacts. Accordingly, the
807 department or governing board may determine that setting a
808 minimum flow or level for such a water body based on its
809 historical condition is not appropriate.
810 2. The department or the governing board is not required to
811 establish minimum flows or levels pursuant to s. 373.042 for
812 surface water bodies less than 25 acres in area, unless the

813 water body or bodies, individually or cumulatively, have
814 significant economic, environmental, or hydrologic value.
815 3. The department or the governing board shall not set
816 minimum flows or levels pursuant to s. 373.042 for surface water
817 bodies constructed prior to the requirement for a permit, or
818 pursuant to an exemption, a permit, or a reclamation plan which
819 regulates the size, depth, or function of the surface water body
820 under the provisions of this chapter, chapter 378, or chapter
821 403, unless the constructed surface water body is of significant
822 hydrologic value or is an essential element of the water
823 resources of the area.
824
825 The exclusions of this paragraph shall not apply to the
826 Everglades Protection Area, as defined in s. 373.4592(2)(i).
827 (2) If the existing flow or level in a water body is below,
828 or is projected to fall within 20 years below, the applicable
829 minimum flow or level established pursuant to s. 373.042, the
830 department or governing board, concurrent with the adoption of
831 the minimum flow or level and as part of the regional water
832 supply plan described in s. 373.709, shall adopt and
833 ~~expeditiously~~ implement a recovery or prevention strategy, which
834 includes the development of additional water supplies and other
835 actions, consistent with the authority granted by this chapter,
836 to:
837 (a) Achieve recovery to the established minimum flow or
838 level as soon as practicable; or
839 (b) Prevent the existing flow or level from falling below
840 the established minimum flow or level.
841

842 The recovery or prevention strategy shall include phasing or a
843 timetable which will allow for the provision of sufficient water
844 supplies for all existing and projected reasonable-beneficial
845 uses, including development of additional water supplies and
846 implementation of conservation and other efficiency measures
847 concurrent with, to the maximum extent practical, and to offset,
848 reductions in permitted withdrawals, consistent with ~~the~~
849 ~~provisions of~~ this chapter. The recovery or prevention strategy
850 may not depend solely on water shortage restrictions declared
851 pursuant to s. 373.175 or s. 373.246.
852 (3) In order to ensure that sufficient water is available
853 for all existing and future reasonable-beneficial uses and the
854 natural systems, the applicable regional water supply plan
855 prepared pursuant to s. 373.709 shall be amended to include any
856 water supply development projects and water resource development
857 projects identified in a recovery or prevention strategy. Such
858 amendment shall be approved concurrently with relevant portions
859 of the recovery or prevention strategy.
860 (4) The water management district shall notify the
861 department if an application for a water use permit is denied
862 based upon the impact that the use will have on an adopted
863 minimum flow or minimum water level. Upon receipt of such
864 notice, the department shall, as soon as practicable and in
865 cooperation with the water management district, conduct a review
866 of the applicable regional water supply plan prepared pursuant
867 to s. 373.709. Such review shall include an assessment by the
868 department of the adequacy of the plan to meet the legislative
869 intent of s. 373.705(2)(b) that sufficient water be available
870 for all existing and future reasonable-beneficial uses and the

871 natural systems and that the adverse effects of competition for
872 water supplies be avoided. If the department determines, based
873 upon this review, that the regional water supply plan does not
874 adequately address the legislative intent of s. 373.705(2)(b),
875 the water management district shall immediately initiate an
876 update of the plan consistent with s. 373.709.
877 (5) ~~(3)~~ The provisions of this section are supplemental to
878 any other specific requirements or authority provided by law.
879 Minimum flows and levels shall be reevaluated periodically and
880 revised as needed.
881 Section 11. Section 373.0465, Florida Statutes, is created
882 to read:
883 373.0465 Central Florida Water Initiative.-
884 (1) The Legislature finds that:
885 (a) Historically, the Floridan Aquifer system has supplied
886 the vast majority of the water used in the Central Florida
887 Coordination Area.
888 (b) Because the boundaries of the St. Johns River Water
889 Management District, the South Florida Water Management
890 District, and the Southwest Florida Water Management District
891 meet within the Central Florida Coordination Area, the three
892 districts and the Department of Environmental Protection have
893 worked cooperatively to determine that the Floridan Aquifer
894 system is locally approaching the sustainable limits of use and
895 are exploring the need to develop sources of water to meet the
896 long-term water needs of the area.
897 (c) The Central Florida Water Initiative, a collaborative
898 process involving the Department of Environmental Protection,
899 the St. Johns River Water Management District, the South Florida

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900 Water Management District, the Southwest Florida Water
901 Management District, the Department of Agriculture and Consumer
902 Services, regional public water supply utilities, and other
903 stakeholders, has developed an initial framework, as set forth
904 in the Central Florida Water Initiative Guiding Document of
905 January 30, 2015, for a unified process to address the current
906 and long-term water supply needs of Central Florida without
907 causing harm to the water resources and associated natural
908 systems.
909 (d) Developing water sources as an alternative to continued
910 reliance on the Floridan Aquifer will benefit existing and
911 future water users and natural systems beyond the boundaries of
912 the Central Florida Water Initiative.
913 (2)(a) As used in this section, the term "Central Florida
914 Water Initiative Area" means all of Orange, Osceola, Polk, and
915 Seminole Counties, and southern Lake County, as designated by
916 the Central Florida Water Initiative Guiding Document of January
917 30, 2015.
918 (b) The department, the St. Johns River Water Management
919 District, the South Florida Water Management District, the
920 Southwest Florida Water Management District, and the Department
921 of Agriculture and Consumer Services shall:
922 1. Provide for a continuation of the collaborative process
923 in the Central Florida Water Initiative Area among the state
924 agencies, affected water management districts, regional public
925 water supply utilities, and other stakeholders.
926 2. Build upon the guiding principles and goals set forth in
927 the Central Florida Water Initiative Guiding Document of January
928 30, 2015, and the work that has already been accomplished by the

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929 Central Florida Water Initiative participants.
930 3. Develop and implement, as set forth in the Central
931 Florida Water Initiative Guiding Document of January 30, 2015, a
932 single multidistrict regional water supply plan, including any
933 needed recovery or prevention strategies and a list of water
934 resource or water supply development projects.
935 4. Provide for a single hydrologic planning model to assess
936 the availability of groundwater in the Central Florida Water
937 Initiative Area.
938 (c) In developing the water supply planning program
939 consistent with the goals set forth in this subsection, the
940 department, the South Florida Water Management District, the
941 Southwest Florida Water Management District, the St. Johns River
942 Water Management District, and the Department of Agriculture and
943 Consumer Services shall:
944 1. Consider limitations on groundwater use together with
945 opportunities for new, increased, or redistributed groundwater
946 uses that are based on the conditions established under s.
947 373.223.
948 2. Establish a coordinated process for the identification
949 of water resources requiring new or revised conditions
950 established under s. 373.223.
951 3. Consider existing recovery or prevention strategies.
952 4. Include a list of water supply options sufficient to
953 meet the water needs of all existing and future reasonable-
954 beneficial uses which meet conditions established under s.
955 373.223.
956 5. Identify, as necessary, which of the water supply
957 sources are preferred water supply sources pursuant to s.

958 373.2234.
959 (d) The department, in consultation with the St. Johns
960 River Water Management District, the South Florida Water
961 Management District, the Southwest Florida Water Management
962 District, and the Department of Agriculture and Consumer
963 Services, shall adopt uniform rules for application within the
964 Central Florida Water Initiative Area that include:
965 1. A single, uniform definition of "harmful to the water
966 resources" consistent with the term's usage in s. 373.219;
967 2. A single method for calculating residential per capita
968 water use;
969 3. A single process for permit reviews;
970 4. A single, consistent process, as appropriate, to set
971 minimum flows and minimum water levels and water reservations;
972 5. A goal for residential per capita water use for each
973 consumptive use permit; and
974 6. An annual conservation goal for each consumptive use
975 permit consistent with the regional water supply plan.
976
977 The uniform rules shall include existing recovery strategies
978 within the Central Florida Water Initiative Area adopted before
979 July 1, 2015. The department may grant variances to the uniform
980 rules if there are unique circumstances or hydrogeological
981 factors that make application of the uniform rules unrealistic
982 or impractical.
983 (e) The department shall initiate rulemaking for the
984 uniform rules by December 31, 2015. The department's uniform
985 rules shall be applied by the water management districts only
986 within the Central Florida Water Initiative Area. Upon adoption

987 of the rules, the water management districts shall implement the
988 rules without further rulemaking pursuant to s. 120.54. The
989 rules adopted by the department pursuant to this section are
990 considered the rules of the water management districts.
991 (f) Water management district planning programs developed
992 pursuant this subsection shall be approved or adopted as
993 required under this chapter. However, such planning programs may
994 not serve to modify planning programs in areas of the affected
995 districts that are not within the Central Florida Water
996 Initiative Area, but may include interregional projects located
997 outside the Central Florida Water Initiative Area which are
998 consistent with planning and regulatory programs in the areas in
999 which they are located.
1000 Section 12. Subsection (4) of section 373.1501, Florida
1001 Statutes, is amended, subsections (7) and (8) are renumbered as
1002 subsections (8) and (9), respectively, and a new subsection (7)
1003 is added to that section, to read:
1004 373.1501 South Florida Water Management District as local
1005 sponsor.—
1006 (4) The district is authorized to act as local sponsor of
1007 the project for those project features within the district as
1008 provided in this subsection and subject to the oversight of the
1009 department as further provided in s. 373.026. The district shall
1010 exercise the authority of the state to allocate quantities of
1011 water within its jurisdiction, including the water supply in
1012 relation to the project, and be responsible for allocating water
1013 and assigning priorities among the other water uses served by
1014 the project pursuant to state law. The district may:
1015 (a) Act as local sponsor for all project features

1016 previously authorized by Congress.~~;~~
1017 (b) Continue data gathering, analysis, research, and design
1018 of project components, participate in preconstruction
1019 engineering and design documents for project components, and
1020 further refine the Comprehensive Plan of the restudy as a guide
1021 and framework for identifying other project components.~~;~~
1022 (c) Construct pilot projects that will assist in
1023 determining the feasibility of technology included in the
1024 Comprehensive Plan of the restudy.~~; and~~
1025 (d) Act as local sponsor for project components.
1026 (7) When developing or implementing water control plans or
1027 regulation schedules required for the operation of the project,
1028 the district shall provide recommendations to the United States
1029 Army Corps of Engineers which are consistent with all district
1030 programs and plans.
1031 Section 13. Subsection (6) is added to section 373.223,
1032 Florida Statutes, to read:
1033 373.223 Conditions for a permit.—
1034 (6) A consumptive use permit authorizing more than 100,000
1035 gallons per day shall be monitored on a yearly basis, with the
1036 cost of such monitoring to be borne by the permittee.
1037 Section 14. Section 373.2234, Florida Statutes, is amended
1038 to read:
1039 373.2234 Preferred water supply sources.—
1040 (1) The governing board of a water management district is
1041 authorized to adopt rules that identify preferred water supply
1042 sources for consumptive uses for which there is sufficient data
1043 to establish that a preferred source will provide a substantial
1044 new water supply to meet the existing and projected reasonable-

1045 beneficial uses of a water supply planning region identified
1046 pursuant to s. 373.709(1), while sustaining existing water
1047 resources and natural systems. At a minimum, such rules must
1048 contain a description of the preferred water supply source and
1049 an assessment of the water the preferred source is projected to
1050 produce.
1051 (2)(a) If an applicant proposes to use a preferred water
1052 supply source, that applicant's proposed water use is subject to
1053 s. 373.223(1), except that the proposed use of a preferred water
1054 supply source must be considered by a water management district
1055 when determining whether a permit applicant's proposed use of
1056 water is consistent with the public interest pursuant to s.
1057 373.223(1)(c).
1058 (b) The governing board of a water management district
1059 shall consider the identification of preferred water supply
1060 sources for water users for whom access to or development of new
1061 water supplies is not technically or financially feasible.
1062 Identification of preferred water supply sources for such water
1063 users must be consistent with s. 373.016.
1064 (c) A consumptive use permit issued for the use of a
1065 preferred water supply source must be granted, when requested by
1066 the applicant, for at least a 20-year period and may be subject
1067 to the compliance reporting provisions of s. 373.236(4).
1068 (3)(a) ~~Nothing in~~ This section does not: ~~shall be construed~~
1069 ~~to~~
1070 1. Exempt the use of preferred water supply sources from
1071 ~~the provisions of~~ ss. 373.016(4) and 373.223(2) and (3)~~;, or be~~
1072 ~~construed to~~
1073 2. Provide that permits issued for the use of a

1074 nonpreferred water supply source must be issued for a duration
1075 of less than 20 years or that the use of a nonpreferred water
1076 supply source is not consistent with the public interest; or~~.~~
1077 3. ~~Additionally, nothing in this section shall be~~
1078 ~~interpreted to~~ Require the use of a preferred water supply
1079 source or to restrict or prohibit the use of a nonpreferred
1080 water supply source.
1081 (b) Rules adopted by the governing board of a water
1082 management district to implement this section shall specify that
1083 the use of a preferred water supply source is not required and
1084 that the use of a nonpreferred water supply source is not
1085 restricted or prohibited.
1086 Section 15. Present subsection (5) of section 373.227,
1087 Florida Statutes, is redesignated as subsection (7), and new
1088 subsections (5) and (6) are added to that section, to read:
1089 373.227 Water conservation; legislative findings and
1090 intent; objectives; comprehensive statewide water conservation
1091 program requirements.—
1092 (5) In order to incentivize water conservation, if actual
1093 water use is less than permitted water use due to documented
1094 implementation of water conservation measures, including, but
1095 not limited to, those measures identified in best management
1096 practices pursuant to s. 570.93, the permitted allocation may
1097 not be modified due to such water conservation during the term
1098 of the permit. In order to promote water conservation and the
1099 implementation of measures that produce significant water
1100 savings beyond that required in a consumptive use permit, each
1101 water management district shall adopt rules providing water
1102 conservation incentives, including permit extensions.

1103 (6) For consumptive use permits for agricultural
1104 irrigation, if actual water use is less than permitted water use
1105 due to weather events, crop diseases, nursery stock
1106 availability, or changes in crop type, a district may not as a
1107 result reduce permitted allocation amounts during the term of
1108 the permit.
1109 Section 16. Subsection (2) of section 373.233, Florida
1110 Statutes, is amended to read:
1111 373.233 Competing applications.—
1112 (2)(a) If ~~In the event that~~ two or more competing
1113 applications qualify equally under ~~the provisions of~~ subsection
1114 (1), the governing board or the department shall give preference
1115 to a renewal application over an initial application.
1116 (b) If two or more competing applications qualify equally
1117 under subsection (1) and none of the competing applications is a
1118 renewal application, the governing board or the department shall
1119 give preference to the use where the source is nearest to the
1120 area of use or application in a manner consistent with s.
1121 373.016(4)(a).
1122 Section 17. Section 373.4591, Florida Statutes, is amended
1123 to read:
1124 373.4591 Improvements on private agricultural lands.—
1125 (1) The Legislature encourages public-private partnerships
1126 to accomplish water storage, groundwater recharge, and water
1127 quality improvements on private agricultural lands. Priority
1128 consideration shall be given to public-private partnerships
1129 that:
1130 (a) Store or treat water on private lands for purposes of
1131 enhancing hydrologic improvement, improving water quality, or

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1132 assisting in water supply;
1133 (b) Provide critical ground water recharge; or
1134 (c) Provide for changes in land use to activities that
1135 minimize nutrient loads and maximize water conservation.
1136 (2)(a) When an agreement is entered into between the
1137 department, a water management district, or the Department of
1138 Agriculture and Consumer Services and a private landowner to
1139 establish ~~such~~ a public-private partnership that may create or
1140 impact wetlands or other surface waters, a baseline condition
1141 determining the extent of wetlands and other surface waters on
1142 the property shall be established and documented in the
1143 agreement before improvements are constructed.
1144 (b) When an agreement is entered into between the
1145 Department of Agriculture and Consumer Services and a private
1146 landowner to implement best management practices pursuant to s.
1147 403.067(7)(c), a baseline condition determining the extent of
1148 wetlands and other surface water on the property may be
1149 established at the option and expense of the private landowner
1150 and documented in the agreement before improvements are
1151 constructed. The Department of Agriculture and Consumer Services
1152 shall submit the landowner's proposed baseline condition
1153 documentation to the lead agency for review and approval, and
1154 the agency shall use its best efforts to complete the review
1155 within 45 days.
1156 (3) The Department of Agriculture and Consumer Services,
1157 the department, and the water management districts shall provide
1158 a process for reviewing these requests in the timeframe
1159 specified. The determination of a baseline condition shall be
1160 conducted using the methods set forth in the rules adopted

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1161 pursuant to s. 373.421. The baseline condition documented in an
1162 agreement shall be considered the extent of wetlands and other
1163 surface waters on the property for the purpose of regulation
1164 under this chapter for the duration of the agreement and after
1165 its expiration.
1166 Section 18. Paragraph (h) of subsection (1) and subsections
1167 (2) through (7) of section 373.4595, Florida Statutes, are
1168 amended, and present subsections (8) through (13) are
1169 redesignated as subsections (9) through (14), respectively, and
1170 a new subsection (8) is added, to read:
1171 373.4595 Northern Everglades and Estuaries Protection
1172 Program.—
1173 (1) FINDINGS AND INTENT.—
1174 (h) The Legislature finds that the expeditious
1175 implementation of the Lake Okeechobee Watershed Protection
1176 Program, the Caloosahatchee River Watershed Protection Program,
1177 ~~Plan~~ and the St. Lucie River Watershed Protection Program ~~Plans~~
1178 is needed to improve the quality, quantity, timing, and
1179 distribution of water in the northern Everglades ecosystem and
1180 that this section, in conjunction with s. 403.067, including the
1181 implementation of the plans developed and approved pursuant to
1182 subsections (3) and (4), and any related basin management action
1183 plan developed and implemented pursuant to s. 403.067(7)(a),
1184 provide a reasonable means of achieving the total maximum daily
1185 load requirements and achieving and maintaining compliance with
1186 state water quality standards.
1187 (2) DEFINITIONS.—As used in this section, the term:
1188 (a) "Best management practice" means a practice or
1189 combination of practices determined by the coordinating

1190 agencies, based on research, field-testing, and expert review,
1191 to be the most effective and practicable on-location means,
1192 including economic and technological considerations, for
1193 improving water quality in agricultural and urban discharges.
1194 Best management practices for agricultural discharges shall
1195 reflect a balance between water quality improvements and
1196 agricultural productivity.
1197 (b) "Biosolids" means the solid, semisolid, or liquid
1198 residue generated during the treatment of domestic wastewater in
1199 a domestic wastewater treatment facility, formerly known as
1200 "domestic wastewater residuals" or "residuals," and includes
1201 products and treated material from biosolids treatment
1202 facilities and septage management facilities regulated by the
1203 department. The term does not include the treated effluent or
1204 reclaimed water from a domestic wastewater treatment facility,
1205 solids removed from pump stations and lift stations, screenings
1206 and grit removed from the preliminary treatment components of
1207 domestic wastewater treatment facilities, or ash generated
1208 during the incineration of biosolids.
1209 (c) ~~(b)~~ "Caloosahatchee River watershed" means the
1210 Caloosahatchee River, its tributaries, its estuary, and the area
1211 within Charlotte, Glades, Hendry, and Lee Counties from which
1212 surface water flow is directed or drains, naturally or by
1213 constructed works, to the river, its tributaries, or its
1214 estuary.
1215 (d) ~~(c)~~ "Coordinating agencies" means the Department of
1216 Agriculture and Consumer Services, the Department of
1217 Environmental Protection, and the South Florida Water Management
1218 District.

1219 (e) ~~(d)~~ "Corps of Engineers" means the United States Army
1220 Corps of Engineers.
1221 (f) ~~(e)~~ "Department" means the Department of Environmental
1222 Protection.
1223 (g) ~~(f)~~ "District" means the South Florida Water Management
1224 District.
1225 ~~(g) "District's WOD program" means the program implemented~~
1226 ~~pursuant to rules adopted as authorized by this section and ss.~~
1227 ~~373.016, 373.044, 373.085, 373.086, 373.109, 373.113, 373.118,~~
1228 ~~373.451, and 373.453, entitled "Works of the District Basin."~~
1229 (h) "Lake Okeechobee Watershed Construction Project" means
1230 the construction project developed pursuant to this section
1231 ~~paragraph (3)(b)~~.
1232 (i) "Lake Okeechobee Watershed Protection Plan" means the
1233 Lake Okeechobee Watershed Construction Project and the Lake
1234 Okeechobee Watershed Research and Water Quality Monitoring
1235 Program ~~plan developed pursuant to this section and ss. 373.451-~~
1236 ~~373.459~~.
1237 (j) "Lake Okeechobee watershed" means Lake Okeechobee, its
1238 tributaries, and the area within which surface water flow is
1239 directed or drains, naturally or by constructed works, to the
1240 lake or its tributaries.
1241 ~~(k) "Lake Okeechobee Watershed Phosphorus Control Program"~~
1242 ~~means the program developed pursuant to paragraph (3)(c).~~
1243 (k) ~~(l)~~ "Northern Everglades" means the Lake Okeechobee
1244 watershed, the Caloosahatchee River watershed, and the St. Lucie
1245 River watershed.
1246 (l) ~~(m)~~ "Project component" means any structural or
1247 operational change, resulting from the Restudy, to the Central

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1248 and Southern Florida Project as it existed and was operated as
1249 of January 1, 1999.
1250 (m) ~~(n)~~ "Restudy" means the Comprehensive Review Study of
1251 the Central and Southern Florida Project, for which federal
1252 participation was authorized by the Federal Water Resources
1253 Development Acts of 1992 and 1996 together with related
1254 Congressional resolutions and for which participation by the
1255 South Florida Water Management District is authorized by s.
1256 373.1501. The term includes all actions undertaken pursuant to
1257 the aforementioned authorizations which will result in
1258 recommendations for modifications or additions to the Central
1259 and Southern Florida Project.
1260 (n) ~~(o)~~ "River Watershed Protection Plans" means the
1261 Caloosahatchee River Watershed Protection Plan and the St. Lucie
1262 River Watershed Protection Plan developed pursuant to this
1263 section.
1264 (o) "Soil amendment" means any substance or mixture of
1265 substances sold or offered for sale for soil enriching or
1266 corrective purposes, intended or claimed to be effective in
1267 promoting or stimulating plant growth, increasing soil or plant
1268 productivity, improving the quality of crops, or producing any
1269 chemical or physical change in the soil, except amendments,
1270 conditioners, additives, and related products that are derived
1271 solely from inorganic sources and that contain no recognized
1272 plant nutrients.
1273 (p) "St. Lucie River watershed" means the St. Lucie River,
1274 its tributaries, its estuary, and the area within Martin,
1275 Okeechobee, and St. Lucie Counties from which surface water flow
1276 is directed or drains, naturally or by constructed works, to the

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1277 river, its tributaries, or its estuary.
1278 (q) "Total maximum daily load" means the sum of the
1279 individual wasteload allocations for point sources and the load
1280 allocations for nonpoint sources and natural background adopted
1281 pursuant to s. 403.067. Before ~~Prior to~~ determining individual
1282 wasteload allocations and load allocations, the maximum amount
1283 of a pollutant that a water body or water segment can assimilate
1284 from all sources without exceeding water quality standards must
1285 first be calculated.
1286 (3) LAKE OKEECHOBEE WATERSHED PROTECTION PROGRAM.—The Lake
1287 Okeechobee Watershed Protection Program shall consist of the
1288 Lake Okeechobee Watershed Protection Plan, the Lake Okeechobee
1289 Basin Management Action Plan adopted pursuant to s. 403.067, the
1290 Lake Okeechobee Exotic Species Control Program, and the Lake
1291 Okeechobee Internal Phosphorus Management Program. The Lake
1292 Okeechobee Basin Management Action Plan adopted pursuant to s.
1293 403.067 shall be the component of the Lake Okeechobee Watershed
1294 Protection ~~A protection~~ Program ~~for Lake Okeechobee~~ that
1295 achieves phosphorus load reductions for Lake Okeechobee ~~shall be~~
1296 ~~immediately implemented as specified in this subsection~~. The
1297 Lake Okeechobee Watershed Protection Program shall address the
1298 reduction of phosphorus loading to the lake from both internal
1299 and external sources. Phosphorus load reductions shall be
1300 achieved through a phased program of implementation. ~~Initial~~
1301 ~~implementation actions shall be technology-based, based upon a~~
1302 ~~consideration of both the availability of appropriate technology~~
1303 ~~and the cost of such technology, and shall include phosphorus~~
1304 ~~reduction measures at both the source and the regional level.~~
1305 ~~The initial phase of phosphorus load reductions shall be based~~

1306 ~~upon the district's Technical Publication 81-2 and the~~
1307 ~~district's WOD program, with subsequent phases of phosphorus~~
1308 ~~load reductions based upon the total maximum daily loads~~
1309 ~~established in accordance with s. 403.067.~~ In the development
1310 and administration of the Lake Okeechobee Watershed Protection
1311 Program, the coordinating agencies shall maximize opportunities
1312 provided by federal cost-sharing programs and opportunities for
1313 partnerships with the private sector.
1314 (a) *Lake Okeechobee Watershed Protection Plan.*—In order to
1315 protect and restore surface water resources, the district, in
1316 cooperation with the other coordinating agencies, shall complete
1317 a Lake Okeechobee Watershed Protection Plan in accordance with
1318 this section and ss. 373.451-373.459. Beginning March 1, 2020,
1319 and every 5 years thereafter, the district shall update the Lake
1320 Okeechobee Watershed Protection Plan to ensure that it is
1321 consistent with the Lake Okeechobee Basin Management Action Plan
1322 adopted pursuant to s. 403.067. The Lake Okeechobee Watershed
1323 Protection Plan shall identify the geographic extent of the
1324 watershed, be coordinated with the plans developed pursuant to
1325 paragraphs (4)(a) and (c) ~~(b)~~, and include the Lake Okeechobee
1326 Watershed Construction Project and the Lake Okeechobee Watershed
1327 Research and Water Quality Monitoring Program ~~contain an~~
1328 ~~implementation schedule for subsequent phases of phosphorus load~~
1329 ~~reduction consistent with the total maximum daily loads~~
1330 ~~established in accordance with s. 403.067~~. The plan shall
1331 consider and build upon a review and analysis of ~~the following~~:
1332 ~~1.~~ the performance of projects constructed during Phase I
1333 and Phase II of the Lake Okeechobee Watershed Construction
1334 Project, pursuant to subparagraph 1.; ~~paragraph (b).~~

1335 ~~2.~~ relevant information resulting from the Lake Okeechobee
1336 Basin Management Action Plan ~~Watershed Phosphorus Control~~
1337 ~~Program~~, pursuant to paragraph (b); ~~(c).~~
1338 ~~3.~~ relevant information resulting from the Lake Okeechobee
1339 Watershed Research and Water Quality Monitoring Program,
1340 pursuant to subparagraph 2.; ~~paragraph (d).~~
1341 ~~4.~~ relevant information resulting from the Lake Okeechobee
1342 Exotic Species Control Program, pursuant to paragraph (c); and
1343 ~~(e).~~
1344 ~~5.~~ relevant information resulting from the Lake Okeechobee
1345 Internal Phosphorus Management Program, pursuant to paragraph
1346 (d) ~~(f)~~.
1347 1.~~(b)~~ Lake Okeechobee Watershed Construction Project.—To
1348 improve the hydrology and water quality of Lake Okeechobee and
1349 downstream receiving waters, including the Caloosahatchee and
1350 St. Lucie Rivers and their estuaries, the district, in
1351 cooperation with the other coordinating agencies, shall design
1352 and construct the Lake Okeechobee Watershed Construction
1353 Project. The project shall include:
1354 a.~~1.~~ Phase I.—Phase I of the Lake Okeechobee Watershed
1355 Construction Project shall consist of a series of project
1356 features consistent with the recommendations of the South
1357 Florida Ecosystem Restoration Working Group's Lake Okeechobee
1358 Action Plan. Priority basins for such projects include S-191, S-
1359 154, and Pools D and E in the Lower Kissimmee River. In order to
1360 obtain phosphorus load reductions to Lake Okeechobee as soon as
1361 possible, the following actions shall be implemented:
1362 (I)~~a.~~ The district shall serve as a full partner with the
1363 Corps of Engineers in the design and construction of the Grassy

1364 Island Ranch and New Palm Dairy stormwater treatment facilities
1365 as components of the Lake Okeechobee Water Retention/Phosphorus
1366 Removal Critical Project. The Corps of Engineers shall have the
1367 lead in design and construction of these facilities. Should
1368 delays be encountered in the implementation of either of these
1369 facilities, the district shall notify the department and
1370 recommend corrective actions.
1371 (II)~~b.~~ The district shall obtain permits and complete
1372 construction of two of the isolated wetland restoration projects
1373 that are part of the Lake Okeechobee Water Retention/Phosphorus
1374 Removal Critical Project. The additional isolated wetland
1375 projects included in this critical project shall further reduce
1376 phosphorus loading to Lake Okeechobee.
1377 (III)~~c.~~ The district shall work with the Corps of Engineers
1378 to expedite initiation of the design process for the Taylor
1379 Creek/Nubbins Slough Reservoir Assisted Stormwater Treatment
1380 Area, a project component of the Comprehensive Everglades
1381 Restoration Plan. The district shall propose to the Corps of
1382 Engineers that the district take the lead in the design and
1383 construction of the Reservoir Assisted Stormwater Treatment Area
1384 and receive credit towards the local share of the total cost of
1385 the Comprehensive Everglades Restoration Plan.
1386 b.~~2.~~ Phase II technical plan and construction.~~By February~~
1387 ~~1, 2008,~~ The district, in cooperation with the other
1388 coordinating agencies, shall develop a detailed technical plan
1389 for Phase II of the Lake Okeechobee Watershed Construction
1390 Project which provides the basis for the Lake Okeechobee Basin
1391 Management Action Plan adopted by the department pursuant to s.
1392 403.067. The detailed technical plan shall include measures for

the improvement of the quality, quantity, timing, and distribution of water in the northern Everglades ecosystem, including the Lake Okeechobee watershed and the estuaries, and for facilitating the achievement of water quality standards. Use of cost-effective biologically based, hybrid wetland/chemical and other innovative nutrient control technologies shall be incorporated in the plan where appropriate. The detailed technical plan shall also include a Process Development and Engineering component to finalize the detail and design of Phase II projects and identify additional measures needed to increase the certainty that the overall objectives for improving water quality and quantity can be met. Based on information and recommendations from the Process Development and Engineering component, the Phase II detailed technical plan shall be periodically updated. Phase II shall include construction of additional facilities in the priority basins identified in sub-subparagraph a. ~~subparagraph 1.~~, as well as facilities for other basins in the Lake Okeechobee watershed. ~~This detailed technical plan will require legislative ratification pursuant to paragraph (i).~~ The technical plan shall:

(I)~~a.~~ Identify Lake Okeechobee Watershed Construction Project facilities designed to contribute to achieving all applicable total maximum daily loads established pursuant to s. 403.067 within the Lake Okeechobee watershed.

(II)~~b.~~ Identify the size and location of all such Lake Okeechobee Watershed Construction Project facilities.

(III)~~c.~~ Provide a construction schedule for all such Lake Okeechobee Watershed Construction Project facilities, including the sequencing and specific timeframe for construction of each

Lake Okeechobee Watershed Construction Project facility.

(IV)~~d.~~ Provide a schedule for the acquisition of lands or sufficient interests necessary to achieve the construction schedule.

(V)~~e.~~ Provide a detailed schedule of costs associated with the construction schedule.

(VI)~~f.~~ Identify, to the maximum extent practicable, impacts on wetlands and state-listed species expected to be associated with construction of such facilities, including potential alternatives to minimize and mitigate such impacts, as appropriate.

(VII)~~g.~~ Provide for additional measures, including voluntary water storage and quality improvements on private land, to increase water storage and reduce excess water levels in Lake Okeechobee and to reduce excess discharges to the estuaries.

(VIII) ~~The technical plan shall also~~ Develop the appropriate water quantity storage goal to achieve the desired Lake Okeechobee range of lake levels and inflow volumes to the Caloosahatchee and St. Lucie estuaries while meeting the other water-related needs of the region, including water supply and flood protection.

(IX)~~h.~~ Provide for additional source controls needed to enhance performance of the Lake Okeechobee Watershed Construction Project facilities. Such additional source controls shall be incorporated into the Lake Okeechobee Basin Management Action Plan ~~Watershed Phosphorous Control Program~~ pursuant to paragraph (b) ~~(c)~~.

c.~~3.~~ Evaluation.—Within 5 years after the adoption of the

1451 Lake Okeechobee Basin Management Action Plan pursuant to s.
1452 403.067 and every 5 ~~By January 1, 2004, and every 3~~ years
1453 thereafter, the department ~~district~~, in cooperation with the
1454 other coordinating agencies, shall conduct an evaluation of the
1455 Lake Okeechobee Watershed Construction Project and identify any
1456 further load reductions necessary to achieve compliance with the
1457 ~~all~~ Lake Okeechobee ~~watershed~~ total maximum daily loads
1458 established pursuant to s. 403.067. ~~Additionally,~~ The district
1459 shall identify modifications to facilities of the Lake
1460 Okeechobee Watershed Construction Project as appropriate to meet
1461 the total maximum daily loads. Modifications to the Lake
1462 Okeechobee Watershed Construction Project resulting from this
1463 evaluation shall be incorporated into the Lake Okeechobee Basin
1464 Management Action Plan and ~~The evaluation shall be~~ included in
1465 the applicable annual progress report submitted pursuant to
1466 subsection (6).
1467 d.~~4.~~ Coordination and review.—To ensure the timely
1468 implementation of the Lake Okeechobee Watershed Construction
1469 Project, the design of project facilities shall be coordinated
1470 with the department and other interested parties, including
1471 affected local governments, to the maximum extent practicable.
1472 Lake Okeechobee Watershed Construction Project facilities shall
1473 be reviewed and commented upon by the department before ~~prior to~~
1474 the execution of a construction contract by the district for
1475 that facility.
1476 2. Lake Okeechobee Watershed Research and Water Quality
1477 Monitoring Program.—The coordinating agencies shall implement a
1478 Lake Okeechobee Watershed Research and Water Quality Monitoring
1479 Program. Results from the program shall be used by the

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1480 department, in cooperation with the other coordinating agencies,
1481 to make modifications to the Lake Okeechobee Basin Management
1482 Action Plan adopted pursuant to s. 403.067, as appropriate. The
1483 program shall:
1484 a. Evaluate all available existing water quality data
1485 concerning total phosphorus in the Lake Okeechobee watershed,
1486 develop a water quality baseline to represent existing
1487 conditions for total phosphorus, monitor long-term ecological
1488 changes, including water quality for total phosphorus, and
1489 measure compliance with water quality standards for total
1490 phosphorus, including any applicable total maximum daily load
1491 for the Lake Okeechobee watershed as established pursuant to s.
1492 403.067. Beginning March 1, 2020, and every 5 years thereafter,
1493 the department shall reevaluate water quality and quantity data
1494 to ensure that the appropriate projects are being designated and
1495 incorporated into the Lake Okeechobee Basin Management Action
1496 Plan adopted pursuant to s. 403.067. The district shall
1497 implement a total phosphorus monitoring program at appropriate
1498 structures owned or operated by the district and within the Lake
1499 Okeechobee watershed.
1500 b. Develop a Lake Okeechobee water quality model that
1501 reasonably represents the phosphorus dynamics of Lake Okeechobee
1502 and incorporates an uncertainty analysis associated with model
1503 predictions.
1504 c. Determine the relative contribution of phosphorus from
1505 all identifiable sources and all primary and secondary land
1506 uses.
1507 d. Conduct an assessment of the sources of phosphorus from
1508 the Upper Kissimmee Chain-of-Lakes and Lake Istokpoga, and their

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1509 relative contribution to the water quality of Lake Okeechobee.
1510 The results of this assessment shall be used by the coordinating
1511 agencies as part of the Lake Okeechobee Basin Management Action
1512 Plan adopted pursuant to s. 403.067 to develop interim measures,
1513 best management practices, or regulations, as applicable.
1514 e. Assess current water management practices within the
1515 Lake Okeechobee watershed and develop recommendations for
1516 structural and operational improvements. Such recommendations
1517 shall balance water supply, flood control, estuarine salinity,
1518 maintenance of a healthy lake littoral zone, and water quality
1519 considerations.
1520 f. Evaluate the feasibility of alternative nutrient
1521 reduction technologies, including sediment traps, canal and
1522 ditch maintenance, fish production or other aquaculture,
1523 bioenergy conversion processes, and algal or other biological
1524 treatment technologies and include any alternative nutrient
1525 reduction technologies determined to be feasible in the Lake
1526 Okeechobee Basin Management Action Plan adopted pursuant to s.
1527 403.067.
1528 g. Conduct an assessment of the water volumes and timing
1529 from the Lake Okeechobee watershed and their relative
1530 contribution to the water level changes in Lake Okeechobee and
1531 to the timing and volume of water delivered to the estuaries.
1532 (b) ~~(c)~~ *Lake Okeechobee Basin Management Action Plan*
1533 ~~*Watershed Phosphorus Control Program*~~.—The Lake Okeechobee Basin
1534 Management Action Plan adopted pursuant to s. 403.067 shall be
1535 the watershed phosphorus control component for Lake Okeechobee
1536 and shall be ~~Program is~~ designed to be a multifaceted approach
1537 to reducing phosphorus loads by improving the management of

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1538 phosphorus sources within the Lake Okeechobee watershed through
1539 implementation of regulations and best management practices,
1540 continued development and continued implementation of improved
1541 best management practices, improvement and restoration of the
1542 hydrologic function of natural and managed systems, and use
1543 ~~utilization~~ of alternative technologies for nutrient reduction.
1544 The plan shall contain an implementation schedule for pollutant
1545 load reductions consistent with the adopted total maximum daily
1546 load. The coordinating agencies shall develop an interagency
1547 agreement pursuant to ss. 373.046 and 373.406 which is
1548 consistent with the department taking the lead on water quality
1549 protection measures through the Lake Okeechobee Basin Management
1550 Action Plan adopted pursuant to s. 403.067; the district taking
1551 the lead on hydrologic improvements pursuant to paragraph (a);
1552 and the Department of Agriculture and Consumer Services taking
1553 the lead on agricultural interim measures, best management
1554 practices, and other measures adopted pursuant to s. 403.067.
1555 The interagency agreement shall specify how best management
1556 practices for nonagricultural nonpoint sources are developed and
1557 how all best management practices are implemented and verified
1558 consistent with s. 403.067 and this section. The interagency
1559 agreement shall address measures to be taken by the coordinating
1560 agencies during any best management practice reevaluation
1561 performed pursuant to subparagraphs 5. and 10. The department
1562 shall use best professional judgment in making the initial
1563 determination of best management practice effectiveness. The
1564 coordinating agencies may develop an intergovernmental agreement
1565 with local governments to implement nonagricultural nonpoint
1566 source best management practices within their respective

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1567 geographic boundaries. The coordinating agencies shall
1568 facilitate the application of federal programs that offer
1569 opportunities for water quality treatment, including
1570 preservation, restoration, or creation of wetlands on
1571 agricultural lands.
1572 1. Agricultural nonpoint source best management practices,
1573 developed in accordance with s. 403.067 and designed to achieve
1574 the objectives of the Lake Okeechobee Watershed Protection
1575 Program as part of a phased approach of management strategies
1576 within the Lake Okeechobee Basin Management Action Plan, shall
1577 be implemented on an expedited basis. ~~The coordinating agencies~~
1578 ~~shall develop an interagency agreement pursuant to ss. 373.046~~
1579 ~~and 373.406(5) that assures the development of best management~~
1580 ~~practices that complement existing regulatory programs and~~
1581 ~~specifies how those best management practices are implemented~~
1582 ~~and verified. The interagency agreement shall address measures~~
1583 ~~to be taken by the coordinating agencies during any best~~
1584 ~~management practice reevaluation performed pursuant to sub-~~
1585 ~~subparagraph d. The department shall use best professional~~
1586 ~~judgment in making the initial determination of best management~~
1587 ~~practice effectiveness.~~
1588 2.~~a.~~ As provided in s. 403.067 ~~s. 403.067(7)(c)~~, the
1589 Department of Agriculture and Consumer Services, in consultation
1590 with the department, the district, and affected parties, shall
1591 initiate rule development for interim measures, best management
1592 practices, conservation plans, nutrient management plans, or
1593 other measures necessary for Lake Okeechobee watershed total
1594 maximum daily load reduction. The rule shall include thresholds
1595 for requiring conservation and nutrient management plans and

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1596 criteria for the contents of such plans. Development of
1597 agricultural nonpoint source best management practices shall
1598 initially focus on those priority basins listed in sub-
1599 subparagraph (a)1.a. ~~subparagraph (b)1~~. The Department of
1600 Agriculture and Consumer Services, in consultation with the
1601 department, the district, and affected parties, shall conduct an
1602 ongoing program for improvement of existing and development of
1603 new agricultural nonpoint source interim measures and ~~or~~ best
1604 management practices. The Department of Agriculture and Consumer
1605 Services shall adopt ~~for the purpose of adoption of~~ such
1606 practices by rule. The Department of Agriculture and Consumer
1607 Services shall work with the University of Florida ~~Florida's~~
1608 Institute of Food and Agriculture Sciences to review and, where
1609 appropriate, develop revised nutrient application rates for all
1610 agricultural soil amendments in the watershed.
1611 3.~~b.~~ As provided in s. 403.067, where agricultural nonpoint
1612 source best management practices or interim measures have been
1613 adopted by rule of the Department of Agriculture and Consumer
1614 Services, the owner or operator of an agricultural nonpoint
1615 source addressed by such rule shall either implement interim
1616 measures or best management practices or demonstrate compliance
1617 with state water quality standards addressed by the Lake
1618 Okeechobee Basin Management Action Plan adopted pursuant to s.
1619 403.067 ~~the district's WOD program~~ by conducting monitoring
1620 prescribed by the department or the district. Owners or
1621 operators of agricultural nonpoint sources who implement interim
1622 measures or best management practices adopted by rule of the
1623 Department of Agriculture and Consumer Services shall be subject
1624 to ~~the provisions of~~ s. 403.067~~(7)~~. ~~The Department of~~

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1625 ~~Agriculture and Consumer Services, in cooperation with the~~
1626 ~~department and the district, shall provide technical and~~
1627 ~~financial assistance for implementation of agricultural best~~
1628 ~~management practices, subject to the availability of funds.~~
1629 4.~~c.~~ The district or department shall conduct monitoring at
1630 representative sites to verify the effectiveness of agricultural
1631 nonpoint source best management practices.
1632 5.~~d.~~ Where water quality problems are detected for
1633 agricultural nonpoint sources despite the appropriate
1634 implementation of adopted best management practices, ~~the~~
1635 ~~Department of Agriculture and Consumer Services, in consultation~~
1636 ~~with the other coordinating agencies and affected parties, shall~~
1637 ~~institute~~ a reevaluation and revision of the best management
1638 practices shall be conducted pursuant to s. 403.067(7)(c)4. ~~and~~
1639 ~~make appropriate changes to the rule adopting best management~~
1640 ~~practices.~~
1641 6.~~2.~~ As provided in s. 403.067, nonagricultural nonpoint
1642 source best management practices, developed in accordance with
1643 s. 403.067 and designed to achieve the objectives of the Lake
1644 Okeechobee Watershed Protection Program as part of a phased
1645 approach of management strategies within the Lake Okeechobee
1646 Basin Management Action Plan, shall be implemented on an
1647 expedited basis. ~~The department and the district shall develop~~
1648 ~~an interagency agreement pursuant to ss. 373.046 and 373.406(5)~~
1649 ~~that assures the development of best management practices that~~
1650 ~~complement existing regulatory programs and specifies how those~~
1651 ~~best management practices are implemented and verified. The~~
1652 ~~interagency agreement shall address measures to be taken by the~~
1653 ~~department and the district during any best management practice~~

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1654 ~~reevaluation performed pursuant to sub-subparagraph d.~~
1655 7.~~a.~~ The department and the district are directed to work
1656 with the University of Florida ~~Florida's~~ Institute of Food and
1657 Agricultural Sciences to develop appropriate nutrient
1658 application rates for all nonagricultural soil amendments in the
1659 watershed. As provided in s. 403.067 ~~s. 403.067(7)(c)~~, the
1660 department, in consultation with the district and affected
1661 parties, shall develop nonagricultural nonpoint source interim
1662 measures, best management practices, or other measures necessary
1663 for Lake Okeechobee watershed total maximum daily load
1664 reduction. Development of nonagricultural nonpoint source best
1665 management practices shall initially focus on those priority
1666 basins listed in sub-subparagraph (a)1.a. ~~subparagraph (b)1~~. The
1667 department, the district, and affected parties shall conduct an
1668 ongoing program for improvement of existing and development of
1669 new interim measures and ~~or~~ best management practices. The
1670 department or the district shall adopt such practices by rule
1671 ~~The district shall adopt technology-based standards under the~~
1672 ~~district's WOD program for nonagricultural nonpoint sources of~~
1673 ~~phosphorus~~. ~~Nothing in this sub-subparagraph shall affect the~~
1674 ~~authority of the department or the district to adopt basin-~~
1675 ~~specific criteria under this part to prevent harm to the water~~
1676 ~~resources of the district.~~
1677 8.~~b.~~ Where nonagricultural nonpoint source best management
1678 practices or interim measures have been developed by the
1679 department and adopted by the district, the owner or operator of
1680 a nonagricultural nonpoint source shall implement interim
1681 measures or best management practices and be subject to ~~the~~
1682 ~~provisions of~~ s. 403.067~~(7)~~. ~~The department and district shall~~

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1683 ~~provide technical and financial assistance for implementation of~~
1684 ~~nonagricultural nonpoint source best management practices,~~
1685 ~~subject to the availability of funds.~~
1686 9.~~c.~~ As provided in s. 403.067, the district or the
1687 department shall conduct monitoring at representative sites to
1688 verify the effectiveness of nonagricultural nonpoint source best
1689 management practices.
1690 10.~~d.~~ Where water quality problems are detected for
1691 nonagricultural nonpoint sources despite the appropriate
1692 implementation of adopted best management practices, ~~the~~
1693 ~~department and the district shall institute~~ a reevaluation and
1694 revision of the best management practices shall be conducted
1695 pursuant to s. 403.067(7)(c)4.
1696 11.~~3.~~ ~~The provisions of~~ Subparagraphs ~~1. and~~ 2. and 7. do
1697 ~~may~~ not preclude the department or the district from requiring
1698 compliance with water quality standards or with current best
1699 management practices requirements set forth in any applicable
1700 regulatory program authorized by law for the purpose of
1701 protecting water quality. ~~Additionally,~~ Subparagraphs ~~1. and~~ 2.
1702 and 7. are applicable only to the extent that they do not
1703 conflict with any rules adopted by the department that are
1704 necessary to maintain a federally delegated or approved program.
1705 12. The program of agricultural best management practices
1706 set forth in the Everglades Program of the district, meets the
1707 requirements of this paragraph and s. 403.067(7) for the Lake
1708 Okeechobee watershed. An entity in compliance with best
1709 management practices set forth in the Everglades Program of the
1710 district, may elect to use that permit in lieu of the
1711 requirements of this paragraph. The provisions of s.

1712 373.4595(3)(b)5. apply to this subparagraph.
1713 13. The Department of Agriculture and Consumer Services, in
1714 cooperation with the department and the district, shall provide
1715 technical and financial assistance for implementation of
1716 agricultural best management practices, subject to the
1717 availability of funds. The department and district shall provide
1718 technical and financial assistance for implementation of
1719 nonagricultural nonpoint source best management practices,
1720 subject to the availability of funds.
1721 14.~~4.~~ Projects that reduce the phosphorus load originating
1722 from domestic wastewater systems within the Lake Okeechobee
1723 watershed shall be given funding priority in the department's
1724 revolving loan program under s. 403.1835. The department shall
1725 coordinate and provide assistance to those local governments
1726 seeking financial assistance for such priority projects.
1727 15.~~5.~~ Projects that make use of private lands, or lands
1728 held in trust for Indian tribes, to reduce nutrient loadings or
1729 concentrations within a basin by one or more of the following
1730 methods: restoring the natural hydrology of the basin, restoring
1731 wildlife habitat or impacted wetlands, reducing peak flows after
1732 storm events, increasing aquifer recharge, or protecting range
1733 and timberland from conversion to development, are eligible for
1734 grants available under this section from the coordinating
1735 agencies. For projects of otherwise equal priority, special
1736 funding priority will be given to those projects that make best
1737 use of the methods outlined above that involve public-private
1738 partnerships or that obtain federal match money. Preference
1739 ranking above the special funding priority will be given to
1740 projects located in a rural area of opportunity designated by

1741 the Governor. Grant applications may be submitted by any person
1742 or tribal entity, and eligible projects may include, but are not
1743 limited to, the purchase of conservation and flowage easements,
1744 hydrologic restoration of wetlands, creating treatment wetlands,
1745 development of a management plan for natural resources, and
1746 financial support to implement a management plan.
1747 16.~~6.a.~~ The department shall require all entities disposing
1748 of domestic wastewater biosolids ~~residuals~~ within the Lake
1749 Okeechobee watershed and the remaining areas of Okeechobee,
1750 Glades, and Hendry Counties to develop and submit to the
1751 department an agricultural use plan that limits applications
1752 based upon phosphorus loading consistent with the Lake
1753 Okeechobee Basin Management Action Plan adopted pursuant to s.
1754 403.067. ~~By July 1, 2005, phosphorus concentrations originating~~
1755 ~~from these application sites may not exceed the limits~~
1756 ~~established in the district's WOD program. After December 31,~~
1757 ~~2007,~~ The department may not authorize the disposal of domestic
1758 wastewater biosolids ~~residuals~~ within the Lake Okeechobee
1759 watershed unless the applicant can affirmatively demonstrate
1760 that the phosphorus in the biosolids ~~residuals~~ will not add to
1761 phosphorus loadings in Lake Okeechobee or its tributaries. This
1762 demonstration shall be based on achieving a net balance between
1763 phosphorus imports relative to exports on the permitted
1764 application site. Exports shall include only phosphorus removed
1765 from the Lake Okeechobee watershed through products generated on
1766 the permitted application site. This prohibition does not apply
1767 to Class AA biosolids ~~residuals~~ that are marketed and
1768 distributed as fertilizer products in accordance with department
1769 rule.

1770 17.~~b.~~ Private and government-owned utilities within Monroe,
1771 Miami-Dade, Broward, Palm Beach, Martin, St. Lucie, Indian
1772 River, Okeechobee, Highlands, Hendry, and Glades Counties that
1773 dispose of wastewater biosolids ~~residual~~ sludge from utility
1774 operations and septic removal by land spreading in the Lake
1775 Okeechobee watershed may use a line item on local sewer rates to
1776 cover wastewater biosolids ~~residual~~ treatment and disposal if
1777 such disposal and treatment is done by approved alternative
1778 treatment methodology at a facility located within the areas
1779 designated by the Governor as rural areas of opportunity
1780 pursuant to s. 288.0656. This additional line item is an
1781 environmental protection disposal fee above the present sewer
1782 rate and may not be considered a part of the present sewer rate
1783 to customers, notwithstanding provisions to the contrary in
1784 chapter 367. The fee shall be established by the county
1785 commission or its designated assignee in the county in which the
1786 alternative method treatment facility is located. The fee shall
1787 be calculated to be no higher than that necessary to recover the
1788 facility's prudent cost of providing the service. Upon request
1789 by an affected county commission, the Florida Public Service
1790 Commission will provide assistance in establishing the fee.
1791 Further, for utilities and utility authorities that use the
1792 additional line item environmental protection disposal fee, such
1793 fee may not be considered a rate increase under the rules of the
1794 Public Service Commission and shall be exempt from such rules.
1795 Utilities using ~~the provisions of~~ this section may immediately
1796 include in their sewer invoicing the new environmental
1797 protection disposal fee. Proceeds from this environmental
1798 protection disposal fee shall be used for treatment and disposal

1799 of wastewater biosolids ~~residuals~~, including any treatment
1800 technology that helps reduce the volume of biosolids ~~residuals~~
1801 that require final disposal, but such proceeds may not be used
1802 for transportation or shipment costs for disposal or any costs
1803 relating to the land application of biosolids ~~residuals~~ in the
1804 Lake Okeechobee watershed.
1805 18.~~c.~~ No less frequently than once every 3 years, the
1806 Florida Public Service Commission or the county commission
1807 through the services of an independent auditor shall perform a
1808 financial audit of all facilities receiving compensation from an
1809 environmental protection disposal fee. The Florida Public
1810 Service Commission or the county commission through the services
1811 of an independent auditor shall also perform an audit of the
1812 methodology used in establishing the environmental protection
1813 disposal fee. The Florida Public Service Commission or the
1814 county commission shall, within 120 days after completion of an
1815 audit, file the audit report with the President of the Senate
1816 and the Speaker of the House of Representatives and shall
1817 provide copies to the county commissions of the counties set
1818 forth in subparagraph 17 ~~sub-subparagraph b~~. The books and
1819 records of any facilities receiving compensation from an
1820 environmental protection disposal fee shall be open to the
1821 Florida Public Service Commission and the Auditor General for
1822 review upon request.
1823 19.~~7.~~ The Department of Health shall require all entities
1824 disposing of septage within the Lake Okeechobee watershed to
1825 develop and submit to that agency an agricultural use plan that
1826 limits applications based upon phosphorus loading consistent
1827 with the Lake Okeechobee Basin Management Action Plan adopted

1828 pursuant to s. 403.067. ~~By July 1, 2005, phosphorus~~
1829 ~~concentrations originating from these application sites may not~~
1830 ~~exceed the limits established in the district's WOD program.~~
1831 20.~~8.~~ The Department of Agriculture and Consumer Services
1832 shall initiate rulemaking requiring entities within the Lake
1833 Okeechobee watershed which land-apply animal manure to develop
1834 resource management system level conservation plans, according
1835 to United States Department of Agriculture criteria, which limit
1836 such application. Such rules may include criteria and thresholds
1837 for the requirement to develop a conservation or nutrient
1838 management plan, requirements for plan approval, and
1839 recordkeeping requirements.
1840 21. The district shall revise chapter 40E-61, Florida
1841 Administrative Code, to be consistent with this section and s.
1842 403.067; provide for a monitoring program for nonpoint source
1843 dischargers required to monitor water quality by s. 403.067; and
1844 provide for the results of such monitoring to be reported to the
1845 coordinating agencies.
1846 ~~9. The district, the department, or the Department of~~
1847 ~~Agriculture and Consumer Services, as appropriate, shall~~
1848 ~~implement those alternative nutrient reduction technologies~~
1849 ~~determined to be feasible pursuant to subparagraph (d)6.~~
1850 ~~(d) *Lake Okeechobee Watershed Research and Water Quality*~~
1851 ~~*Monitoring Program.* The district, in cooperation with the other~~
1852 ~~coordinating agencies, shall establish a Lake Okeechobee~~
1853 ~~Watershed Research and Water Quality Monitoring Program that~~
1854 ~~builds upon the district's existing Lake Okeechobee research~~
1855 ~~program. The program shall:~~
1856 ~~1. Evaluate all available existing water quality data~~

1857 ~~concerning total phosphorus in the Lake Okeechobee watershed,~~
1858 ~~develop a water quality baseline to represent existing~~
1859 ~~conditions for total phosphorus, monitor long-term ecological~~
1860 ~~changes, including water quality for total phosphorus, and~~
1861 ~~measure compliance with water quality standards for total~~
1862 ~~phosphorus, including any applicable total maximum daily load~~
1863 ~~for the Lake Okeechobee watershed as established pursuant to s.~~
1864 ~~403.067. Every 3 years, the district shall reevaluate water~~
1865 ~~quality and quantity data to ensure that the appropriate~~
1866 ~~projects are being designated and implemented to meet the water~~
1867 ~~quality and storage goals of the plan. The district shall also~~
1868 ~~implement a total phosphorus monitoring program at appropriate~~
1869 ~~structures owned or operated by the South Florida Water~~
1870 ~~Management District and within the Lake Okeechobee watershed.~~
1871 ~~2. Develop a Lake Okeechobee water quality model that~~
1872 ~~reasonably represents phosphorus dynamics of the lake and~~
1873 ~~incorporates an uncertainty analysis associated with model~~
1874 ~~predictions.~~
1875 ~~3. Determine the relative contribution of phosphorus from~~
1876 ~~all identifiable sources and all primary and secondary land~~
1877 ~~uses.~~
1878 ~~4. Conduct an assessment of the sources of phosphorus from~~
1879 ~~the Upper Kissimmee Chain-of-Lakes and Lake Istokpoga, and their~~
1880 ~~relative contribution to the water quality of Lake Okeechobee.~~
1881 ~~The results of this assessment shall be used by the coordinating~~
1882 ~~agencies to develop interim measures, best management practices,~~
1883 ~~or regulation, as applicable.~~
1884 ~~5. Assess current water management practices within the~~
1885 ~~Lake Okeechobee watershed and develop recommendations for~~

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1886 ~~structural and operational improvements. Such recommendations~~
1887 ~~shall balance water supply, flood control, estuarine salinity,~~
1888 ~~maintenance of a healthy lake littoral zone, and water quality~~
1889 ~~considerations.~~
1890 ~~6. Evaluate the feasibility of alternative nutrient~~
1891 ~~reduction technologies, including sediment traps, canal and~~
1892 ~~ditch maintenance, fish production or other aquaculture,~~
1893 ~~bioenergy conversion processes, and algal or other biological~~
1894 ~~treatment technologies.~~
1895 ~~7. Conduct an assessment of the water volumes and timing~~
1896 ~~from the Lake Okeechobee watershed and their relative~~
1897 ~~contribution to the water level changes in Lake Okeechobee and~~
1898 ~~to the timing and volume of water delivered to the estuaries.~~
1899 (c) ~~(e)~~ *Lake Okeechobee Exotic Species Control Program.*—The
1900 coordinating agencies shall identify the exotic species that
1901 threaten the native flora and fauna within the Lake Okeechobee
1902 watershed and develop and implement measures to protect the
1903 native flora and fauna.
1904 (d) ~~(f)~~ *Lake Okeechobee Internal Phosphorus Management*
1905 *Program.*—The district, in cooperation with the other
1906 coordinating agencies and interested parties, shall evaluate the
1907 feasibility of ~~complete a~~ Lake Okeechobee internal phosphorus
1908 load removal projects ~~feasibility study~~. The evaluation
1909 ~~feasibility study~~ shall be based on technical feasibility, as
1910 well as economic considerations, and shall consider ~~address~~ all
1911 reasonable methods of phosphorus removal. If projects ~~methods~~
1912 are found to be feasible, the district shall immediately pursue
1913 the design, funding, and permitting for implementing such
1914 projects ~~methods~~.

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1915 (e) ~~(g)~~ *Lake Okeechobee Watershed Protection Program ~~Plan~~*
1916 *implementation.*—The coordinating agencies shall be jointly
1917 responsible for implementing the Lake Okeechobee Watershed
1918 Protection Program ~~Plan~~, consistent with the statutory authority
1919 and responsibility of each agency. Annual funding priorities
1920 shall be jointly established, and the highest priority shall be
1921 assigned to programs and projects that address sources that have
1922 the highest relative contribution to loading and the greatest
1923 potential for reductions needed to meet the total maximum daily
1924 loads. In determining funding priorities, the coordinating
1925 agencies shall also consider the need for regulatory compliance,
1926 the extent to which the program or project is ready to proceed,
1927 and the availability of federal matching funds or other nonstate
1928 funding, including public-private partnerships. Federal and
1929 other nonstate funding shall be maximized to the greatest extent
1930 practicable.
1931 (f) ~~(h)~~ *Priorities and implementation schedules.*—The
1932 coordinating agencies are authorized and directed to establish
1933 priorities and implementation schedules for the achievement of
1934 total maximum daily loads, compliance with the requirements of
1935 s. 403.067, and compliance with applicable water quality
1936 standards within the waters and watersheds subject to this
1937 section.
1938 ~~(i) *Legislative ratification.*—The coordinating agencies~~
1939 ~~shall submit the Phase II technical plan developed pursuant to~~
1940 ~~paragraph (b) to the President of the Senate and the Speaker of~~
1941 ~~the House of Representatives prior to the 2008 legislative~~
1942 ~~session for review. If the Legislature takes no action on the~~
1943 ~~plan during the 2008 legislative session, the plan is deemed~~

1944 ~~approved and may be implemented.~~
1945 (4) CALOOSAHATCHEE RIVER WATERSHED PROTECTION PROGRAM AND
1946 ST. LUCIE RIVER WATERSHED PROTECTION PROGRAM.—A protection
1947 program shall be developed and implemented as specified in this
1948 subsection. In order to protect and restore surface water
1949 resources, the program shall address the reduction of pollutant
1950 loadings, restoration of natural hydrology, and compliance with
1951 applicable state water quality standards. The program shall be
1952 achieved through a phased program of implementation. In
1953 addition, pollutant load reductions based upon adopted total
1954 maximum daily loads established in accordance with s. 403.067
1955 shall serve as a program objective. In the development and
1956 administration of the program, the coordinating agencies shall
1957 maximize opportunities provided by federal and local government
1958 cost-sharing programs and opportunities for partnerships with
1959 the private sector and local government. The program ~~plan~~ shall
1960 include a goal for salinity envelopes and freshwater inflow
1961 targets for the estuaries based upon existing research and
1962 documentation. The goal may be revised as new information is
1963 available. This goal shall seek to reduce the frequency and
1964 duration of undesirable salinity ranges while meeting the other
1965 water-related needs of the region, including water supply and
1966 flood protection, while recognizing the extent to which water
1967 inflows are within the control and jurisdiction of the district.
1968 (a) *Caloosahatchee River Watershed Protection Plan.*—~~No~~
1969 ~~later than January 1, 2009,~~ The district, in cooperation with
1970 the other coordinating agencies, Lee County, and affected
1971 counties and municipalities, shall complete a River Watershed
1972 Protection Plan in accordance with this subsection. The

1973 Caloosahatchee River Watershed Protection Plan shall identify
1974 the geographic extent of the watershed, be coordinated as needed
1975 with the plans developed pursuant to paragraph (3)(a) and
1976 paragraph (c) ~~(b)~~ of this subsection, and ~~contain an~~
1977 ~~implementation schedule for pollutant load reductions consistent~~
1978 ~~with any adopted total maximum daily loads and compliance with~~
1979 ~~applicable state water quality standards. The plan shall~~ include
1980 the Caloosahatchee River Watershed Construction Project and the
1981 Caloosahatchee River Watershed Research and Water Quality
1982 Monitoring Program.~~:~~
1983 1. Caloosahatchee River Watershed Construction Project.—To
1984 improve the hydrology, water quality, and aquatic habitats
1985 within the watershed, the district shall, no later than January
1986 1, 2012, plan, design, and construct the initial phase of the
1987 Watershed Construction Project. In doing so, the district shall:
1988 a. Develop and designate the facilities to be constructed
1989 to achieve stated goals and objectives of the Caloosahatchee
1990 River Watershed Protection Plan.
1991 b. Conduct scientific studies that are necessary to support
1992 the design of the Caloosahatchee River Watershed Construction
1993 Project facilities.
1994 c. Identify the size and location of all such facilities.
1995 d. Provide a construction schedule for all such facilities,
1996 including the sequencing and specific timeframe for construction
1997 of each facility.
1998 e. Provide a schedule for the acquisition of lands or
1999 sufficient interests necessary to achieve the construction
2000 schedule.
2001 f. Provide a schedule of costs and benefits associated with

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2002 each construction project and identify funding sources.
2003 g. To ensure timely implementation, coordinate the design,
2004 scheduling, and sequencing of project facilities with the
2005 coordinating agencies, Lee County, other affected counties and
2006 municipalities, and other affected parties.
2007 2. Caloosahatchee River Watershed Research and Water
2008 Quality Monitoring Program.—The district, in cooperation with
2009 the other coordinating agencies and local governments, shall
2010 implement a Caloosahatchee River Watershed Research and Water
2011 Quality Monitoring Program that builds upon the district's
2012 existing research program and that is sufficient to carry out,
2013 comply with, or assess the plans, programs, and other
2014 responsibilities created by this subsection. The program shall
2015 also conduct an assessment of the water volumes and timing from
2016 Lake Okeechobee and the Caloosahatchee River watershed and their
2017 relative contributions to the timing and volume of water
2018 delivered to the estuary.
2019 (b)~~2.~~ *Caloosahatchee River Watershed Basin Management*
2020 *Action Plans* ~~Pollutant Control Program~~.—The basin management
2021 action plans adopted pursuant to s. 403.067 for the
2022 Caloosahatchee River watershed shall be the Caloosahatchee River
2023 Watershed Pollutant Control Program. The plans shall be ~~is~~
2024 designed to be a multifaceted approach to reducing pollutant
2025 loads by improving the management of pollutant sources within
2026 the Caloosahatchee River watershed through implementation of
2027 regulations and best management practices, development and
2028 implementation of improved best management practices,
2029 improvement and restoration of the hydrologic function of
2030 natural and managed systems, and utilization of alternative

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2031 technologies for pollutant reduction, such as cost-effective
2032 biologically based, hybrid wetland/chemical and other innovative
2033 nutrient control technologies. The plans shall contain an
2034 implementation schedule for pollutant load reductions consistent
2035 with the adopted total maximum daily load. The coordinating
2036 agencies shall facilitate the use ~~utilization~~ of federal
2037 programs that offer opportunities for water quality treatment,
2038 including preservation, restoration, or creation of wetlands on
2039 agricultural lands.
2040 1.~~a.~~ Nonpoint source best management practices consistent
2041 with s. 403.067 ~~paragraph (3)(c)~~, designed to achieve the
2042 objectives of the Caloosahatchee River Watershed Protection
2043 Program, shall be implemented on an expedited basis. The
2044 coordinating agencies may develop an intergovernmental agreement
2045 with local governments to implement the nonagricultural,
2046 nonpoint-source best management practices within their
2047 respective geographic boundaries.
2048 2.~~b.~~ This subsection does not preclude the department or
2049 the district from requiring compliance with water quality
2050 standards, adopted total maximum daily loads, or current best
2051 management practices requirements set forth in any applicable
2052 regulatory program authorized by law for the purpose of
2053 protecting water quality. This subsection applies only to the
2054 extent that it does not conflict with any rules adopted by the
2055 department or district which are necessary to maintain a
2056 federally delegated or approved program.
2057 3.~~c.~~ Projects that make use of private lands, or lands held
2058 in trust for Indian tribes, to reduce pollutant loadings or
2059 concentrations within a basin, or that reduce the volume of

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2060 harmful discharges by one or more of the following methods:
2061 restoring the natural hydrology of the basin, restoring wildlife
2062 habitat or impacted wetlands, reducing peak flows after storm
2063 events, or increasing aquifer recharge, are eligible for grants
2064 available under this section from the coordinating agencies.
2065 4.~~d.~~ The Caloosahatchee River Watershed Basin Management
2066 Action Plans ~~Pollutant Control Program~~ shall require assessment
2067 of current water management practices within the watershed and
2068 shall require development of recommendations for structural,
2069 nonstructural, and operational improvements. Such
2070 recommendations shall consider and balance water supply, flood
2071 control, estuarine salinity, aquatic habitat, and water quality
2072 considerations.
2073 5.~~e.~~ ~~After December 31, 2007,~~ The department may not
2074 authorize the disposal of domestic wastewater biosolids
2075 ~~residuals~~ within the Caloosahatchee River watershed unless the
2076 applicant can affirmatively demonstrate that the nutrients in
2077 the biosolids ~~residuals~~ will not add to nutrient loadings in the
2078 watershed. This demonstration shall be based on achieving a net
2079 balance between nutrient imports relative to exports on the
2080 permitted application site. Exports shall include only nutrients
2081 removed from the watershed through products generated on the
2082 permitted application site. This prohibition does not apply to
2083 Class AA biosolids ~~residuals~~ that are marketed and distributed
2084 as fertilizer products in accordance with department rule.
2085 6.~~f.~~ The Department of Health shall require all entities
2086 disposing of septage within the Caloosahatchee River watershed
2087 to develop and submit to that agency an agricultural use plan
2088 that limits applications based upon nutrient loading consistent

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2089 with any basin management action plan adopted pursuant to s.
2090 403.067. ~~By July 1, 2008, nutrient concentrations originating~~
2091 ~~from these application sites may not exceed the limits~~
2092 ~~established in the district's WOD program.~~
2093 7.~~g.~~ The Department of Agriculture and Consumer Services
2094 shall require ~~initiate rulemaking requiring~~ entities within the
2095 Caloosahatchee River watershed which land-apply animal manure to
2096 develop a resource management system level conservation plan,
2097 according to United States Department of Agriculture criteria,
2098 which limit such application. Such rules may include criteria
2099 and thresholds for the requirement to develop a conservation or
2100 nutrient management plan, requirements for plan approval, and
2101 recordkeeping requirements.
2102 8. The district shall initiate rulemaking to provide for a
2103 monitoring program for nonpoint source dischargers required to
2104 monitor water quality pursuant to s. 403.067(7)(b)2.g. or s.
2105 403.067(7)(c)3. The results of such monitoring must be reported
2106 to the coordinating agencies.
2107 ~~3. Caloosahatchee River Watershed Research and Water~~
2108 ~~Quality Monitoring Program.—The district, in cooperation with~~
2109 ~~the other coordinating agencies and local governments, shall~~
2110 ~~establish a Caloosahatchee River Watershed Research and Water~~
2111 ~~Quality Monitoring Program that builds upon the district's~~
2112 ~~existing research program and that is sufficient to carry out,~~
2113 ~~comply with, or assess the plans, programs, and other~~
2114 ~~responsibilities created by this subsection. The program shall~~
2115 ~~also conduct an assessment of the water volumes and timing from~~
2116 ~~the Lake Okeechobee and Caloosahatchee River watersheds and~~
2117 ~~their relative contributions to the timing and volume of water~~

2118 ~~delivered to the estuary.~~
2119 (c)~~(b)~~ *St. Lucie River Watershed Protection Plan.*~~—No later~~
2120 ~~than January 1, 2009,~~ The district, in cooperation with the
2121 other coordinating agencies, Martin County, and affected
2122 counties and municipalities shall complete a plan in accordance
2123 with this subsection. The St. Lucie River Watershed Protection
2124 Plan shall identify the geographic extent of the watershed, be
2125 coordinated as needed with the plans developed pursuant to
2126 paragraph (3)(a) and paragraph (a) of this subsection, and
2127 ~~contain an implementation schedule for pollutant load reductions~~
2128 ~~consistent with any adopted total maximum daily loads and~~
2129 ~~compliance with applicable state water quality standards. The~~
2130 ~~plan shall~~ include the St. Lucie River Watershed Construction
2131 Project and St. Lucie River Watershed Research and Water Quality
2132 Monitoring Program.~~:~~
2133 1. St. Lucie River Watershed Construction Project.—To
2134 improve the hydrology, water quality, and aquatic habitats
2135 within the watershed, the district shall, no later than January
2136 1, 2012, plan, design, and construct the initial phase of the
2137 Watershed Construction Project. In doing so, the district shall:
2138 a. Develop and designate the facilities to be constructed
2139 to achieve stated goals and objectives of the St. Lucie River
2140 Watershed Protection Plan.
2141 b. Identify the size and location of all such facilities.
2142 c. Provide a construction schedule for all such facilities,
2143 including the sequencing and specific timeframe for construction
2144 of each facility.
2145 d. Provide a schedule for the acquisition of lands or
2146 sufficient interests necessary to achieve the construction

2147 schedule.
2148 e. Provide a schedule of costs and benefits associated with
2149 each construction project and identify funding sources.
2150 f. To ensure timely implementation, coordinate the design,
2151 scheduling, and sequencing of project facilities with the
2152 coordinating agencies, Martin County, St. Lucie County, other
2153 interested parties, and other affected local governments.
2154 2. St. Lucie River Watershed Research and Water Quality
2155 Monitoring Program.—The district, in cooperation with the other
2156 coordinating agencies and local governments, shall establish a
2157 St. Lucie River Watershed Research and Water Quality Monitoring
2158 Program that builds upon the district's existing research
2159 program and that is sufficient to carry out, comply with, or
2160 assess the plans, programs, and other responsibilities created
2161 by this subsection. The program shall also conduct an assessment
2162 of the water volumes and timing from Lake Okeechobee and the St.
2163 Lucie River watershed and their relative contributions to the
2164 timing and volume of water delivered to the estuary.
2165 (d)~~2.~~ *St. Lucie River Watershed Basin Management Action*
2166 *Plans* ~~Pollutant Control Program~~.—Basin management action plans
2167 for the St. Lucie River watershed adopted pursuant to s. 403.067
2168 shall be the St. Lucie River Watershed Pollutant Control Program
2169 and shall be ~~is~~ designed to be a multifaceted approach to
2170 reducing pollutant loads by improving the management of
2171 pollutant sources within the St. Lucie River watershed through
2172 implementation of regulations and best management practices,
2173 development and implementation of improved best management
2174 practices, improvement and restoration of the hydrologic
2175 function of natural and managed systems, and use ~~utilization~~ of

2176 alternative technologies for pollutant reduction, such as cost-
2177 effective biologically based, hybrid wetland/chemical and other
2178 innovative nutrient control technologies. The plan shall contain
2179 an implementation schedule for pollutant load reductions
2180 consistent with the adopted total maximum daily load. The
2181 coordinating agencies shall facilitate the use ~~utilization~~ of
2182 federal programs that offer opportunities for water quality
2183 treatment, including preservation, restoration, or creation of
2184 wetlands on agricultural lands.
2185 1.~~a.~~ Nonpoint source best management practices consistent
2186 with s. 403.067 ~~paragraph (3)(c)~~, designed to achieve the
2187 objectives of the St. Lucie River Watershed Protection Program,
2188 shall be implemented on an expedited basis. The coordinating
2189 agencies may develop an intergovernmental agreement with local
2190 governments to implement the nonagricultural nonpoint source
2191 best management practices within their respective geographic
2192 boundaries.
2193 2.~~b.~~ This subsection does not preclude the department or
2194 the district from requiring compliance with water quality
2195 standards, adopted total maximum daily loads, or current best
2196 management practices requirements set forth in any applicable
2197 regulatory program authorized by law for the purpose of
2198 protecting water quality. This subsection applies only to the
2199 extent that it does not conflict with any rules adopted by the
2200 department or district which are necessary to maintain a
2201 federally delegated or approved program.
2202 3.~~c.~~ Projects that make use of private lands, or lands held
2203 in trust for Indian tribes, to reduce pollutant loadings or
2204 concentrations within a basin, or that reduce the volume of

2205 harmful discharges by one or more of the following methods:
2206 restoring the natural hydrology of the basin, restoring wildlife
2207 habitat or impacted wetlands, reducing peak flows after storm
2208 events, or increasing aquifer recharge, are eligible for grants
2209 available under this section from the coordinating agencies.
2210 4.~~d.~~ The St. Lucie River Watershed Basin Management Action
2211 Plans ~~Pollutant Control Program~~ shall require assessment of
2212 current water management practices within the watershed and
2213 shall require development of recommendations for structural,
2214 nonstructural, and operational improvements. Such
2215 recommendations shall consider and balance water supply, flood
2216 control, estuarine salinity, aquatic habitat, and water quality
2217 considerations.
2218 5.~~e.~~ ~~After December 31, 2007,~~ The department may not
2219 authorize the disposal of domestic wastewater biosolids
2220 ~~residuals~~ within the St. Lucie River watershed unless the
2221 applicant can affirmatively demonstrate that the nutrients in
2222 the biosolids ~~residuals~~ will not add to nutrient loadings in the
2223 watershed. This demonstration shall be based on achieving a net
2224 balance between nutrient imports relative to exports on the
2225 permitted application site. Exports shall include only nutrients
2226 removed from the St. Lucie River watershed through products
2227 generated on the permitted application site. This prohibition
2228 does not apply to Class AA biosolids ~~residuals~~ that are marketed
2229 and distributed as fertilizer products in accordance with
2230 department rule.
2231 6.~~f.~~ The Department of Health shall require all entities
2232 disposing of septage within the St. Lucie River watershed to
2233 develop and submit to that agency an agricultural use plan that

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2234 limits applications based upon nutrient loading consistent with
2235 any basin management action plan adopted pursuant to s. 403.067.
2236 ~~By July 1, 2008, nutrient concentrations originating from these~~
2237 ~~application sites may not exceed the limits established in the~~
2238 ~~district's WOD program.~~
2239 7.~~g.~~ The Department of Agriculture and Consumer Services
2240 shall initiate rulemaking requiring entities within the St.
2241 Lucie River watershed which land-apply animal manure to develop
2242 a resource management system level conservation plan, according
2243 to United States Department of Agriculture criteria, which limit
2244 such application. Such rules may include criteria and thresholds
2245 for the requirement to develop a conservation or nutrient
2246 management plan, requirements for plan approval, and
2247 recordkeeping requirements.
2248 8. The district shall initiate rulemaking to provide for a
2249 monitoring program for nonpoint source dischargers required to
2250 monitor water quality pursuant to s. 403.067(7)(b)2.g. or s.
2251 403.067(7)(c)3. The results of such monitoring must be reported
2252 to the coordinating agencies.
2253 ~~3. St. Lucie River Watershed Research and Water Quality~~
2254 ~~Monitoring Program.—The district, in cooperation with the other~~
2255 ~~coordinating agencies and local governments, shall establish a~~
2256 ~~St. Lucie River Watershed Research and Water Quality Monitoring~~
2257 ~~Program that builds upon the district's existing research~~
2258 ~~program and that is sufficient to carry out, comply with, or~~
2259 ~~assess the plans, programs, and other responsibilities created~~
2260 ~~by this subsection. The program shall also conduct an assessment~~
2261 ~~of the water volumes and timing from the Lake Okeechobee and St.~~
2262 ~~Lucie River watersheds and their relative contributions to the~~

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~~timing and volume of water delivered to the estuary.~~

(e) ~~(c)~~ *River Watershed Protection Plan implementation.*—The coordinating agencies shall be jointly responsible for implementing the River Watershed Protection Plans, consistent with the statutory authority and responsibility of each agency. Annual funding priorities shall be jointly established, and the highest priority shall be assigned to programs and projects that have the greatest potential for achieving the goals and objectives of the plans. In determining funding priorities, the coordinating agencies shall also consider the need for regulatory compliance, the extent to which the program or project is ready to proceed, and the availability of federal or local government matching funds. Federal and other nonstate funding shall be maximized to the greatest extent practicable.

(f) ~~(d)~~ *Evaluation.*—Beginning ~~By~~ March 1, 2020 ~~2012~~, and every 5 ~~3~~ years thereafter concurrent with the updates of the basin management action plans adopted pursuant to s. 403.067, the district, in cooperation with the other coordinating agencies, shall conduct an evaluation of any pollutant load reduction goals, as well as any other specific objectives and goals, as stated in the River Watershed Protection Programs ~~Plans~~. ~~Additionally,~~ The district shall identify modifications to facilities of the River Watershed Construction Projects, as appropriate, or any other elements of the River Watershed Protection Programs ~~Plans~~. The evaluation shall be included in the annual progress report submitted pursuant to this section.

(g) ~~(e)~~ *Priorities and implementation schedules.*—The coordinating agencies are authorized and directed to establish priorities and implementation schedules for the achievement of

total maximum daily loads, the requirements of s. 403.067, and compliance with applicable water quality standards within the waters and watersheds subject to this section.

~~(f) *Legislative ratification.*—The coordinating agencies shall submit the River Watershed Protection Plans developed pursuant to paragraphs (a) and (b) to the President of the Senate and the Speaker of the House of Representatives prior to the 2009 legislative session for review. If the Legislature takes no action on the plan during the 2009 legislative session, the plan is deemed approved and may be implemented.~~

(5) ADOPTION AND IMPLEMENTATION OF TOTAL MAXIMUM DAILY LOADS AND DEVELOPMENT OF BASIN MANAGEMENT ACTION PLANS.—The department is directed to expedite development and adoption of total maximum daily loads for the Caloosahatchee River and estuary. The department is further directed to~~, no later than December 31, 2008,~~ propose for final agency action total maximum daily loads for nutrients in the tidal portions of the Caloosahatchee River and estuary. The department shall initiate development of basin management action plans for Lake Okeechobee, the Caloosahatchee River watershed and estuary, and the St. Lucie River watershed and estuary as provided in s. 403.067 ~~s. 403.067(7)(a)~~ as follows:

(a) Basin management action plans shall be developed as soon as practicable as determined necessary by the department to achieve the total maximum daily loads established for the Lake Okeechobee watershed and the estuaries.

(b) The Phase II technical plan development pursuant to paragraph (3)(a) ~~(3)(b)~~, and the River Watershed Protection Plans developed pursuant to paragraphs (4)(a) and (c) ~~(b)~~, shall

2321 provide the basis for basin management action plans developed by
2322 the department.
2323 (c) As determined necessary by the department in order to
2324 achieve the total maximum daily loads, additional or modified
2325 projects or programs that complement those in the legislatively
2326 ratified plans may be included during the development of the
2327 basin management action plan.
2328 (d) As provided in s. 403.067, management strategies and
2329 pollution reduction requirements set forth in a basin management
2330 action plan subject to permitting by the department under
2331 subsection (7) must be completed pursuant to the schedule set
2332 forth in the basin management action plan, as amended. The
2333 implementation schedule may extend beyond the 5-year permit
2334 term.
2335 (e) As provided in s. 403.067, management strategies and
2336 pollution reduction requirements set forth in a basin management
2337 action plan for a specific pollutant of concern are not subject
2338 to challenge under chapter 120 at the time they are
2339 incorporated, in an identical form, into a department or
2340 district issued permit or a permit modification issued in
2341 accordance with subsection (7).
2342 ~~(d) Development of basin management action plans that~~
2343 ~~implement the provisions of the legislatively ratified plans~~
2344 ~~shall be initiated by the department no later than September 30~~
2345 ~~of the year in which the applicable plan is ratified. Where a~~
2346 ~~total maximum daily load has not been established at the time of~~
2347 ~~plan ratification, development of basin management action plans~~
2348 ~~shall be initiated no later than 90 days following adoption of~~
2349 ~~the applicable total maximum daily load.~~

2350 (6) ANNUAL PROGRESS REPORT.—Each March 1 the district, in
2351 cooperation with the other coordinating agencies, shall report
2352 on implementation of this section as part of the consolidated
2353 annual report required in s. 373.036(7). The annual report shall
2354 include a summary of the conditions of the hydrology, water
2355 quality, and aquatic habitat in the northern Everglades based on
2356 the results of the Research and Water Quality Monitoring
2357 Programs, the status of the Lake Okeechobee Watershed
2358 Construction Project, the status of the Caloosahatchee River
2359 Watershed Construction Project, and the status of the St. Lucie
2360 River Watershed Construction Project. In addition, the report
2361 shall contain an annual accounting of the expenditure of funds
2362 from the Save Our Everglades Trust Fund. At a minimum, the
2363 annual report shall provide detail by program and plan,
2364 including specific information concerning the amount and use of
2365 funds from federal, state, or local government sources. In
2366 detailing the use of these funds, the district shall indicate
2367 those designated to meet requirements for matching funds. The
2368 district shall prepare the report in cooperation with the other
2369 coordinating agencies and affected local governments. The
2370 department shall report on the status of the Lake Okeechobee
2371 Basin Management Action Plan, the Caloosahatchee River Watershed
2372 Basin Management Action Plan, and the St. Lucie River Watershed
2373 Basin Management Action Plan. The Department of Agriculture and
2374 Consumer Services shall report on the status of the
2375 implementation of the agricultural nonpoint source best
2376 management practices.
2377 (7) LAKE OKEECHOBEE PROTECTION PERMITS.—
2378 (a) The Legislature finds that the Lake Okeechobee

2379 Watershed Protection Program will benefit Lake Okeechobee and
2380 downstream receiving waters and is in ~~consistent with~~ the public
2381 interest. The Lake Okeechobee Watershed Construction Project,
2382 and structures discharging into or from Lake Okeechobee shall be
2383 constructed, operated, and maintained in accordance with this
2384 section.
2385 (b) Permits obtained pursuant to this section are in lieu
2386 of all other permits under this chapter or chapter 403, except
2387 those issued under s. 403.0885, if applicable. ~~No~~ Additional
2388 permits are not required for the Lake Okeechobee Watershed
2389 Construction Project, or structures discharging into or from
2390 Lake Okeechobee, if such project or structures are permitted
2391 under this section. Construction activities related to
2392 implementation of the Lake Okeechobee Watershed Construction
2393 Project may be initiated before ~~prior to~~ final agency action, or
2394 notice of intended agency action, on any permit from the
2395 department under this section.
2396 (c)1. ~~Within 90 days of completion of the diversion plans~~
2397 ~~set forth in Department Consent Orders 91-0694, 91-0707, 91-~~
2398 ~~0706, 91-0705, and RT50-205564,~~ Owners or operators of existing
2399 structures which discharge into or from Lake Okeechobee that
2400 were subject to Department Consent Orders 91-0694, 91-0705, 91-
2401 0706, 91-0707, and RT50-205564 and that are subject to ~~the~~
2402 ~~provisions of~~ s. 373.4592(4)(a) do not require a permit under
2403 this section and shall be governed by permits issued under ~~apply~~
2404 ~~for a permit from the department to operate and maintain such~~
2405 ~~structures. By September 1, 2000, owners or operators of all~~
2406 ~~other existing structures which discharge into or from Lake~~
2407 ~~Okeechobee shall apply for a permit from the department to~~

2408 ~~operate and maintain such structures. The department shall issue~~
2409 ~~one or more such permits for a term of 5 years upon the~~
2410 ~~demonstration of reasonable assurance that schedules and~~
2411 ~~strategies to achieve and maintain compliance with water quality~~
2412 ~~standards have been provided for, to the maximum extent~~
2413 ~~practicable, and that operation of the structures otherwise~~
2414 ~~complies with provisions of~~ ss. 373.413 and 373.416 and the Lake
2415 Okeechobee Basin Management Action Plan adopted pursuant to s.
2416 403.067.
2417 ~~1. Permits issued under this paragraph shall also contain~~
2418 ~~reasonable conditions to ensure that discharges of waters~~
2419 ~~through structures:~~
2420 ~~a. Are adequately and accurately monitored;~~
2421 ~~b. Will not degrade existing Lake Okeechobee water quality~~
2422 ~~and will result in an overall reduction of phosphorus input into~~
2423 ~~Lake Okeechobee, as set forth in the district's Technical~~
2424 ~~Publication 81-2 and the total maximum daily load established in~~
2425 ~~accordance with s. 403.067, to the maximum extent practicable;~~
2426 ~~and~~
2427 ~~c. Do not pose a serious danger to public health, safety,~~
2428 ~~or welfare.~~
2429 2. For the purposes of this paragraph, owners and operators
2430 of existing structures which are subject to ~~the provisions of~~ s.
2431 373.4592(4)(a) and which discharge into or from Lake Okeechobee
2432 shall be deemed in compliance with this paragraph ~~the term~~
2433 ~~"maximum extent practicable"~~ if they are in full compliance with
2434 the conditions of permits under chapter ~~chapters 40E-61 and~~ 40E-
2435 63, Florida Administrative Code.
2436 3. ~~By January 1, 2004,~~ The district shall obtain from

2437 ~~submit to~~ the department a permit modification to the Lake
2438 Okeechobee structure permits to incorporate proposed changes
2439 necessary to ensure that discharges through the structures
2440 covered by this permit are consistent with the basin management
2441 action plan adopted pursuant to ~~achieve state water quality~~
2442 ~~standards, including the total maximum daily load established in~~
2443 ~~accordance with~~ s. 403.067. ~~These changes shall be designed to~~
2444 ~~achieve such compliance with state water quality standards no~~
2445 ~~later than January 1, 2015.~~
2446 (d) The department shall require permits for district
2447 regional projects that are part of the Lake Okeechobee Watershed
2448 Construction Project ~~facilities~~. However, projects ~~identified in~~
2449 ~~sub-subparagraph (3)(b)1.b.~~ that qualify as exempt pursuant to
2450 s. 373.406 do ~~shall~~ not require ~~need~~ permits under this section.
2451 Such permits shall be issued for a term of 5 years upon the
2452 demonstration of reasonable assurances that:
2453 1. District regional projects that are part of the Lake
2454 Okeechobee Watershed Construction Project shall ~~facility, based~~
2455 ~~upon the conceptual design documents and any subsequent detailed~~
2456 ~~design documents developed by the district, will~~ achieve the
2457 design objectives for phosphorus required in subparagraph
2458 (3)(a)1. ~~paragraph (3)(b)~~;
2459 2. For water quality standards other than phosphorus, the
2460 quality of water discharged from the facility is of equal or
2461 better quality than the inflows;
2462 3. Discharges from the facility do not pose a serious
2463 danger to public health, safety, or welfare; and
2464 4. Any impacts on wetlands or state-listed species
2465 resulting from implementation of that facility of the Lake

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2466 Okeechobee Construction Project are minimized and mitigated, as
2467 appropriate.
2468 (e) At least 60 days before ~~prior to~~ the expiration of any
2469 permit issued under this section, the permittee may apply for a
2470 renewal thereof for a period of 5 years.
2471 (f) Permits issued under this section may include any
2472 standard conditions provided by department rule which are
2473 appropriate and consistent with this section.
2474 (g) Permits issued under ~~pursuant to~~ this section may be
2475 modified, as appropriate, upon review and approval by the
2476 department.
2477 (8) ENFORCEMENT OF BASIN MANAGEMENT ACTION PLANS.—The basin
2478 management action plans for Lake Okeechobee, the Caloosahatchee
2479 River watershed and estuary, and the St. Lucie River watershed
2480 and estuary are enforceable pursuant to ss. 403.067, 403.121,
2481 403.141, and 403.161.
2482 Section 19. Paragraphs (a) and (b) of subsection (6) of
2483 section 373.536, Florida Statutes, are amended to read:
2484 373.536 District budget and hearing thereon.—
2485 (6) FINAL BUDGET; ANNUAL AUDIT; CAPITAL IMPROVEMENTS PLAN;
2486 WATER RESOURCE DEVELOPMENT WORK PROGRAM.—
2487 (a) Each district must, by the date specified for each
2488 item, furnish copies of the following documents to the Governor,
2489 the President of the Senate, the Speaker of the House of
2490 Representatives, the chairs of all legislative committees and
2491 subcommittees having substantive or fiscal jurisdiction over the
2492 districts, as determined by the President of the Senate or the
2493 Speaker of the House of Representatives as applicable, the
2494 secretary of the department, and the governing board of each

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2495 county in which the district has jurisdiction or derives any
2496 funds for the operations of the district:
2497 1. The adopted budget, to be furnished within 10 days after
2498 its adoption.
2499 2. A financial audit of its accounts and records, to be
2500 furnished within 10 days after its acceptance by the governing
2501 board. The audit must be conducted in accordance with s. 11.45
2502 and the rules adopted thereunder. In addition to the entities
2503 named above, the district must provide a copy of the audit to
2504 the Auditor General within 10 days after its acceptance by the
2505 governing board.
2506 3. A 5-year capital improvements plan, to be included in
2507 the consolidated annual report required by s. 373.036(7). The
2508 plan must include expected sources of revenue for planned
2509 improvements and must be prepared in a manner comparable to the
2510 fixed capital outlay format set forth in s. 216.043.
2511 4. A 5-year water resource development work program to be
2512 furnished within 30 days after the adoption of the final budget.
2513 The program must describe the district's implementation strategy
2514 and include an annual funding plan for each of the 5 years
2515 included in the plan for the water resource and~~,~~ water supply~~,~~
2516 development components, including ~~and~~ alternative water supply
2517 development, ~~components~~ of each approved regional water supply
2518 plan developed or revised under s. 373.709. The work program
2519 must address all the elements of the water resource development
2520 component in the district's approved regional water supply
2521 plans, as well as the water supply projects proposed for
2522 district funding and assistance. The annual funding plan shall
2523 identify both anticipated available district funding and

2524 additional funding needs for the second through fifth years of
2525 the funding plan. Funding requests for projects submitted for
2526 consideration for state funding pursuant to s. 403.0616 shall be
2527 identified separately. The work program ~~and~~ must identify
2528 projects in the work program which will provide water; explain
2529 how each water resource~~,~~ and water supply~~, and alternative water~~
2530 ~~supply development~~ project will produce additional water
2531 available for consumptive uses; estimate the quantity of water
2532 to be produced by each project; ~~and~~ provide an assessment of the
2533 contribution of the district's regional water supply plans in
2534 supporting the implementation of minimum flows and levels and
2535 reservations; and ensure ~~providing~~ sufficient water is available
2536 ~~needed~~ to timely meet the water supply needs of existing and
2537 future reasonable-beneficial uses for a 1-in-10-year drought
2538 event and to avoid the adverse effects of competition for water
2539 supplies.
2540 (b) Within 30 days after its submittal, the department
2541 shall review the proposed work program and submit its findings,
2542 questions, and comments to the district. The review must include
2543 a written evaluation of the program's consistency with the
2544 furtherance of the district's approved regional water supply
2545 plans, and the adequacy of proposed expenditures. As part of the
2546 review, the department shall post the work program on its
2547 website and give interested parties the opportunity to provide
2548 written comments on each district's proposed work program.
2549 Within 45 days after receipt of the department's evaluation, the
2550 governing board shall state in writing to the department which
2551 of the changes recommended in the evaluation it will incorporate
2552 into its work program submitted as part of the March 1

2553 consolidated annual report required by s. 373.036(7) or specify
2554 the reasons for not incorporating the changes. The department
2555 shall include the district's responses in a final evaluation
2556 report and shall submit a copy of the report to the Governor,
2557 the President of the Senate, and the Speaker of the House of
2558 Representatives.
2559 Section 20. Subsection (9) of section 373.703, Florida
2560 Statutes, is amended to read:
2561 373.703 Water production; general powers and duties.—In the
2562 performance of, and in conjunction with, its other powers and
2563 duties, the governing board of a water management district
2564 existing pursuant to this chapter:
2565 (9) May join with one or more other water management
2566 districts, counties, municipalities, special districts, publicly
2567 owned or privately owned water utilities, multijurisdictional
2568 water supply entities, regional water supply authorities,
2569 private landowners, or self-suppliers for the purpose of
2570 carrying out its powers, and may contract with such other
2571 entities to finance acquisitions, construction, operation, and
2572 maintenance, provided that such contracts are consistent with
2573 the public interest. The contract may provide for contributions
2574 to be made by each party to the contract for the division and
2575 apportionment of the expenses of acquisitions, construction,
2576 operation, and maintenance, and for the division and
2577 apportionment of resulting benefits, services, and products. The
2578 contracts may contain other covenants and agreements necessary
2579 and appropriate to accomplish their purposes.
2580 Section 21. Paragraph (b) of subsection (2), subsection
2581 (3), and paragraph (b) of subsection (4) of section 373.705,

2582 Florida Statutes, are amended, and subsection (5) is added to
2583 that section, to read:
2584 373.705 Water resource development; water supply
2585 development.—
2586 (2) It is the intent of the Legislature that:
2587 (b) Water management districts take the lead in identifying
2588 and implementing water resource development projects, and be
2589 responsible for securing necessary funding for regionally
2590 significant water resource development projects, including
2591 regionally significant projects that prevent or limit adverse
2592 water resource impacts, avoid competition among water users, or
2593 support the provision of new water supplies in order to meet a
2594 minimum flow or minimum water level, implement a recovery or
2595 prevention strategy or water reservation.
2596 (3)(a) The water management districts shall fund and
2597 implement water resource development as defined in s. 373.019.
2598 The water management districts are encouraged to implement water
2599 resource development as expeditiously as possible in areas
2600 subject to regional water supply plans.
2601 (b) Each governing board shall include in its annual budget
2602 submittals required under this chapter:
2603 1. The amount of funds for each project in the annual
2604 funding plan developed pursuant to s. 373.536(6)(a)4.
2605 2. The total amount needed for the fiscal year to implement
2606 water resource development projects, as prioritized in its
2607 regional water supply plans.
2608 3. The amount of funds requested for each project submitted
2609 for consideration for state funding pursuant to s. 403.0616.
2610 (4)

2611 (b) Water supply development projects that meet the
2612 criteria in paragraph (a) and that meet one or more of the
2613 following additional criteria shall be given first consideration
2614 for state or water management district funding assistance:
2615 1. The project brings about replacement of existing sources
2616 in order to help implement a minimum flow or level; ~~or~~
2617 2. The project implements reuse that assists in the
2618 elimination of domestic wastewater ocean outfalls as provided in
2619 s. 403.086(9); or
2620 3. The project reduces or eliminates the adverse effects of
2621 competition between legal users and the natural system.
2622 (5) The water management districts shall promote expanded
2623 cost-share criteria for additional conservation practices, such
2624 as soil and moisture sensors and other irrigation improvements,
2625 water-saving equipment, and water-saving household fixtures.
2626 Section 22. Paragraph (f) of subsection (3), paragraph (a)
2627 of subsection (6), and paragraph (e) of subsection (8) of
2628 section 373.707, Florida Statutes, are amended to read:
2629 373.707 Alternative water supply development.—
2630 (3) The primary roles of the water management districts in
2631 water resource development as it relates to supporting
2632 alternative water supply development are:
2633 (f) The provision of technical and financial assistance to
2634 local governments and publicly owned and privately owned water
2635 utilities for alternative water supply projects and for self-
2636 suppliers for alternative water supply projects to the extent
2637 assistance for self-suppliers promotes the policies in paragraph
2638 (1)(f).
2639 (6)(a) Where state ~~The statewide~~ funds are provided through

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2640 specific appropriation for a priority project of the water
2641 resources work program pursuant to s. 403.0616, or pursuant to
2642 the Water Protection and Sustainability Program, such funds
2643 serve to supplement existing water management district or basin
2644 board funding for alternative water supply development
2645 assistance and should not result in a reduction of such funding.
2646 For each project identified in the plans prepared pursuant to s.
2647 373.536(6)(a)4. ~~Therefore~~, the water management districts shall
2648 include in the annual tentative and adopted budget submittals
2649 required under this chapter the amount of funds allocated for
2650 water resource development that supports alternative water
2651 supply development and the funds allocated for alternative water
2652 supply projects ~~selected for inclusion in the Water Protection~~
2653 ~~and Sustainability Program~~. It shall be the goal of each water
2654 management district and basin boards that the combined funds
2655 allocated annually for these purposes be, at a minimum, the
2656 equivalent of 100 percent of the state funding provided to the
2657 water management district for alternative water supply
2658 development. If this goal is not achieved, the water management
2659 district shall provide in the budget submittal an explanation of
2660 the reasons or constraints that prevent this goal from being
2661 met, an explanation of how the goal will be met in future years,
2662 and affirmation of match is required during the budget review
2663 process as established under s. 373.536(5). The Suwannee River
2664 Water Management District and the Northwest Florida Water
2665 Management District shall not be required to meet the match
2666 requirements of this paragraph; however, they shall try to
2667 achieve the match requirement to the greatest extent
2668 practicable.

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2669 (8)
2670 (e) Applicants for projects that may receive funding
2671 assistance pursuant to the Water Protection and Sustainability
2672 Program shall, at a minimum, be required to pay 60 percent of
2673 the project's construction costs. The water management districts
2674 may, at their discretion, totally or partially waive this
2675 requirement for projects sponsored by:
2676 1. Financially disadvantaged small local governments as
2677 defined in former s. 403.885(5); or
2678 2. Water users for projects determined by a water
2679 management district governing board to be in the public interest
2680 pursuant to paragraph (1)(f), if the projects are not otherwise
2681 financially feasible.
2682
2683 The water management districts or basin boards may, at their
2684 discretion, use ad valorem or federal revenues to assist a
2685 project applicant in meeting the requirements of this paragraph.
2686 Section 23. Paragraph (a) of subsection (2) and paragraphs
2687 (a) and (e) of subsection (6) of section 373.709, Florida
2688 Statutes, are amended to read:
2689 373.709 Regional water supply planning.—
2690 (2) Each regional water supply plan must be based on at
2691 least a 20-year planning period and must include, but need not
2692 be limited to:
2693 (a) A water supply development component for each water
2694 supply planning region identified by the district which
2695 includes:
2696 1. A quantification of the water supply needs for all
2697 existing and future reasonable-beneficial uses within the

2698 planning horizon. The level-of-certainty planning goal
2699 associated with identifying the water supply needs of existing
2700 and future reasonable-beneficial uses must be based upon meeting
2701 those needs for a 1-in-10-year drought event.
2702 a. Population projections used for determining public water
2703 supply needs must be based upon the best available data. In
2704 determining the best available data, the district shall consider
2705 the University of Florida ~~Florida's~~ Bureau of Economic and
2706 Business Research (BEBR) medium population projections and
2707 population projection data and analysis submitted by a local
2708 government pursuant to the public workshop described in
2709 subsection (1) if the data and analysis support the local
2710 government's comprehensive plan. Any adjustment of or deviation
2711 from the BEBR projections must be fully described, and the
2712 original BEBR data must be presented along with the adjusted
2713 data.
2714 b. Agricultural demand projections used for determining the
2715 needs of agricultural self-suppliers must be based upon the best
2716 available data. In determining the best available data for
2717 agricultural self-supplied water needs, the district shall
2718 consider the data indicative of future water supply demands
2719 provided by the Department of Agriculture and Consumer Services
2720 pursuant to s. 570.93 and agricultural demand projection data
2721 and analysis submitted by a local government pursuant to the
2722 public workshop described in subsection (1), if the data and
2723 analysis support the local government's comprehensive plan. Any
2724 adjustment of or deviation from the data provided by the
2725 Department of Agriculture and Consumer Services must be fully
2726 described, and the original data must be presented along with

2727 the adjusted data.
2728 2. A list of water supply development project options,
2729 including traditional and alternative water supply project
2730 options that are technically and financially feasible, from
2731 which local government, government-owned and privately owned
2732 utilities, regional water supply authorities,
2733 multijurisdictional water supply entities, self-suppliers, and
2734 others may choose for water supply development. In addition to
2735 projects listed by the district, such users may propose specific
2736 projects for inclusion in the list of alternative water supply
2737 projects. If such users propose a project to be listed as an
2738 alternative water supply project, the district shall determine
2739 whether it meets the goals of the plan, and, if so, it shall be
2740 included in the list. The total capacity of the projects
2741 included in the plan must exceed the needs identified in
2742 subparagraph 1. and take into account water conservation and
2743 other demand management measures, as well as water resources
2744 constraints, including adopted minimum flows and levels and
2745 water reservations. Where the district determines it is
2746 appropriate, the plan should specifically identify the need for
2747 multijurisdictional approaches to project options that, based on
2748 planning level analysis, are appropriate to supply the intended
2749 uses and that, based on such analysis, appear to be permittable
2750 and financially and technically feasible. The list of water
2751 supply development options must contain provisions that
2752 recognize that alternative water supply options for agricultural
2753 self-suppliers are limited.
2754 3. For each project option identified in subparagraph 2.,
2755 the following must be provided:

2756 a. An estimate of the amount of water to become available
2757 through the project.
2758 b. The timeframe in which the project option should be
2759 implemented and the estimated planning-level costs for capital
2760 investment and operating and maintaining the project.
2761 c. An analysis of funding needs and sources of possible
2762 funding options. For alternative water supply projects, the
2763 water management districts shall provide funding assistance
2764 pursuant to s. 373.707(8).
2765 d. Identification of the entity that should implement each
2766 project option and the current status of project implementation.
2767 (6) Annually and in conjunction with the reporting
2768 requirements of s. 373.536(6)(a)4., the department shall submit
2769 to the Governor and the Legislature a report on the status of
2770 regional water supply planning in each district. The report
2771 shall include:
2772 (a) A compilation of the estimated costs ~~of~~ and an analysis
2773 of the sufficiency of potential sources of funding from all
2774 sources for water resource development and water supply
2775 development projects as identified in the water management
2776 district regional water supply plans.
2777 (e) An overall assessment of the progress being made to
2778 develop water supply in each district, including, but not
2779 limited to, an explanation of how each project in the 5-year
2780 water resource development work program in s. 373.536(6)(a)4.,
2781 either alternative or traditional, will produce, contribute to,
2782 or account for additional water being made available for
2783 consumptive uses, minimum flows and levels, or water
2784 reservations; an estimate of the quantity of water to be

2785 produced by each project;~~,~~ and an assessment of the contribution
2786 of the district's regional water supply plan in providing
2787 sufficient water to meet the needs of existing and future
2788 reasonable-beneficial uses for a 1-in-10-year drought event, as
2789 well as the needs of the natural systems.
2790 Section 24. Part VIII of chapter 373, Florida Statutes,
2791 consisting of sections 373.801, 373.802, 373.803, 373.805,
2792 373.807, 373.811, 373.813, and 373.815, Florida Statutes, is
2793 created and entitled the "Florida Springs and Aquifer Protection
2794 Act."
2795 Section 25. Section 373.801, Florida Statutes, is created
2796 to read:
2797 373.801 Legislative findings and intent.—
2798 (1) The Legislature finds that springs are a unique part of
2799 this state's scenic beauty. Springs provide critical habitat for
2800 plants and animals, including many endangered or threatened
2801 species. Springs also provide immeasurable natural,
2802 recreational, economic, and inherent value. Springs are of great
2803 scientific importance in understanding the diverse functions of
2804 aquatic ecosystems. Water quality of springs is an indicator of
2805 local conditions of the Floridan Aquifer, which is a source of
2806 drinking water for many residents of this state. Water flows in
2807 springs reflect regional aquifer conditions. In addition,
2808 springs provide recreational opportunities for swimming,
2809 canoeing, wildlife watching, fishing, cave diving, and many
2810 other activities in this state. These recreational opportunities
2811 and the accompanying tourism they provide are a benefit to local
2812 economies and the economy of the state as a whole.
2813 (2) Water quantity and water quality in springs may be

2814 related. For regulatory purposes, the department has primary
2815 responsibility for water quality; the water management districts
2816 have primary responsibility for water quantity; the Department
2817 of Agriculture and Consumer Services has primary responsibility
2818 for the development and implementation of agricultural best
2819 management practices; and the local governments have primary
2820 responsibility for providing wastewater and stormwater
2821 management. The foregoing responsible entities must coordinate
2822 to restore and maintain the water quantity and water quality of
2823 the Outstanding Florida Springs.
2824 (3) The Legislature recognizes that:
2825 (a) Springs are only as healthy as their springsheds. The
2826 groundwater that supplies springs is derived from water that
2827 recharges the aquifer system in the form of seepage from the
2828 land surface and through direct conduits, such as sinkholes.
2829 Springs may be adversely affected by polluted runoff from urban
2830 and agricultural lands; discharge resulting from inadequate
2831 wastewater and stormwater management practices; stormwater
2832 runoff; and reduced water levels of the Floridan Aquifer. As a
2833 result, the hydrologic and environmental conditions of a spring
2834 or spring run are directly influenced by activities and land
2835 uses within a springshed and by water withdrawals from the
2836 Floridan Aquifer.
2837 (b) Springs, whether found in urban or rural settings, or
2838 on public or private lands, may be threatened by actual or
2839 potential flow reductions and declining water quality. Many of
2840 this state's springs are demonstrating signs of significant
2841 ecological imbalance, increased nutrient loading, and declining
2842 water flow. Without effective remedial action, further declines

2843 in water quality and water quantity may occur.
2844 (c) Springshed boundaries and areas of high vulnerability
2845 within a springshed need to be identified and delineated using
2846 the best available data.
2847 (d) Springsheds typically cross water management district
2848 boundaries and local government jurisdictional boundaries, so a
2849 coordinated statewide springs protection plan is needed.
2850 (e) The aquifers and springs of this state are complex
2851 systems affected by many variables and influences.
2852 (4) The Legislature recognizes that action is urgently
2853 needed and, as additional data is acquired, action must be
2854 continually modified.
2855 Section 26. Section 373.802, Florida Statutes, is created
2856 to read:
2857 373.802 Definitions.—As used in this part, the term:
2858 (1) "Department" means the Department of Environmental
2859 Protection, which includes the Florida Geological Survey or its
2860 successor agencies.
2861 (2) "Local government" means a county or municipal
2862 government the jurisdictional boundaries of which include an
2863 Outstanding Florida Spring or any part of a springshed or
2864 delineated priority focus area of an Outstanding Florida Spring.
2865 (3) "Onsite sewage treatment and disposal system" means a
2866 system that contains a standard subsurface, filled, or mound
2867 drainfield system; an aerobic treatment unit; a graywater system
2868 tank; a laundry wastewater system tank; a septic tank; a grease
2869 interceptor; a pump tank; a solids or effluent pump; a
2870 waterless, incinerating, or organic waste-composting toilet; or
2871 a sanitary pit privy that is installed or proposed to be

2872 installed beyond the building sewer on land of the owner or on
2873 other land on which the owner has the legal right to install
2874 such system. The term includes any item placed within, or
2875 intended to be used as a part of or in conjunction with, the
2876 system. The term does not include package sewage treatment
2877 facilities and other treatment works regulated under chapter
2878 403.
2879 (4) "Outstanding Florida Spring" includes all historic
2880 first magnitude springs, as determined by the department using
2881 the most recent Florida Geological Survey springs bulletin,
2882 excluding submarine springs, and the following springs, and
2883 their associated spring runs:
2884 (a) De Leon Springs;
2885 (b) Peacock Springs;
2886 (c) Poe Springs;
2887 (d) Rock Springs;
2888 (e) Wekiwa Springs; and
2889 (f) Gemini Springs.
2890 (5) "Priority focus area" means the area or areas of a
2891 basin where the Floridan Aquifer is most vulnerable to
2892 groundwater withdrawals or pollutant inputs, where the
2893 groundwater travel times are the fastest, and where there is a
2894 known connectivity between groundwater pathways and an
2895 Outstanding Florida Spring, as determined by the department in
2896 consultation with the appropriate water management districts.
2897 (6) "Springshed" means the areas within the groundwater and
2898 surface water basins which contribute, based upon all relevant
2899 facts, circumstances, and data, to the discharge of a spring as
2900 defined by potentiometric surface maps and surface watershed

2901 boundaries.
2902 (7) "Spring run" means a body of flowing water that
2903 originates from a spring or whose primary source of water is a
2904 spring or springs under average rainfall conditions.
2905 (8) "Spring vent" means a location where groundwater flows
2906 out of a natural, discernable opening in the ground onto the
2907 land surface or into a predominantly fresh surface water body.
2908 Section 27. Section 373.803, Florida Statutes, is created
2909 to read:
2910 373.803 Delineation of priority focus areas for Outstanding
2911 Florida Springs.—Using the best data available from the water
2912 management districts and other credible sources, the department,
2913 in coordination with the water management districts, shall
2914 delineate priority focus areas for each Outstanding Florida
2915 Spring or group of springs that contains one or more Outstanding
2916 Florida Springs. In delineating priority focus areas, the
2917 department shall consider groundwater travel time to the spring,
2918 hydrogeology, nutrient load, and any other factors that may lead
2919 to degradation of an Outstanding Florida Spring. The delineation
2920 of priority focus areas must be completed by July 1, 2018.
2921 Section 28. Section 373.805, Florida Statutes, is created
2922 to read:
2923 373.805 Minimum flows and minimum water levels for
2924 Outstanding Florida Springs.—
2925 (1)(a) At the time a minimum flow or minimum water level is
2926 adopted for an Outstanding Florida Spring, if the spring is
2927 below or is projected within 20 years to fall below the minimum
2928 flow or minimum water level, a water management district or the
2929 department shall simultaneously adopt a recovery or prevention

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2930 strategy.
2931 (b) When an interim minimum flow or minimum water level is
2932 established pursuant to s. 373.042(2) for an Outstanding Florida
2933 Spring, the water management district or the department shall
2934 also adopt a recovery or prevention strategy by July 1, 2016, if
2935 the spring is below or is projected within 20 years to fall
2936 below the interim minimum flow or minimum water level.
2937 (2) For an Outstanding Florida Spring, a minimum flow or
2938 minimum water level adopted before July 1, 2015, must be revised
2939 by July 1, 2018. When a minimum flow or minimum water level is
2940 revised, if the spring is below or is projected within 20 years
2941 to fall below the revised minimum flow or minimum water level, a
2942 water management district or the department shall simultaneously
2943 adopt a recovery or prevention strategy or modify an existing
2944 recovery or prevention strategy. A district or the department
2945 may adopt the revised minimum flow or minimum water level before
2946 the adoption of a recovery or prevention strategy if the revised
2947 minimum flow or minimum water level is less constraining on
2948 existing or projected future consumptive uses.
2949 (3) For an Outstanding Florida Spring without an adopted
2950 recovery or prevention strategy, if a district or the department
2951 determines the spring has fallen below, or is projected within
2952 20 years to fall below the adopted or interim minimum flow or
2953 minimum water level, a water management district or the
2954 department shall expeditiously adopt a recovery or prevention
2955 strategy.
2956 (4) The recovery or prevention strategy for each
2957 Outstanding Florida Spring must, at a minimum, include:
2958 (a) A listing of all specific projects identified for

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2959 implementation of the plan;
2960 (b) A priority listing of each project;
2961 (c) For each listed project, the estimated cost of and the
2962 estimated date of completion;
2963 (d) The source and amount of financial assistance to be
2964 made available by the water management district for each listed
2965 project, which may not be less than 25 percent of the total
2966 project cost unless a specific funding source or sources are
2967 identified which will provide more than 75 percent of the total
2968 project cost. The Northwest Florida Water Management District
2969 and the Suwannee River Water Management District are not
2970 required to provide matching funds pursuant to this paragraph;
2971 (e) An estimate of each listed project's benefit to an
2972 Outstanding Florida Spring; and
2973 (f) An implementation plan with a goal to achieve the
2974 adopted or interim minimum flow or minimum water level no more
2975 than 20 years after the adoption of a recovery or prevention
2976 strategy. The implementation plan must include measureable
2977 interim milestones to be achieved within 5, 10, and 15 years,
2978 respectively, intended to achieve the adopted or interim minimum
2979 flow or minimum water level.
2980 (5) A local government may apply to the department for an
2981 extension of up to 5 years for any project in an adopted
2982 recovery or prevention strategy. The department may grant the
2983 extension if the local government provides to the department
2984 sufficient evidence that an extension is in the best interest of
2985 the public. For a local government in a rural area of
2986 opportunity, as defined in s. 288.0656, the department may grant
2987 an extension of up to 10 years.

2988 Section 29. Section 373.807, Florida Statutes, is created
2989 to read:
2990 373.807 Protection of water quality in Outstanding Florida
2991 Springs.—By July 1, 2015, the department shall initiate
2992 assessment, pursuant to s. 403.067(3), of each Outstanding
2993 Florida Spring for which an impairment determination has not
2994 been made under the numeric nutrient standards in effect for
2995 spring vents. Assessments must be completed by July 1, 2018.
2996 (1)(a) Simultaneously with the adoption of a nutrient total
2997 maximum daily load for an Outstanding Florida Spring, the
2998 department, or the department in conjunction with a water
2999 management district, shall initiate development of a basin
3000 management action plan, as specified in s. 403.067. For an
3001 Outstanding Florida Spring with a nutrient total maximum daily
3002 load adopted before July 1, 2015, the department, or the
3003 department in conjunction with a water management district,
3004 shall initiate development of a basin management action plan by
3005 July 1, 2015. During the development of a basin management
3006 action plan, if the department identifies onsite sewage
3007 treatment and disposal systems as significant nonpoint sources
3008 of nutrient pollution which need to be addressed within a local
3009 government jurisdiction, the department shall notify the local
3010 government within 30 days. The local government shall develop an
3011 onsite sewage treatment and disposal system remediation plan
3012 pursuant to subsection (3) for those systems identified as
3013 significant nonpoint sources of nutrient pollution for inclusion
3014 in the basin management action plan.
3015 (b) A basin management action plan for an Outstanding
3016 Florida Spring shall be adopted within 3 years after its

3017 initiation and must include, at a minimum:
3018 1. A list of all specific projects identified to implement
3019 a nutrient total maximum daily load;
3020 2. A list of all specific projects identified in an onsite
3021 sewage treatment and disposal system remediation plan, if
3022 applicable;
3023 3. A priority rank for each listed project;
3024 4. For each listed project, the estimated cost of and the
3025 estimated date of completion;
3026 5. The source and amount of financial assistance to be made
3027 available by the department, a water management district, or
3028 other entity for each listed project;
3029 6. An estimate of each listed project's nutrient load
3030 reduction;
3031 7. Identification of each point source or category of
3032 nonpoint sources, including, but not limited to, urban turf
3033 fertilizer, sports turf fertilizer, agricultural fertilizer,
3034 onsite sewage treatment and disposal systems, wastewater
3035 treatment facilities, animal wastes, and stormwater facilities.
3036 An estimated allocation of the pollutant load must be provided
3037 for each point source or category of nonpoint sources; and
3038 8. An implementation plan intended to achieve the adopted
3039 nutrient total maximum daily load no more than 20 years after
3040 the adoption of a basin management action plan. The plan must
3041 include measureable interim milestones to be achieved within 5,
3042 10, and 15 years, respectively, intended to achieve the adopted
3043 nutrient total maximum daily load.
3044 (c) For a basin management action plan adopted before July
3045 1, 2015, which addresses an Outstanding Florida Spring, the

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3046 department or the department in conjunction with a water
3047 management district must revise the plan pursuant to this
3048 section by July 1, 2018.
3049 (d) Upon approval of an onsite sewage treatment and
3050 disposal system remediation plan by the department, the plan
3051 shall be deemed incorporated as part of the appropriate basin
3052 management action plan pursuant to s. 403.067(7) until such time
3053 as the basin management action plan is revised.
3054 (e) A local government may apply to the department for an
3055 extension of up to 5 years for any project in an adopted basin
3056 management action plan. A local government in a rural area of
3057 opportunity, as defined in s. 288.0656, may apply for an
3058 extension of up to 10 years for such a project. The department
3059 may grant the extension if the local government provides to the
3060 department sufficient evidence that an extension is in the best
3061 interest of the public.
3062 (2) Within 6 months after the delineation of priority focus
3063 areas of an Outstanding Florida Spring that is fully or
3064 partially within the jurisdiction of a local government, a local
3065 government must develop, enact, and implement an ordinance that
3066 meets or exceeds the requirements of the department's Model
3067 Ordinance for Florida-Friendly Fertilizer Use on Urban
3068 Landscapes. Such ordinance must require that, within a priority
3069 focus area of an Outstanding Florida Spring with an adopted
3070 nutrient total maximum daily load, the nitrogen application rate
3071 of any fertilizer applied to turf or landscape plants may not
3072 exceed the lowest basic maintenance rate of the most recent
3073 recommendations by the Institute of Food and Agricultural
3074 Sciences. The department shall adopt rules to implement this

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3075 subsection which establish reasonable minimum standards and
3076 reflect advancements or improvements regarding nutrient load
3077 reductions.
3078 (3) Notwithstanding ss. 381.0064, 381.0065, 381.00651,
3079 381.00655, 381.0066, 381.0067 and 381.0068, by July 1, 2017, the
3080 department, in conjunction with the Department of Health and
3081 local governments, must identify onsite sewage treatment and
3082 disposal systems within each priority focus area. Within 60 days
3083 after the department's completion of the identification of these
3084 systems, the department shall provide the location of the
3085 systems to the local governments in which they are located. If
3086 notified by the department pursuant to subsection (1), the local
3087 government, in consultation with the department, shall develop
3088 an onsite sewage treatment and disposal system remediation plan
3089 within 12 months after notification by the department. If the
3090 department determines onsite sewage treatment and disposal
3091 systems within a priority focus area contribute at least 20
3092 percent of nonpoint source nutrient pollution, the plan must
3093 identify which systems require repair, upgrade, replacement,
3094 drainfield modification, connection to a central sewerage
3095 system, or no action. The plan must include a priority ranking
3096 for each system or group of systems that require remediation.
3097 Each remediation plan must be submitted to the department for
3098 approval.
3099 (a) In reviewing and approving the remediation plans, the
3100 department shall consider, at a minimum:
3101 1. The density of onsite sewage treatment and disposal
3102 systems;
3103 2. The number of onsite sewage treatment and disposal

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3104 systems;
3105 3. The proximity of the onsite sewage treatment and
3106 disposal system or systems to an Outstanding Florida Spring;
3107 4. The estimated nutrient loading of the onsite sewage
3108 treatment and disposal system or systems; and
3109 5. The cost of the proposed remedial action.
3110 (b) Before submitting an onsite sewage treatment and
3111 disposal system remediation plan to the department, the local
3112 government shall hold at least one public meeting to provide the
3113 public an opportunity to comment on the plan. The approval of an
3114 onsite sewage treatment and disposal system remediation plan by
3115 the department constitutes a final agency action.
3116 (c) If a local government does not substantially comply
3117 with this subsection, it may be ineligible for funding pursuant
3118 to s. 403.0617.
3119 (d) With respect to implementation of an onsite sewage
3120 treatment and disposal system remediation plan, a property owner
3121 with an onsite sewage treatment and disposal system identified
3122 as requiring remediation by the plan may not be required to pay
3123 the cost of a system inspection, a system upgrade, a system
3124 replacement, a drainfield modification, or any initial
3125 connection fee for connecting to a sanitary sewer system. This
3126 paragraph does not apply to local government programs in
3127 existence before July 1, 2015, which are inconsistent with this
3128 paragraph.
3129 (4) The department shall provide notice to a local
3130 government of all permit applicants under s. 403.814(12) in a
3131 priority focus area of an Outstanding Florida Spring over which
3132 the local government has full or partial jurisdiction.

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3133 Section 30. Section 373.811, Florida Statutes, is created
3134 to read:
3135 373.811 Prohibited activities within a priority focus
3136 area.—The following activities are prohibited within a priority
3137 focus area of an Outstanding Florida Spring:
3138 (1) New municipal or industrial wastewater disposal
3139 facilities, including rapid infiltration basins, with permitted
3140 capacities of 100,000 gallons per day or more, except for those
3141 facilities that meet an advanced wastewater treatment standard
3142 of no more than 3 mg/l total nitrogen, expressed as N, on an
3143 annual permitted basis, or a more stringent treatment standard
3144 if the department determines the more stringent standard is
3145 necessary to prevent impairment or aid in the recovery of an
3146 Outstanding Florida Spring.
3147 (2) Beginning 6 months after the Department of Health
3148 approves passive nitrogen removing onsite sewage treatment and
3149 disposal systems, new onsite sewage treatment and disposal
3150 systems on lots of less than 1 acre, except for passive nitrogen
3151 removing onsite sewage treatment and disposal systems.
3152 (3) New facilities for the disposal of hazardous waste.
3153 (4) The land application of Class A or Class B domestic
3154 wastewater biosolids.
3155 (5) New agriculture operations that do not implement best
3156 management practices, measures necessary to achieve pollution
3157 reduction levels established by the department, or groundwater
3158 monitoring plans approved by a water management district or the
3159 department.
3160 Section 31. Section 373.813, Florida Statutes, is created
3161 to read:

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3162 373.813 Rules.—
3163 (1) The department shall adopt rules to create a program to
3164 improve water quantity and water quality to administer this
3165 part, as applicable.
3166 (2) The Department of Health, the Department of Agriculture
3167 and Consumer Services, and the water management districts, as
3168 appropriate, may adopt rules to administer this part, as
3169 applicable.
3170 (3)(a) The Department of Agriculture and Consumer Services
3171 is the lead agency coordinating the reduction of agricultural
3172 nonpoint sources of pollution for the protection of Outstanding
3173 Florida Springs. The Department of Agriculture and Consumer
3174 Services and the department, pursuant to s. 403.067(7)(c)4.,
3175 shall study new or revised agricultural best management
3176 practices for improving and protecting Outstanding Florida
3177 Springs and, if necessary, in cooperation with applicable local
3178 governments and stakeholders, initiate rulemaking to require the
3179 implementation of such practices within a reasonable period.
3180 (b) The department, the Department of Agriculture and
3181 Consumer Services, and the University of Florida Institute of
3182 Food and Agricultural Sciences shall cooperate in conducting the
3183 necessary research and demonstration projects to develop
3184 improved or additional nutrient management tools, including the
3185 use of controlled release fertilizer that can be used by
3186 agricultural producers as part of an agricultural best
3187 management practices program. The development of such tools must
3188 reflect a balance between water quality improvement and
3189 agricultural productivity and, if applicable, must be
3190 incorporated into the revised agricultural best management

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3191 practices adopted by rule by the Department of Agriculture and
3192 Consumer Services.
3193 Section 32. Section 373.815, Florida Statutes, is created
3194 to read:
3195 373.815 Reports.—Each July 1, beginning July 1, 2016, the
3196 department, in conjunction with the water management districts,
3197 shall submit progress reports to the Governor, the President of
3198 the Senate, and the Speaker of the House of Representatives on
3199 the status of each total maximum daily load, basin management
3200 action plan, minimum flow or minimum water level, and recovery
3201 or prevention strategy adopted pursuant to this part. The report
3202 must include the status of each project identified to achieve an
3203 adopted total maximum daily load or an adopted or interim
3204 minimum flow or minimum water level, as applicable. If a report
3205 indicates that any of the interim 5-, 10-, or 15-year
3206 milestones, or the 20-year goal will not be met, the report must
3207 include specific corrective actions that will be taken to
3208 achieve these milestones and goals, and, if necessary, executive
3209 and legislative recommendations to that end.
3210 Section 33. Subsections (25) and (29) of section 403.061,
3211 Florida Statutes, are amended, and subsection (45) is added to
3212 that section, to read:
3213 403.061 Department; powers and duties.—The department shall
3214 have the power and the duty to control and prohibit pollution of
3215 air and water in accordance with the law and rules adopted and
3216 promulgated by it and, for this purpose, to:
3217 (25)(a) Establish and administer a program for the
3218 restoration and preservation of bodies of water within the
3219 state. The department shall have the power to acquire lands, to

3220 cooperate with other applicable state or local agencies to
3221 enhance existing public access to such bodies of water, and to
3222 adopt all rules necessary to accomplish this purpose.
3223 (b) Create a consolidated water resources work plan, in
3224 consultation with state agencies, water management districts,
3225 and local governments, which provides a geographic depiction of
3226 the total inventory of water resources projects currently under
3227 construction, completed in the previous 5 years, or planned to
3228 begin construction in the next 5 years. The consolidated work
3229 plan must include for each project a description of the project,
3230 the total cost of the project, and identification of the
3231 governmental entity financing the project. This information
3232 together with the information provided pursuant to paragraph
3233 (45)(a) is intended to facilitate the ability of the Florida
3234 Water Resources Advisory Council, the Legislature, and the
3235 public to consider the projects contained in the tentative water
3236 resources work program developed pursuant to s. 403.0616 in
3237 relation to all projects undertaken within a 10-year period and
3238 the existing condition of water resources in the project area
3239 and in the state as a whole. The department may adopt all rules
3240 necessary to accomplish this purpose.
3241 (29)(a) Adopt by rule special criteria to protect Class II
3242 and Class III shellfish harvesting waters. Such rules may
3243 include special criteria for approving docking facilities that
3244 have 10 or fewer slips if the construction and operation of such
3245 facilities will not result in the closure of shellfish waters.
3246 (b) Adopt by rule a specific surface water classification
3247 to protect surface waters used for treated potable water supply.
3248 These designated surface waters shall have the same water

3249 quality criteria protections as waters designated for fish
3250 consumption, recreation, and the propagation and maintenance of
3251 a healthy, well-balanced population of fish and wildlife, and
3252 shall be free from discharged substances at a concentration
3253 that, alone or in combination with other discharged substances,
3254 would require significant alteration of permitted treatment
3255 processes at the permitted treatment facility or that would
3256 otherwise prevent compliance with applicable state drinking
3257 water standards in the treated water. Notwithstanding this
3258 classification or the inclusion of treated water supply as a
3259 designated use of a surface water, a surface water used for
3260 treated potable water supply may be reclassified to the potable
3261 water supply classification.
3262 (45)(a) Create and maintain a web-based, interactive map
3263 that includes, at a minimum:
3264 1. All watersheds and each water body within those
3265 watersheds;
3266 2. The county or counties in which the watershed or water
3267 body is located;
3268 3. The water management district or districts in which the
3269 watershed or water body is located;
3270 4. Whether a minimum flow or minimum water level has been
3271 adopted for the water body, and if such minimum flow or minimum
3272 water level has not been adopted, the anticipated adoption date;
3273 5. Whether a recovery or prevention strategy has been
3274 adopted for the watershed or water body and, if such a plan has
3275 not been adopted, the anticipated adoption date;
3276 6. The impairment status of each watershed or water body;
3277 7. Whether a total maximum daily load has been adopted if

3278 the watershed or water body is listed as impaired and, if such
3279 total maximum daily load has not been adopted, the anticipated
3280 adoption date;
3281 8. Whether a basin management action plan has been adopted
3282 for the watershed and, if such a plan has not been adopted, the
3283 anticipated adoption date;
3284 9. Each project listed on the 5-year water resources work
3285 program developed pursuant to s. 373.036(7);
3286 10. The agency or agencies and local sponsor, if any,
3287 responsible for overseeing the project;
3288 11. The estimated cost and completion date of each project
3289 and the financial contribution of each entity;
3290 12. The quantitative estimated benefit to the watershed or
3291 water body; and
3292 13. The water projects completed within the last 5 years
3293 within the watershed or water body.
3294 (b) The department and each water management district shall
3295 prominently display on their respective websites a hyperlink to
3296 the interactive map required by this subsection.
3297
3298 The department shall implement such programs in conjunction with
3299 its other powers and duties and shall place special emphasis on
3300 reducing and eliminating contamination that presents a threat to
3301 humans, animals or plants, or to the environment.
3302 Section 34. Section 403.0616, Florida Statutes, is created
3303 to read:
3304 403.0616 Florida Water Resources Advisory Council.—
3305 (1) The Florida Water Resources Advisory Council is hereby
3306 created within the department for the purpose of evaluating

3307 water resource projects prioritized and submitted by state
3308 agencies, water management districts, or local governments. The
3309 council shall evaluate and recommend projects that are eligible
3310 for state funding as priority projects of statewide, regional,
3311 or critical local importance under this chapter or chapter 373.
3312 The council must review and evaluate all water resource projects
3313 that are prioritized and reported by state agencies or water
3314 management districts pursuant to s. 373.036(7)(d)3., or by local
3315 governments, if applicable, in order to provide the Legislature
3316 with recommendations for projects that improve or restore the
3317 water resources of this state. The council is also responsible
3318 for submitting a prioritization of pilot projects that test the
3319 effectiveness of innovative or existing nutrient reduction or
3320 water conservation technologies or practices designed to
3321 minimize nutrient pollution or restore flows in the water bodies
3322 of the state as provided in s. 403.0617.
3323 (2) The Florida Water Resources Advisory Council consists
3324 of five voting members and five ex officio, nonvoting members as
3325 follows:
3326 (a) The Secretary of Environmental Protection, who shall
3327 serve as chair of the council; the Commissioner of Agriculture;
3328 the executive director of the Fish and Wildlife Conservation
3329 Commission; one member with expertise in a scientific discipline
3330 related to water resources, appointed by the President of the
3331 Senate; and one member with expertise in a scientific discipline
3332 related to water resources, appointed by the Speaker of the
3333 House of Representatives, all of whom shall be voting members.
3334 (b) The executive directors of each of the five water
3335 management districts, all of whom shall be nonvoting members.

3336 (3) Members appointed by the President of the Senate and
3337 Speaker of the House of Representatives shall serve 2-year terms
3338 but may not serve more than a total of 6 years. The President of
3339 the Senate and Speaker of the House of Representatives may fill
3340 a vacancy at any time for an unexpired term of an appointed
3341 member.
3342 (4) If a member of the council is disqualified from serving
3343 because he or she no longer holds the position required to serve
3344 under this section, the interim head of the agency shall serve
3345 as the agency representative.
3346 (5) The two appointed council members shall receive
3347 reimbursement for expenses and per diem for travel to attend
3348 council meetings authorized pursuant to s. 112.061 while in the
3349 performance of their duties.
3350 (6) The council shall hold periodic meetings at the request
3351 of the chair but must hold at least two public meetings,
3352 separately noticed, each year in which the public has the
3353 opportunity to participate and comment. Unless otherwise
3354 provided by law, notice for each meeting must be published in a
3355 newspaper of general circulation in the area where the meeting
3356 is to be held at least 5 days but no more than 15 days before
3357 the meeting date.
3358 (a) By July 15 of each year, the council shall release a
3359 tentative water resources work program containing legislative
3360 recommendations for water resource projects. The public has 30
3361 days to submit comments regarding the tentative program.
3362 (b) The council shall adopt the tentative work program
3363 containing its legislative recommendations and submit it to the
3364 Governor, the President of the Senate, and the Speaker of the

3365 House of Representatives by August 31 of each year. An
3366 affirmative vote of three members of the council is required to
3367 adopt the tentative work program.
3368 (7) The department shall provide primary staff support to
3369 the council and shall ensure that council meetings are
3370 electronically recorded. Such recordings must be preserved
3371 pursuant to chapters 119 and 257.
3372 (8) The council shall recommend rules for adoption by the
3373 department to competitively evaluate, select, and rank projects
3374 for the tentative water resources work program. The council
3375 shall develop specific criteria for the evaluation, selection,
3376 and ranking of projects, including a preference for projects
3377 that will have a significant, measurable impact on improving
3378 water quantity or water quality; projects in areas of greatest
3379 impairment; projects of state or regional significance; projects
3380 recommended by multiple districts or multiple local governments
3381 cooperatively; projects with a significant monetary commitment
3382 by the local project sponsor or sponsors; projects in rural
3383 areas of opportunity as defined in s. 288.0656; projects that
3384 may be funded through appropriate loan programs; and projects
3385 that have significant private contributions of time or money.
3386 (9) The department, in consultation with the Department of
3387 Agriculture and Consumer Services, the Fish and Wildlife
3388 Conservation Commission, and the water management districts,
3389 shall adopt rules to implement this section.
3390 Section 35. Section 403.0617, Florida Statutes, is created
3391 to read:
3392 403.0617 Innovative nutrient and sediment reduction and
3393 conservation pilot project program.—

3394 (1) By December 31, 2015, the department shall adopt rules
3395 to competitively evaluate and rank projects for selection and
3396 prioritization by the Water Resources Advisory Council, pursuant
3397 to s. 403.0616, for submission to the Legislature for funding.
3398 These pilot projects are intended to test the effectiveness of
3399 innovative or existing nutrient reduction or water conservation
3400 technologies or practices designed to minimize nutrient
3401 pollution or restore flows in the water bodies of the state. The
3402 department must include in the evaluation criteria a
3403 determination by the department that the pilot project will not
3404 be harmful to the ecological resources in the study area.
3405 (2) In developing these rules, the council shall give
3406 preference to the projects that will result in the greatest
3407 improvement to water quality and water quantity for the dollars
3408 to be expended for the project. At a minimum, the department
3409 shall consider all of the following:
3410 (a) The level of nutrient impairment of the waterbody,
3411 watershed, or water segment in which the project is located.
3412 (b) The quantity of pollutants, particularly total
3413 nitrogen, which the project is estimated to remove from a water
3414 body, watershed, or water segment with an adopted nutrient total
3415 maximum daily load.
3416 (c) The potential for the project to provide a cost
3417 effective solution to pollution caused by onsite sewage
3418 treatment and disposal systems.
3419 (d) The flow necessary to restore a water resource to its
3420 adopted or interim minimum flow or minimum water level.
3421 (e) The anticipated impact the project will have on
3422 restoring or increasing water flow or water level.

3423 (f) The amount of matching funds for the project which will
3424 be provided by the entities responsible for implementing the
3425 project.
3426 (g) Whether the project is located in a rural area of
3427 opportunity, as defined in s. 288.0656, with preference given to
3428 the local government responsible for implementing the project.
3429 (h) For multiple-year projects, whether the project has
3430 funding sources that are identified and assured through the
3431 expected completion date of the project.
3432 (i) The cost of the project and the length of time it will
3433 take to complete relative to its expected benefits.
3434 (j) Whether the entities responsible for implementing the
3435 project have used their own funds for projects to improve water
3436 quality or conserve water use with preference given to those
3437 entities that have expended such funds.
3438 Section 36. Section 403.0623, Florida Statutes, is amended
3439 to read:
3440 403.0623 Environmental data; quality assurance.—
3441 (1) The department must establish, by rule, appropriate
3442 quality assurance requirements for environmental data submitted
3443 to the department and the criteria by which environmental data
3444 may be rejected by the department. The department may adopt and
3445 enforce rules to establish data quality objectives and specify
3446 requirements for training of laboratory and field staff, sample
3447 collection methodology, proficiency testing, and audits of
3448 laboratory and field sampling activities. Such rules may be in
3449 addition to any laboratory certification provisions under ss.
3450 403.0625 and 403.863.
3451 (2)(a) The department, in coordination with the water

3452 management districts, shall establish standards for the
3453 collection of water quantity, water quality, and related data to
3454 ensure quality, reliability, and validity of the data and
3455 testing results. The water management districts shall submit
3456 such data collected after June 30, 2015, to the department for
3457 analysis. The department shall analyze the data to ensure
3458 statewide consistency. The department shall maintain a
3459 centralized database for all testing results and analyses, which
3460 must be accessible by the water management districts.
3461 (b) To the extent practicable, the department shall
3462 coordinate with federal agencies to ensure that its collection
3463 and analysis of water quality, water quantity, and related data,
3464 which may be used by any state agency, water management
3465 district, or local government, is consistent with this
3466 subsection.
3467 (c) In order to receive state funds for the acquisition of
3468 lands or the financing of a water resource project, state
3469 agencies and water management districts must use the
3470 department's testing results and analysis, if available, as a
3471 prerequisite for any such request for funding.
3472 (d) The department and the water management districts may
3473 adopt rules to implement this subsection.
3474 Section 37. Subsection (21) is added to section 403.861,
3475 Florida Statutes, to read:
3476 403.861 Department; powers and duties.—The department shall
3477 have the power and the duty to carry out the provisions and
3478 purposes of this act and, for this purpose, to:
3479 (21)(a) Upon issuance of a construction permit to construct
3480 a new public water system drinking water treatment facility to

3481 provide potable water supply using a surface water of the state
3482 that, at the time of the permit application, is not being used
3483 as a potable water supply, and the classification of which does
3484 not include potable water supply as a designated use, the
3485 department shall add treated potable water supply as a
3486 designated use of the surface water segment in accordance with
3487 s. 403.061(29)(b).
3488 (b) For existing public water system drinking water
3489 treatment facilities that use a surface water of the state as a
3490 treated potable water supply, which surface water classification
3491 does not include potable water as a designated use, the
3492 department shall add treated potable water supply as a
3493 designated use of the surface water segment in accordance with
3494 403.061(29)(b).
3495 Section 38. This act shall take effect July 1, 2015.

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

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Environmental Preservation and Conservation, *Chair*
Agriculture, *Vice Chair*
Appropriations Subcommittee on General Government
Children, Families, and Elder Affairs
Community Affairs
Ethics and Elections

SENATOR CHARLES S. DEAN, SR.
5th District

April 14, 2015

The Honorable Tom Lee
418 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chairman Lee,

I respectfully request you place Senate Bill 918, relating to Environmental Resources, on your Appropriations 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: Cindy Kynoch, Staff Director

SENATE APPROPRIATIONS
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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*

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

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

4-21-15
Meeting Date

SB 718
Bill Number (if applicable)

127412
Amendment Barcode (if applicable)

Topic: Environmental Control

Name: Lee Killinger

Job Title:

Address: 200 W. Park Ave, Suite 100
Street

Tallahassee
City State Zip

Phone: 850-322-8107

Email: lee@anfieldflorida.com

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

Waive Speaking: [X] In Support [ ] Against
(The Chair will read this information into the record.)

Representing: Palm Beach County

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

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

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/21/15
Meeting Date

SB 918
Bill Number (if applicable)

127412
Amendment Barcode (if applicable)

Topic: Environmental Control

Name: Frank Bernardino

Job Title:

Address: 349 Maddock St.
Street

West Palm Beach, FL 33405
City, State, Zip

Phone: (561) 718-2345

Email: frankcarfield@florida.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☑ In Support ☐ Against
(The Chair will read this information into the record.)

Representing: Broward 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.

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/21/15
Meeting Date

918
Bill Number (if applicable)

#881880
Amendment Barcode (if applicable)

Topic

Name STEPHEN JAMES

Job Title

Address 100 S. MONROE
Street

TALLAHASSEE, FL 32301
City / State Zip

Phone 922-4300

Email

Speaking: ☐ For ☐ Against ☒ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing FLA ASSOC. OF COUNTIES

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4 / 21 / 2015
Meeting Date

Topic _____ Bill Number 918 *(if applicable)*

Name BRIAN PITTS Amendment Barcode _____ *(if applicable)*

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH
Street

SAINT PETERSBURG FLORIDA 33705
City *State* *Zip*

Phone 727-897-9291

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.

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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4/21/15
Meeting Date

918
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic

Name DAVID CULLEN

Job Title

Address 1674 UNIVERSITY PKWY #296
Street

SARASOTA FL 34243
City State Zip

Phone 941-323-2404

Email cullenasea@aol.com

Speaking: ☐ For ☐ Against ☑ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing SIERRA CLUB FLORIDA

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

4-21-15 (Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting) 918

Meeting Date

Bill Number (if applicable)

Dw Tra PCS 45

Amendment Barcode (if applicable)

Amended

Topic WATER RESOURCE PROTECTION

Name JANET BROWN

Job Title Director of Legislative Policy & Strategies

Address 216 E 5th Avenue
Street

Tallahassee FL 32303
City State Zip

Phone 257-9406

Email Janet.Brown@tnc.org

Speaking: ☐ For ☐ Against ☑ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing The Nature Conservancy

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/21
Meeting Date

918
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic SB 918

Name Greg Munson

Job Title

Address 215 S. Monroe St
Street

Tallahassee FL 32308
City State Zip

Phone 850-521-1980

Email

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

Waive Speaking: [ ] In Support [ ] Against
(The Chair will read this information into the record.)

Representing Associated Industries of Florida H2O Coalition

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

Lobbyist registered with Legislature: [ ] Yes [ ] No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

Apr. 21, 2015
Meeting Date

918
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic: Water / Environmental Resources

Name: Grace Lovett

Job Title: Dir. Legislative Affairs

Address: PL 10 The Capitol
Street

Tallahassee FL 32399
City State Zip

Phone: 850 617 7700

Email: grace.lovett@freshfromflorida.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing: Fl Dept. of Agriculture + Consumer Services

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/21/15
Meeting Date

918
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic: Environmental Resources

Name: Kane Kelly

Job Title:

Address: Street

City State Zip

Phone:

Email:

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

Waive Speaking: [x] In Support [ ] Against
(The Chair will read this information into the record.)

Representing: Fla Chamber of Commerce

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

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

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4-21
Meeting Date

918
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic: Shareduse Non-motorized Trail Network

Name: Ken Bryan

Job Title: Florida Director

Address: PO Box 5227
Street

Tallahassee, FL 32317
City State Zip

Phone:

Email: Ken@railstotrails.org

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☑ In Support ☐ Against
(The Chair will read this information into the record.)

Representing: Rails-to-Trails Conservancy

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

April 21, 2015
Meeting Date

918
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic

Name Dale Allen

Job Title Executive Director - Florida Greenways + Trails Foundation

Address 3186 Baringer Hill Drive
Street

Tallahassee Florida 32311
City State Zip

Phone 850-656-8050

Email wm.dale.allen@gmail.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Florida Greenways + Trails Foundation

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 (10/14/14)

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 Appropriations

BILL: PCS/CS/SB 948 (689974)

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Education); Higher Education Committee; and Senator Gaetz

SUBJECT: Education

DATE: April 20, 2015 REVISED: 4/20/15

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Scott	Klebacha	HE	**Fav/CS**
2.	Sikes	Elwell	AED	**Recommend: Fav/CS**
3.	Sikes	Kynoch	AP	**Pre-meeting**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/CS/SB 948 updates and establishes numerous public K-12 and postsecondary education statutes relating to Florida digital classrooms, apprenticeships, public school funding and policy issues, preeminent state research university designation, postsecondary affordability, postsecondary performance-based incentive funding models, a Rapid Response Education and Training Program, educator liability insurance, and the Florida Best and Brightest Teacher Scholarship Program.

Florida Digital Classrooms

The bill provides a mechanism for comparing the status of digital readiness of school districts and public schools, which is independently verified, based on technology infrastructure standards identified by the Agency for State Technology (Agency), or a contracted organization. The digital readiness of school districts must be assessed using a digital readiness scorecard and uniform definitions of technology infrastructure components established by the Department of Education (DOE) in consultation with the Agency.

Apprenticeships

The bill updates definitions, authorizes the appointment of independent public members to the State Apprenticeship Advisory Council, and revises the criteria for an apprenticeable occupation.

The bill also creates the Florida Apprenticeship Grant (FLAG) Program to provide competitive grants to career centers, charter technical career centers and Florida College System (FCS) institutions for the purpose of expanding existing programs and establishing new apprenticeship programs.

Public School Funding and Policy Issues.

The bill modifies the Florida Education Finance Program (FEFP) funding formula by:

- Extending and expanding the requirement of providing an additional hour of intensive reading instruction to students enrolled in the 300 lowest-performing elementary schools.
- Authorizing performance funding for a career and professional education (CAPE) industry certification earned through a dual enrollment course.
- Establishing two new tiers of bonuses and raises the maximum annual bonus for CAPE industry certification teachers.
- Increasing the discretionary millage compression supplement above the state average.
- Revising the formula for calculating the sparsity supplement.
- Revising the formula for calculating the virtual education contribution.
- Creating the federally connected student supplement.

The bill also:

- Clarifies that annual license fees, maintenance fees, and lease agreements for enterprise resource software are allowable uses of local capital improvement funds.
- Provides audit protection for teachers under the Florida Teacher Classroom Supply Assistance Program by requiring teachers to provide the school district with receipts for the expenditure of the funds.
- Authorizes a district school board to adopt policies for standard student attire.
- Requires the DOE to administer an educator liability insurance program. Requires public school instruction on the events surrounding the terrorist attacks occurring on September 11, 2001, and the impact of those events on the nation.
- Provides an exemption for the performance of students with excessive absences from counting against a teacher's performance evaluation.

Preeminent State Research University Designation

The bill adds a requirement that a state research university enter into and maintain a formal agreement with the National Merit Scholarship Corporation for designation as a preeminent state research university.

Performance-Based Funding

The bill establishes the State University System and Florida College System Performance-Based Incentive funding models based on metrics adopted by the Board of Governors and the State Board of Education (State Board), respectively.

Rapid Response Education and Training Program

The bill creates the Rapid Response Education and Training Program (Program) within the Complete Florida Plus Program to recruit and retain employees through industry-specific education and training. The bill:

- Specifies the responsibilities of the Program.
- Requires the DOE to evaluate and report on the effectiveness of the Program.
- Requires the DOE to develop standards.
- Requires the State Board to adopt rules.

Florida Best and Brightest Teacher Scholarship Program

The bill creates the Florida Best and Brightest Teacher Scholarship Program (Scholarship Program) to award teachers who demonstrate a high level of academic achievement, authorizes funding for the Scholarship Program, and, and, for teachers other than first-year teachers, have been evaluated as highly effective.

The Senate's Fiscal Year 2015-2016 proposed General Appropriations Bill, SB 2500, appropriates a total of $90 million for the additional hour of intensive reading instruction through the Supplemental Academic Instruction (SAI) and the Research-Based Reading Instruction Allocation categoricals in the FEFP. The increase in the discretionary millage supplement is funded at $34 million and the federally connected student supplement categorical is funded at $12.4 million. The State University System and Florida College System Performance-Based Incentive funding models are funded at $400 million and $60 million respectively. The Rapid Response Education and Training Program is funded at $19.2 million.

The Florida Best and Brightest Program and the educator liability insurance program, which do not have an appropriation in SB 2500, have an estimated cost of $45.5 million and $1.2 million respectively for the 2015-2016 fiscal year.

The bill provides an effective date of July 1, 2015.

II. Present Situation:

Florida Digital Classrooms Allocation

In 2014, the Legislature elevated policy and funding for technology-enhanced classroom teaching and learning by creating the Florida digital classrooms allocation (allocation) to support efforts and strategies of school districts and public schools in integrating technology into classroom instruction to improve student performance outcomes.[1] In response to the 2014 legislation that created the allocation,[2] the Department of Education (DOE or department) adopted a Strategic Technology Plan establishing the general parameters for digital classrooms which are used by the by the district school boards to adopt their district digital classrooms plan.[3]

---

[1] Section 1011.62(12)(a), F.S.
[2] Sections 5 and 27, ch. 2014-56, L.O.F.
[3] Florida Department of Education, *FDOE Digital Classrooms Plan*, http://www.fldoe.org/about-us/division-of-technology-info-services/bureau-of-edu-tech.stml (last visited March 6, 2015); *see* ss. 1001.20(4) and 1011.62(12)(b), F.S. The

For the 2014-2015 fiscal year, the Legislature appropriated $40 million to school districts to support digital classrooms.[4] A minimum of $250,000 was provided to each school district and the remaining balance was allocated based on each district's share of the state's total unweighted student enrollment.[5]

State Digital Classrooms Plan

The Office of Technology and Information Services, within the DOE, is responsible for developing a 5-year strategic plan (state plan) that must:[6]

- Describe how technology will be integrated into classroom teaching and learning to improve student performance outcomes and prepare students to be digital learners.
- Establish minimum technology requirements that include specifications for hardware, software, devices, networking, security, and bandwidth capacity and guidelines for the ratio of students per device.
- Establish minimum requirements for professional development opportunities and training to assist district instructional personnel staff with integrating technology into classroom teaching.
- Identify the types of digital tools and resources that can assist district instructional personnel and staff in management, assessment, and monitoring of student learning and performance.

The DOE must update the state plan annually by January 1st.[7]

Technology Integration Matrix

To assist with integrating technology into curriculum, the DOE has prepared a Technology Integration Matrix (TIM)[8] for teachers to use technology to enhance learning by:[9]

- Providing a framework for defining and evaluating technology integration;
- Setting a clear vision for effective teaching with technology;
- Giving teachers and administrators a common language for setting goals; and
- Helping target professional development resources effectively.

Department of Education has provided to school districts, technical assistance memo and guidance document regarding digital classrooms. Florida Department of Education, *Digital Classrooms Plan (DCP) and Allocation*, http://www.fldoe.org/about-us/division-of-technology-info-services/bureau-of-edu-tech.stml (last visited March 9, 2015).

[4] Specific Appropriation 96, s. 2, ch. 2014-51, LO.F.

[5] *Id*.

[6] Section 1001.20(4)(a)1., F.S.

[7] Section 1001.20(4)(a)1., F.S

[8] Florida Department of Education, *Presentation to the Florida Senate Appropriations Subcommittee on Education* (March 4, 2015), *available at* http://www.flsenate.gov/PublishedContent/Committees/2014-2016/AED/MeetingRecords/MeetingPacket_2873.pdf, at 115 of 120.

[9] Florida Department of Education, *The Technology Integration Matrix*, http://fcit.usf.edu/matrix/index.php (last visited March 10, 2015). The five interdependent characteristics of meaningful learning environments are: active, constructive, goal directed (i.e., reflective), authentic, and collaborative. The five levels of technology integration (i.e., entry, adoption, adaptation, infusion, and transformation) with each of the five characteristics of meaningful learning environments. Together, the five levels of technology integration and the five characteristics of meaningful learning environments create a matrix of 25 cells to set a clear vision for effective teaching with technology. Florida Department of Education, *The Technology Integration Matrix* (March 9, 2015), *available at* http://fcit.usf.edu/matrix/matrix.php.

District Digital Classrooms Plan

The 2014 legislation required each district school board to adopt a district digital classrooms plan (DCP) that meets the unique needs of students, schools, and personnel and submit the district DCP to the DOE for approval.[10] By permitting the customization of district digital classrooms plan to meet local needs, the legislation promoted local control of targeted and purposeful technology enhancements in Florida's classrooms. At a minimum, the district DCPs must be updated annually to include the following:[11]

- Measurable student performance outcomes, including the outcomes for students with disabilities.
- Digital learning and technology infrastructure purchases and operational activities including, but not limited to, connectivity, broadband access, wireless capacity, internet speed, and data security, all of which must meet or exceed the minimum requirements and protocols established by the department.
- Professional development purchases and operational activities including, but not limited to, using technology in the classroom and improving digital literacy and competency.
- Digital tool purchases and operational activities including, but not limited to, competency-based credentials that measure and demonstrate digital competency and certifications; third-party assessments that demonstrate acquired knowledge and use of digital applications; and devices that meet or exceed the minimum requirements and protocols established by the department.
- Online assessment-related purchases and operational activities including, but not limited to, expanding the capacity to administer assessments and compatibility with minimum assessment requirements and protocols established by the department.

Each district superintendent must certify to the Commissioner of Education (commissioner) that "the district school board has approved a comprehensive district digital classrooms plan that supports the fidelity of implementation of the Florida digital classrooms allocation."[12] In addition, each district's DCP must include a formal verification of the district superintendent's approval of the DCP for each charter school in the district.[13] The DOE must approve the DCPs before distributing the allocation funds to the school districts.[14]

For the 2014-2015 school year, the deadline for submitting district DCPs was October 1, 2014.[15] All 67 district school boards have submitted their district DCP and the DOE has approved all district DCPs.[16] For the 2015-2016 school year and each year thereafter, the district school boards must submit their district DCPs annually by March 1.[17]

In addition to submitting DCPs, beginning in the 2015-2016 fiscal year, each district school board must report to the department its use of allocation funds and student performance

[10] Section 1011.62(12)(b), F.S.
[11] *Id*.
[12] Section 1011.62(12)(c), F.S.
[13] Section 1011.62(12)(b)5(c), F.S.
[14] *Id*.
[15] Section 1011.62(12)(b), F.S.
[16] Florida Department of Education, *Approved Districts' Digital Classroom Plans*, http://www.fldoe.org/about-us/division-of-technology-info-services/dcp.stml (last visited March 6, 2015).
[17] Section 1011.62(12)(b), F.S.

outcomes.[18] The department may contract with an independent third-party entity to conduct an annual independent verification of the district's use of allocation funds in accordance with the district's DCP.[19] If an independent third-party verification is not conducted, the Auditor General must, during scheduled operational audits of school districts, verify compliance of the use of allocation funds in accordance with the district's DCP.[20]

Annually, by October 1, beginning in the 2015-2016 fiscal year, the commissioner must provide to the Governor, President of the Senate, and Speaker of the House of Representatives, a summary of each district's use of funds, student performance outcomes, and progress toward meeting statutory requirements and timelines.[21]

Apprenticeship Programs

Registered Apprenticeship (RA) "connects job seekers looking to learn new skills with employers looking for qualified workers, resulting in a workforce with industry-driven training and employers with a competitive edge."[22]

Federal Program Requirements

The United States Congress enacted the National Apprenticeship Act (also known as the Fitzgerald Act in honor of its author, Congressman William J. Fitzgerald)[23] in 1937.[24] Following the passage of the act, RA programs consisted mainly of manufacturing, construction, and utilities industries.[25] Since 1937, RA programs have grown to 24,000 programs providing education and training to approximately 400,000 apprentices in emerging and high-growth sectors such as energy conservation, health care, and information technology, in addition to traditional industries such as manufacturing and construction.[26] "As the need for skilled workers increases and our economy faces greater global competition, RA continues to be a competitive advantage for all parties-individuals, businesses, labor management organizations, education, the workforce investment system and government. For these reasons, [the Employment and Training Administration, U.S. Department of Labor] issued revised regulations that increase program flexibility to better serve the needs of today's apprentices and program sponsors."[27]

For apprentices and program sponsors, the regulations:[28]

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[18] Section 1011.62(12)(e), F.S.
[19] *Id*.
[20] *Id*.
[21] *Id*.
[22] U.S. Department of Labor, *Apprentices*, http://www.doleta.gov/oa/apprentices.cfm (last visited March 2, 2015).
[23] U.S. Department of Labor, *Workforce System Results* (Sep. 30, 2012), *available at* http://www.doleta.gov/Farmworker/pdf/workforceSystemResultsSept2012.pdf, at 4 of 38.
[24] U.S. Department of Labor, *Registered Apprenticeship*, http://www.doleta.gov/oa/history.cfm (last visited March 2, 2015); *see* 29 U.S.C., s. 50.
[25] U.S. Department of Labor, *Registered Apprenticeship*, http://www.doleta.gov/oa/history.cfm (last visited March 2, 2015).
[26] *Id*.
[27] *Id*. "These revised regulations published, on October 29, 2008, update Title 29 CFR, part 29 and provide a framework that supports an enhanced, modernized apprenticeship system." U.S. Department of Labor, *Regulations*, http://www.doleta.gov/oa/regulations.cfm (last visited March 2, 2015).
[28] U.S. Department of Labor, *Apprenticeship Final Rule Fact Sheet*, *available at* http://www.doleta.gov/oa/pdf/Apprenticeship_Final_Fact_Sheet.pdf, at 1-2 of 4.

- Incorporate technology-based learning;
- Provide additional pathways to certification;
- Introduce interim credentials;
- Improve registration and review process;
- Update the reciprocal registration provision; and
- Introduce provisional registration.

For State Apprenticeship Agencies (SSAs), the regulations:[29]
- Increase linkages with the workforce investment system;
- Redefine the roles and responsibilities of SSAs and State Apprenticeship Councils (SACs);
- Establish a process for continued recognition; and
- Increase flexibility for location of an SSA.

For the U.S. Department of Labor, the regulations:[30]
- Enhance program accountability; and
- Ensure national conformity with federal apprenticeship legislation and regulations.

Registered apprenticeship program sponsors (i.e., employers, employer associations, and labor management organizations)[31] identify the minimum qualifications to apply into their apprenticeship program.[32] An individual must be at least 16 years of age to be an apprentice.[33] In hazardous occupations, individuals must generally be 18 years of age.[34] Program sponsors may also identify additional minimum qualifications and credentials to apply (e.g., education, ability to physically perform the essential functions of the occupation, and proof of age). All applicants are required to meet the minimum qualifications. Additional qualification standards, such as fair aptitude tests and interviews, school grades, and previous work experience may be identified.[35] Apprenticeship programs range from 1 year to 6 years, but the majority are 4 years in length.[36] During the program, the apprentice receives both structured, on-the-job learning and related classroom instruction.[37] For each year of the apprenticeship, the apprentice typically receives 2,000 hours of on-the-job learning and a recommended minimum of 144 hours of related classroom instruction.[38]

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[29] U.S. Department of Labor, *Apprenticeship Final Rule Fact Sheet*, *available at* http://www.doleta.gov/oa/pdf/Apprenticeship_Final_Fact_Sheet.pdf, at 2-3 of 4.
[30] U.S. Department of Labor, *Apprenticeship Final Rule Fact Sheet*, *available at* http://www.doleta.gov/oa/pdf/Apprenticeship_Final_Fact_Sheet.pdf, at 3 of 4.
[31] Registered Apprenticeship program sponsors vary from small, privately owned businesses to national employer and industry associations. There are nearly 29,000 sponsors representing more than 250,000 employers, such as UPS, the United States Military Apprenticeship Program, Werner Enterprises, and CVS/pharmacy. U.S. Department of Labor, *Apprentices*, http://www.doleta.gov/oa/apprentices.cfm (last visited March 2, 2015).
[32] U.S. Department of Labor, *Apprentices*, http://www.doleta.gov/oa/apprentices.cfm (last visited March 2, 2015).
[33] *Id*.
[34] U.S. Department of Labor, *Apprentices*, http://www.doleta.gov/oa/apprentices.cfm (last visited March 2, 2015).
[35] *Id*.
[36] U.S. Department of Labor, *Apprentices*, http://www.doleta.gov/oa/apprentices.cfm (last visited March 2, 2015).
[37] *Id*.
[38] *Id*.

State Law

Florida law provides educational and training opportunities, in the form of apprenticeship and preapprenticeship programs, to prepare individuals for trades, occupations, and professions suited to their abilities.[39]

An apprenticeship program means "an organized course of instruction, registered and approved by the department, which course shall contain all terms and conditions for the qualifications, recruitment, selection, employment, and training of apprentices[40] including such matters as the requirements for a written apprenticeship agreement."[41] A preapprenticeship program means "an organized course of instruction in the public school system or elsewhere, which course is designed to prepare a person 16 years of age or older to become an apprentice and which course is approved by and registered with the department and sponsored by a registered apprenticeship program."[42]

The DOE is responsible for administering, facilitating, and supervising registered apprenticeship programs (e.g., developing and encouraging apprenticeship programs, cooperating with and assisting apprenticeship sponsors to develop apprenticeship standards and training requirements, monitoring RA programs, investigating complaints regarding failure to meet the standards[43] established by the department, and canceling registration of programs that fail to comply with the standards and policies of the department).[44]

Additionally, the department, the district school boards, and the community college district boards of trustees must work together with existing apprenticeship programs so that individuals

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[39] Section 446.011(1), F.S.

[40] An apprentice means "a person at least 16 years of age who is engaged in learning a recognized skilled trade through actual work experience under the supervision of journeyman craftsmen, which training should be combined with properly coordinated studies of technical and supplementary subjects, and who has entered into a written agreement, which may be cited as an apprentice agreement, with a registered apprenticeship sponsor who may be either an employer, an association of employers, or a local joint apprenticeship committee." Section 446.021(2), F.S. A journeyman means "a person working in an apprenticeable occupation who has successfully completed a registered apprenticeship program or who has worked the number of years required by established industry practices for the particular trade or occupation." Section 446.021(4), F.S. An apprenticeable occupation is a skilled trade which possesses all of the characteristics that are specified in law (e.g., customarily learned in a practical way through a structures, systemic program of on-the-job, supervised training and involves manual, mechanical, or technical skills and knowledge which require a minimum of 2,000 hours of work and training, which hours are excluded from the time spent at related instruction). Section 446.092, F.S.

[41] Section 446.021(6), F.S. An apprenticeship agreement may not operate to invalidate any apprenticeship provision in a collective agreement between employers and employees which establishes higher apprenticeship standards. Section 446.081(1), F.S.

[42] Section 446.021(5), F.S.

[43] The Department of Education (DOE or department) is responsible for developing apprenticeship and preapprenticeship uniform minimum standards for the apprenticeable trades and assisting district school boards and community college district boards of trustees in developing preapprenticeship programs. Sections 446.011(2), 446.032, and 446.052, F.S. Uniform minimum preapprenticeship standards means "the minimum requirements established uniformly for each craft under which a preapprenticeship program is administered and includes standards for admission, training goals, training objectives, curriculum outlines, objective standards to measure successful completion of the preapprenticeship program, and the percentage of credit which may be given to preapprenticeship graduates upon acceptance into the apprenticeship program." Section 446.021(8), F.S.

[44] Section 446.041, F.S.

completing the preapprenticeship programs may be able to receive credit towards completing a registered apprenticeship program.[45]

The State Apprenticeship Advisory Council (Council) advises the department on matters related to apprenticeship.[46] The Council is comprised of 10 voting members appointed by the Governor and two ex officio nonvoting members.[47] The Commissioner of Education (commissioner) or the commissioner's designee must serve ex officio as chair of the Council, but may not vote.[48] Two public members who are knowledgeable about registered apprenticeship and apprenticeable occupations are appointed by the Governor to the Council.[49] One of the public members must be recommended by joint organizations and one must be recommended by nonjoint organizations.[50]

Florida Education Finance Program (FEFP)

Intensive Reading Instruction

A school district that has one or more of the 300 lowest-performing elementary schools based on the state reading assessment is required to provide an additional hour of intensive reading instruction beyond the normal school day for each day of the entire school year in those schools.[51] Funds for this program are designated in the Supplemental Academic Instruction and the Research-Based Reading Instruction Allocation categoricals in the FEFP within the General Appropriations Act (GAA).[52]

Dual Enrollment Industry Certification Funding

In 2007, the Legislature created the Florida Career and Professional Education (CAPE) Act to:[53]

- Improve middle and high school academic performance by providing rigorous and relevant curriculum opportunities;
- Provide rigorous and relevant career-themed courses[54] that articulate to postsecondary-level coursework and lead to industry certification[55];
- Support local and regional economic development;
- Respond to Florida's critical workforce needs; and
- Provide state residents with access to high-wage and high-demand careers.

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[45] Section 446.052(3), F.S.
[46] Section 446.045(2)(a), F.S.
[47] *Id*.
[48] Section 446.045(2)(b), F.S.
[49] *Id.*
[50] *Id.* A "joint organization" means an apprenticeship sponsor who participates in a collective bargaining agreement. Section 446.045(1)(a), F.S. A "nonjoint organization" means an apprenticeship sponsor who does not participate in a collective bargaining agreement. *Id.* at (1)(b).
[51] Section 1011.62(1)(f) and (9), F.S.
[52] Chapter 2014-51, L.O.F.
[53] Section 1003.491(1), F.S.
[54] A "career-themed course" is a course, or a course in a series of courses, that leads to an industry certification identified in the Industry Certification Funding List pursuant to rules adopted by the State Board of Education. Career-themed courses have industry-specific curriculum aligned directly to priority workforce needs established by the regional workforce board or the Department of Economic Opportunity. Section 1003.493(1)(b), F.S.
[55] Through third-party assessments called industry certifications, students demonstrate competency to perform specific industry-endorsed and -recognized skills and abilities required to perform particular jobs. Sections 1003.4203(8)(b) and 1003.492(2), F.S.

The State Board of Education (SBE or State Board) adopts by rule, the list of industry certifications that are eligible for funding through the Florida Education Finance Program (FEFP).[56] The list of industry certifications approved by Workforce Florida, Inc., and the DOE, called the Industry Certification Funding List, is updated annually.[57] Industry certifications on the "Gold Standard Career Pathways" list, which is incorporated by reference in SBE rule,[58] articulate to Associate in Applied Science and Associate in Science degree programs and are a subset of the Industry Certification Funding List.[59]

Performance funding for a CAPE industry certification earned through dual enrollment is allocated to the Florida College System institution or district career center providing the instruction only if the industry certification is eligible for funding on the Postsecondary Industry Certification Funding List approved by the State Board.[60]

Bonus Funding

Bonus funding is authorized for school districts and for teachers if a student earns a qualifying score on the following examinations and certifications: International Baccalaureate (IB) examinations; Advanced International Certificate of Education (AICE) examinations; Advance Placement (AP) examinations; and CAPE industry certifications.[61]

School District Bonus Funding

School district bonus funding is awarded as follows:[62]

- 0.16 full-time equivalent (FTE) bonus funding for every qualifying score earned on an IB or AP examination or full-credit AICE examination.
- 0.8 FTE bonus funding for every qualifying score earned on a half-credit AICE examination.
- 0.1, 0.2, 0.3, 0.5, or 1.0 FTE for CAPE industry certifications.

Teacher Bonus Funding

Teacher bonus funding is awarded for IB, AICE, and AP examinations, and CAPE industry certifications.[63] For IB examinations, a bonus in the amount of $50 is awarded for each student taught by the IB teacher who receives a qualifying score on the IB examination.[64] An additional bonus of $500 is awarded to each IB teacher in a school designated with a grade of "D" or "F" who has at least one student earning a qualifying score on the IB examination.[65] IB bonuses must not exceed $2,000 given to a teacher in any given school year. However, the maximum bonus

[56] Sections 1008.44 and 1003.492, F.S.
[57] Section 1003.492(2), F.S.
[58] Rule 6A-10.0401, F.A.C.
[59] Florida Department of Education, *Process for Establishing Gold Standard Career Pathways Industry Certification to AAS/AS Degree Statewide Articulation Agreements*, *available at* http://www.fldoe.org/workforce/dwdframe/pdf/GSCPICprocess.pdf.
[60] Section 1011.80, F.S.
[61] Section 1011.62(1)(l)-(o), F.S.
[62] *Id*.
[63] *Id*.
[64] *Id*.
[65] *Id*.

shall be $3,000 if at least 50 percent of the students enrolled in a teacher's course earn a qualifying score in a school designated with a grade of "A," "B," or "C"; or if at least 25 percent of the students enrolled in a teacher's course earn a qualifying score in a school designated with a grade of "D" or "F."[66]

For AICE examinations, a bonus in the amount of $50 is awarded for each student taught by the AICE teacher in each full-credit AICE course who receives a qualifying score on the AICE examination.[67] A bonus in the amount of $25 is awarded for each student taught by the AICE teacher in each half-credit AICE course who receives a qualifying score on the AICE examination.[68] An additional bonus of $500 is awarded to each AICE teacher in a school designated with a grade of "D" or "F" who has at least one student earning a qualifying score on the full-credit AICE examination, or $250 is awarded each to teachers of half-credit AICE classes in a school designated with a grade of "D" or "F" which has at least one student earning a qualifying score on the half-credit AICE examination.[69] AICE bonuses must not exceed $2,000 given to a teacher in any given school year.[70]

For AP examinations, a bonus in the amount of $50 is awarded for each student taught by the AP teacher who receives a qualifying score on the AP examination.[71] An additional bonus of $500 is awarded to each AP teacher in a school designated with a grade of "D" or "F" who has at least one student earning a qualifying score on the AP examination.[72] AP bonuses must not exceed $2,000 given to a teacher in any given school year.[73] However, the maximum bonus shall be $3,000 if at least 50 percent of the students enrolled in a teacher's course earn a qualifying score in a school designated with a grade of "A," "B," or "C"; or if at least 25 percent of the students enrolled in a teacher's course earn a qualifying score in a school designated with a grade of "D" or "F."[74]

For CAPE Industry Certifications, a bonus in the amount of $25 is awarded for each student taught by a teacher who provided instruction in a course that led to the attainment of a CAPE industry certification on the CAPE Industry Certification Funding List with a weight of 0.1.[75] A bonus in the amount of $50 is awarded for each student taught by a teacher who provided instruction in a course that led to the attainment of a CAPE industry certification on the CAPE Industry Certification Funding List with a weight of 0.2, 0.3, 0.5, and 1.0.[76] CAPE industry certification bonuses must not exceed $2,000 given to a teacher in any given school year.[77]

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[66] *Id.*
[67] *Id.*
[68] *Id.*
[69] *Id.*
[70] *Id.*
[71] *Id.*
[72] *Id.*
[73] *Id.*
[74] *Id.*
[75] *Id.*
[76] *Id.*
[77] *Id.*

Discretionary Millage Compression Supplement

A school district that levies the full 0.748 discretionary millage authorized under s. 1011.71(1), F.S., and prescribed in the GAA,[78] and generates an amount of funds per unweighted FTE student that is less than the state average amount per unweighted FTE student, receives a discretionary millage compression supplement that brings the district up to the state average.[79]

Sparsity Supplement

The FEFP recognizes the relatively higher operating cost of smaller districts due to sparse student populations through a statutory formula in which the variable factor is a sparsity index.[80] This index is computed by dividing the FTE student membership of the qualified district by the number of permanent senior high school centers (not to exceed three).[81] A qualified district's FTE shall equal or be less than that prescribed annually by the Legislature in the GAA.[82] The amount prescribed annually by the Legislature shall be no less than 17,000, but no more than 24,000 FTE.[83]

Virtual Education Contribution

The virtual education contribution is calculated within the FEFP for the Florida Virtual School and its franchises, as well as other virtual instruction programs and options.[84] The virtual education contribution is the difference between the amount per FTE established in the GAA for virtual education and the amount per FTE for each district and the Florida Virtual School, which is calculated by taking the sum of the base FEFP allocation, the discretionary local effort, the state-funded discretionary contribution, the discretionary millage compression supplement, the research-based reading instruction allocation, and the instructional materials allocation, and then dividing by the total unweighted FTE.[85] In the 2014-2015 fiscal year, funding for virtual education was established at $5,230 per FTE.[86]

Federally Connected Students

Title VIII of the Elementary and Secondary Education Act of 1965 authorizes certain school districts to receive federal Impact Aid funding to support the education of students whose parents are employed by the federal government, including active duty uniformed services, or who live or work on federally owned property, such as military installations, National Aeronautics and Space Administration property, and Indian lands.[87]

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[78] Chapter 2014-51, L.O.F.
[79] Florida Department of Education, 2014-15 Funding for Florida School Districts, Statistical Report, *available at* http://fldoe.org/core/fileparse.php/7507/urlt/Fefpdist.pdf.
[80] Section 1011.62(7)(a), F.S. Florida Department of Education, 2014-15 Funding for Florida School Districts, Statistical Report, *available at* http://fldoe.org/core/fileparse.php/7507/urlt/Fefpdist.pdf.
[81] Section 1011.62(7)(b), F.S.
[82] *Id.* at (7)(a).
[83] *Id.*
[84] Section 1011.62(11), F.S. Students are eligible to participate in: (a) school-district operated part-time and full-time kindergarten through grade 12 virtual instruction programs, if enrolled in the school district; (b) full-time virtual charter school instruction programs; or (c) virtual courses offered in the course code directory within the school district or other school districts throughout the state. Section 1002.455(3), F.S.
[85] Section 1011.62(11), F.S.
[86] Chapter 2014-51, L.O.F., *see* Specific Appropriations 9 and 96 of the 2014-2015 GAA.
[87] 20 U.S.C. s. 7703.

The Impact Aid funding for Florida school districts has decreased by 50 percent from $13.9 million in the 1993-1994 fiscal year to $6.9 million in the 2013-2014 fiscal year.[88] Currently, 14 school districts in Florida qualify for federal Impact Aid funding.[89]

Local Capital Improvement Revenue for Computer Hardware and Enterprise Software

School districts are authorized to use local improvement revenue to purchase, lease-purchase, or lease:

- New and replacement equipment;
- Computer hardware; and
- Enterprise resource software applications that are classified as capital assets, have a useful life of at least 5 years, and are used to support districtwide administration or state-mandated reporting requirements.

Florida Classroom Teacher Supply Program

Under the Florida Teachers Classroom Supply Assistance Program, each school district is provided an allocation based on the prorated total of each school district's share of the total K-12 unweighted FTE student enrollment. These funds are to be used only by classroom teachers for the purchase of classroom instructional materials and supplies for use in teaching students.[90] Teachers are required to sign an acknowledgement stating they understand the appropriate use of these funds and that they will keep all receipts for expenditures of the funds for at least four years.[91]

Student Safety & Discipline

Each district school board is authorized to adopt policies requiring students to wear uniforms or policies imposing other dress-related requirements, if a district school board finds that the policies are necessary for the safety and welfare of the students or school personnel.[92] However, students are permitted to wear sunglasses, hats, or other sun-protective wear while outdoors during school hours.[93]

A district school board must adopt rules and policies relating to the control, discipline, suspension, and expulsion of students.[94] The district school board must decide on the expulsion of a student based on the school superintendent's recommendation.[95] In addition, a district school board must adopt a student code of conduct for elementary, middle, and high schools and

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[88] Florida Department of Education, presentation to the Senate Appropriations Subcommittee on Education (January 22, 2015), *available at* http://www.flsenate.gov/PublishedContent/Committees/2014-2016/AED/MeetingRecords/MeetingPacket_2761.pdf.
[89] *Id.*
[90] 2014-15 Funding for Florida School Districts, Florida Department of Education. http://fldoe.org/core/fileparse.php/7507/urlt/Fefpdist.pdf
[91] s. 1012.71 (5), F.S.
[92] Section 1001.43(1)(b), F.S.
[93] *Id.*
[94] Section 1006.07(1), F.S.
[95] *Id.*

distribute the code to teachers, school personnel, students, and parents at the beginning of the school year.[96]

The student code of conduct must include a dress code policy prohibiting a student, while on the grounds of a public school during a regular school day, from wearing clothing that exposes underwear or body parts in an indecent or vulgar manner or that disrupts the orderly learning environment.[97] Any student who violates the dress code policy is subject to specified disciplinary actions determined by the number of violations committed by the student.[98] If a student wears clothing or an accessory that causes a substantial disruption to student learning, the district school board may discipline such student in a manner consistent with its policies for similar infractions.[99]

Preeminent State Research Universities

The preeminent state research university program is a collaborative partnership between the Board of Governors (BOG) of the State University System of Florida and the Legislature to elevate the academic and research preeminence of Florida's highest performing state research universities.[100] A state research university that meets at least 11 of the 12 academic and research excellence standards specified in law is designated as a preeminent state research university.[101]

The academic and research excellence standards are:[102]

- An average weighted grade point average of 4.0 or higher on a 4.0 scale and an average SAT score of 1800 or higher for fall semester incoming freshmen, as reported annually.
- A top-50 ranking on at least two well-known and highly respected national public university rankings, reflecting national preeminence, using most recent rankings.
- A freshman retention rate of 90 percent or higher for full-time, first-time-in-college students, as reported annually to the Integrated Postsecondary Education Data System (IPEDS).
- A 6-year graduation rate of 70 percent or higher for full-time, first-time-in-college students, as reported annually to the IPEDS.
- Six or more faculty members at the state university who are members of a national academy, as reported by the Center for Measuring University Performance in the Top American Research Universities (TARU) annual report.
- Total annual research expenditures, including federal research expenditures, of $200 million or more, as reported annually by the National Science Foundation (NSF).
- Total annual research expenditures in diversified nonmedical sciences of $150 million or more, based on data reported annually by the NSF.
- A top-100 university national ranking for research expenditures in five or more science, technology, engineering, or mathematics fields of study, as reported annually by the NSF.
- One hundred or more total patents awarded by the United States Patent and Trademark Office for the most recent 3-year period.

[96] *Id.* at (2).
[97] *Id.* at (2)(d).
[98] *Id.*
[99] *Id.* at (2)(g).
[100] Section 1001.7065(1), F.S.
[101] *Id.* at (3).
[102] *Id.* at (2).

- Four hundred or more doctoral degrees awarded annually, as reported in the BOG Annual Accountability Report.
- Two hundred or more postdoctoral appointees annually, as reported in the TARU annual report.
- An endowment of $500 million or more, as reported in the BOG Annual Accountability Report.

A preeminent state research university receives $5 million in recurring funds annually, subject to appropriation in the GAA.[103] Currently, only the Florida State University and University of Florida meet the standards for preeminent state research university designation and are Florida's only two preeminent state research universities.[104]

Florida National Merit Scholarship Incentive Program

The Florida National Merit Scholarship Incentive Program is a merit scholarship for 2013-14 and later Florida high school graduates who achieved the National Merit or National Achievement Finalist designation. The scholarship award is equal to the per term cost of institutional attendance minus the sum of Bright Futures and the award associated with the National Merit/Achievement process.

Postsecondary Textbooks

Florida College System (FCS) institutions and state universities must post on their websites, not less than 30 days prior to the first day of class for each term, a list of each textbook required for each course for the term.[105] The list must include the International Standard Book Number (ISBN) for each required textbook and specific information necessary to identify the specific textbook required for each course.[106]

The State Board and the BOG must adopt policies, procedures, principles, and guidelines for implementation by FCS institutions and state universities that further efforts to minimize the costs of textbooks for students attending such institutions while maintaining the quality of education and academic freedom.[107] The policies, procedures, and guidelines must provide for the following:[108]

- That textbook adoptions are made with sufficient lead time to bookstores so as to confirm availability of the requested materials and ensure maximum availability of used books.
- That, in the textbook adoption process, the intent to use all items ordered, is confirmed by the course instructor or academic department offering the course before the adoption is finalized.
- That a course instructor or the academic department offering the course, determines, before a textbook is adopted, the extent to which a new edition differs significantly and substantively

[103] Section 1001.7065, F.S.
[104] Florida Board of Governors, Strategic Planning Committee, Agenda Item 7, *Preeminent State Research University Benchmark Plans* (November 20, 2013) *available at* http://www.flbog.edu/documents_meetings/0184_0752_5480_399%20SPC%20Packet.pdf.
[105] Section 1004.085(3), F.S.
[106] *Id*.
[107] Section 1004.085(3)-(4), F.S.
[108] Section 1004.085(3)-(4), F.S.

from earlier versions and the value of changing to a new edition or the extent to which an open access textbook may exist and be used.
- That the establishment of policies shall address the availability of required textbooks to students who are otherwise unable to afford the cost, including consideration of the extent to which an open-access textbook may be used.
- The course instructors and academic departments are encouraged to participate in the development, adaptation, and review of open-access textbooks, especially open-access textbooks for high-demand general education courses.

Tuition and Fees

Under Florida law, "tuition" is defined as "the basic fee charged to a student for instruction provided by a public postsecondary educational institution in this state."[109] A student who is classified as a "resident for tuition purposes" is a student who qualifies for the in-state tuition rate.[110] An "out-of-state fee" is "the additional fee for instruction provided by a public postsecondary education institution in this state, which fee is charged to a student who does not qualify for the in-state tuition rate."[111]

Workforce Education Postsecondary Fees

A student who enrolls in workforce education postsecondary programs is charged tuition and other fees, unless the student is eligible for an exemption or a waiver.[112] The Legislature establishes the standard tuition and out-of-state fee per contact hour. Since July 1, 2014, for programs leading to a career certificate or an applied technology diploma, the standard tuition is $2.33 per contact hour for residents and nonresidents. The out-of-state fee for such programs is $6.99 per contact hour.[113] For adult general education programs, a block tuition of $45 per half year or $30 per term is assessed.[114]

Each district school board and each FCS System institution board of trustees are authorized to adopt tuition and out-of-state fees that vary no more than 5 percent below of 5 percent above the combined total of the standard tuition and out-of-state fees.[115]

Florida College System Institution Student Fees

A student who enrolls in a college credit course, a college preparatory course, or an educator preparation institute (EPI) program at a FCS institution is charged tuition and other fees, unless the student is eligible for an exemption or a waiver.[116] The Legislature establishes the standard tuition and out-of-state fee per credit hour. Since July 1, 2014, the standard tuition per credit hour for residents and non-residents enrolled in advanced and professional, postsecondary

[109] Section 1009.01(1), F.S. Additionally, the definition of tuition states that "[a] charge for any other purpose shall not be included within this fee." *Id.*
[110] Section 1009.21(1)(g), F.S.
[111] Section 1009.01(2), F.S. Additionally, the definition of out-of-state fee states that "[a] charge for any other purpose shall not be included within this fee." *Id.*
[112] Sections 1009.22(1)-(2), 1009.25, and 1009.26, F.S.
[113] Section 1009.22(3)(c), F.S.
[114] *Id*.
[115] Section 1009.22(3)(d), F.S.
[116] Sections 1009.23(1)-(2)(a), 1009.25, and 1009.26, F.S.

vocational, developmental education, and EPI programs is $71.98. The out-of-state fees for such programs is $215.94 per credit hour.[117] For baccalaureate programs, the tuition per credit hour for resident students is $91.79 per credit hour.[118] The sum of tuition and out-of-state fee per credit hour for non-resident students must not be more than 85 percent of the sum of tuition and out-of-state fee at a state university nearest to the FCS institution.[119]

Each FCS system institution board of trustees must establish tuition and out-of-state fees, which may vary no more than 10 percent below and 15 percent above the combined total of the standard tuition and fees.[120]

State University Student Fees

A student who enrolls in a college credit course at a state university is charged tuition and other fees, unless the student is eligible for an exemption or a waiver.[121] The amount of resident undergraduate tuition per credit hour is established by the Legislature. Since July 1, 2014, the resident undergraduate tuition is $105.07 per credit hour for lower-level and upper-level coursework at a state university.[122]

The BOG is authorized to establish tuition for graduate and professional programs, and out-of-state fees for all programs.[123] The sum of tuition and out-of-state fees assessed to nonresident students must be sufficient to offset the full instructional cost of serving such students.[124] However, adjustments to out-of-state fees or tuition for graduate programs and professional programs must not exceed 15 percent in a year.[125]

Performance-Based Funding

Performance-based funding models include performance metrics that evaluate the achievement and improvement of public postsecondary educational institutions.[126]

State University System

In the 2014-2015 GAA, proviso specifically required performance funding be allocated based on the BOG's model approved on January 16, 2014.[127] The BOG model contained 10 performance metrics, which included the following:[128]

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[117] Section 1009.23(3)(a), F.S.
[118] Section 1009.23(3)(b)1., F.S.
[119] Section 1009.23(3)(b)2., F.S.
[120] Section 1009.23(4), F.S.
[121] Sections 1009.24(1)-(2), 1009.25, and 1009.26, F.S.
[122] Section 1009.24(4)(a), F.S.
[123] Section 1009.24(4)(b), F.S.
[124] *Id*.
[125] *Id*.
[126] Chapters 2013-40 and 2014-51, L.O.F.
[127] Chapter. 2014-51, L.O.F.
[128] *See* Florida Board of Governors, Meeting Archives (January 15-16, 2014) *available at* http://www.flbog.edu/pressroom/meeting_items.php?id=185&agenda=765&type=Past (last visited March 23, 2015); *see also* Florida Board of Governors, Meeting Minutes (January 16, 2014) *available at* http://www.flbog.edu/documents_meetings/0187_0790_5874_10.2.2%20BOG%202014_01_16_Board_of_Governors_minutes.pdf.

- Percent of bachelor's degree graduates employed and/or continuing their education;
- Average wages of employed baccalaureate graduates;
- Cost per undergraduate degree;
- Six-year graduation rate (full-time and part-time first time in college (FTIC));
- Academic Progress Rate (second year retention with a grade point average above 2.0);
- Bachelor's degrees awarded in areas of strategic emphasis (including Science, Technology, Engineering and Math (STEM) education);
- University access rate (percent of undergraduates with a Pell Grant);
- Graduate degrees awarded in areas of strategic emphasis (including STEM);
- Two additional metrics, one chosen by each of the following:
  - Board of Governors, and
  - University Board of Trustees

SUS institutions will be evaluated for their performance based on benchmarks adopted by the BOG for achievement of excellence or improvement these specified metrics. The 2014-2015 GAA appropriated $200 million for State University Performance Based Incentives in the 2014-2015 fiscal year, which included $100 million in new funding and $100 million redistributed from the state university's base funds.[129] Institutions qualifying for new funding also have their base funding restored. Any institution which fails to meet the minimum threshold set by the BOG will have a portion of its base funding withheld and must submit an improvement plan to the BOG. The BOG must approve the improvement plan and conduct progress monitoring of the improvement plan's implementation. An institution will have its full base funding restored upon BOG approval of the improvement plan monitoring report. Any institution that fails to make satisfactory progress will not have its full base funding restored.

Florida College System

In the 2014-2015 GAA, proviso directed the Commissioner of Education to recommend a performance funding formula that may be used to allocate funds to Florida College System institutions.[130] The commissioner's recommendations were to include up to ten performance measures, appropriate performance benchmarks for each measure, and a detailed methodology for allocating performance funds to the colleges.[131] At a minimum, the measures were to include job placement rates, cost per degree, and graduation / retention rates. In January 2015, these recommendations were finalized and included the required measures, as well as additional measures for:[132]

- Pell Grant student graduation rate,
- Program completer entry level wages,

[129] ch. 2014-51, L.O.F.
[130] *Id.*
[131] Chapter 2014-51, L.O.F., *see* Florida Department of Education, Division of Colleges, *Florida College System Performance Funding Commissioner's Recommendations*, presentation to the Senate Appropriations Subcommittee on Education (February 11, 2015) *available at* http://www.floridahighereducation.org/_doc_meetings/20150223/Senate-Education-Appropriations-Commissioners-FCS-Performance-Funding.pptx (last visited March 23, 2015).
[132] Florida Department of Education, Division of Colleges, *Florida College System Performance Funding Commissioner's Recommendations*, presentation to the Senate Appropriations Subcommittee on Education (February 11, 2015) *available at* http://www.floridahighereducation.org/_doc_meetings/20150223/Senate-Education-Appropriations-Commissioners-FCS-Performance-Funding.pptx (last visited March 23, 2015).

- Time to degree,
- Credit milestones, and a
- Local measure selected by each college‘s board of trustees.

Career and Workforce Education

The Legislature has established mechanisms to facilitate coordination between public and private postsecondary education institutions and employment agencies to assist students in completing degree programs to meet the state’s workforce needs.

In 2012, the Legislature created the Complete Florida Plus Program[133] at the University of West Florida (UWF) for the purpose of:[134]

- Facilitating degree completion for the state’s adult learners through the Complete Florida Degree Initiative.
- Providing information relating to and access to distance learning courses and degree programs offered by public postsecondary education institutions.
- Coordinating with the Florida College System (FCS) and the State University System (SUS) to identify and provide online academic support services and resources when the multi-institutional provision of such services and resources is more cost effective or operationally effective.
- Administering the Florida Academic Library Services Cooperative[135] (Cooperative) and consulting with the chancellors of the FCS and the SUS regarding the Cooperative.

The UWF must submit annual reports to the President of the Senate and the Speaker of the House of Representatives relating to the implementation and operation of the components of the Complete Florida Plus Program and the Cooperative.[136]

Complete Florida Degree Initiative

In 2014, the Legislature established the Complete Florida Degree Initiative (“Initiative”) within the Complete Florida Plus Program for the purpose of recruiting, recovering, and retaining the state’s adult learners[137] and assisting them in completing an associate degree or a baccalaureate degree aligned to the state’s high-wage, high-skill workforce needs.[138] The Initiative coordinates with FCS institutions, state universities, and private postsecondary institutions and partners with public and private job recruitment and placement agencies to identify associate, applied baccalaureate, and baccalaureate degree programs that meet the state’s workforce needs.[139]

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[133] The program was formerly established as the Degree Completion Pilot Project pursuant to s. 15, ch. 2012-34, L.O.F.
[134] Section 1006.735(1), F.S.
[135] Section 1006.73, F.S. The cooperative provides a single library automation system and associated resources and services for public postsecondary institutions to use to support learning, teaching, and research needs. *Id.* at (1).
[136] Sections 1006.73(4) and 1006.735(5), F.S.
[137] Section 1006.735(2), F.S. Adult learners who are veterans or active duty members of the United States Armed Forces are given priority. *Id.* An “adult learner” is defined as “a student who has successfully completed college-level coursework in multiple semesters but has left an institution in good standing before completing his or her degree.” *Id.*
[138] Section 1006.735(2), F.S.; s*ee also*, s. 16, ch. 2014-56, L.O.F.
[139] Section 1006.735(2)(a), F.S.

Specifically, the Initiative must:[140]

- Give priority to degree programs using labor market data and projections, including data and projections included in the Board of Governor's gap analysis,[141] to identify the specific workforce needs and targeted occupations of the state.
- Provide adult learners with a single point of access to information and links to innovative online and accelerated distance learning courses,[142] student and library support services, and electronic resources[143] that will aid them in completing a postsecondary degree.
- Use existing or develop new competency-based instructional and evaluation tools to assess prior performance, experience, and education to award college credit and reduce the time required for adults to complete degrees.
- Develop and implement an evaluation process to collect and analyze appropriate data to report the effectiveness of the Initiative to the chancellors of the FCS and the SUS, the participating postsecondary education institutions, the chairs of the legislative appropriations committees, and the Executive Office of the Governor.
- Develop and implement a statewide student recruitment campaign targeted toward adult learners, particularly veterans and active duty members of the United States Armed Forces, for enrollment in degree programs offered through the Initiative.

III. Effect of Proposed Changes:

The bill updates and establishes numerous K-12 and postsecondary education statutes relating to Florida digital classrooms, apprenticeships, public school funding and policy issues, preeminent state research university designation, postsecondary affordability, postsecondary performance-based incentive funding models, a Rapid Response Education and Training Program, educator liability insurance, and the Florida Best and Brightest Teacher Scholarship Program.

Florida Digital Classrooms

The bill provides a mechanism for assessing and comparing the status of digital readiness of school districts and public schools based on technology infrastructure standards and targets identified by the Agency for State Technology (AST or agency) or a professional organization that the agency contracts with (contracted organization). The digital readiness of school districts must be assessed using a digital readiness scorecard and uniform definitions of technology infrastructure components established by the Department of Education (DOE or department) in consultation with the agency.

Specifically, the bill requires the AST, or a contracted organization, to consult with the department to identify technology infrastructure standards for the successful implementation of

[140] Section 1006.735(2), F.S.
[141] Section 1001.706(5), F.S.
[142] Section 1006.735(3), F.S. The Complete Florida Plus Program manages a statewide Internet-based catalog of distance learning courses, degree programs, and resources offered by public postsecondary education institutions to facilitate the institutions' efforts in developing a statewide articulation system that allows students to rapidly proceed toward their educational objectives and transfer between institutions. *Id.*; *see also*, s. 1007.01, F.S.
[143] Section 1006.735(4), F.S. Statewide online services and support include a streamlined online admissions application process for undergraduate transient students and a K-20 statewide computer-assisted student advising system that supports K-12 career and education planning and the advisement, registration, and certification of postsecondary students for graduation. *Id.*

digital classrooms. These standards must include, but are not limited to, device recommendations, security and connectivity requirements, and browser expectations. This provision will likely facilitate a collaboration between AST, the agency that establishes the standards for the most efficient use of state's information technology resources,[144] and the DOE, the department that is familiar with public schools' instructional needs.

Requirements for the Agency for State Technology

The AST was established in 2014 by the Legislature to oversee the state's essential technology projects and is responsible for establishing standards and processes for information technology (IT).[145] The agency is responsible for establishing technology architecture standards to provide the most efficient use of the state's IT resources which must include, but not be limited to, performance measurements and metrics that objectively reflect the status of an IT project based on a defined and documented scope, cost, and schedule.[146]

In addition to identifying the technology infrastructure standards and targets, the bill requires AST, or a contracted organization, to:

- Perform an annual assessment of the DOE's 5-year strategic plan for establishing Florida digital classrooms and the districts' and charter schools' digital classrooms plans for the 2015-2016 school year, and annually thereafter, to determine the status of technology infrastructure and digital readiness of school districts. The retrospective analyses will likely provide the state with an independent assessment of the districts' and schools' technology infrastructure and digital readiness status and needs. Currently, technology readiness data are self-reported by the school districts. In addition, the retrospective analyses will likely assist with identifying gaps in technology infrastructure relative to the identified standards and targets. The bill requires school districts to be assessed using a digital readiness scorecard to provide a mechanism for comparing the status of school districts' digital readiness.
- Provide prospective planning guidance and technical assistance to the department, school districts, and public schools regarding identified gaps in technology infrastructure and recommended improvements to meet the standards and targets identified by AST or a contracted organization. The guidance and technical assistance will likely help the DOE, school districts, and public schools to make strategic and purposeful investments in technology infrastructure.
- Submit a report by May 1, 2016, for the 2015-2016 school year, and annually by December 1 thereafter, to the Governor, President of the Senate, and Speaker of the House of Representatives, summarizing the status of technology infrastructure and recommending strategies for improving cost efficiencies and maximizing the state's and school districts' investments in technology to establish digital classrooms. The annual report, which AST must provide to the Commissioner of Education (commissioner) by November 1 of each

[144] Section 282.0051(2), F.S. The Agency for State Technology is responsible for developing and publishing "information technology policy for the management of the state's information technology resources." Section 282.0051(1), F.S.
[145] Section 10, ch. 2014-221, L.O.F.; Agency for State Technology, *About Us*, http://www.ast.myflorida.com/about.asp (lasted visited March 9, 2015) Information technology means " equipment, hardware, software, firmware, programs, systems, networks, infrastructure, media, and related material used to automatically, electronically, and wirelessly collect, receive, access, transmit, display, store, record, retrieve, analyze, evaluate, process, classify, manipulate, manage, assimilate, control, communicate, exchange, convert, converge, interface, switch, or disseminate information of any kind or form." Section 282.0041, F.S.
[146] Section 282.0051(2)-(3), F.S.

year, will likely help to inform the state about the school districts' and public schools' technology infrastructure status and progress toward meeting the technology infrastructure standards and targets that are identified by AST or a contracted organization in consultation with the DOE. Additionally, the recommendations regarding cost efficiencies may help inform strategic budgetary investments in technology infrastructure.

- Collaborate with the DOE and the Department of Management Services (DMS) to identify:
  - State term contract procurement options available to school districts that provide information technology commodities, consultant services, or staff augmentation contractual services that support the information technology architecture standards applicable to digital classrooms.
  - Shared services available to school districts through the State Data Center to facilitate the implementation of school district digital classrooms plans.

Requirements for the Department of Education

The bill specifies requirements for the DOE regarding incorporating the identified technology infrastructure standards and targets in the department's 5-year strategic plan (state plan), establishing uniform definitions of technology infrastructure components, creating a digital readiness scorecard, and providing access to statewide procurement service agreements:

- The DOE must include the identified technology infrastructure standards and targets in the state plan for successful implementation of digital classrooms to improve student performance outcomes. In addition to the components that must be included in the state plan, which are specified in law,[147] the bill clarifies that the state plan must also identify minimum technology infrastructure requirements in consultation with the AST. The minimum technology infrastructure requirements will likely help the school districts and public schools strategically plan for technology investments and allocate funds purposefully.
- The DOE must coordinate with the AST to facilitate school districts' access to statewide procurement service agreements. Access to competitively procured service agreements may result in cost savings and efficiencies for the school districts.
- The DOE must consult with the AST to establish uniform definitions of technology infrastructure components which must be incorporated into the state plan. The uniform definitions must also be used by charter schools that seek Florida digital classrooms allocation funds and by each district school board in the technology information submitted annually to the DOE. Uniform definitions will allow for comparability of technology infrastructure components across school districts to assess the status of districts' digital readiness.
- The DOE must consult with the AST to create a digital readiness scorecard to compare the digital readiness of school districts within the state. The scorecard must use the uniform definitions and identified technology infrastructure standards and targets identified by the department in consultation with the AST. At a minimum, the scorecard must include the student-to-device ratio, the percentage of schools within each district that meet bandwidth standards, the percentage of classrooms within each district that must meet wireless standards, the refresh rate of devices, network capacity, information storage capacity, and information security services.

[147] Section 1001.20(4)(a)1., F.S.

- The DOE if it determines the administration of online assessments after January 1, 2015, does not comply with the minimum assessment protocols and requirements it established must contract with an independent, auditing entity that has expertise in the area to evaluate the extent of the noncompliance and provide recommendations to remediate the noncompliance in future administrations of online assessments.

Requirements for School Districts

Beginning in the 2016-2017 school year, each school district must undergo an annual assessment and independent verification of its use of Florida digital classrooms allocation funds (digital classrooms funds) for the district to be eligible to receive digital classrooms funds. An independent assessment of the districts' use of digital classrooms funds will likely help inform the state about school districts' technology needs and investments to improve student performance outcomes. Access to such information will also likely assist the state with budgetary decisions concerning school districts' and public schools' preparedness to integrate technology into classroom teaching and learning and administer computer-based assessments.

Requirements for Submitting Digital Classrooms Plans

The bill also makes modifications to the format and deadline for submitting digital classrooms plans:

- The DOE must develop a streamlined format for charter schools to use for submitting their digital classrooms plan. This process may result in creating a precise accountability measurement tool matching the charter school's mission, program, goals, students served, methods of assessment and ways to measure success of charter schools.[148]
- The commissioner must implement an online, web-based portal for school districts and charter schools to submit their digital classrooms plan. The online submission system may result in a cost-effective method for the school districts to timely report their digital classrooms plan information to the department.
- District school boards must submit their digital classrooms plan annually to the DOE by August 1, instead of the March 1 deadline which is the current statutory deadline. The August 1 deadline will likely assist the districts with budgetary planning by taking into consideration allocation funds appropriated for the next school year.

Finally, the bill clarifies that the annual report the commissioner must provide to the Governor, President of the Senate, and Speaker of the House of Representatives, by October 1 of each year, include a summary of each district's:

- Student performance goals and outcomes; and
- Use of funds in support of such goals and outcomes.

The clarification emphasizes that improving student performance outcomes should be the goal that drives technology integration in classroom teaching and learning.

[148] Florida Department of Education, *General Information* (March 9, 2015), *available at* http://www.fldoe.org/schools/school-choice/charter-schools/charter-school-faqs.stml.

Apprenticeships

The bill changes the term "journeyman" to "journeyworker." Also, the bill clarifies the definition of the term "journeyworker" as a worker who has mastered the skills, abilities, and competencies required for an occupation through a formal apprenticeship or on-the-job experience or formal training. Such skills, abilities, and competencies may be evidenced through a formal apprenticeship, attainment of a nationally recognized industry certification, or through practical, on-the-job experience or formal training. The revised definition may benefit apprentices and apprenticeship programs by clarifying the criteria and enhancing the qualifications of "journeyworkers."

The bill redefines "related instruction" by specifying that such instruction may be given in occupational or industrial courses taught in the classroom or by correspondence courses, including electronic media or other forms of self-study instruction approved by the Department of Education (DOE). The bill expands the definition to broaden the types of courses and options for receiving instruction on those courses, which may benefit people who would not otherwise have the opportunity to receive such instruction in a traditional setting.

The bill revises the criteria for an apprenticeable occupation as a skilled trade that is clearly defined and:

- May be associated with a nationally recognized industry certification.
- Involves skills and knowledge in accordance with the applicable industry standards.
- Includes a minimum number of hours of on-the-job training.
- Includes related instruction through occupational or industrial courses.

Also, the bill authorizes the Governor to appoint two public members to the State Apprenticeship Advisory Council who are independent of, rather than recommended by, joint or nonjoint organizations affiliated with apprenticeship sponsors.

The bill prohibits an apprenticeship program or agreement from invalidating special provisions for veterans, minority persons, or women.

Florida Apprenticeship Grant Program

The bill creates the Florida Apprenticeship Grant (FLAG) Program to provide competitive grants to career centers, charter technical career centers and Florida College System (FCS) institutions for the purpose of expanding existing programs and establishing new apprenticeship programs. Program applications must contain projected enrollment and cost data and funds may be used for instructional equipment, supplies, personnel, student services or other administrative costs. The Division of Career and Adult Education within the DOE shall administer the program and give priority to applications for programs in the critical need areas of information technology, health, and machining and manufacturing. Grant recipients must submit quarterly reports to the DOE.

FEFP Funding

Intensive Reading Instruction

The bill extends the requirement of providing an additional hour of intensive reading instruction daily to students enrolled in the 300 lowest-performing elementary schools through the 2017-2018 academic year.

Additionally, the bill requires participating schools to:

- Provide additional reading instruction through an equivalent number of hours in a summer program; and
- Continue to provide the additional hour of instruction to all students who have level 1 or 2 reading assessment scores in the subsequent year after the school is no longer classified as one of the 300 lowest performing.

Dual Enrollment Industry Certification Funding

The bill authorizes performance funding for a career and professional education (CAPE) industry certification earned through a dual enrollment course, which is not a fundable certification on the Postsecondary Industry Certification Funding List or is earned as a result of an agreement between a school district and a nonpublic postsecondary institution, to be funded in the same manner as a non-dual enrollment course industry certification. The bill authorizes a school district to provide for an agreement between a high school and a technical center, or the school district and the postsecondary institution may enter into an agreement for equitable distribution of the bonus funds.

CAPE Teacher Bonus Funding

The bill establishes two new tiers of bonuses available to CAPE industry certification teachers. A teacher providing in instruction to a student in a course that led to the attainment of a CAPE industry certification on the CAPE Industry Certification Funding List with a weight of 0.3 will earn a $75 bonus, which is $25 more than currently authorized. A teacher providing instruction to a student in a course that led to the attainment of a CAPE industry certification on the CAPE Industry Certification Funding List with a weight of 0.5 or 1.0 will earn a $100 bonus, which is $50 more than currently authorized. The maximum annual bonus for teachers providing instruction in courses leading to these CAPE industry certifications is increased from $2,000 to $4,000.

Discretionary Millage Compression Supplement

The bill increases the discretionary millage compression supplement for the school district 0.748 mill discretionary levy for operations from the state average to five percent above the state average funds per full-time equivalent (FTE) student membership.

Sparsity Supplement

The bill modifies the calculation for determining the sparsity supplement for larger eligible districts with between 20,000 and 24,000 FTE, by dividing the total number of FTE by the number of permanent senior high school centers in the district, not in excess of four rather than three.

Virtual Education Contribution

The bill modifies the virtual education contribution calculation within the FEFP by including the declining enrollment supplement and exceptional student education (ESE) guaranteed allocation.

Federally Connected Student Supplement

The bill creates the federally connected student supplement categorical within the FEFP. Fourteen school districts, which currently receive federal impact aid under Title VIII of the Elementary and Secondary Education Act of 1965, could be eligible for additional FEFP funding under this new categorical.

The supplement is based on two components: a student allocation and an exempt-property allocation. The student allocation is based on the number of students in the district reported for federal impact aid, including students with disabilities, who

- Reside with a parent who is on active duty in the uniformed services or is an accredited foreign government official and military officer;
- Reside on eligible federally-owned Indian lands; or
- Reside with a civilian parent who lives or works on eligible federal property connected with a military installation or NASA. The number of these students shall be multiplied by a factor of 0.5.

The exempt-property allocation is based on the district's real property value of exempt federal property of federal impact aid lands reserved as military installations, NASA properties, or federally-owned Indian lands, multiplied by the millage authorized and levied under s. 1011.71 (2), F.S. The student allocation and the exempt-property allocation will be added together for each eligible district to produce the federally connected student supplement.

Local Capital Improvement Revenue for Computer Hardware and Enterprise Software

School districts are currently authorized to purchase enterprise resource software with their local capital improvement revenue, however, it is unclear as to whether annual license fees, maintenance fees, or lease agreements for enterprise resource software are authorized uses of these funds. The bill specifically authorizes school districts to use their local capital improvement revenue for enterprise resource software annual license fees, maintenance fees, or lease agreements.

Florida Classroom Teacher Supply Program

The bill requires classroom teachers to provide receipts for the expenditure of Florida Teachers Classroom Supply Assistance Program funds to the school district, in place of the currently required signed acknowledgement that the teacher understands the appropriate use of the funds and will keep all receipts for expenditures of the funds for at least four years. This change, while requiring additional effort from the school district, protects teachers from potential income tax audit issues arising from situations in which the teacher has not retained receipts, and has the funds counted as taxable income.

Student Safety & Discipline

The bill authorizes a district school board to adopt and implement a standard school attire policy that requires students to conform to wearing specific types and styles of clothing. Furthermore, the bill grants a district school board immunity from civil liability for implementing a districtwide standard school attire policy in at least kindergarten through grade 8.

Educator Liability Insurance Program

The bill requires the DOE to administer an educator liability insurance program, as provided in the General Appropriations Act, to protect full-time instructional personnel from liability for monetary damages and the costs of defending actions resulting from claims made against the instructional personnel's professional capacity. The bill provides that liability coverage of at least $2 million shall be provided to all full-time instructional personnel and may be provided to part time instructional personnel, administrative personnel, and students enrolled in a state-approved teacher preparation program that choose to participate in the program.

Preeminent State Research Universities

The bill specifies that any institution that meets the required academic and research excellence standards for consideration of preeminent status must also enter into, and maintain, a formal agreement with the National Merit Scholarship Corporation to offer College-sponsored Merit Scholarship® awards to be designated as a preeminent state research university.

Florida National Merit Scholarship Incentive Program

The Florida National Merit Scholarship Incentive Program is renamed as the Benacquisto Scholarship Program, and a recipient of an award is identified as a Benacquisto Scholar.

Postsecondary Affordability

The bill includes provisions related to textbooks and tuition and fees, both of which serve to improve postsecondary affordability.

Textbook Affordability

The bill promotes public awareness about textbook and instructional material costs by requiring each FCS institution and state university to prominently post on the institution's website for course registration, a hyperlink to lists of required and recommended textbooks and instructional materials for at least 90 percent of the courses and course sections offered by the institution. The bill also changes the deadline for posting the textbook information online from at least 30 days before the first day of class to at least 14 days before the first day of student registration for each term. Such information will help students with financial planning for course registrations.

Additionally, the bill:

- Requires that the lists of required and recommended textbooks include new and used retail price and rental price, if applicable, for a required or recommended textbook or instructional

materials for purchase at an institution's designated bookstore or other specified vendor. The lists must also include website or other contact information for the bookstore.

- Requires institutions that are unable to provide the specified information on textbooks within the specified timeframe (i.e., at least 14 days before the first day of student registration for each term) by the 2015 fall semester, to provide the required information to students at least 60 days before the first day of classes. The bill requires institutions to submit quarterly reports to the applicable board, the Board of Governors (BOG) or the State Board of Education (SBE), to document institutions' efforts to comply with the specified requirements by 2016 fall semester.
- Requires postsecondary institutions to consult with school districts regarding textbooks and instructional materials used for dual enrollment courses (e.g., the length of time that textbooks and instructional materials remain in use and the cost associated with digital materials).
- Requires regular cost-benefit analyses to help students receive the highest quality product at the lowest available price.
- Requires the policies, procedures, and guidelines that are adopted by the BOG and the SBE to include instructional materials in addition to textbooks; and requires state universities and FCS institutions to annually send to the BOG or the SBE, as applicable, electronic copies of the institutional policies regarding textbooks and instructional materials, which must be available on the boards' websites.
- Requires each FCS institution and state university to annually report specified textbook and instructional material information to the Chancellor of the Florida College System or the Chancellor of the State University System, as applicable (e.g., cost of undergraduate textbooks and instructional materials by course and course section, textbook and instructional material selection process for high-enrollment courses as determined by the chancellors, and specific initiatives to reduce the cost of textbooks and instructional materials). The chancellors must compile the information and report to the Governor, President of the Senate, and Speaker of the House of Representatives by December 31 of each year.

College Affordability Strategies

The bill promotes strategies to maintain college affordability for all Floridians by requiring the BOG and the SBE to identify strategies and initiatives that must include consideration of the following:

- The impact of tuition and fee increases at state colleges and universities, including graduate, professional, medical, and law schools.
- The total cost of fees, including orientation fees, to a student and family at a state university and a state college.
- The cost of textbooks and instructional materials for all students. To determine the best methods to reduce costs, the BOG and the SBE must consult with students, faculty, bookstores, and publishers, at a minimum, consider specified options (e.g., purchasing e-textbooks in bulk, expanding the use of open-access textbooks and instructional materials, rental options for textbook and instructional materials, and supporting efficient used book sales, buy-back sales, student-to-student sales, and the cost of instructional materials for dual enrollment students to school districts).

The BOG and the SBE must annually, by December 31, report on the boards' college affordability efforts to the Governor, President of the Senate, and Speaker of the House of Representatives.

Tuition and Fees

The bill caps tuition and out-of-state fees for workforce education at no more than 5 percent above the combined total of standard tuition and out-of-state fees. For FCS institutions, tuition must not exceed $91.79 per credit hour and the tuition and out-of-state fees must not be more than 15 percent above the combined total of standard tuition and out-of-state fees. For state universities, the resident undergraduate tuition for lower-level and upper-level coursework must not exceed $105.07 per credit hour. Establishing tuition caps rather than a set tuition amount per credit hour may allow postsecondary institutions to charge lower tuition than currently established. The bill prohibits adjustments to the resident tuition for graduate program and professional programs which is set on July 1, 2015.

The bill requires FCS institutions and state universities to notify students and the public about any institutional boards of trustees meeting regarding votes on proposed increases in tuition and fees. The notice must be posted on the institutions' website homepage 28 days before the scheduled meeting of the institutions' boards of trustees. Additionally, the notice must specify the date and time of the meeting, and clearly outline the tuition and fee details and the rationale for the proposed increase. The tuition and fee information may help students and their families plan for higher education at public postsecondary institutions within the state.

Performance-Based Funding

State University System

The bill statutorily establishes State University System (SUS) Performance Based Incentive, which is based on indicators of institutional attainment of performance metrics adopted by the BOG. These performance metrics include, but are not limited to, metrics that measure graduation and retention rates; degree production; affordability; postgraduation employment, salaries, or further education; student loan default rates; access; and any other metrics approved by the BOG. SUS institutions will be evaluated for their performance based on benchmarks adopted by the BOG for achievement of excellence or improvement on specified metrics.

Each fiscal year, the amount of funds available for allocation to universities based upon the performance funding model consists of a state investment, plus an institutional investment consisting of funds redistributed from the base funding for the SUS, as determined in the General Appropriations Act (GAA). Institutions qualifying for the state's investment will also have their institutional investment restored. The institutional investment will be restored for all institutions that meet the board's minimum performance funding threshold under the performance funding model. Any institution that is in the bottom three or fails to meet the board's minimum performance funding threshold will not be eligible for the state's investment, will have a portion of its institutional investment withheld, and must submit an improvement plan to the board that specifies the activities and strategies for improving the institution's performance.

Florida College System

The bill establishes Florida College System (FCS) Performance Based Incentive, which is based on indicators of institutional attainment of performance metrics adopted by the State Board of Education (state board). These performance metrics include, but are not limited to, metrics that measure retention; program completion and graduation rates; student loan default rates; job placement; and post-graduation employment, salaries, or further education. FCS institutions will be evaluated for their performance based on benchmarks adopted by the state board for achievement of excellence or improvement on specified metrics.

Each fiscal year, the amount of funds available for allocation to institutions based upon the performance funding model consists of a state investment, plus an institutional investment consisting of funds redistributed from the base funding for the Florida College System Program Fund, as determined in the GAA. Institutions qualifying for the state investment shall also have their institutional investment restored. Any institution which fails to meet the minimum threshold set by the state board will have a portion of its institutional investment withheld and must submit an improvement plan to the state board. The state board must approve the improvement plan and conduct progress monitoring of the improvement plan's implementation. An institution will have its full institutional investment restored upon state board approval of the improvement plan monitoring report. Any institution that fails to make satisfactory progress will not have its full institutional investment restored.

Rapid Response Education and Training Program

The bill creates the Rapid Response Education and Training Program (Program) within the Complete Florida Plus Program to work with Enterprise Florida, Inc., to recruit and retain employees through industry-specific education and training.

Specifically, the bill requires that the Program:

- Award matching grants to public and private education and training providers.
- Submit to the Legislature periodic reports generated by an independent forensic accounting or auditing entity.
- Keep administrative costs to a minimum through the use of existing organizational structures.
- Work with businesses to recruit individuals for education and training.
- Terminate an education and training program by giving 30-days' notice.
- Survey businesses regarding the effectiveness of the education and training programs.

Additionally, the bill requires that the Division of Career and Adult Education within the DOE analyze and assess the effectiveness of the education and training programs offered through the Program in meeting labor market and occupational trends and gaps.

Finally, the bill requires the DOE to develop career education program standards that reflect the quality components of a career and technical education program, and requires the State Board of Education to adopt rules.

Florida Best and Brightest Teacher Scholarship Program

The bill creates the Florida Best and Brightest Teacher Scholarship Program (Scholarship Program) to reward teachers who demonstrate a high level of academic achievement and, for teachers other than first-year teachers, who have been evaluated as highly effective. The bill requires that the Scholarship Program be administered by the DOE. Also, the bill authorizes funding for the Scholarship Program as provided in the GAA, beginning in the 2015-2016 school year, and establishes reporting and payment deadlines for school districts.

The bill provides an effective date of July 1, 2015.

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:

PCS/CS/SB 948 increases the bonus funding for teachers who provide instruction to a student in a course that led to the attainment of a 0.3, 0.5, or 1.0 weighted industry certification. These teachers are eligible for up to an additional $2,000 annually in bonus funding.

C. Government Sector Impact:

The bill modifies the calculation for the sparsity supplement to continue to include the Hernando County School District. The Hernando County School District would be eligible for an estimated $2 million in sparsity supplement funds in the 2015-2016 fiscal year.

The bill modifies the virtual education contribution calculation in the Florida Education Finance Program (FEFP) by including the declining enrollment supplement and the exceptional student education (ESE) guaranteed allocation in the calculation to maintain funding for virtual education at 5,230 per full-time equivalent (FTE) student.

The bill extends the requirement of providing an additional hour of intensive reading instruction daily to students enrolled in the 300 lowest performing elementary schools through the 2017-2018 academic year, requires participating schools to also provide the required additional instruction through an equivalent number of hours in a summer program, and requires participating schools to continue to provide the additional hour of instruction to all students who have level 1 or 2 reading assessment scores in the subsequent year after the school is no longer classified as one of the 300 lowest performing. This additional hour of reading instruction is funded through the Supplemental Academic Instruction (SAI) and the Research-Based Reading Instruction Allocation categoricals in the FEFP. A total of $90 million is provided for this instruction in SB 2500, the Senate's 2015-2016 fiscal year Fiscal Year General Appropriations Bill.

The bill increases the discretionary millage compression supplement for the school district 0.748 mill discretionary levy for operations from the state average to five percent above the state average funds per FTE student. This change will increase the discretionary millage supplement by approximately $34 million.

The bill creates the federally connected student supplement categorical within the FEFP. The school districts eligible for funding through the categorical will receive their proportional share of the $12,441,144, as proposed in SB 2500, allocated through the FEFP.

The bill statutorily establishes the State University Performance Based Incentive, which is funded at $400 million in SB 2500. The state's investment consists of $200 million and the institutional investment constitutes the remaining $200 million. The funds received by an individual state university will be contingent upon the university's performance on the established metrics.

The bill establishes the Florida College System Performance Based Incentive, which is funded at $60 million in SB 2500. The state's investment consists of $30 million and the institutional investment constitutes the remaining $30 million. The funds received by each institution will be contingent upon the institution's performance on the established metrics.

The bill establishes the Rapid Response Education and Training Program, which is funded at $19.2 million in SB 2500.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

The bill substantially amends the following sections of the Florida Statutes: 282.0051, 282.00515, 446.021, 446.032, 446.045, 446.052, 446.081, 446.091, 446.092, 1001.20, 1001.43, 1001.7065, 1003.42, 1004.085, 1004.92, 1006.735, 1009.22, 1009.23, 1009.24, 1009.893, 1011.62, 1011.71, 1012.34, 1012.3401, 1012.39, 1012.71, and 1012.75.

The bill creates the following sections of the Florida Statute: 282.0052, 1004.084, 1011.802, and 1012.731.

The bill creates undesignated sections of Florida law.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

Recommended CS/CS by Appropriations Subcommittee on Education on April 8, 2015:

The committee substitute:

- Renames the Florida National Merit Scholarship Incentive Program as the Benacquisto Scholarship Program.
- Clarifies that annual license fees, maintenance fees, and lease agreements for enterprise resource software are allowable uses of local capital improvement funds.
- Provides audit protection for teachers under the Florida Teacher Classroom Supply Assistance Program by requiring teachers to provide the school district with receipts for the expenditure of the funds.
- Authorizes a district school board to adopt policies for standard student attire.
- Requires the Department of Education (DOE) to administer an educator liability insurance program.
- Requires public school instruction on the events surrounding the terrorist attacks occurring on September 11, 2001, and the impact of those events on the nation.
- Provides an exemption for the performance of students with excessive absences from counting against a teacher's performance evaluation.
- Requires the Agency for State Technology (AST), or contracted entity, to:
  - Consult with the DOE to identify information technology architectural standards for the successful implementation of digital classrooms.
  - Perform annual assessment of state and school district digital classrooms plans.
  - Provide prospective planning guidance and technical assistance to the DOE, school districts, and public schools.
  - Provide technology infrastructure implementation reports and recommendations to the Legislature, Governor; and the Commissioner of Education regarding the implementation of digital classrooms and status of technology infrastructure.
  - Establish information technology architecture standards for purposes of implementing digital classrooms, including but not limited to, device recommendations, security requirements, connectivity requirements, and browser expectations.

  - Collaborate with the DOE and the Department of Management Services (DMS) to identify state term contract procurement and shared services options for school districts.
  - Include, in the annual assessment of the DOE, the status of statewide implementation of digital classrooms and recommendations for improving cost efficiencies.
- Requires the DOE to:
  - Consult with the AST to incorporate the minimum information technology architecture standards into the state strategic plan.
  - Facilitate school district access to state term contract and shared service options and consult with the AST to establish uniform definitions and create digital readiness scorecard to facilitate implementation of digital classrooms.
  - Implement online, web-based portal for submission of digital classroom plans.
  - Highlight student performance goals and outcomes in its annual report.
  - Contract with independent auditing entity to make recommendations to remediate technology infrastructure issues associated with the administration of 2014-15 online assessments.
- Clarifies the responsibilities of the DOE regarding collaboration with the Department of Economic Opportunity (DEO) to identify, develop, and register apprenticeship and preapprenticeship programs.
- Clarifies that the annual accountability report must include regional information related to program usage, student demographics and performance outcomes, and program requirements for existing and new programs.
- Requires the DOE to collaborate with CareerSource Florida, Inc., in addition to the DEO, to prepare an operational report which must <u>also</u> include:
  - A summary of activities and coordination between the DOE and the DEO to identify, develop, register, and administer apprenticeship and preapprenticeship programs over the last 5 years.
  - Recommendations to maximize resources of the DOE and the DEO to gain efficiencies in program development, administration, and funding.
  - An evaluation of the feasibility of linking the DOE's information on apprenticeship and preapprenticeship programs with the DEO and CareerSource Florida, Inc. workforce information system.
- Establishes the Florida Apprenticeship Grant Program to provide competitive grants to career centers, charter technical career centers and Florida College System (FCS) institutions for the purpose of expanding existing programs and establishing new apprenticeship programs.
- Requires the Board of Governors of the State University System of Florida (BOG) and the State Board of Education (SBE) to identify strategies and initiatives to maintain college affordability for all Floridians and annually report on the boards' college affordability efforts to the Governor, President of the Senate, and Speaker of the House of Representatives.
- Modifies current law regarding a postsecondary educational institution's responsibility to post textbook information online by requiring each FCS institution and state university to prominently post on the institution's website for course registration, a hyperlink to lists of required and recommended textbooks and

instructional materials for at least 90 percent of the courses and course sections offered by the institution. The bill also changes the deadline for posting the textbook information online from at least 30 days before the first day of class for each term to at least 14 days before the first day of student registration for each term.
- Specifies modifications to postsecondary educational institutions' policies and procedures for instructional materials.
- Specifies reporting requirements for FCS institutions; state universities; president of a college or university, or his or her designee; Chancellor of the Florida College System, and the Chancellor for the State University System regarding college affordability efforts, and textbooks and instructional materials costs and selection process.
- Establishes caps for tuition and out-of-state workforce education fees, FCS institution fees, and state university tuition per credit hour.
- Requires the FCS institutions and state universities to notify students and the public about any institutional boards of trustees meeting regarding votes on proposed increases in tuition and fees; and provides specifications and timelines for such notifications.

CS by Higher Education on March 23, 2015:
The committee substitute makes the following substantial changes to the bill:

Apprenticeships
Maintains the substance of the provisions of the bill relating to apprenticeships, except that a nationally recognized industry certification is added to the criteria indicating a journeyworker's or apprentice's skills, abilities, and competencies required for an occupation.

Florida Education Finance Program Funding
Includes FEFP funding provisions that:
- Expand the requirement that an additional hour of intensive reading instruction be provided for the 300 lowest-performing elementary schools.
- Authorize performance funding for a career and professional education (CAPE) industry certification earned through a dual enrollment course.
- Add tiers for and raise the cap on CAPE bonus funding that teachers may earn for instructing students who attain industry certifications.
- Increase the discretionary millage compression supplement.
- Modify the formula for calculating the K-12 sparsity supplement.
- Modify the formula for calculating the virtual education contribution.
- Create supplemental funding for students connected with federally owned military installations, National Aeronautics and Space Administration property, and Indian lands.

Preeminent State Research University Designation
Adds provisions requiring participation in the National Merit Scholarship Program for designation as a preeminent state research university or as a preeminent state research university institute for online learning.

Postsecondary Performance-Based Funding
Adds undesignated sections of law that establish State University System and Florida College System Performance-Based Incentive funding models based on metrics adopted by the Board of Governors and the State Board of Education ("State Board"), respectively, which include, but are not limited to, metrics that measure:

- Graduation and retention rates;
- Degree production;
- Affordability;
- Postgraduation employment, salaries, or continued education;
- Student loan default rates; and
- Access.

Florida Best and Brightest Teacher Scholarship Program
Adds a new section creating the Florida Best and Brightest Teacher Scholarship Program ("Scholarship Program") to award teachers who demonstrate a high level of academic achievement; authorizing funding for the Scholarship Program; and requiring the State Board to adopt rules relating to reports, eligibility criteria for scholarship recipients, and distribution of scholarship funds.

B. Amendments:

None.

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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/22/2015	.	
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The Committee on Appropriations (Gaetz) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Subsections (2), (7), and (10) of section 282.0051, Florida Statutes, are amended to read:

282.0051 Agency for State Technology; powers, duties, and functions.—The Agency for State Technology shall have the following powers, duties, and functions:

(2) Establish and publish information technology

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11 architecture standards that:
12 (a) ~~to~~ Provide for the most efficient use of the state's
13 information technology resources and that ~~to~~ ensure
14 compatibility and alignment with the needs of state agencies.
15 The agency shall assist state agencies in complying with the
16 standards.
17 (b) Address for purposes of implementing digital classrooms
18 under s. 1011.62(12) issues that include, but are not limited
19 to, device recommendations, security requirements, connectivity
20 requirements, and browser expectations. Such standards must be
21 published by December 1, 2015.
22 (7)(a) Participate with the Department of Management
23 Services in evaluating, conducting, and negotiating competitive
24 solicitations for state term contracts for information
25 technology commodities, consultant services, or staff
26 augmentation contractual services pursuant to s. 287.0591.
27 (b) Collaborate with the Department of Management Services
28 in information technology resource acquisition planning.
29 (c) Collaborate with the Department of Education and the
30 Department of Management Services to identify:
31 1. State term contract procurement options that are
32 available to school districts which provide information
33 technology commodities, consultant services, or staff
34 augmentation contractual services that support the information
35 technology architecture standards applicable to digital
36 classrooms.
37 2. Shared services available to school districts through
38 the State Data Center to facilitate the implementation of school
39 district digital classrooms plans.

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40 (10)(a) Beginning July 1, 2016, and annually thereafter,
41 conduct annual assessments of state agencies to determine
42 compliance with all information technology standards and
43 guidelines developed and published by the agency, and beginning
44 December 1, 2016, and annually thereafter, provide results of
45 the assessments to the Executive Office of the Governor, the
46 President of the Senate, and the Speaker of the House of
47 Representatives.
48 (b) Include in the annual assessment of the Department of
49 Education under paragraph (a), the status of statewide
50 implementation of digital classrooms and each school district's
51 status of compliance with the information technology
52 architecture standards identified under paragraph (2)(b),
53 planning guidance to address identified gaps, and
54 recommendations for improving cost efficiencies pursuant to s.
55 282.0052.
56 Section 2. Section 282.00515, Florida Statutes, is amended
57 to read:
58 282.00515 Duties of Cabinet agencies.—The Department of
59 Legal Affairs, the Department of Financial Services, and the
60 Department of Agriculture and Consumer Services shall adopt the
61 standards established in s. 282.0051(2)(a) ~~s. 282.0051(2)~~, (3),
62 and (8) or adopt alternative standards based on best practices
63 and industry standards, and may contract with the Agency for
64 State Technology to provide or perform any of the services and
65 functions described in s. 282.0051 for the Department of Legal
66 Affairs, the Department of Financial Services, or the Department
67 of Agriculture and Consumer Services.
68 Section 3. Section 282.0052, Florida Statutes, is created

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69 to read:
70 282.0052 Digital classrooms information technology
71 architecture standards.—
72 (1) Beginning July 1, 2015, the Agency for State
73 Technology, or an independent third-party professional
74 organization that the agency contracts with, shall:
75 (a) Consult with the Department of Education to identify
76 information technology architecture standards pursuant to s.
77 282.0051 for the successful implementation of digital
78 classrooms, pursuant to s. 1011.62(12), in public schools within
79 the state beginning in the 2016-2017 school year. Such standards
80 must include, but are not limited to, device recommendations,
81 security requirements, connectivity requirements, and browser
82 expectations.
83 (b) Perform an annual assessment of the state 5-year
84 strategic plan developed pursuant to s. 1001.20 and school
85 district digital classrooms plan adopted pursuant to s.
86 1011.62(12) to determine the digital readiness of school
87 districts and their compliance with the information technology
88 architecture standards identified under paragraph (a). The
89 digital readiness of school districts must be assessed using the
90 digital readiness scorecard established under s. 1001.20(4)(a).
91 (c) Provide prospective planning guidance and technical
92 assistance to the Department of Education, school districts, and
93 public schools regarding identified gaps in technology
94 infrastructure and recommended improvements to meet the
95 information technology architecture standards identified under
96 paragraph (a).
97 (d) Summarize and report, by May 1, 2016, for the 2015-2016

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98 school year, and by December 1 for each school year thereafter,
99 to the Governor, the President of the Senate, and the Speaker of
100 the House of Representatives:
101 1. The status of technology infrastructure of school
102 districts and public schools within the state.
103 2. Recommendations for improving cost efficiencies and
104 maximizing investments in technology by the state and school
105 districts to establish digital classrooms.
106 (2) For the 2015-2016 school year, the Agency for State
107 Technology must provide the status of technology infrastructure
108 information regarding implementation of digital classrooms
109 statewide and by each school district to the Commissioner of
110 Education by April 1, 2016. For each school year thereafter, the
111 status of technology infrastructure information must be provided
112 to the commissioner by November 1 of each year.
113 (3) For the 2015-2016 school year, the Department of
114 Education must provide to each school district the status of the
115 statewide implementation of digital classrooms and the school
116 district's status regarding compliance with the information
117 technology architecture standards identified under paragraph
118 (1)(a) by June 1, 2016. For each school year thereafter, the
119 Department of Education must notify a school district regarding
120 compliance with the information technology architecture
121 standards by January 1 of each year. In addition, the Department
122 of Education must provide planning guidance to address
123 identified gaps and recommendations for improving cost
124 efficiencies in accordance with subsection (1) to each school
125 district. If the annual assessment indicates that a school
126 district is not in compliance with the information technology

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127 architecture standards identified under paragraph (1)(a), the
128 school district must, within 60 days from the date of receipt of
129 such notification from the Department of Education become
130 compliant; obtain an exemption to waive compliance from the
131 Department of Education; or procure services through the agency
132 or the Department of Management Services to achieve compliance.
133 Section 4. Subsections (2), (4), (5), (6), and (9) of
134 section 446.021, Florida Statutes, are amended to read:
135 446.021 Definitions of terms used in ss. 446.011-446.092.—
136 As used in ss. 446.011-446.092, the term:
137 (2) "Apprentice" means a person at least 16 years of age
138 who is engaged in learning a recognized skilled trade through
139 actual work experience under the supervision of journeyworker
140 ~~journeymen~~ craftsmen, which training should be combined with
141 properly coordinated studies of related technical and
142 supplementary subjects, and who has entered into a written
143 agreement, which may be cited as an apprentice agreement, with a
144 registered apprenticeship sponsor who may be ~~either~~ an employer,
145 an association of employers, or a local joint apprenticeship
146 committee.
147 (4) "Journeyworker" ~~"Journeyman"~~ means a worker who has
148 attained certain skills, abilities, and competencies and who is
149 recognized within an industry as having mastered the skills and
150 competencies required for the occupation, including, but not
151 limited to, attainment of a nationally recognized industry
152 certification. The term includes a mentor, technician,
153 specialist, or other skilled worker who has documented
154 sufficient skills and knowledge of an occupation, through formal
155 apprenticeship, attainment of a nationally recognized industry

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156 certification, or through practical, on-the-job experience or
157 formal training ~~a person working in an apprenticeable occupation~~
158 ~~who has successfully completed a registered apprenticeship~~
159 ~~program or who has worked the number of years required by~~
160 ~~established industry practices for the particular trade or~~
161 ~~occupation~~.
162 (5) "Preapprenticeship program" means an organized course
163 of instruction, including, but not limited to, industry
164 certifications identified under s. 1008.44, in the public school
165 system or elsewhere, which course is designed to prepare a
166 person 16 years of age or older to become an apprentice and
167 which course is approved by and registered with the department
168 and sponsored by a registered apprenticeship program.
169 (6) "Apprenticeship program" means an organized course of
170 instruction, including, but not limited to, industry
171 certifications identified under s. 1008.44, registered and
172 approved by the department, which course shall contain all terms
173 and conditions for the qualifications, recruitment, selection,
174 employment, and training of apprentices including such matters
175 as the requirements for a written apprenticeship agreement.
176 (9) "Related instruction" means an organized and systematic
177 form of instruction designed to provide the apprentice with
178 knowledge of the theoretical and technical subjects related to a
179 specific trade or occupation. Such instruction may be given in a
180 classroom, through occupational or industrial courses, or by
181 correspondence courses of equivalent value, including electronic
182 media or other forms of self-study instruction approved by the
183 department.
184 Section 5. Section 446.032, Florida Statutes, is amended to

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185 read:
186 446.032 General duties of the department for apprenticeship
187 training.—The department shall:
188 (1) Establish uniform minimum standards and policies
189 governing apprentice programs and agreements. The standards and
190 policies shall govern the terms and conditions of the
191 apprentice's employment and training, including the quality
192 training of the apprentice for, but not limited to, such matters
193 as ratios of apprentices to journeyworkers ~~journeymen~~, safety,
194 related instruction, and on-the-job training; but these
195 standards and policies may not include rules, standards, or
196 guidelines that require the use of apprentices and job trainees
197 on state, county, or municipal contracts. The department may
198 adopt rules necessary to administer the standards and policies.
199 (2) Establish procedures to be used by the State
200 Apprenticeship Advisory Council.
201 (3) Collaborate with the Department of Economic Opportunity
202 to identify, develop, and register apprenticeship programs that
203 are aligned with statewide demand for a skilled labor force in
204 high-demand occupations and with regional workforce needs.
205 Beginning in the 2015-2016 fiscal year, the department shall
206 annually, by December 31, submit an accountability report, which
207 must include information related to program usage, student
208 demographics and performance outcomes, and program requirements
209 for the existing apprenticeship and preapprenticeship programs
210 and the development of new programs. The report must include
211 regional information about program and student performance
212 outcomes. The report must be submitted to the Governor, the
213 President of the Senate, the Speaker of the House of

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214 Representatives, and the Higher Education Coordinating Council.
215 (4) Post on its Internet website information regarding
216 apprenticeship programs, which must, at a minimum, include:
217 (a) Program admission requirements;
218 (b) Program standards and training requirements; and
219 (c) A summary of program and student performance outcomes.
220 Section 6. Paragraph (b) of subsection (2) of section
221 446.045, Florida Statutes, is amended to read:
222 446.045 State Apprenticeship Advisory Council.—
223 (2)
224 (b) The Commissioner of Education or the commissioner's
225 designee shall serve ex officio as chair of the State
226 Apprenticeship Advisory Council, but may not vote. The state
227 director of the Office of Apprenticeship of the United States
228 Department of Labor shall serve ex officio as a nonvoting member
229 of the council. The Governor shall appoint to the council four
230 members representing employee organizations and four members
231 representing employer organizations. Each of these eight members
232 shall represent industries that have registered apprenticeship
233 programs. The Governor shall also appoint two public members who
234 are knowledgeable about registered apprenticeship and
235 apprenticeable occupations, who are independent of any joint or
236 nonjoint organization ~~one of whom shall be recommended by joint~~
237 ~~organizations, and one of whom shall be recommended by nonjoint~~
238 ~~organizations~~. Members shall be appointed for 4-year staggered
239 terms. A vacancy shall be filled for the remainder of the
240 unexpired term.
241 Section 7. Subsections (5) and (6) are added to section
242 446.052, Florida Statutes, to read:

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243 446.052 Preapprenticeship program.—
244 (5) The department shall collaborate with the Department of
245 Economic Opportunity to identify, develop, and register
246 preapprenticeship programs that are aligned with statewide
247 demand for a skilled labor force in high-demand occupations and
248 with regional workforce needs. Beginning in the 2015-2016 fiscal
249 year, the department shall annually, by December 31, submit an
250 accountability report, which must include information related to
251 program usage, student demographics and performance outcomes,
252 and program requirements for the existing apprenticeship and
253 preapprenticeship programs and the development of new programs.
254 The report must include regional information about program and
255 student performance outcomes. The report must be submitted to
256 the Governor, the President of the Senate, the Speaker of the
257 House of Representatives, and the Higher Education Coordinating
258 Council.
259 (6) The department shall post on its Internet website
260 information regarding preapprenticeship programs, which must, at
261 a minimum, include:
262 (a) Program admission requirements;
263 (b) Program standards and training requirements; and
264 (c) A summary of program and student performance outcomes.
265 Section 8. Preapprenticeship and apprenticeship operational
266 report.—(1) By December 31, 2015, the Department of Education,
267 in collaboration with the Department of Economic Opportunity and
268 CareerSource Florida, Inc., shall submit an operational report
269 to the Governor, the President of the Senate, the Speaker of the
270 House of Representatives, and the Higher Education Coordinating
271 Council providing:

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272 (a) A summary of the activities and coordination between
273 the two agencies to identify, develop, register, and administer
274 preapprenticeship and apprenticeship programs over the last 5
275 years.
276 (b) The strategies employed by the two agencies to engage
277 school districts, Florida College System institutions, technical
278 centers, businesses, and other stakeholders as partners in the
279 workforce system to expand employment opportunities for
280 individuals, including, but not limited to, those individuals
281 with unique abilities, which must include work-based learning
282 experiences, such as preapprenticeships and apprenticeships.
283 (c) Recommendations to maximize the resources of the two
284 agencies to gain efficiency in program development,
285 administration, and funding and make program governance changes
286 to improve the delivery and management of preapprenticeship and
287 apprenticeship programs based on workforce demands. These
288 recommendations must take into account federal resources and
289 must include any necessary or suggested changes to the programs
290 ensuing from implementation of the Workforce Innovation and
291 Opportunity Act of 2014 and related regulations.
292 (d) Recommendations and strategies for the two agencies to
293 communicate effectively with employers in this state and ensure
294 that employers have access to information and consultative
295 services, at no cost to the employers, regarding sponsorship of
296 demand-driven, registered preapprenticeship and apprenticeship
297 programs and information about the availability of program
298 students for employment.
299 (e) An evaluation of the feasibility of linking or
300 incorporating, and of the resources necessary to link or

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301 incorporate, the Department of Education's website information
302 on preapprenticeship and apprenticeship programs with the
303 Department of Economic Opportunity and CareerSource Florida,
304 Inc., workforce information system required under chapter 445,
305 Florida Statutes.
306 (2) This section expires on July 1, 2016.
307 Section 9. Subsection (4) is added to section 446.081,
308 Florida Statutes, to read:
309 446.081 Limitation.—
310 (4) Nothing in ss. 446.011-446.092 or the implementing
311 rules in these sections shall operate to invalidate any special
312 provision for veterans, minority persons, or women in the
313 standards, qualifications, or operation of the apprenticeship
314 program or in the apprenticeship agreement which is not
315 otherwise prohibited by law, executive order, or authorized
316 regulation.
317 Section 10. Section 446.091, Florida Statutes, is amended
318 to read:
319 446.091 On-the-job training program.—All provisions of ss.
320 446.011-446.092 relating to apprenticeship and
321 preapprenticeship, including, but not limited to, programs,
322 agreements, standards, administration, procedures, definitions,
323 expenditures, local committees, powers and duties, limitations,
324 grievances, and ratios of apprentices and job trainees to
325 journeyworkers ~~journeymen~~ on state, county, and municipal
326 contracts, shall be appropriately adapted and made applicable to
327 a program of on-the-job training authorized under those
328 provisions for persons other than apprentices.
329 Section 11. Section 446.092, Florida Statutes, is amended

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330 to read:
331 446.092 Criteria for apprenticeship occupations.—An
332 apprenticeable occupation is a skilled trade which possesses all
333 of the following characteristics:
334 (1) It is customarily learned in a practical way through a
335 structured, systematic program of on-the-job, supervised
336 training.
337 (2) It is clearly identified and commonly recognized
338 throughout an ~~the~~ industry, and may be associated with a
339 nationally recognized industry certification ~~or recognized with~~
340 ~~a positive view towards changing technology~~.
341 (3) It involves manual, mechanical, or technical skills and
342 knowledge which, in accordance with the industry standard for
343 the occupation, requires ~~require~~ a minimum of 2,000 hours of on-
344 the-job ~~work and~~ training, which hours are excluded from the
345 time spent at related instruction.
346 (4) It requires related instruction to supplement on-the-
347 job training. Such instruction may be given in a classroom,
348 through occupational or industrial courses, or through
349 correspondence courses of equivalent value, including electronic
350 media or other forms of self-study instruction approved by the
351 department.
352 ~~(5) It involves the development of skill sufficiently broad~~
353 ~~to be applicable in like occupations throughout an industry,~~
354 ~~rather than of restricted application to the products or~~
355 ~~services of any one company.~~
356 ~~(6) It does not fall into any of the following categories:~~
357 ~~(a) Selling, retailing, or similar occupations in the~~
358 ~~distributive field.~~

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359 ~~(b) Managerial occupations.~~
360 ~~(c) Professional and scientific vocations for which~~
361 ~~entrance requirements customarily require an academic degree.~~
362 Section 12. Subsection (4) of section 1000.03, Florida
363 Statutes, is amended to read:
364 1000.03 Function, mission, and goals of the Florida K-20
365 education system.—
366 (4) The mission of Florida's K-20 education system is to
367 allow its students to increase their proficiency by allowing
368 them the opportunity to expand their knowledge and skills
369 through rigorous and relevant learning opportunities, in
370 accordance with the mission of the applicable center or system
371 ~~statement~~ and accountability requirements of s. 1008.31, and
372 avoid wasteful duplication of programs offered by state
373 universities; Florida Community College System institutions; and
374 career centers and charter technical career centers that are
375 operated by district school boards.
376 Section 13. Paragraph (c) of subsection (2) of section
377 1001.02, Florida Statutes, is amended to read:
378 1001.02 General powers of State Board of Education.—
379 (2) The State Board of Education has the following duties:
380 (c) To exercise general supervision over the divisions of
381 the Department of Education as necessary to ensure that programs
382 offered by Florida Community College System institutions, and
383 career centers and charter technical career centers that are
384 operated by district school boards, are consistent with the
385 mission of the applicable system or center to avoid wasteful
386 duplication of programs; to ensure coordination of educational
387 plans and programs and resolve controversies and to minimize

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388 problems of articulation and student transfers;~~,~~ to ensure that
389 students moving from one level of education to the next have
390 acquired competencies necessary for satisfactory performance at
391 that level;~~,~~ and to ensure maximum utilization of facilities.
392 Section 14. Subsections (7), (8), (12), and (15) of section
393 1001.03, Florida Statutes, are amended to read:
394 1001.03 Specific powers of State Board of Education.—
395 (7) ARTICULATION ACCOUNTABILITY.—The State Board of
396 Education shall develop articulation accountability measures
397 that assess the status of systemwide articulation processes and
398 preserve Florida's "2+2" system of articulation, in conjunction
399 with the Board of Governors regarding the State University
400 System, and shall establish an articulation accountability
401 process in accordance with the provisions of chapter 1008, in
402 conjunction with the Board of Governors regarding the State
403 University System.
404 (8) SYSTEMWIDE ENFORCEMENT.—
405 (a) The State Board of Education shall enforce compliance
406 with law and state board rule by all school districts and public
407 postsecondary educational institutions, except for the State
408 University System, in accordance with this subsection and ~~the~~
409 ~~provisions of~~ s. 1008.32.
410 (b) If the State Board of Education determines that a
411 district school board or Florida Community College System
412 institution board of trustees is unwilling or unable to comply
413 with law or state board rule within the specified time, the
414 state board is authorized to initiate any of the following
415 actions:
416 1. Report to the Legislature that the school district or

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417 Florida Community College System institution is unwilling or
418 unable to comply with law or state board rule and recommend
419 action to be taken by the Legislature.
420 2. Withhold the transfer of state funds, discretionary
421 grant funds, discretionary lottery funds, or any other funds
422 specified as eligible for this purpose by the Legislature until
423 the school district or Florida Community College System
424 institution complies with the law or state board rule.
425 3. Declare the school district or Florida Community College
426 System institution ineligible for competitive grants.
427 4. Require monthly or periodic reporting on the situation
428 related to noncompliance until it is remedied.
429 (12) COMMON POSTSECONDARY DEFINITIONS.—
430 (a) The term "college" means any Florida Community College
431 System institution offering a substantially complete program
432 that confers at least an associate degree requiring at least 15
433 semester hours or the equivalent of general education, or that
434 furnishes or offers to furnish instruction leading toward, or
435 prerequisite to, college credit. The use of the designation
436 "college" in combination with any series of letters, numbers, or
437 words is restricted in this state to Florida Community College
438 System institutions and colleges as defined in s. 1005.03. An
439 entity may not use the designation "college" in its name
440 pursuant to s. 1005.03 without prior approval by the Legislature
441 or the Commission for Independent Education, as applicable.
442 (b) The State Board of Education shall adopt, by rule,
443 common definitions for associate in science degrees and for
444 certificates.
445 (15) FLORIDA COMMUNITY COLLEGE SYSTEM INSTITUTION

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446 BACCALAUREATE DEGREE PROGRAMS.—The State Board of Education
447 shall provide for the review and approval of proposals by
448 Florida Community College System institutions to offer
449 baccalaureate degree programs pursuant to s. 1007.33. A Florida
450 Community College System institution, as defined in s. 1000.21,
451 that is approved to offer baccalaureate degrees pursuant to s.
452 1007.33 remains under the authority of the State Board of
453 Education and the Florida Community College System institution's
454 board of trustees. ~~The State Board of Education may not approve~~
455 ~~Florida College System institution baccalaureate degree program~~
456 ~~proposals from March 31, 2014, through May 31, 2015.~~
457 Section 15. Paragraph (a) of subsection (4) of section
458 1001.20, Florida Statutes, is amended to read:
459 1001.20 Department under direction of state board.—
460 (4) The Department of Education shall establish the
461 following offices within the Office of the Commissioner of
462 Education which shall coordinate their activities with all other
463 divisions and offices:
464 (a) *Office of Technology and Information Services.*—
465 1. Responsible for developing a 5-year strategic plan, in
466 consultation with the Agency for State Technology, to
467 incorporate the minimum information technology architecture
468 standards for the successful implementation of digital
469 classrooms to improve student performance outcomes under s.
470 1011.62(12) ~~for establishing Florida digital classrooms by~~
471 ~~October 1, 2014~~, and annually updating the plan by January 1
472 ~~each year thereafter~~. The Florida digital classrooms plan shall
473 be provided to each school district and published on the
474 department's website. The plan must:

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475 a. Describe how technology will be integrated into
476 classroom teaching and learning to assist the state in improving
477 student performance outcomes and enable all students in Florida
478 to be digital learners with access to digital tools and
479 resources.
480 b. Identify minimum information technology architecture
481 standards requirements, which ~~that~~ include specifications for
482 hardware, software, devices, networking, security, and bandwidth
483 capacity and guidelines for the ratio of students per device.
484 The Office of Technology and Information Services shall consult
485 with the Agency for State Technology in identifying minimum
486 information technology architecture standards.
487 c. Establish minimum requirements for professional
488 development opportunities and training to assist district
489 instructional personnel and staff with the integration of
490 technology into classroom teaching.
491 d. Identify the types of digital tools and resources that
492 can assist district instructional personnel and staff in the
493 management, assessment, and monitoring of student learning and
494 performance.
495 2. Responsible for making budget recommendations to the
496 commissioner, providing data collection and management for the
497 system, assisting school districts in securing Internet access
498 and telecommunications services, including those eligible for
499 funding under the Schools and Libraries Program of the federal
500 Universal Service Fund, and coordinating services with other
501 state, local, and private agencies.
502 3. Responsible for coordinating with the Agency for State
503 Technology to facilitate school districts' access to state term

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504 contract procurement options and shared services pursuant to s.
505 282.0051(7)(c).
506 4. Responsible for consulting with the Agency for State
507 Technology to establish uniform definitions of information
508 technology architecture components which must be incorporated
509 into the department's 5-year strategic plan. The uniform
510 definitions must be incorporated by each charter school that
511 seeks Florida digital classrooms allocation funds and by each
512 district school board in the technology information annually
513 submitted to the department which includes, but is not limited
514 to, digital classroom plans and technology resources inventory.
515 5. Responsible for consulting with the Agency for State
516 Technology to create a digital readiness scorecard to compare
517 the digital readiness of school districts within the state. The
518 scorecard must use the uniform definitions identified under this
519 section and information technology architecture standards
520 identified under s. 282.0052(1)(a). At a minimum, the scorecard
521 must include the student-to-device ratio, the percentage of
522 schools within each district that meet bandwidth standards, the
523 percentage of classrooms within each district that meet wireless
524 standards, the refresh rate of devices, network capacity,
525 information storage capacity, and information security services.
526 Section 16. Subsection (26) of section 1001.42, Florida
527 Statutes, is amended to read:
528 1001.42 Powers and duties of district school board.—The
529 district school board, acting as a board, shall exercise all
530 powers and perform all duties listed below:
531 (26) TECHNICAL CENTER GOVERNING BOARD.—May appoint a
532 governing board for a school district technical center or a

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533 system of technical centers for the purpose of aligning the
534 educational programs of the technical center with the needs of
535 local businesses and responding quickly to the needs of local
536 businesses for employees holding industry certifications. A
537 technical center governing board shall be comprised of seven
538 members, three of whom must be members of the district school
539 board or their designees and four of whom must be local business
540 leaders. The district school board shall delegate to the
541 technical center governing board decisions regarding entrance
542 requirements for students, curriculum, program development,
543 budget and funding allocations, and the development with local
544 businesses of partnership agreements and appropriate industry
545 certifications in order to meet local and regional economic
546 needs. A technical center governing board may approve only
547 courses and programs that contain industry certifications. A
548 course may be continued if at least 25 percent of the students
549 enrolled in the course attain an industry certification. If
550 fewer than 25 percent of the students enrolled in a course
551 attain an industry certification, the course must be
552 discontinued the following year. <u>However, notwithstanding the</u>
553 <u>authority to approve courses and programs under this subsection,</u>
554 <u>a technical center governing board may not approve college</u>
555 <u>credit courses or college credit certificate, associate degree,</u>
556 <u>or baccalaureate degree programs.</u>
557 Section 17. Paragraph (b) of subsection (1) of section
558 1001.43, Florida Statutes, is amended to read:
559 1001.43 Supplemental powers and duties of district school
560 board.—The district school board may exercise the following
561 supplemental powers and duties as authorized by this code or

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562 State Board of Education rule.
563 (1) STUDENT MANAGEMENT.—The district school board may adopt
564 programs and policies to ensure the safety and welfare of
565 individuals, the student body, and school personnel, which
566 programs and policies may:
567 (b) Require that the attire ~~uniforms~~ to be worn by the
568 student body conform to a standard student attire policy that
569 prohibits certain types or styles of clothing and requires solid
570 colored clothing and fabrics for pants, skirts, shorts, or
571 similar clothing and short or long sleeved shirts with collars.
572 The policy may authorize a small logo but may not authorize a
573 motto or slogan. The purpose of a standard student attire policy
574 is to provide a safe environment that fosters learning and
575 improves school safety and discipline by:
576 1. Encouraging students to express their individuality
577 through personality and academic achievements, rather than
578 outward appearance.
579 2. Enabling students to focus on academics, rather than
580 fashion, because they are able to project a neat, serious, and
581 studious image.
582 3. Minimizing disciplinary problems because students are
583 not distracted by clothing.
584 4. Reducing the time needed to correct dress code
585 violations through a readily available inventory of compliant
586 attire.
587 5. Minimizing visible differences and eliminating social
588 pressures to wear brand name clothing or "gang colors," thereby
589 easing financial pressures on parents and enhancing school
590 safety.

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591 6. Creating a sense of school pride and belonging.
592
593 A district school board may implement a standard student attire
594 policy as part of an overall program to foster and promote
595 desirable school operating conditions and a safe and supportive
596 educational environment. A standard student attire policy must
597 allow a parent to opt his or her student out of the policy for
598 religious purposes or by reason of a disability. A district
599 school board that implements a districtwide standard student
600 attire policy for all students in at least kindergarten through
601 grade 8 is immune from civil liability resulting from adoption
602 of the policy in accordance with this paragraph~~, or impose other~~
603 ~~dress-related requirements, if the district school board finds~~
604 ~~that those requirements are necessary for the safety or welfare~~
605 ~~of the student body or school personnel~~. ~~However,~~ Students may
606 wear sunglasses, hats, or other sun-protective wear while
607 outdoors during school hours, such as when students are at
608 recess.
609 Section 18. Section 1001.44, Florida Statutes is amended to
610 read:
611 1001.44 Career centers; governance, mission, and
612 responsibilities.—
613 (1) DISTRICT SCHOOL BOARD MAY ESTABLISH OR ACQUIRE CAREER
614 CENTERS.—Any district school board, after first obtaining the
615 approval of the Department of Education, may, as a part of the
616 district school system, organize, establish and operate a career
617 center, or acquire and operate a career center previously
618 established.
619 (a) The primary mission of a career center that is operated

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620 by a district school board is to promote advances and
621 innovations in workforce preparation and economic development. A
622 career center may provide a learning environment that serves the
623 needs of a specific population group or group of occupations,
624 thus promoting diversity and choices within the public technical
625 education community in this state.
626 (b) A career center that is operated by a district school
627 board may not:
628 1. Offer college credit courses or college credit
629 certificate, associate degree, or baccalaureate degree programs.
630 2. In its name, include the term "college" or indicate that
631 the center has the authority to offer college credit courses or
632 college credit certificate, associate degree, or baccalaureate
633 degree programs.
634 (2) DISTRICT SCHOOL BOARDS OF CONTIGUOUS DISTRICTS MAY
635 ESTABLISH OR ACQUIRE CAREER CENTERS.—The district school boards
636 of any two or more contiguous districts may, upon first
637 obtaining the approval of the department, enter into an
638 agreement to organize, establish and operate, or acquire and
639 operate, a career center under this section.
640 (3) CAREER CENTER PART OF DISTRICT SCHOOL SYSTEM DIRECTED
641 BY A DIRECTOR.—
642 (a) A career center established or acquired under
643 provisions of law and minimum standards prescribed by the
644 commissioner shall comprise a part of the district school system
645 and shall mean an educational institution offering terminal
646 courses of a technical nature which are not for college credit,
647 and courses for out-of-school youth and adults; shall be subject
648 to all applicable provisions of this code; shall be under the

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649 control of the district school board of the school district in
650 which it is located; and shall be directed by a director
651 responsible through the district school superintendent to the
652 district school board of the school district in which the center
653 is located.
654 (b) Each career center shall maintain an academic
655 transcript for each student enrolled in the center. Such
656 transcript shall delineate each course completed by the student.
657 Courses shall be delineated by the course prefix and title
658 assigned pursuant to s. 1007.24. The center shall make a copy of
659 a student's transcript available to any student who requests it.
660 Section 19. Section 1001.60, Florida Statutes, is amended
661 to read:
662 1001.60 Florida Community College System.—
663 (1) PURPOSES.—In order to maximize open access for
664 students, respond to community needs for postsecondary academic
665 education and career degree education, and provide associate and
666 baccalaureate degrees that will best meet the state's employment
667 needs, the Legislature establishes a system of governance for
668 the Florida Community College System.
669 (2) FLORIDA COMMUNITY COLLEGE SYSTEM.—There shall be a
670 single Florida Community College System comprised of the Florida
671 Community College System institutions identified in s.
672 1000.21(3). A Florida Community College System institution may
673 not offer graduate degree programs.
674 (a) The programs and services offered by Florida Community
675 College System institutions in providing associate and
676 baccalaureate degrees shall be delivered in a cost-effective
677 manner that demonstrates substantial savings to the student and

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678 to the state over the cost of providing the degree at a state
679 university.
680 (b)1. With the approval of its district board of trustees,
681 a Florida Community College System institution may change the
682 institution's name set forth in s. 1000.21(3) and use the
683 designation "college" or "state college" if it has been
684 authorized to grant baccalaureate degrees pursuant to s. 1007.33
685 and has been accredited as a baccalaureate-degree-granting
686 institution by the Commission on Colleges of the Southern
687 Association of Colleges and Schools.
688 2. With the approval of its district board of trustees, a
689 Florida Community College System institution that does not meet
690 the criteria in subparagraph 1. may request approval from the
691 State Board of Education to change the institution's name set
692 forth in s. 1000.21(3) and use the designation "college." The
693 State Board of Education may approve the request if the Florida
694 Community College System institution enters into an agreement
695 with the State Board of Education to do the following:
696 a. Maintain as its primary mission responsibility for
697 responding to community needs for postsecondary academic
698 education and career degree education as prescribed in s.
699 1004.65(5).
700 b. Maintain an open-door admissions policy for associate-
701 level degree programs and workforce education programs.
702 c. Continue to provide outreach to underserved populations.
703 d. Continue to provide remedial education.
704 e. Comply with all provisions of the statewide articulation
705 agreement that relate to 2-year and 4-year public degree-
706 granting institutions as adopted by the State Board of Education

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707 pursuant to s. 1007.23.
708 (c) A district board of trustees that approves a change to
709 the name of an institution under paragraph (b) must seek
710 statutory codification of such name change in s. 1000.21(3)
711 during the next regular legislative session.
712 (d) A Florida Community College System institution may not
713 use the designation "university."
714 (3) LOCAL BOARDS OF TRUSTEES.—Each institution within the
715 Florida Community College System shall be governed by a local
716 board of trustees as provided in s. 1001.64. The membership of
717 each local board of trustees shall be as provided in s. 1001.61.
718 Section 20. Subsection (4) is added to section 1001.705,
719 Florida Statutes, to read:
720 1001.705 Responsibility for the State University System
721 under s. 7, Art. IX of the State Constitution.—
722 (4) MISSION AND RESPONSIBILITIES.—The mission of the State
723 University System is to promote excellence through teaching
724 students, advancing research, and providing public service for
725 the benefit of Florida's citizens and their communities and
726 economies. A state university may provide students undergraduate
727 and graduate level instruction leading to baccalaureate,
728 master's, doctoral, or professional degrees or certificates in
729 accordance with the requirements of subsection (2).
730 Section 21. Subsection (4) of section 1001.7065, Florida
731 Statutes, is amended to read:
732 1001.7065 Preeminent state research universities program.—
733 (4) PREEMINENT STATE RESEARCH UNIVERSITY INSTITUTE FOR
734 ONLINE LEARNING.—A state research university that, as of July 1,
735 2013, met ~~meets~~ all 12 of the academic and research excellence

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736 standards identified in subsection (2), as verified by the Board
737 of Governors, shall establish an institute for online learning.
738 The institute shall establish a robust offering of high-quality,
739 fully online baccalaureate degree programs at an affordable cost
740 in accordance with this subsection.
741 (a) By August 1, 2013, the Board of Governors shall convene
742 an advisory board to support the development of high-quality,
743 fully online baccalaureate degree programs at the university.
744 (b) The advisory board shall:
745 1. Offer expert advice, as requested by the university, in
746 the development and implementation of a business plan to expand
747 the offering of high-quality, fully online baccalaureate degree
748 programs.
749 2. Advise the Board of Governors on the release of funding
750 to the university upon approval by the Board of Governors of the
751 plan developed by the university.
752 3. Monitor, evaluate, and report on the implementation of
753 the plan to the Board of Governors, the Governor, the President
754 of the Senate, and the Speaker of the House of Representatives.
755 (c) The advisory board shall be composed of the following
756 five members:
757 1. The chair of the Board of Governors or the chair’s
758 permanent designee.
759 2. A member with expertise in online learning, appointed by
760 the Board of Governors.
761 3. A member with expertise in global marketing, appointed
762 by the Governor.
763 4. A member with expertise in cloud virtualization,
764 appointed by the President of the Senate.

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765 5. A member with expertise in disruptive innovation,
766 appointed by the Speaker of the House of Representatives.
767 (d) The president of the university shall be consulted on
768 the advisory board member appointments.
769 (e) A majority of the advisory board shall constitute a
770 quorum, elect the chair, and appoint an executive director.
771 (f) By September 1, 2013, the university shall submit to
772 the advisory board a comprehensive plan to expand high-quality,
773 fully online baccalaureate degree program offerings. The plan
774 shall include:
775 1. Existing on-campus general education courses and
776 baccalaureate degree programs that will be offered online.
777 2. New courses that will be developed and offered online.
778 3. Support services that will be offered to students
779 enrolled in online baccalaureate degree programs.
780 4. A tuition and fee structure that meets the requirements
781 in paragraph (k) for online courses, baccalaureate degree
782 programs, and student support services.
783 5. A timeline for offering, marketing, and enrolling
784 students in the online baccalaureate degree programs.
785 6. A budget for developing and marketing the online
786 baccalaureate degree programs.
787 7. Detailed strategies for ensuring the success of students
788 and the sustainability of the online baccalaureate degree
789 programs.
790
791 Upon recommendation of the plan by the advisory board and
792 approval by the Board of Governors, the Board of Governors shall
793 award the university $10 million in nonrecurring funds and $5

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794 million in recurring funds for fiscal year 2013-2014 and $5
795 million annually thereafter, subject to appropriation in the
796 General Appropriations Act.
797 (g) Beginning in January 2014, the university shall offer
798 high-quality, fully online baccalaureate degree programs that:
799 1. Accept full-time, first-time-in-college students.
800 2. Have the same rigorous admissions criteria as equivalent
801 on-campus degree programs.
802 3. Offer curriculum of equivalent rigor to on-campus degree
803 programs.
804 4. Offer rolling enrollment or multiple opportunities for
805 enrollment throughout the year.
806 5. Do not require any on-campus courses. However, for
807 courses or programs that require clinical training or
808 laboratories that cannot be delivered online, the university
809 shall offer convenient locational options to the student, which
810 may include, but are not limited to, the option to complete such
811 requirements at a summer-in-residence on the university campus.
812 The university may provide a network of sites at convenient
813 locations and contract with commercial testing centers or
814 identify other secure testing services for the purpose of
815 proctoring assessments or testing.
816 6. Apply the university’s existing policy for accepting
817 credits for both freshman applicants and transfer applicants.
818 (h) The university may offer a fully online Master’s in
819 Business Administration degree program and other master’s degree
820 programs.
821 (i) The university may develop and offer degree programs
822 and courses that are competency based as appropriate for the

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823 quality and success of the program.
824 (j) The university shall periodically expand its offering
825 of online baccalaureate degree programs to meet student and
826 market demands.
827 (k) The university shall establish a tuition structure for
828 its online institute in accordance with this paragraph,
829 notwithstanding any other provision of law.
830 1. For students classified as residents for tuition
831 purposes, tuition for an online baccalaureate degree program
832 shall be set at no more than 75 percent of the tuition rate as
833 specified in the General Appropriations Act pursuant to s.
834 1009.24(4) and 75 percent of the tuition differential pursuant
835 to s. 1009.24(16). No distance learning fee, fee for campus
836 facilities, or fee for on-campus services may be assessed,
837 except that online students shall pay the university's
838 technology fee, financial aid fee, and Capital Improvement Trust
839 Fund fee. The revenues generated from the Capital Improvement
840 Trust Fund fee shall be dedicated to the university's institute
841 for online learning.
842 2. For students classified as nonresidents for tuition
843 purposes, tuition may be set at market rates in accordance with
844 the business plan.
845 3. Tuition for an online degree program shall include all
846 costs associated with instruction, materials, and enrollment,
847 excluding costs associated with the provision of textbooks <u>and</u>
848 <u>instructional materials</u> pursuant to s. 1004.085 and physical
849 laboratory supplies.
850 4. Subject to the limitations in subparagraph 1., tuition
851 may be differentiated by degree program as appropriate to the

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852 instructional and other costs of the program in accordance with
853 the business plan. Pricing must incorporate innovative
854 approaches that incentivize persistence and completion,
855 including, but not limited to, a fee for assessment, a bundled
856 or all-inclusive rate, and sliding scale features.
857 5. The university must accept advance payment contracts and
858 student financial aid.
859 6. Fifty percent of the net revenues generated from the
860 online institute of the university shall be used to enhance and
861 enrich the online institute offerings, and 50 percent of the net
862 revenues generated from the online institute shall be used to
863 enhance and enrich the university's campus state-of-the-art
864 research programs and facilities.
865 7. The institute may charge additional local user fees
866 pursuant to s. 1009.24(14) upon the approval of the Board of
867 Governors.
868 8. The institute shall submit a proposal to the president
869 of the university authorizing additional user fees for the
870 provision of voluntary student participation in activities and
871 additional student services.
872 Section 22. Paragraph (d) of subsection (19) of section
873 1002.20, Florida Statutes, is amended to read:
874 1002.20 K-12 student and parent rights.—Parents of public
875 school students must receive accurate and timely information
876 regarding their child's academic progress and must be informed
877 of ways they can help their child to succeed in school. K-12
878 students and their parents are afforded numerous statutory
879 rights including, but not limited to, the following:
880 (19) INSTRUCTIONAL MATERIALS.—

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881 (d) *Dual enrollment students.*—Instructional materials
882 purchased by a district school board or Florida College System
883 institution board of trustees on behalf of ~~public school~~ dual
884 enrollment students shall be made available free of charge to
885 the dual enrollment students ~~free of charge,~~ in accordance with
886 s. 1007.271(17).
887 Section 23. Section 42. Subsection (1) of section 1002.34,
888 Florida Statutes, is amended to read:
889 1002.34 Charter technical career centers; governance,
890 mission, and responsibilities.—
891 (1) AUTHORIZATION AND MISSION.—
892 (a) The primary mission of a charter technical career
893 center is to promote ~~The Legislature finds that the~~
894 ~~establishment of charter technical career centers can assist in~~
895 ~~promoting~~ advances and innovations in workforce preparation and
896 economic development. A charter technical career center may
897 provide a learning environment that ~~better~~ serves the needs of a
898 specific population group or a group of occupations, thus
899 promoting diversity and choices within the public ~~education and~~
900 ~~public postsecondary~~ technical education community in this
901 state. Therefore, the creation of such centers is authorized as
902 part of the state's program of public education. A charter
903 technical career center may be formed by creating a new school
904 or converting an existing school district or Florida Community
905 College System institution program to charter technical status.
906 (b) A charter technical career center that is operated by a
907 district school board may not:
908 1. Offer college credit courses or college credit
909 certificate, associate degree, or baccalaureate degree programs.

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910 2. Include in its name the term "college" or indicate that
911 the center has the authority to offer college credit courses or
912 college credit certificate, associate degree, or baccalaureate
913 degree programs.
914 Section 24. Paragraph (u) is added to subsection (2) of
915 section 1003.42, Florida Statutes, to read:
916 1003.42 Required instruction.—
917 (2) Members of the instructional staff of the public
918 schools, subject to the rules of the State Board of Education
919 and the district school board, shall teach efficiently and
920 faithfully, using the books and materials required that meet the
921 highest standards for professionalism and historic accuracy,
922 following the prescribed courses of study, and employing
923 approved methods of instruction, the following:
924 (u) The events surrounding the terrorist attacks occurring
925 on September 11, 2001, and the impact of those events on the
926 nation. This paragraph may be cited as the "Representative Clay
927 Ford, Jr., Memorial Act."
928
929 The State Board of Education is encouraged to adopt standards
930 and pursue assessment of the requirements of this subsection.
931 Section 25. Subsection (2) of section 1004.015, Florida
932 Statutes, is amended to read:
933 1004.015 Higher Education Coordinating Council.—
934 (2) Members of the council ~~shall~~ include:
935 (a) One member of the Board of Governors, appointed by the
936 chair of the Board of Governors.
937 (b) The Chancellor of the State University System.
938 (c) The Chancellor of the Florida Community College System.

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939 (d) The Chancellor of Career and Adult Education.
940 (e) ~~(d)~~ One member of the State Board of Education,
941 appointed by the chair of the State Board of Education.
942 (f) ~~(e)~~ The Executive Director of the Florida Association of
943 Postsecondary Schools and Colleges.
944 (g) ~~(f)~~ The president of the Independent Colleges and
945 Universities of Florida.
946 (h) ~~(g)~~ The president of Workforce Florida, Inc., or his or
947 her designee.
948 (i) ~~(h)~~ The president of Enterprise Florida, Inc., or a
949 designated member of the Stakeholders Council appointed by the
950 president.
951 (j) ~~(i)~~ Three representatives of the business community, one
952 appointed by the President of the Senate, one appointed by the
953 Speaker of the House of Representatives, and one appointed by
954 the Governor, who are committed to developing and enhancing
955 world class workforce infrastructure necessary for Florida's
956 citizens to compete and prosper in the ever-changing economy of
957 the 21st century.
958 Section 26. Section 1004.084, Florida Statutes, is created
959 to read:
960 1004.084 College affordability.—The Board of Governors and
961 State Board of Education shall continue to identify strategies
962 and initiatives to further ensure college affordability for all
963 Floridians.
964 (1) Specific strategies and initiatives to reduce the cost
965 of higher education must include, at a minimum, consideration of
966 the following:
967 (a) The impact of tuition and fee increases at state

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968 colleges and universities, including graduate, professional,
969 medical, and law schools.
970 (b) The total cost of fees to a student and family at a
971 state university or a state college, including orientation fees.
972 (c) The cost of textbooks and instructional materials for
973 all students. The Board of Governors and State Board of
974 Education shall use the information provided pursuant to s.
975 1004.085(5) and (6) and consult with students, faculty,
976 bookstores, and publishers, to determine the best methods to
977 reduce costs and must, at a minimum, consider the following:
978 1. Any existing Florida College System or State University
979 System initiatives to reduce the cost of textbooks and
980 instructional materials.
981 2. Purchasing e-textbooks in bulk.
982 3. Expanding the use of open-access textbooks and
983 instructional materials.
984 4. The rental options for textbook and instructional
985 materials.
986 5. Increasing the availability and use of affordable
987 digital textbooks and learning objects for faculty and students.
988 6. Supporting efficient used book sales, buy-back sales,
989 and student-to-student sales.
990 7. Developing online portals at each institution to assist
991 students in buying, renting, selling, and sharing textbooks and
992 instructional materials.
993 8. The feasibility of expanding and enhancing digital
994 access platforms that are used by campus stores to help students
995 acquire the correct and least expensive required course
996 materials.

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997 9. The cost to school districts of instructional materials
998 for dual enrollment students.
999 (2) By December 31, 2015, and annually thereafter, the
1000 Board of Governors and State Board of Education shall submit a
1001 report on their respective college affordability efforts, which
1002 must include recommendations, to the Governor, the President of
1003 the Senate, and the Speaker of the House of Representatives.
1004 Section 27. Section 1004.085, Florida Statutes, is amended
1005 to read:
1006 1004.085 Textbook and instructional materials
1007 affordability.—
1008 (1) As used in this section, the term "instructional
1009 materials" means educational materials, in printed or digital
1010 format, which are required or recommended for use within a
1011 course.
1012 (2) ~~(1)~~ An ~~No~~ employee of a Florida College System
1013 institution or a state university may not demand or receive any
1014 payment, loan, subscription, advance, deposit of money, service,
1015 or anything of value, present or promised, in exchange for
1016 requiring students to purchase a specific textbook or
1017 instructional material for coursework or instruction.
1018 (3) ~~(2)~~ An employee may receive:
1019 (a) Sample copies, instructor copies, or instructional
1020 materials. These materials may not be sold for any type of
1021 compensation if they are specifically marked as free samples not
1022 for resale.
1023 (b) Royalties or other compensation from sales of textbooks
1024 or instructional materials that include the instructor's own
1025 writing or work.

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1026 (c) Honoraria for academic peer review of course materials.
1027 (d) Fees associated with activities such as reviewing,
1028 critiquing, or preparing support materials for textbooks or
1029 instructional materials pursuant to guidelines adopted by the
1030 State Board of Education or the Board of Governors.
1031 (e) Training in the use of course materials and learning
1032 technologies.
1033 (4)~~(3)~~ Each Florida College System institution ~~institutions~~
1034 and state university ~~universities~~ shall prominently post in the
1035 course registration system and on its website ~~on their websites~~,
1036 as early as is feasible, but at least 14 ~~not less than 30~~ days
1037 before ~~prior to~~ the first day of student registration ~~class~~ for
1038 each term, a hyperlink to lists ~~list~~ of ~~each textbook~~ required
1039 and recommended textbooks and instructional materials for at
1040 least 90 percent of the courses and course sections ~~each course~~
1041 offered at the institution during the upcoming term.
1042 (a) These lists ~~The posted list~~ must include:
1043 1. The International Standard Book Number (ISBN) for each
1044 required and recommended textbook and instructional materials.
1045 2. For a textbook or instructional materials for which an
1046 ISBN is not available, ~~textbook or~~ other identifying
1047 information, which must include, at a minimum, all of the
1048 following: the title, all authors listed, publishers, edition
1049 number, copyright date, published date, and other relevant
1050 information necessary to identify the specific textbook or
1051 instructional materials ~~textbooks~~ required and recommended for
1052 each course.
1053 3. The new and used retail price and the rental price, if
1054 applicable, for a required or recommended textbook or

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1055 instructional materials for purchase at the institution's
1056 designated bookstore or other specified vendor, including the
1057 website or other contact information for the bookstore.
1058 (b) The State Board of Education and the Board of Governors
1059 shall include in the policies, procedures, and guidelines
1060 adopted under subsection (5) ~~(4)~~ certain limited exceptions to
1061 this notification requirement for courses ~~classes~~ added after
1062 the notification deadline.
1063 (c) An institution that is unable to comply with this
1064 subsection by the 2015 fall semester must provide the
1065 information required by this subsection to students, in a format
1066 determined by the institution, at least 60 days before the first
1067 day of classes. The institution must also submit a quarterly
1068 report to the State Board of Education or to the Board of
1069 Governors, as applicable, documenting the institution's efforts
1070 to comply with this subsection by the 2016 fall semester.
1071 (5) ~~(4)~~ The State Board of Education and the Board of
1072 Governors each shall adopt textbook and instructional materials
1073 affordability policies, procedures, and guidelines for
1074 implementation by Florida College System institutions and state
1075 universities, respectively, which ~~that~~ further efforts to
1076 minimize the cost of textbooks and instructional materials for
1077 students attending such institutions, while maintaining the
1078 quality of education and academic freedom. The policies,
1079 procedures, and guidelines must, at a minimum, require ~~shall~~
1080 ~~provide for~~ the following:
1081 (a) That textbook and instructional materials adoptions are
1082 made with sufficient lead time to bookstores so as to confirm
1083 availability of the requested materials and, if ~~where~~ possible,

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1084 ensure maximum availability of used textbooks and instructional
1085 materials ~~books~~.
1086 (b) That, in the textbook and instructional material
1087 adoption process, the intent to use all items ordered,
1088 particularly each individual item sold as part of a bundled
1089 package, is confirmed by the course instructor or the academic
1090 department offering the course before the adoption is finalized.
1091 (c) That a course instructor or the academic department
1092 offering the course determine ~~determines~~, before a textbook or
1093 instructional materials are ~~is~~ adopted, the extent to which a
1094 new edition differs significantly and substantively from earlier
1095 versions and the value to the student of changing to a new
1096 edition or the extent to which an open-access textbook or
1097 instructional materials may exist and be used.
1098 (d) That the establishment of policies shall address the
1099 availability of required and recommended textbooks and
1100 instructional materials to students otherwise unable to afford
1101 the cost, including consideration of the extent to which an
1102 open-access textbook or instructional materials may be used.
1103 (e) That course instructors and academic departments are
1104 encouraged to participate in the development, adaptation, and
1105 review of open-access textbooks and instructional materials and,
1106 in particular, open-access textbooks and instructional materials
1107 for high-demand general education courses.
1108 (f) That postsecondary institutions consult with school
1109 districts with which they have a dual enrollment articulation
1110 agreement to identify practices that impact the cost to school
1111 districts of dual enrollment textbooks and instructional
1112 materials, including, but not limited to, the length of time

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1113 that textbooks and instructional materials remain in use and the
1114 costs associated with digital materials.
1115 (g) That cost-benefit analyses be conducted regularly in
1116 comparing options to ensure that students receive the highest
1117 quality product at the lowest available price.
1118 (6) Each Florida College System institution and each state
1119 university shall report annually to the Chancellor of the
1120 Florida College System or the Chancellor of the State University
1121 System, as applicable, the cost of undergraduate textbooks and
1122 instructional materials, by course and course section; the
1123 textbook and instructional materials selection process for high-
1124 enrollment courses as determined by the chancellors; specific
1125 initiatives of the institution which reduce the cost of
1126 textbooks and instructional materials; the number of courses and
1127 course sections that were not able to meet the textbook and
1128 instructional materials posting deadline; and additional
1129 information as determined by the chancellors. Annually, by
1130 December 31, the chancellors shall compile the institution
1131 reports and submit a comprehensive report to the Governor, the
1132 President of the Senate, and the Speaker of the House of
1133 Representatives.
1134 (7) Each Florida College System institution and state
1135 university shall annually send the State Board of Education or
1136 the Board of Governors, as applicable, electronic copies of its
1137 current textbook and instructional materials affordability
1138 policies and procedures. The State Board of Education and the
1139 Board of Governors shall provide a link to this information on
1140 their respective websites.
1141 Section 28. Section 1004.65, Florida Statutes, is amended

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1142 to read:
1143 1004.65 Florida Community College System institutions;
1144 governance, mission, and responsibilities.—
1145 (1) Each Florida Community College System institution shall
1146 be governed by a district board of trustees under statutory
1147 authority and rules of the State Board of Education.
1148 (2) Each Florida Community College System institution
1149 district shall:
1150 (a) Consist of the county or counties served by the Florida
1151 Community College System institution pursuant to s. 1000.21(3).
1152 (b) Be an independent, separate, legal entity created for
1153 the operation of a Florida Community College System institution.
1154 (3) Florida Community College System institutions are
1155 locally based and governed entities with statutory and funding
1156 ties to state government. As such, the mission for Florida
1157 Community College System institutions reflects a commitment to
1158 be responsive to local educational needs and challenges. In
1159 achieving this mission, Florida Community College System
1160 institutions strive to maintain sufficient local authority and
1161 flexibility while preserving appropriate legal accountability to
1162 the state.
1163 (4) As comprehensive institutions, Florida Community
1164 College System institutions shall provide high-quality,
1165 affordable education and training opportunities, shall foster a
1166 climate of excellence, and shall provide opportunities to all
1167 while combining high standards with an open-door admission
1168 policy for lower-division programs. Florida Community College
1169 System institutions shall, as open-access institutions, serve
1170 all who can benefit, without regard to age, race, gender, creed,

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1171 or ethnic or economic background, while emphasizing the
1172 achievement of social and educational equity so that all can be
1173 prepared for full participation in society.
1174 (5) The primary mission and responsibility of Florida
1175 Community College System institutions is responding to community
1176 needs for postsecondary academic education and career degree
1177 education. This mission and responsibility includes being
1178 responsible for:
1179 (a) Providing lower level undergraduate instruction and
1180 awarding associate degrees.
1181 (b) Preparing students directly for careers requiring less
1182 than baccalaureate degrees. This may include preparing for job
1183 entry, supplementing of skills and knowledge, and responding to
1184 needs in new areas of technology. Career education in a Florida
1185 Community College System institution shall consist of career
1186 certificates, credit courses leading to associate in science
1187 degrees and associate in applied science degrees, and other
1188 programs in fields requiring substantial academic work,
1189 background, or qualifications. A Florida Community College
1190 System institution may offer career education programs in fields
1191 having lesser academic or technical requirements.
1192 (c) Providing student development services, including
1193 assessment, student tracking, support for disabled students,
1194 advisement, counseling, financial aid, career development, and
1195 remedial and tutorial services, to ensure student success.
1196 (d) Promoting economic development for the state within
1197 each Florida Community College System institution district
1198 through the provision of special programs, including, but not
1199 limited to, the:

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1200 1. Enterprise Florida-related programs.
1201 2. Technology transfer centers.
1202 3. Economic development centers.
1203 4. Workforce literacy programs.
1204 (e) Providing dual enrollment instruction.
1205 ~~(f) Providing upper level instruction and awarding~~
1206 ~~baccalaureate degrees as specifically authorized by law.~~
1207 (6) A separate and secondary role for Florida Community
1208 College System institutions includes the offering of ~~programs~~
1209 ~~in~~:
1210 (a) Programs in community services that are not directly
1211 related to academic or occupational advancement.
1212 (b) Programs in adult education services, including adult
1213 basic education, adult general education, adult secondary
1214 education, and high school equivalency examination instruction.
1215 (c) Programs in recreational and leisure services.
1216 (d) Upper level instruction and awarding baccalaureate
1217 degrees as specifically authorized by law.
1218 (7) Funding for Florida Community College System
1219 institutions shall reflect their mission as follows:
1220 (a) Postsecondary academic and career education programs
1221 and adult general education programs shall have first priority
1222 in Florida Community College System institution funding.
1223 (b) Community service programs shall be presented to the
1224 Legislature with rationale for state funding. The Legislature
1225 may identify priority areas for use of these funds.
1226 (c) The resources of a Florida Community College System
1227 institution, including staff, faculty, land, and facilities,
1228 shall not be used to support the establishment of a new

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1229 independent nonpublic educational institution. If any
1230 institution uses resources for such purpose, the Division of
1231 Florida Community Colleges shall notify the President of the
1232 Senate and the Speaker of the House of Representatives.
1233 (8) Florida Community College System institutions are
1234 authorized to:
1235 (a) Offer such programs and courses as are necessary to
1236 fulfill their mission.
1237 (b) Grant associate in arts degrees, associate in science
1238 degrees, associate in applied science degrees, certificates,
1239 awards, and diplomas.
1240 (c) Make provisions for the high school equivalency
1241 examination.
1242 (d) Provide access to and award baccalaureate degrees in
1243 accordance with law.
1244
1245 Authority to offer one or more baccalaureate degree programs
1246 does not alter the governance relationship of the Florida
1247 Community College System institution with its district board of
1248 trustees or the State Board of Education.
1249 Section 29. Paragraph (b) of subsection (2) of section
1250 1004.92, Florida Statutes, is amended to read:
1251 1004.92 Purpose and responsibilities for career education.—
1252 (2)
1253 (b) Department of Education accountability for career
1254 education includes, but is not limited to:
1255 1. The provision of timely, accurate technical assistance
1256 to school districts and Florida College System institutions.
1257 2. The provision of timely, accurate information to the

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1258 State Board of Education, the Legislature, and the public.
1259 3. The development of policies, rules, and procedures that
1260 facilitate institutional attainment of the accountability
1261 standards and coordinate the efforts of all divisions within the
1262 department.
1263 4. The development of program standards and industry-driven
1264 benchmarks for career, adult, and community education programs,
1265 which must be updated every 3 years. The standards must include
1266 career, academic, and workplace skills; viability of distance
1267 learning for instruction; ~~and~~ work/learn cycles that are
1268 responsive to business and industry; and reflect the quality
1269 components of a career and technical education program. The
1270 State Board of Education shall adopt rules to administer this
1271 section.
1272 5. Overseeing school district and Florida College System
1273 institution compliance with the provisions of this chapter.
1274 6. Ensuring that the educational outcomes for the technical
1275 component of career programs are uniform and designed to provide
1276 a graduate who is capable of entering the workforce on an
1277 equally competitive basis regardless of the institution of
1278 choice.
1279 Section 30. Present subsections (5) and (6) of section
1280 1006.735, Florida Statutes, are redesignated as subsections (6)
1281 and (7), respectively, and a new subsection (5) is added to that
1282 section, to read:
1283 1006.735 Complete Florida Plus Program.—The Complete
1284 Florida Plus Program is created at the University of West
1285 Florida.
1286 (5) RAPID RESPONSE EDUCATION AND TRAINING PROGRAM.—The

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1287 Rapid Response Education and Training Program is established
1288 within the Complete Florida Plus Program. Under the Rapid
1289 Response Education and Training Program, the Complete Florida
1290 Plus Program shall work directly with Enterprise Florida, Inc.,
1291 in project-specific industry recruitment and retention efforts
1292 to offer credible education and training commitments to
1293 businesses.
1294 (a) The Rapid Response Education and Training Program must:
1295 1. Issue challenge grants through requests for proposals
1296 that are open to all education and training providers, public or
1297 private. These grants match state funding with education and
1298 training provider funds to implement particular education and
1299 training programs.
1300 2. Generate periodic reports from an independent forensic
1301 accounting or auditing entity to ensure transparency of the
1302 program. These periodic reports must be submitted to the
1303 President of the Senate and the Speaker of the House of
1304 Representatives.
1305 3. Keep administrative costs to a minimum through the use
1306 of existing organizational structures.
1307 4. Work directly with businesses to recruit individuals for
1308 education and training.
1309 5. Be able to terminate an education and training program
1310 by giving 30 days' notice.
1311 6. Survey employers after completion of an education and
1312 training program to ascertain the effectiveness of the program.
1313 (b) The Division of Career and Adult Education within the
1314 Department of Education shall conduct an analysis and assessment
1315 of the effectiveness of the education and training programs

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1316 under this section in meeting labor market and occupational
1317 trends and gaps.
1318 Section 31. Subsection (2) of section 1007.01, Florida
1319 Statutes, is amended to read:
1320 1007.01 Articulation; legislative intent; purpose; role of
1321 the State Board of Education and the Board of Governors;
1322 Articulation Coordinating Committee.—
1323 (2) To preserve Florida's "2+2" system of articulation and
1324 improve and facilitate articulation systemwide, the State Board
1325 of Education and the Board of Governors shall collaboratively
1326 establish and adopt policies with input from statewide K-20
1327 advisory groups established by the Commissioner of Education and
1328 the Chancellor of the State University System and shall
1329 recommend the policies to the Legislature. The policies shall
1330 relate to:
1331 (a) The alignment between the exit requirements of one
1332 education system and the admissions requirements of another
1333 education system into which students typically transfer.
1334 (b) The identification of common courses, the level of
1335 courses, institutional participation in a statewide course
1336 numbering system, and the transferability of credits among such
1337 institutions.
1338 (c) Identification of courses that meet general education
1339 or common degree program prerequisite requirements at public
1340 postsecondary educational institutions.
1341 (d) Dual enrollment course equivalencies.
1342 (e) Articulation agreements.
1343 (f) The application of credit hours earned through CAPE
1344 industry certifications pursuant to s. 1008.44 and acceleration

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1345 mechanisms, including nationally standardized examinations, to
1346 general education, associate degree, or baccalaureate degree
1347 requirements.
1348 (g) The application of credit hours earned at Florida
1349 Community College System institutions to general education,
1350 associate degree, or baccalaureate degree requirements at state
1351 universities.
1352 Section 32. Subsection (1) of section 1007.23, Florida
1353 Statutes, is amended to read:
1354 1007.23 Statewide articulation agreement.—
1355 (1) The State Board of Education and the Board of Governors
1356 shall enter into a statewide articulation agreement which the
1357 State Board of Education shall adopt by rule. The agreement must
1358 preserve Florida's "2+2" system of articulation, facilitate the
1359 seamless articulation of student credit across and among
1360 Florida's educational entities, and reinforce the provisions of
1361 this chapter by governing:
1362 (a) Articulation between secondary and postsecondary
1363 education;
1364 (b) Admission of associate in arts degree graduates from
1365 Florida Community College System institutions and state
1366 universities;
1367 (c) Admission of applied technology diploma program
1368 graduates from Florida Community College System institutions or
1369 career centers;
1370 (d) Admission of associate in science degree and associate
1371 in applied science degree graduates from Florida Community
1372 College System institutions;
1373 (e) The application ~~use~~ of credit hours earned through CAPE

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1374 industry certifications pursuant to s. 1008.44 and acceleration
1375 mechanisms, including nationally standardized examinations, to
1376 general education, associate degree, or baccalaureate degree
1377 requirements ~~through which students may earn credit~~;
1378 (f) General education requirements and statewide course
1379 numbers as provided for in ss. 1007.24 and 1007.25; ~~and~~
1380 (g) Articulation among programs in nursing; and
1381 (h) The application of credit hours earned at Florida
1382 Community College System institutions to general education,
1383 associate degree, or baccalaureate degree requirements at state
1384 universities.
1385 Section 33. Subsections (2), (10), (11), (13), (16), (17),
1386 (22), (23), and (24) of section 1007.271, Florida Statutes, are
1387 amended to read:
1388 1007.271 Dual enrollment programs.—
1389 (2) For the purpose of this section, an eligible secondary
1390 student is a student who is enrolled in any of grades 6 through
1391 12 in a Florida public school or in a Florida private school
1392 that is in compliance with s. 1002.42(2) and provides a
1393 secondary curriculum pursuant to s. 1003. 4282. A student
1394 ~~Students~~ who is ~~are~~ eligible for dual enrollment pursuant to
1395 this section may enroll in dual enrollment courses conducted
1396 during school hours, after school hours, and during the summer
1397 term. However, if the student is projected to graduate from high
1398 school before the scheduled completion date of a postsecondary
1399 course, the student may not register for that course through
1400 dual enrollment. The student may apply to the postsecondary
1401 institution and pay the required registration, tuition, and fees
1402 if the student meets the postsecondary institution’s admissions

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1403 requirements under s. 1007.263. Instructional time for dual
1404 enrollment may vary from 900 hours; however, the full-time
1405 equivalent student membership value is ~~shall be~~ subject to ~~the~~
1406 ~~provisions in~~ s. 1011.61(4). A student enrolled as a dual
1407 enrollment student is exempt from the payment of registration,
1408 tuition, technology, and laboratory fees. Applied academics for
1409 adult education instruction, developmental education, and other
1410 forms of precollegiate instruction, as well as physical
1411 education courses that focus on the physical execution of a
1412 skill, rather than the intellectual attributes of the activity,
1413 are ineligible for inclusion in the dual enrollment program.
1414 Recreation and leisure studies courses shall be evaluated
1415 individually in the same manner as physical education courses
1416 for potential inclusion in the program.
1417 (10) Early admission is a form of dual enrollment through
1418 which an eligible secondary student enrolls ~~students enroll~~ in a
1419 postsecondary institution on a full-time basis in courses that
1420 are creditable toward the high school diploma and the associate
1421 or baccalaureate degree. A student must enroll in a minimum of
1422 12 college credit hours per semester or the equivalent to
1423 participate in the early admission program; however, a student
1424 may not be required to enroll in more than 15 college credit
1425 hours per semester or the equivalent. A student ~~Students~~
1426 enrolled pursuant to this subsection is ~~are~~ exempt from the
1427 payment of registration, tuition, technology, and laboratory
1428 fees.
1429 (11) Career early admission is a form of career dual
1430 enrollment through which an eligible secondary student enrolls
1431 ~~students enroll~~ full time in a career center or a Florida

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1432 College System institution in postsecondary programs leading to
1433 industry certifications, as listed in the Postsecondary Industry
1434 Certification Funding List pursuant to s. 1008.44, which are
1435 creditable toward the high school diploma and the certificate or
1436 associate degree. Participation in the career early admission
1437 program is limited to students who have completed a minimum of 4
1438 semesters of full-time secondary enrollment, including studies
1439 undertaken in ~~the ninth~~ grade 9. A student ~~Students~~ enrolled
1440 pursuant to this section is ~~are~~ exempt from the payment of
1441 registration, tuition, technology, and laboratory fees.
1442 (13)(a) The dual enrollment program for a home education
1443 student ~~students~~ consists of the enrollment of an eligible home
1444 education secondary student in a postsecondary course creditable
1445 toward an associate degree, a career certificate, or a
1446 baccalaureate degree. To participate in the dual enrollment
1447 program, an eligible home education secondary student must:
1448 1. Provide proof of enrollment in a home education program
1449 pursuant to s. 1002.41.
1450 2. Be responsible for his or her own instructional
1451 materials and transportation unless provided for in the
1452 articulation agreement ~~otherwise~~.
1453 3. Sign a home education articulation agreement pursuant to
1454 paragraph (b).
1455 (b) Each postsecondary institution that is eligible to
1456 participate in the dual enrollment program pursuant to s.
1457 1011.62(1)(i) must ~~shall~~ enter into a home education
1458 articulation agreement with each home education student seeking
1459 enrollment in a dual enrollment course and the student's parent.
1460 By August 1 of each year, the applicable postsecondary

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1461 institution shall complete and submit the home education
1462 articulation agreement to the Department of Education. The home
1463 education articulation agreement must ~~shall~~ include, at a
1464 minimum:
1465 1. A delineation of courses and programs available to a
1466 ~~dually enrolled~~ home education student who participates in a
1467 dual enrollment program ~~students~~. The postsecondary institution
1468 may add, revise, or delete courses and programs ~~may be added,~~
1469 ~~revised, or deleted~~ at any time ~~by the postsecondary~~
1470 ~~institution~~.
1471 2. The initial and continued eligibility requirements for
1472 home education student participation, not to exceed those
1473 required of other dual enrollment ~~dually enrolled~~ students.
1474 3. A provision expressing whether the postsecondary
1475 institution or the student is responsible ~~The student's~~
1476 ~~responsibilities~~ for providing ~~his or her own~~ instructional
1477 materials and transportation.
1478 4. A copy of the statement on transfer guarantees developed
1479 by the Department of Education under subsection (15).
1480 (16) A student ~~Students~~ who meets ~~meet~~ the eligibility
1481 requirements of this section and who chooses ~~choose~~ to
1482 participate in dual enrollment programs is ~~are~~ exempt from the
1483 payment of registration, tuition, technology, and laboratory
1484 fees.
1485 (17) Instructional materials assigned for use in ~~within~~
1486 dual enrollment courses shall be made available to dual
1487 enrollment students from Florida public high schools free of
1488 charge. This subsection does not prohibit a postsecondary
1489 ~~Florida College System~~ institution from providing instructional

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1490 materials at no cost to a home education student or student from
1491 a private school, if provided for in the articulation agreement.
1492 Instructional materials purchased by a district school board or
1493 Florida College System institution board of trustees on behalf
1494 of dual enrollment students are ~~shall be~~ the property of the
1495 board against which the purchase is charged.
1496 (22) The Department of Education shall develop an
1497 electronic submission system for dual enrollment articulation
1498 agreements and shall review, for compliance, each dual
1499 enrollment articulation agreement submitted pursuant to
1500 subsections (13), ~~subsection~~ (21), and (24). The Commissioner of
1501 Education shall notify the district school superintendent and
1502 the president of the postsecondary institution that is eligible
1503 to participate in the dual enrollment program pursuant to s.
1504 1011.62(1)(i) ~~Florida College System institution president~~ if
1505 the dual enrollment articulation agreement does not comply with
1506 statutory requirements and shall submit any dual enrollment
1507 articulation agreement with unresolved issues of noncompliance
1508 to the State Board of Education.
1509 (23) A district school board ~~boards~~ and a Florida College
1510 System institution ~~institutions~~ may enter into an additional
1511 dual enrollment articulation agreement ~~agreements~~ with a state
1512 university ~~universities~~ for the purposes of this section. A
1513 school district ~~districts~~ may also enter into a dual enrollment
1514 articulation agreement ~~agreements~~ with an eligible independent
1515 college or university ~~colleges and universities~~ pursuant to s.
1516 1011.62(1)(i). By August 1 of each year, the district school
1517 board and the Florida College System institution shall complete
1518 and submit the dual enrollment articulation agreement with the

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1519 state university and an eligible independent college or
1520 university, as applicable, to the Department of Education.
1521 (24)(a) The dual enrollment program for a private school
1522 student consists of the enrollment of an eligible private school
1523 student in a postsecondary course creditable toward an associate
1524 degree, a career certificate, or a baccalaureate degree. In
1525 addition, the private school in which the student is enrolled
1526 must award credit toward high school completion for the
1527 postsecondary course under the dual enrollment program. To
1528 participate in the dual enrollment program, an eligible private
1529 school student shall:
1530 1. Provide proof of enrollment in a private school pursuant
1531 to subsection (2).
1532 2. Be responsible for his or her own instructional
1533 materials and transportation unless provided for in the
1534 articulation agreement.
1535 3. Sign a private school articulation agreement pursuant to
1536 paragraph (b).
1537 (b) Each postsecondary institution that is eligible to
1538 participate in the dual enrollment program pursuant to s.
1539 1011.62(1)(i) must enter into a private school articulation
1540 agreement with each private school student seeking enrollment in
1541 a dual enrollment course and the student’s parent. By August 1
1542 of each year, the applicable postsecondary institution shall
1543 complete and submit the private school articulation agreement to
1544 the Department of Education. The articulation agreement must
1545 include, at a minimum:
1546 1. A delineation of courses and programs available to a
1547 private school student who participates in a dual enrollment

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1548 program. The postsecondary institution may add, revise, or
1549 delete courses and programs at any time.
1550 2. The initial and continued eligibility requirements for
1551 private school student participation, not to exceed those
1552 required of other dual enrollment students.
1553 3. A provision expressing whether the postsecondary
1554 institution or the student is responsible for providing
1555 instructional materials and transportation.
1556 4. A copy of the statement on transfer guarantees developed
1557 by the Department of Education under subsection (15)
1558 ~~Postsecondary institutions may enter into dual enrollment~~
1559 ~~articulation agreements with private secondary schools pursuant~~
1560 ~~to subsection (2)~~.
1561 Section 34. Subsection (3) of section 1007.273, Florida
1562 Statutes, is amended to read:
1563 1007.273 Collegiate high school program.—
1564 (3) Each district school board and its local Florida
1565 Community College System institution shall execute a contract to
1566 establish one or more collegiate high school programs at a
1567 mutually agreed upon location or locations. The contract between
1568 the district school board and the Florida Community College
1569 System institution may not establish an enrollment cap for the
1570 collegiate high school program. Each school district must
1571 document and annually report to the department the number of
1572 students accepted into or denied access to the collegiate high
1573 school program. Each Florida Community College System
1574 institution must document and annually report to the department
1575 the percent of collegiate high school program students in its
1576 institution relative to the total lower level full-time

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1577 equivalent enrollment at that institution. Beginning with the
1578 2015-2016 school year, if the institution does not establish a
1579 program with a district school board in its designated service
1580 area, another Florida Community College System institution may
1581 execute a contract with that district school board to establish
1582 the program. The contract must be executed by January 1 of each
1583 school year for implementation of the program during the next
1584 school year. The contract must:
1585 (a) Identify the grade levels to be included in the
1586 collegiate high school program which must, at a minimum, include
1587 grade 12.
1588 (b) Describe the collegiate high school program, including
1589 the delineation of courses and industry certifications offered,
1590 including online course availability; the high school and
1591 college credits earned for each postsecondary course completed
1592 and industry certification earned; student eligibility criteria;
1593 and the enrollment process and relevant deadlines.
1594 (c) Describe the methods, medium, and process by which
1595 students and their parents are annually informed about the
1596 availability of the collegiate high school program, the return
1597 on investment associated with participation in the program, and
1598 the information described in paragraphs (a) and (b).
1599 (d) Identify the delivery methods for instruction and the
1600 instructors for all courses.
1601 (e) Identify student advising services and progress
1602 monitoring mechanisms.
1603 (f) Establish a program review and reporting mechanism
1604 regarding student performance outcomes.
1605 (g) Describe the terms of funding arrangements to implement

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1606 the collegiate high school program.
1607 Section 35. Subsections (1), (4), and (5) of section
1608 1007.33, Florida Statutes, are amended, present subsection (6)
1609 of that section is redesignated as subsection (7), and a new
1610 subsection (6) is added to that section, to read:
1611 1007.33 Site-determined baccalaureate degree access.—
1612 (1)(a) The Legislature recognizes that public and private
1613 postsecondary educational institutions play an essential role in
1614 improving the quality of life and economic well-being of the
1615 state and its residents. The Legislature also recognizes that
1616 economic development needs and the educational needs of place-
1617 bound, nontraditional students have increased the demand for
1618 local access to baccalaureate degree programs. It is therefore
1619 the intent of the Legislature to further expand access to
1620 baccalaureate degree programs through the use of Florida
1621 Community College System institutions.
1622 (b) For purposes of this section, the term "district"
1623 refers to the county or counties served by a Florida Community
1624 College System institution pursuant to s. 1000.21(3).
1625 (4) A Florida Community College System institution may:
1626 (a) Offer specified baccalaureate degree programs through
1627 formal agreements between the Florida Community College System
1628 institution and other regionally accredited postsecondary
1629 educational institutions pursuant to s. 1007.22.
1630 (b) Offer baccalaureate degree programs that are ~~were~~
1631 authorized by law ~~prior to July 1, 2009.~~
1632 ~~(c) Beginning July 1, 2009, establish a first or subsequent~~
1633 ~~baccalaureate degree program~~ for purposes of meeting district,
1634 regional, or statewide workforce needs if approved by the State

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1635 Board of Education under this section. However, a Florida
1636 Community College System institution may not offer a Bachelor of
1637 Arts degree program.
1638
1639 ~~Beginning July 1, 2009, the Board of Trustees of St. Petersburg~~
1640 ~~College is authorized to establish one or more bachelor of~~
1641 ~~applied science degree programs based on an analysis of~~
1642 ~~workforce needs in Pinellas, Pasco, and Hernando Counties and~~
1643 ~~other counties approved by the Department of Education. For each~~
1644 ~~program selected, St. Petersburg College must offer a related~~
1645 ~~associate in science or associate in applied science degree~~
1646 ~~program, and the baccalaureate degree level program must be~~
1647 ~~designed to articulate fully with at least one associate in~~
1648 ~~science degree program. The college is encouraged to develop~~
1649 ~~articulation agreements for enrollment of graduates of related~~
1650 ~~associate in applied science degree programs. The Board of~~
1651 ~~Trustees of St. Petersburg College is authorized to establish~~
1652 ~~additional baccalaureate degree programs if it determines a~~
1653 ~~program is warranted and feasible based on each of the factors~~
1654 ~~in paragraph (5)(d). However, the Board of Trustees of St.~~
1655 ~~Petersburg College may not establish any new baccalaureate~~
1656 ~~degree programs from March 31, 2014, through May 31, 2015. Prior~~
1657 ~~to developing or proposing a new baccalaureate degree program,~~
1658 ~~St. Petersburg College shall engage in need, demand, and impact~~
1659 ~~discussions with the state university in its service district~~
1660 ~~and other local and regional, accredited postsecondary providers~~
1661 ~~in its region. Documentation, data, and other information from~~
1662 ~~inter-institutional discussions regarding program need, demand,~~
1663 ~~and impact shall be provided to the college's board of trustees~~

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1664 ~~to inform the program approval process. Employment at St.~~
1665 ~~Petersburg College is governed by the same laws that govern~~
1666 ~~Florida College System institutions, except that upper-division~~
1667 ~~faculty are eligible for continuing contracts upon the~~
1668 ~~completion of the fifth year of teaching. Employee records for~~
1669 ~~all personnel shall be maintained as required by s. 1012.81.~~
1670 (5) The approval process for baccalaureate degree programs
1671 requires ~~shall require~~:
1672 (a) Each Florida Community College System institution to
1673 submit a notice of its intent to propose a baccalaureate degree
1674 program to the Division of Florida Community Colleges at least
1675 120 ~~100~~ days before the submission of its proposal under
1676 paragraph (c) ~~(d)~~. The notice must include a brief description of
1677 the program, the workforce demand and unmet need for graduates
1678 of the program to include evidence from entities independent of
1679 the institution, the geographic region to be served, and an
1680 estimated timeframe for implementation. Notices of intent may be
1681 submitted by a Florida Community College System institution at
1682 any time throughout the year. The notice must also include
1683 evidence that the Florida Community College System institution
1684 engaged in need, demand, and impact discussions with the state
1685 university and other regionally accredited postsecondary
1686 education providers in its service district.
1687 (b) The Division of Florida Community Colleges to forward
1688 the notice of intent submitted pursuant to paragraph (a) and the
1689 justification for the proposed baccalaureate degree program
1690 submitted pursuant to paragraph (c) within 10 business days
1691 after receiving such notice and justification to the Chancellor
1692 of the State University System, the President of the Independent

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1693 Colleges and Universities of Florida, and the Executive Director
1694 of the Commission for Independent Education. State universities
1695 ~~shall~~ have 90 ~~60~~ days following receipt of the justification
1696 ~~notice~~ by the Chancellor of the State University System to
1697 submit an objection, including a reason for such objection,
1698 ~~objections~~ to the proposed new program ~~or submit an alternative~~
1699 ~~proposal to offer the baccalaureate degree program~~. The
1700 chancellor shall review the objection raised by a state
1701 university and inform the Board of Governors of such objection
1702 before the university submits its objection to the State Board
1703 of Education. The State Board of Education must consult with the
1704 Chancellor of the State University System to consider the
1705 objection raised by a state university in making its decision to
1706 approve or deny a Florida Community College System institution's
1707 proposal. ~~If a proposal from a state university is not received~~
1708 ~~within the 60-day period,~~ The State Board of Education shall
1709 also provide regionally accredited private colleges and
1710 universities 90 ~~30~~ days to submit objections to the proposed new
1711 program ~~or submit an alternative proposal~~. Objections ~~or~~
1712 ~~alternative proposals~~ shall be submitted to the Division of
1713 Florida Community Colleges and must be considered by the State
1714 Board of Education in making its decision to approve or deny a
1715 Florida Community College System institution's proposal.
1716 (c) ~~An alternative proposal submitted by a state university~~
1717 ~~or private college or university to adequately address:~~
1718 ~~1. The extent to which the workforce demand and unmet need~~
1719 ~~described in the notice of intent will be met.~~
1720 ~~2. The extent to which students will be able to complete~~
1721 ~~the degree in the geographic region proposed to be served by the~~

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1722 ~~Florida College System institution.~~
1723 ~~3. The level of financial commitment of the college or~~
1724 ~~university to the development, implementation, and maintenance~~
1725 ~~of the specified degree program, including timelines.~~
1726 ~~4. The extent to which faculty at both the Florida College~~
1727 ~~System institution and the college or university will~~
1728 ~~collaborate in the development and offering of the curriculum.~~
1729 ~~5. The ability of the Florida College System institution~~
1730 ~~and the college or university to develop and approve the~~
1731 ~~curriculum for the specified degree program within 6 months~~
1732 ~~after an agreement between the Florida College System~~
1733 ~~institution and the college or university is signed.~~
1734 ~~6. The extent to which the student may incur additional~~
1735 ~~costs above what the student would expect to incur if the~~
1736 ~~program were offered by the Florida College System institution.~~
1737 ~~(d)~~ Each proposal submitted by a Florida Community College
1738 System institution to, at a minimum, include:
1739 1. A description of the planning process and timeline for
1740 implementation.
1741 2. A justification for the proposed baccalaureate degree
1742 program including, at a minimum, a data-driven ~~An~~ analysis of
1743 workforce demand and unmet need for graduates of the program on
1744 a district, regional, or statewide basis, as appropriate, and
1745 the extent to which the proposed program will meet the workforce
1746 demand and unmet need. The analysis must include workforce and
1747 employment data for the most recent 5 years and projections for
1748 the next 3 years, and a summary of degree programs, similar to
1749 the proposed degree program, which are currently offered by
1750 state universities or by independent nonprofit colleges or

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1751 universities that are eligible to participate in the William L.
1752 Boyd, IV, Florida Resident Access Grant Program, which are
1753 located in the Florida Community College System institution's
1754 regional service area. The analysis must be verified by a third-
1755 party professional entity that is ~~including evidence from~~
1756 ~~entities~~ independent of the Florida Community College System
1757 institution. A Florida Community College System institution must
1758 submit the justification to the Division of Florida Community
1759 Colleges within 30 days after forwarding the institution's
1760 intent to propose a baccalaureate degree program. The division
1761 must forward the justification for the proposed baccalaureate
1762 degree program within 10 business days after receiving such
1763 justification to the Chancellor of the State University System,
1764 the President of the Independent Colleges and Universities of
1765 Florida, and the Executive Director of the Commission for
1766 Independent Education.
1767 3. Identification of the facilities, equipment, and library
1768 and academic resources that will be used to deliver the program.
1769 4. The program cost analysis of creating a new
1770 baccalaureate degree when compared to ~~alternative proposals and~~
1771 other program delivery options.
1772 5. The program's admission requirements, academic content,
1773 curriculum, faculty credentials, student-to-teacher ratios, and
1774 accreditation plan.
1775 6. The program's enrollment projections and funding
1776 requirements, including the institution's efforts to sustain the
1777 program at the cost of tuition and fees for students who are
1778 classified as residents for tuition purposes under s. 1009.21,
1779 not to exceed $10,000 for the entire degree program, including

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1780 utilization of waivers pursuant to s. 1009.26(11).
1781 7. A plan of action if the program is terminated.
1782 (d) ~~(c)~~ The Division of Florida Community Colleges to review
1783 the proposal, notify the Florida Community College System
1784 institution of any deficiencies in writing within 30 days
1785 following receipt of the proposal, and provide the Florida
1786 Community College System institution with an opportunity to
1787 correct the deficiencies. Within 45 days following receipt of a
1788 completed proposal by the Division of Florida Community
1789 Colleges, after consultation with the Chancellor of the State
1790 University System and the President of the Independent Colleges
1791 and Universities of Florida, the Commissioner of Education shall
1792 recommend approval or disapproval of the proposal to the State
1793 Board of Education. The State Board of Education shall consider
1794 such recommendation, the proposal, input from the chancellor and
1795 the president, and any objections ~~or alternative proposals~~ at
1796 its next meeting. If the State Board of Education disapproves
1797 the Florida Community College System institution's proposal, it
1798 shall provide the Florida Community College System institution
1799 with written reasons for that determination.
1800 (e) ~~(f)~~ The Florida Community College System institution to
1801 obtain from the Commission on Colleges of the Southern
1802 Association of Colleges and Schools accreditation as a
1803 baccalaureate-degree-granting institution if approved by the
1804 State Board of Education to offer its first baccalaureate degree
1805 program.
1806 (f) ~~(g)~~ The Florida Community College System institution to
1807 notify the Commission on Colleges of the Southern Association of
1808 Colleges and Schools of subsequent degree programs that are

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1809 approved by the State Board of Education and to comply with the
1810 association's required substantive change protocols for
1811 accreditation purposes.
1812 (g) ~~(h)~~ The Florida Community College System institution to
1813 annually report to~~, and upon request of~~ the State Board of
1814 Education, the Commissioner of Education, the Chancellor of the
1815 Florida Community College System, the Chancellor of the State
1816 University System, and ~~or~~ the Legislature, ~~report~~ its status
1817 using the following performance and compliance indicators:
1818 1. Obtaining and maintaining appropriate Southern
1819 Association of Colleges and Schools accreditation;
1820 2. Maintaining qualified faculty and institutional
1821 resources;
1822 3. Maintaining enrollment in previously approved programs;
1823 4. Managing fiscal resources appropriately;
1824 5. Complying with the primary mission and responsibility
1825 requirements in subsections (2) and (3); ~~and~~
1826 6. Other indicators of success, including program
1827 completions, employment and earnings outcomes, acceptance into
1828 and performance in graduate programs ~~placements~~, and surveys of
1829 graduates and employers; and
1830 7. Continuing to meet workforce demand, as provided in
1831 subparagraph (c)2., as demonstrated through a data-driven needs
1832 assessment by the Florida Community College System institution,
1833 which is verified by a third-party professional entity that is
1834 independent of the institution.
1835
1836 The State Board of Education, upon annual review of the
1837 baccalaureate degree program performance and compliance

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1838 indicators and needs assessment, may require a Florida Community
1839 College System institution's board of trustees to modify or
1840 terminate a baccalaureate degree program authorized under this
1841 section. However, if the annual review indicates negative
1842 program performance and compliance results and the needs
1843 assessment fails to demonstrate a need for the program, the
1844 State Board of Education shall require a Florida Community
1845 College System institution's board of trustees to terminate that
1846 baccalaureate degree program.
1847 (6)(a) If the current total upper level, undergraduate
1848 full-time equivalent enrollment at a Florida Community College
1849 System institution is at or above 10 percent of the 2014-2015
1850 combined total lower level and upper level full-time equivalent
1851 enrollment at that institution reported for state funding
1852 purposes, annually the total upper level enrollment, as a
1853 percentage of the 2014-2015 combined enrollment, may not
1854 increase by more than 5 percentage points.
1855 (b) If the current total upper level, undergraduate full-
1856 time equivalent enrollment at a Florida Community College System
1857 institution is below 10 percent of the 2014-2015 combined total
1858 lower level and upper level full-time equivalent enrollment at
1859 that institution reported for state funding purposes, annually
1860 the total upper level enrollment, as a percentage of the 2014-
1861 2015 combined enrollment, may not increase by more than 7
1862 percentage points.
1863 (c) This subsection expires July 1, 2018.
1864 Section 36. Section 1008.38, Florida Statutes, is amended
1865 to read:
1866 1008.38 Articulation accountability process.—The State

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1867 Board of Education, in conjunction with the Board of Governors,
1868 shall develop articulation accountability measures which assess
1869 the status of systemwide articulation processes authorized under
1870 s. 1007.23, preserve Florida's "2+2" system of articulation, and
1871 establish an articulation accountability process which at a
1872 minimum shall address:
1873 (1) The impact of articulation processes on ensuring
1874 educational continuity and the orderly and unobstructed
1875 transition of students between public secondary and
1876 postsecondary education systems and facilitating the transition
1877 of students between the public and private sectors.
1878 (2) The adequacy of preparation of public secondary
1879 students to smoothly articulate to a public postsecondary
1880 institution.
1881 (3) The effectiveness of articulated acceleration
1882 mechanisms available to secondary students and the application
1883 of credit hours earned through CAPE industry certifications
1884 pursuant to s. 1008.44 and acceleration mechanisms, including
1885 nationally standardized examinations, to general education,
1886 associate degree, or baccalaureate degree requirements.
1887 (4) The smooth transfer of Florida Community College System
1888 associate degree graduates to a Florida Community College System
1889 institution or a state university, and the application of credit
1890 hours earned at Florida Community College System institutions to
1891 general education, associate degree, or baccalaureate degree
1892 requirements at state universities.
1893 (5) An examination of degree requirements that exceed the
1894 parameters of 60 credit hours for an associate degree and 120
1895 hours for a baccalaureate degree in public postsecondary

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1896 programs.
1897 (6) The relationship between student attainment of college-
1898 level academic skills and articulation to the upper division in
1899 public postsecondary institutions.
1900 Section 37. Paragraph (d) of subsection (3) of section
1901 1009.22, Florida Statutes, is amended to read:
1902 1009.22 Workforce education postsecondary student fees.—
1903 (3)
1904 (d) Each district school board and each Florida College
1905 System institution board of trustees may adopt tuition and out-
1906 of-state fees that vary ~~no more than 5 percent~~ below or no more
1907 than 5 percent above the combined total of the standard tuition
1908 and out-of-state fees established in paragraph (c).
1909 Section 38. Paragraph (b) of subsection (3) and subsection
1910 (4) of section 1009.23, Florida Statutes, are amended, and
1911 subsection (20) is added to that section, to read:
1912 1009.23 Florida College System institution student fees.—
1913 (3)
1914 (b) ~~Effective July 1, 2014,~~ For baccalaureate degree
1915 programs, the following tuition and fee rates shall apply:
1916 1. The tuition may not exceed ~~shall be~~ $91.79 per credit
1917 hour for students who are residents for tuition purposes.
1918 2. The sum of the tuition and the ~~he~~ out-of-state fee per
1919 credit hour for students who are nonresidents for tuition
1920 purposes shall be no more than 85 percent of the sum of the
1921 tuition and the out-of-state fee at the state university nearest
1922 the Florida College System institution.
1923 (4) Each Florida College System institution board of
1924 trustees shall establish tuition and out-of-state fees, which

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1925 may vary ~~no more than 10 percent~~ below and no more than 15
1926 percent above the combined total of the standard tuition and
1927 fees established in subsection (3).
1928 (20) Each Florida College System institution shall notice
1929 to the public and to all enrolled students any board of trustees
1930 meeting that votes on proposed increases in tuition or fees. The
1931 noticed meeting must allow for public comment on the proposed
1932 increase and must:
1933 (a) Be posted 28 days before the board of trustees meeting
1934 takes place.
1935 (b) Include the date and time of the meeting.
1936 (c) Be clear and specifically outline the details of the
1937 original tuition or fee, the rationale for the proposed
1938 increase, and what the proposed increase will fund.
1939 (d) Be posted on the institution's website homepage and
1940 issued in a press release.
1941 Section 39. Paragraphs (a) and (b) of subsection (4) of
1942 section 1009.24, Florida Statutes, are amended, present
1943 subsection (19) of that section is redesignated as subsection
1944 (20), and a new subsection (19) is added to that section, to
1945 read:
1946 1009.24 State university student fees.—
1947 (4)(a) ~~Effective July 1, 2014,~~ The resident undergraduate
1948 tuition for lower-level and upper-level coursework may not
1949 exceed ~~shall be~~ $105.07 per credit hour.
1950 (b) The Board of Governors~~, or the board's designee,~~ may
1951 establish tuition for graduate and professional programs, and
1952 out-of-state fees for all programs. Except as otherwise provided
1953 in this section, the sum of tuition and out-of-state fees

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1954 assessed to nonresident students must be sufficient to offset
1955 the full instructional cost of serving such students. However,
1956 adjustments to out-of-state fees or tuition for graduate
1957 programs and professional programs may not exceed 15 percent in
1958 any year. Adjustments to the resident tuition for graduate
1959 programs and professional programs may not exceed the tuition
1960 amount set on July 1, 2015.
1961 (19) Each university shall publicly notice to the public
1962 and to all enrolled students any board of trustees meeting that
1963 votes on proposed increases in tuition or fees. The noticed
1964 meeting must allow for public comment on the proposed increase
1965 and must:
1966 (a) Be posted 28 days before the board of trustees meeting
1967 takes place.
1968 (b) Include the date and time of the meeting.
1969 (c) Be clear and specifically outline the details of the
1970 original tuition or fee, the rationale for the proposed
1971 increase, and what the proposed increase will fund.
1972 (d) Be posted on the institution's website homepage and
1973 issued in a press release.
1974 Section 40. Subsection (1) of section 1009.534, Florida
1975 Statutes, is amended to read:
1976 1009.534 Florida Academic Scholars award.—
1977 (1) A student is eligible for a Florida Academic Scholars
1978 award if he or she ~~the student~~ meets the general eligibility
1979 requirements for the Florida Bright Futures Scholarship Program
1980 and ~~the student~~:
1981 (a) Has achieved a 3.5 weighted grade point average as
1982 calculated pursuant to s. 1009.531, or its equivalent, in high

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1983 school courses that are designated by the State Board of
1984 Education as college-preparatory academic courses~~;~~ and has
1985 attained at least the score required under ~~pursuant to~~ s.
1986 1009.531(6)(a) on the combined verbal and quantitative parts of
1987 the Scholastic Aptitude Test, the Scholastic Assessment Test, or
1988 the recentered Scholastic Assessment Test of the College
1989 Entrance Examination, or an equivalent score on the ACT
1990 Assessment Program;
1991 (b) Has attended a home education program according to s.
1992 1002.41 during grades 11 and 12, ~~or~~ has completed the
1993 International Baccalaureate curriculum but failed to earn the
1994 International Baccalaureate Diploma, or has completed the
1995 Advanced International Certificate of Education curriculum but
1996 failed to earn the Advanced International Certificate of
1997 Education Diploma, and has attained at least the score required
1998 under ~~pursuant to~~ s. 1009.531(6)(a) on the combined verbal and
1999 quantitative parts of the Scholastic Aptitude Test, the
2000 Scholastic Assessment Test, or the recentered Scholastic
2001 Assessment Test of the College Entrance Examination, or an
2002 equivalent score on the ACT Assessment Program;
2003 (c) Has been awarded an International Baccalaureate Diploma
2004 from the International Baccalaureate Office or an Advanced
2005 International Certificate of Education Diploma from the
2006 University of Cambridge International Examinations Office;
2007 (d) Has been recognized by the merit or achievement
2008 programs of the National Merit Scholarship Corporation as a
2009 scholar or finalist; or
2010 (e) Has been recognized by the National Hispanic
2011 Recognition Program as a scholar recipient.

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2012
2013 The ~~A~~ student must complete a program of volunteer ~~community~~
2014 service work, as approved by the district school board, the
2015 administrators of a nonpublic school, or the Department of
2016 Education for home education program students, which must ~~shall~~
2017 include a minimum of 75 hours of service work for high school
2018 students graduating in the 2010-2011 academic year and 100 hours
2019 of service work for high school students graduating in the 2011-
2020 2012 academic year and thereafter. The student~~, and~~ must
2021 identify a social or civic issue or a professional area ~~problem~~
2022 that interests him or her, develop a plan for his or her
2023 personal involvement in addressing the issue or learning about
2024 the area ~~problem~~, and, through papers or other presentations,
2025 evaluate and reflect upon his or her experience. Except for
2026 credit earned through service-learning courses adopted pursuant
2027 to s. 1003.497, the student may not receive remuneration or
2028 academic credit for the volunteer service work performed. Such
2029 work may include, but is not limited to, a business or
2030 government internship, work for a nonprofit community service
2031 organization, or activity on behalf of a candidate for public
2032 office. The hours of volunteer service must be documented in
2033 writing, and the document must be signed by the student, the
2034 student's parent or guardian, and a representative of the
2035 organization for which the student performed the volunteer
2036 service work.
2037 Section 41. Subsection (1) of section 1009.535, Florida
2038 Statutes, is amended to read:
2039 1009.535 Florida Medallion Scholars award.—
2040 (1) A student is eligible for a Florida Medallion Scholars

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2041 award if he or she ~~the student~~ meets the general eligibility
2042 requirements for the Florida Bright Futures Scholarship Program
2043 and ~~the student~~:
2044 (a) Has achieved a weighted grade point average of 3.0 as
2045 calculated pursuant to s. 1009.531, or the equivalent, in high
2046 school courses that are designated by the State Board of
2047 Education as college-preparatory academic courses~~;~~ and has
2048 attained at least the score required under ~~pursuant to~~ s.
2049 1009.531(6)(b) on the combined verbal and quantitative parts of
2050 the Scholastic Aptitude Test, the Scholastic Assessment Test, or
2051 the recentered Scholastic Assessment Test of the College
2052 Entrance Examination, or an equivalent score on the ACT
2053 Assessment Program;
2054 (b) Has completed the International Baccalaureate
2055 curriculum but failed to earn the International Baccalaureate
2056 Diploma or has completed the Advanced International Certificate
2057 of Education curriculum but failed to earn the Advanced
2058 International Certificate of Education Diploma, and has attained
2059 at least the score required under ~~pursuant to~~ s. 1009.531(6)(b)
2060 on the combined verbal and quantitative parts of the Scholastic
2061 Aptitude Test, the Scholastic Assessment Test, or the recentered
2062 Scholastic Assessment Test of the College Entrance Examination,
2063 or an equivalent score on the ACT Assessment Program;
2064 (c) Has attended a home education program according to s.
2065 1002.41 during grades 11 and 12 and has attained at least the
2066 score required under ~~pursuant to~~ s. 1009.531(6)(b) on the
2067 combined verbal and quantitative parts of the Scholastic
2068 Aptitude Test, the Scholastic Assessment Test, or the recentered
2069 Scholastic Assessment Test of the College Entrance Examination,

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2070 or an equivalent score on the ACT Assessment Program, if the
2071 student's parent cannot document a college-preparatory
2072 curriculum as described in paragraph (a);
2073 (d) Has been recognized by the merit or achievement program
2074 of the National Merit Scholarship Corporation as a scholar or
2075 finalist but has not completed the ~~a~~ program of volunteer
2076 ~~community~~ service work required under ~~as provided in~~ s.
2077 1009.534; or
2078 (e) Has been recognized by the National Hispanic
2079 Recognition Program as a scholar, but has not completed the ~~a~~
2080 program of volunteer ~~community~~ service work required under ~~as~~
2081 ~~provided in~~ s. 1009.534.
2082
2083 A high school student graduating in the 2011-2012 academic year
2084 and thereafter must complete at least 75 hours ~~a program~~ of
2085 volunteer ~~community~~ service work approved by the district school
2086 board, the administrators of a nonpublic school, or the
2087 Department of Education for home education program students. The
2088 student~~, which shall include a minimum of 75 hours of service~~
2089 ~~work, and~~ must identify a social or civic issue or a
2090 professional area ~~problem~~ that interests him or her, develop a
2091 plan for his or her personal involvement in addressing the issue
2092 or learning about the area ~~problem~~, and, through papers or other
2093 presentations, evaluate and reflect upon his or her experience.
2094 Except for credit earned through service-learning courses
2095 adopted pursuant to s. 1003.497, the student may not receive
2096 remuneration or academic credit for volunteer service work
2097 performed. Such work may include, but is not limited to, a
2098 business or government internship, work for a nonprofit

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2099 community service organization, or activity on behalf of a
2100 candidate for public office. The hours of volunteer service must
2101 be documented in writing, and the document must be signed by the
2102 student, the student's parent or guardian, and a representative
2103 of the organization for which the student performed the
2104 volunteer service work.
2105 Section 42. Subsection (1) of section 1009.536, Florida
2106 Statutes, is amended to read:
2107 1009.536 Florida Gold Seal Vocational Scholars award.—The
2108 Florida Gold Seal Vocational Scholars award is created within
2109 the Florida Bright Futures Scholarship Program to recognize and
2110 reward academic achievement and career preparation by high
2111 school students who wish to continue their education.
2112 (1) A student is eligible for a Florida Gold Seal
2113 Vocational Scholars award if he or she ~~the student~~ meets the
2114 general eligibility requirements for the Florida Bright Futures
2115 Scholarship Program and ~~the student~~:
2116 (a) Completes the secondary school portion of a sequential
2117 program of studies that requires at least three secondary school
2118 career credits. On-the-job training may not be substituted for
2119 any of the three required career credits.
2120 (b) Demonstrates readiness for postsecondary education by
2121 earning a passing score on the Florida College Entry Level
2122 Placement Test or its equivalent as identified by the Department
2123 of Education.
2124 (c) Earns a minimum cumulative weighted grade point average
2125 of 3.0, as calculated pursuant to s. 1009.531, on all subjects
2126 required for a standard high school diploma, excluding elective
2127 courses.

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2128 (d) Earns a minimum unweighted grade point average of 3.5
2129 on a 4.0 scale for secondary career courses that compose
2130 ~~comprising~~ the career program.
2131 (e) Beginning with high school students graduating in the
2132 2011-2012 academic year and thereafter, completes at least 30
2133 hours ~~a program~~ of volunteer ~~community~~ service work approved by
2134 the district school board, the administrators of a nonpublic
2135 school, or the Department of Education for home education
2136 program students. The student must identify~~, which shall include~~
2137 ~~a minimum of 30 hours of service work, and identifies~~ a social
2138 or civic issue or a professional area ~~problem~~ that interests him
2139 or her, develop ~~develops~~ a plan for his or her personal
2140 involvement in addressing the issue or learning about the area
2141 ~~problem~~, and, through papers or other presentations, evaluate
2142 ~~evaluates~~ and reflect ~~reflects~~ upon his or her experience.
2143 Except for credit earned through service-learning courses
2144 adopted pursuant to s. 1003.497, the student may not receive
2145 remuneration or academic credit for the volunteer service work
2146 performed. Such work may include, but is not limited to, a
2147 business or government internship, work for a nonprofit
2148 community service organization, or activity on behalf of a
2149 candidate for public office. The hours of volunteer service must
2150 be documented in writing, and the document must be signed by the
2151 student, the student's parent or guardian, and a representative
2152 of the organization for which the student performed the
2153 volunteer service work.
2154 Section 43. Section 1009.893, Florida Statutes, is amended
2155 to read:
2156 1009.893 Benacquisto Scholarship ~~Florida National Merit~~

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2157 ~~Scholar Incentive~~ Program.—
2158 (1) As used in this section, the term:
2159 (a) "Department" means the Department of Education.
2160 (b) "Scholarship ~~Incentive~~ program" means the Benacquisto
2161 Scholarship ~~Florida National Merit Scholar Incentive~~ Program.
2162 (2) The Benacquisto Scholarship ~~Florida National Merit~~
2163 ~~Scholar Incentive~~ Program is created to reward any Florida high
2164 school graduate who receives recognition as a National Merit
2165 Scholar or National Achievement Scholar and who initially
2166 enrolls in the 2014-2015 academic year or, later, in a
2167 baccalaureate degree program at an eligible Florida public or
2168 independent postsecondary educational institution.
2169 (3) The department shall administer the scholarship
2170 ~~incentive~~ program according to rules and procedures established
2171 by the State Board of Education. The department shall advertise
2172 the availability of the scholarship ~~incentive~~ program and notify
2173 students, teachers, parents, certified school counselors, and
2174 principals or other relevant school administrators of the
2175 criteria.
2176 (4) In order to be eligible for an award under the
2177 scholarship ~~incentive~~ program, a student must:
2178 (a) Be a state resident as determined in s. 1009.40 and
2179 rules of the State Board of Education;
2180 (b) Earn a standard Florida high school diploma or its
2181 equivalent pursuant to s. 1002.3105, s. 1003.4281, s. 1003.4282,
2182 or s. 1003.435 unless:
2183 1. The student completes a home education program according
2184 to s. 1002.41; or
2185 2. The student earns a high school diploma from a non-

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2186 Florida school while living with a parent who is on military or
2187 public service assignment out of this state;
2188 (c) Be accepted by and enroll in a Florida public or
2189 independent postsecondary educational institution that is
2190 regionally accredited; and
2191 (d) Be enrolled full-time in a baccalaureate degree program
2192 at an eligible regionally accredited Florida public or
2193 independent postsecondary educational institution during the
2194 fall academic term following high school graduation.
2195 (5)(a) An eligible student who is a National Merit Scholar
2196 or National Achievement Scholar and who attends a Florida public
2197 postsecondary educational institution shall receive a
2198 scholarship ~~an incentive~~ award equal to the institutional cost
2199 of attendance minus the sum of the student's Florida Bright
2200 Futures Scholarship and National Merit Scholarship or National
2201 Achievement Scholarship.
2202 (b) An eligible student who is a National Merit Scholar or
2203 National Achievement Scholar and who attends a Florida
2204 independent postsecondary educational institution shall receive
2205 a scholarship ~~an incentive~~ award equal to the highest cost of
2206 attendance at a Florida public university, as reported by the
2207 Board of Governors of the State University System, minus the sum
2208 of the student's Florida Bright Futures Scholarship and National
2209 Merit Scholarship or National Achievement Scholarship.
2210 (6)(a) To be eligible for a renewal award, a student must
2211 earn all credits for which he or she was enrolled and maintain a
2212 3.0 or higher grade point average.
2213 (b) A student may receive the scholarship ~~incentive~~ award
2214 for a maximum of 100 percent of the number of credit hours

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2215 required to complete a baccalaureate degree program, or until
2216 completion of a baccalaureate degree program, whichever comes
2217 first.
2218 (7) The department shall annually issue awards from the
2219 scholarship ~~incentive~~ program. Before the registration period
2220 each semester, the department shall transmit payment for each
2221 award to the president or director of the postsecondary
2222 educational institution, or his or her representative, except
2223 that the department may withhold payment if the receiving
2224 institution fails to report or to make refunds to the department
2225 as required in this section.
2226 (a) Each institution shall certify to the department the
2227 eligibility status of each student to receive a disbursement
2228 within 30 days before the end of its regular registration
2229 period, inclusive of a drop and add period. An institution is
2230 not required to reevaluate the student eligibility after the end
2231 of the drop and add period.
2232 (b) An institution that receives funds from the scholarship
2233 ~~incentive~~ program must certify to the department the amount of
2234 funds disbursed to each student and remit to the department any
2235 undisbursed advances within 60 days after the end of regular
2236 registration.
2237 (c) If funds appropriated are not adequate to provide the
2238 maximum allowable award to each eligible student, awards must be
2239 prorated using the same percentage reduction.
2240 (8) Funds from any award within the scholarship ~~incentive~~
2241 program may not be used to pay for remedial coursework or
2242 developmental education.
2243 (9) A student may use an award for a summer term if funds

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2244 are available and appropriated by the Legislature.
2245 (10) The department shall allocate funds to the appropriate
2246 institutions and collect and maintain data regarding the
2247 scholarship ~~incentive~~ program within the student financial
2248 assistance database as specified in s. 1009.94.
2249 (11) Section 1009.40(4) does not apply to awards issued
2250 under this section.
2251 (12) A student who receives an award under the scholarship
2252 program shall be known as a Benacquisto Scholar.
2253 (13) All eligible Florida public or independent
2254 postsecondary educational institutions are encouraged to become,
2255 and all eligible state universities shall become, a college
2256 sponsor of the National Merit Scholarship Program.
2257 (14) ~~(12)~~ The State Board of Education shall adopt rules
2258 necessary to administer this section.
2259 Section 44. Paragraphs (f), (i), and (o) of subsection (1),
2260 paragraph (a) of subsection (4), subsection (5), paragraph (b)
2261 of subsection (7), paragraph (a) of subsection (9), subsection
2262 (11), paragraphs (b) through (e) of subsection (12), and present
2263 subsection (13) of section 1011.62, Florida Statutes, are
2264 amended, present subsections (13), (14), and (15) of that
2265 section are redesignated as subsections (14), (15), and (16),
2266 respectively, and a new subsection (13) is added to that
2267 section, to read:
2268 1011.62 Funds for operation of schools.—If the annual
2269 allocation from the Florida Education Finance Program to each
2270 district for operation of schools is not determined in the
2271 annual appropriations act or the substantive bill implementing
2272 the annual appropriations act, it shall be determined as

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2273 follows:
2274 (1) COMPUTATION OF THE BASIC AMOUNT TO BE INCLUDED FOR
2275 OPERATION.—The following procedure shall be followed in
2276 determining the annual allocation to each district for
2277 operation:
2278 (f) *Supplemental academic instruction; categorical fund.*—
2279 1. There is created a categorical fund to provide
2280 supplemental academic instruction to students in kindergarten
2281 through grade 12. This paragraph may be cited as the
2282 "Supplemental Academic Instruction Categorical Fund."
2283 2. Categorical funds for supplemental academic instruction
2284 shall be allocated annually to each school district in the
2285 amount provided in the General Appropriations Act. These funds
2286 shall be in addition to the funds appropriated on the basis of
2287 FTE student membership in the Florida Education Finance Program
2288 and shall be included in the total potential funds of each
2289 district. These funds shall be used to provide supplemental
2290 academic instruction to students enrolled in the K-12 program.
2291 For the 2014-2015, 2015-2016, 2016-2017, and 2017-2018 fiscal
2292 years ~~year~~, each school district that has one or more of the 300
2293 lowest-performing elementary schools based on the state reading
2294 assessment shall use these funds, together with the funds
2295 provided in the district's research-based reading instruction
2296 allocation and other available funds, to provide an additional
2297 hour of instruction beyond the normal school day for each day of
2298 the entire school year, and to provide the equivalent hours of
2299 instruction in a summer program, for intensive reading
2300 instruction for the students in each of these schools. If a
2301 participating school is no longer classified as one of the 300

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2302 lowest-performing elementary schools in the subsequent year, the
2303 school must continue to provide the additional hour of intensive
2304 reading instruction to all students who have Level 1 or Level 2
2305 reading assessment scores. This additional hour of instruction
2306 must be provided by teachers or reading specialists who are
2307 effective in teaching reading or by a K-5 mentoring reading
2308 program that is supervised by a teacher who is effective at
2309 teaching reading. Students enrolled in these schools who have
2310 level 5 assessment scores may participate in the additional hour
2311 of instruction on an optional basis. Exceptional student
2312 education centers may ~~shall~~ not be included in the 300 schools.
2313 After this requirement has been met, supplemental instruction
2314 strategies may include, but are not limited to: modified
2315 curriculum, reading instruction, after-school instruction,
2316 tutoring, mentoring, class size reduction, extended school year,
2317 intensive skills development in summer school, and other methods
2318 for improving student achievement. Supplemental instruction may
2319 be provided to a student in any manner and at any time during or
2320 beyond the regular 180-day term identified by the school as
2321 being the most effective and efficient way to best help that
2322 student progress from grade to grade and to graduate.
2323 3. Effective with the 1999-2000 fiscal year, funding on the
2324 basis of FTE membership beyond the 180-day regular term shall be
2325 provided in the FEFP only for students enrolled in juvenile
2326 justice education programs or in education programs for
2327 juveniles placed in secure facilities or programs under s.
2328 985.19. Funding for instruction beyond the regular 180-day
2329 school year for all other K-12 students shall be provided
2330 through the supplemental academic instruction categorical fund

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2331 and other state, federal, and local fund sources with ample
2332 flexibility for schools to provide supplemental instruction to
2333 assist students in progressing from grade to grade and
2334 graduating.
2335 4. The Florida State University School, as a lab school, is
2336 authorized to expend from its FEFP or Lottery Enhancement Trust
2337 Fund allocation the cost to the student of remediation in
2338 reading, writing, or mathematics for any graduate who requires
2339 remediation at a postsecondary educational institution.
2340 5. Beginning in the 1999-2000 school year, dropout
2341 prevention programs as defined in ss. 1003.52, 1003.53(1)(a),
2342 (b), and (c), and 1003.54 shall be included in group 1 programs
2343 under subparagraph (d)3.
2344 (i) *Calculation of full-time equivalent membership with*
2345 *respect to dual enrollment instruction.*—Students enrolled in
2346 dual enrollment instruction pursuant to s. 1007.271 may be
2347 included in calculations of full-time equivalent student
2348 memberships for basic programs for grades 9 through 12 by a
2349 district school board. Instructional time for dual enrollment
2350 may vary from 900 hours; however, the full-time equivalent
2351 student membership value shall be subject to the provisions in
2352 s. 1011.61(4). Dual enrollment full-time equivalent student
2353 membership shall be calculated in an amount equal to the hours
2354 of instruction that would be necessary to earn the full-time
2355 equivalent student membership for an equivalent course if it
2356 were taught in the school district. Students in dual enrollment
2357 courses may also be calculated as the proportional shares of
2358 full-time equivalent enrollments they generate for a Florida
2359 College System institution or university conducting the dual

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2360 enrollment instruction. Early admission students shall be
2361 considered dual enrollments for funding purposes. Students may
2362 be enrolled in dual enrollment instruction provided by an
2363 eligible independent college or university and may be included
2364 in calculations of full-time equivalent student memberships for
2365 basic programs for grades 9 through 12 by a district school
2366 board. However, those provisions of law which exempt dual
2367 enrollment students ~~dual enrolled~~ and early admission students
2368 from payment of instructional materials and tuition and fees,
2369 including technology, registration, and laboratory fees, do
2370 ~~shall~~ not apply to students who select the option of enrolling
2371 in an eligible independent institution. An independent college
2372 or university that ~~which~~ is located and chartered in Florida, is
2373 not for profit, is accredited by the Commission on Colleges of
2374 the Southern Association of Colleges and Schools or the
2375 Accrediting Council for Independent Colleges and Schools, and
2376 confers degrees as defined in s. 1005.02 is ~~shall be~~ eligible
2377 for inclusion in the dual enrollment or early admission program.
2378 Students enrolled in dual enrollment instruction are ~~shall be~~
2379 exempt from the payment of tuition and fees, including
2380 technology, registration, and laboratory fees. A ~~No~~ student
2381 enrolled in college credit mathematics or English dual
2382 enrollment instruction may not ~~shall~~ be funded as a dual
2383 enrollment unless the student has successfully completed the
2384 relevant section of the entry-level examination required
2385 pursuant to s. 1008.30.
2386 (o) *Calculation of additional full-time equivalent*
2387 *membership based on successful completion of a career-themed*
2388 *course pursuant to ss. 1003.491, 1003.492, and 1003.493, or*

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2389 *courses with embedded CAPE industry certifications or CAPE*
2390 *Digital Tool certificates, and issuance of industry*
2391 *certification identified on the CAPE Industry Certification*
2392 *Funding List pursuant to rules adopted by the State Board of*
2393 *Education or CAPE Digital Tool certificates pursuant to s.*
2394 *1003.4203.—*
2395 1.a. A value of 0.025 full-time equivalent student
2396 membership shall be calculated for CAPE Digital Tool
2397 certificates earned by students in elementary and middle school
2398 grades.
2399 b. A value of 0.1 or 0.2 full-time equivalent student
2400 membership shall be calculated for each student who completes a
2401 course as defined in s. 1003.493(1)(b) or courses with embedded
2402 CAPE industry certifications and who is issued an industry
2403 certification identified annually on the CAPE Industry
2404 Certification Funding List approved under rules adopted by the
2405 State Board of Education. A value of 0.2 full-time equivalent
2406 membership shall be calculated for each student who is issued a
2407 CAPE industry certification that has a statewide articulation
2408 agreement for college credit approved by the State Board of
2409 Education. For CAPE industry certifications that do not
2410 articulate for college credit, the Department of Education shall
2411 assign a full-time equivalent value of 0.1 for each
2412 certification. Middle grades students who earn additional FTE
2413 membership for a CAPE Digital Tool certificate pursuant to sub-
2414 subparagraph a. may not use the previously funded examination to
2415 satisfy the requirements for earning an industry certification
2416 under this sub-subparagraph. Additional FTE membership for an
2417 elementary or middle grades student may ~~shall~~ not exceed 0.1 for

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2418 certificates or certifications earned within the same fiscal
2419 year. The State Board of Education shall include the assigned
2420 values on the CAPE Industry Certification Funding List under
2421 rules adopted by the state board. Such value shall be added to
2422 the total full-time equivalent student membership for grades 6
2423 through 12 in the subsequent year ~~for courses that were not~~
2424 ~~provided through dual enrollment~~. CAPE industry certifications
2425 earned through dual enrollment must be reported and funded
2426 pursuant to s. 1011.80. <u>However, if a student earns a</u>
2427 <u>certification through a dual enrollment course and the</u>
2428 <u>certification is not a fundable certification on the</u>
2429 <u>postsecondary certification funding list, or the dual enrollment</u>
2430 <u>certification is earned as a result of an agreement between a</u>
2431 <u>school district and a nonpublic postsecondary institution, the</u>
2432 <u>bonus value shall be funded in the same manner as for other</u>
2433 <u>nondual enrollment course industry certifications. In such</u>
2434 <u>cases, the school district may provide for an agreement between</u>
2435 <u>the high school and the technical center, or the school district</u>
2436 <u>and the postsecondary institution may enter into an agreement</u>
2437 <u>for equitable distribution of the bonus funds.</u>
2438 c. A value of 0.3 full-time equivalent student membership
2439 shall be calculated for student completion of the courses and
2440 the embedded certifications identified on the CAPE Industry
2441 Certification Funding List and approved by the commissioner
2442 pursuant to ss. 1003.4203(5)(a) and 1008.44.
2443 d. A value of 0.5 full-time equivalent student membership
2444 shall be calculated for CAPE Acceleration Industry
2445 Certifications that articulate for 15 to 29 college credit
2446 hours, and 1.0 full-time equivalent student membership shall be

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2447 calculated for CAPE Acceleration Industry Certifications that
2448 articulate for 30 or more college credit hours pursuant to CAPE
2449 Acceleration Industry Certifications approved by the
2450 commissioner pursuant to ss. 1003.4203(5)(b) and 1008.44.
2451 2. Each district must allocate at least 80 percent of the
2452 funds provided for CAPE industry certification, in accordance
2453 with this paragraph, to the program that generated the funds.
2454 This allocation may not be used to supplant funds provided for
2455 basic operation of the program.
2456 3. For CAPE industry certifications earned in the 2013-2014
2457 school year and in subsequent years, the school district shall
2458 distribute to each classroom teacher who provided direct
2459 instruction toward the attainment of a CAPE industry
2460 certification that qualified for additional full-time equivalent
2461 membership under subparagraph 1.:
2462 a. A bonus ~~in the amount~~ of $25 for each student taught by
2463 a teacher who provided instruction in a course that led to the
2464 attainment of a CAPE industry certification on the CAPE Industry
2465 Certification Funding List with a weight of 0.1.
2466 b. A bonus ~~in the amount~~ of $50 for each student taught by
2467 a teacher who provided instruction in a course that led to the
2468 attainment of a CAPE industry certification on the CAPE Industry
2469 Certification Funding List with a weight of 0.2~~, 0.3, 0.5, and~~
2470 ~~1.0~~.
2471 c. A bonus of $75 for each student taught by a teacher who
2472 provided instruction in a course that led to the attainment of a
2473 CAPE industry certification on the CAPE Industry Certification
2474 Funding List with a weight of 0.3.
2475 d. A bonus of $100 for each student taught by a teacher who

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2476 provided instruction in a course that led to the attainment of a
2477 CAPE industry certification on the CAPE Industry Certification
2478 Funding List with a weight of 0.5 or 1.0.
2479
2480 Bonuses awarded pursuant to this paragraph shall be provided to
2481 teachers who are employed by the district in the year in which
2482 the additional FTE membership calculation is included in the
2483 calculation. Bonuses shall be calculated based upon the
2484 associated weight of a CAPE industry certification on the CAPE
2485 Industry Certification Funding List for the year in which the
2486 certification is earned by the student. In a single school year,
2487 a ~~Any~~ bonus awarded to a teacher under sub-subparagraph 3.a. or
2488 sub-subparagraph 3.b. ~~this paragraph~~ may not exceed $2,000 or
2489 under sub-subparagraph 3.c. or sub-subparagraph 3.d. may not
2490 exceed $4,000. The maximum bonus that may be awarded to a
2491 teacher under this paragraph is $4,000 in a single school year.
2492 This bonus ~~in any given school year and~~ is in addition to any
2493 regular wage or other bonus the teacher received or is scheduled
2494 to receive.
2495 (4) COMPUTATION OF DISTRICT REQUIRED LOCAL EFFORT.—The
2496 Legislature shall prescribe the aggregate required local effort
2497 for all school districts collectively as an item in the General
2498 Appropriations Act for each fiscal year. The amount that each
2499 district shall provide annually toward the cost of the Florida
2500 Education Finance Program for kindergarten through grade 12
2501 programs shall be calculated as follows:
2502 (a) *Estimated taxable value calculations.*—
2503 1.a. Not later than 2 working days prior to July 19, the
2504 Department of Revenue shall certify to the Commissioner of

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2505 Education its most recent estimate of the taxable value for
2506 school purposes in each school district and the total for all
2507 school districts in the state for the current calendar year
2508 based on the latest available data obtained from the local
2509 property appraisers. The value certified shall be the taxable
2510 value for school purposes for that year, and no further
2511 adjustments shall be made, except those made pursuant to
2512 paragraphs (c) and (d), or an assessment roll change required by
2513 final judicial decisions as specified in paragraph (15)(b)
2514 ~~(14)(b)~~. Not later than July 19, the Commissioner of Education
2515 shall compute a millage rate, rounded to the next highest one
2516 one-thousandth of a mill, which, when applied to 96 percent of
2517 the estimated state total taxable value for school purposes,
2518 would generate the prescribed aggregate required local effort
2519 for that year for all districts. The Commissioner of Education
2520 shall certify to each district school board the millage rate,
2521 computed as prescribed in this subparagraph, as the minimum
2522 millage rate necessary to provide the district required local
2523 effort for that year.
2524 b. The General Appropriations Act shall direct the
2525 computation of the statewide adjusted aggregate amount for
2526 required local effort for all school districts collectively from
2527 ad valorem taxes to ensure that no school district’s revenue
2528 from required local effort millage will produce more than 90
2529 percent of the district’s total Florida Education Finance
2530 Program calculation as calculated and adopted by the
2531 Legislature, and the adjustment of the required local effort
2532 millage rate of each district that produces more than 90 percent
2533 of its total Florida Education Finance Program entitlement to a

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2534 level that will produce only 90 percent of its total Florida
2535 Education Finance Program entitlement in the July calculation.
2536 2. On the same date as the certification in sub-
2537 subparagraph 1.a., the Department of Revenue shall certify to
2538 the Commissioner of Education for each district:
2539 a. Each year for which the property appraiser has certified
2540 the taxable value pursuant to s. 193.122(2) or (3), if
2541 applicable, since the prior certification under sub-subparagraph
2542 1.a.
2543 b. For each year identified in sub-subparagraph a., the
2544 taxable value certified by the appraiser pursuant to s.
2545 193.122(2) or (3), if applicable, since the prior certification
2546 under sub-subparagraph 1.a. This is the certification that
2547 reflects all final administrative actions of the value
2548 adjustment board.
2549 (5) DISCRETIONARY MILLAGE COMPRESSION SUPPLEMENT.—The
2550 Legislature shall prescribe in the General Appropriations Act,
2551 pursuant to s. 1011.71(1), the rate of nonvoted current
2552 operating discretionary millage that shall be used to calculate
2553 a discretionary millage compression supplement. If the
2554 prescribed millage generates an amount of funds per unweighted
2555 FTE for the district that is less than 105 percent of the state
2556 average, the district shall receive an amount per FTE that, when
2557 added to the funds per FTE generated by the designated levy,
2558 shall equal 105 percent of the state average.
2559 (7) DETERMINATION OF SPARSITY SUPPLEMENT.—
2560 (b) The district sparsity index shall be computed by
2561 dividing the total number of full-time equivalent students in
2562 all programs in the district by the number of senior high school

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2563 centers in the district, not in excess of three, which centers
2564 are approved as permanent centers by a survey made by the
2565 Department of Education. For districts with a full-time
2566 equivalent student membership of at least 20,000, but no more
2567 than 24,000, the index shall be computed by dividing the total
2568 number of full-time equivalent students in all programs by the
2569 number of permanent senior high school centers in the district,
2570 not to exceed four.
2571 (9) RESEARCH-BASED READING INSTRUCTION ALLOCATION.—
2572 (a) The research-based reading instruction allocation is
2573 created to provide comprehensive reading instruction to students
2574 in kindergarten through grade 12. For the 2014-2015, 2015-2016,
2575 2016-2017, and 2017-2018 fiscal years ~~year~~, in each school
2576 district that has one or more of the 300 lowest-performing
2577 elementary schools based on the state reading assessment,
2578 priority shall be given to providing an additional hour per day
2579 of intensive reading instruction beyond the normal school day
2580 for each day of the entire school year, and to providing the
2581 equivalent hours of instruction in a summer program, for the
2582 students in each school. If a participating school is no longer
2583 classified as one of the 300 lowest-performing elementary
2584 schools in the subsequent year, the school must continue to
2585 provide the additional hour of intensive reading instruction to
2586 all students who have Level 1 or Level 2 reading assessment
2587 scores. Students enrolled in these schools who have level 5
2588 assessment scores may participate in the additional hour of
2589 instruction on an optional basis. Exceptional student education
2590 centers may ~~shall~~ not be included in the 300 schools. The
2591 intensive reading instruction delivered in this additional hour

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2592 and for other students shall include: research-based reading
2593 instruction that has been proven to accelerate progress of
2594 students exhibiting a reading deficiency; differentiated
2595 instruction based on student assessment data to meet students'
2596 specific reading needs; explicit and systematic reading
2597 development in phonemic awareness, phonics, fluency, vocabulary,
2598 and comprehension, with more extensive opportunities for guided
2599 practice, error correction, and feedback; and the integration of
2600 social studies, science, and mathematics-text reading, text
2601 discussion, and writing in response to reading. ~~For the 2012-~~
2602 ~~2013 and 2013-2014 fiscal years, a school district may not hire~~
2603 ~~more reading coaches than were hired during the 2011-2012 fiscal~~
2604 ~~year unless all students in kindergarten through grade 5 who~~
2605 ~~demonstrate a reading deficiency, as determined by district and~~
2606 ~~state assessments, including students scoring Level 1 or Level 2~~
2607 ~~on the statewide, standardized reading assessment or, upon~~
2608 ~~implementation, the English Language Arts assessment, are~~
2609 ~~provided an additional hour per day of intensive reading~~
2610 ~~instruction beyond the normal school day for each day of the~~
2611 ~~entire school year.~~
2612 (11) VIRTUAL EDUCATION CONTRIBUTION.—The Legislature may
2613 annually provide in the Florida Education Finance Program a
2614 virtual education contribution. The amount of the virtual
2615 education contribution shall be the difference between the
2616 amount per FTE established in the General Appropriations Act for
2617 virtual education and the amount per FTE for each district and
2618 the Florida Virtual School, which may be calculated by taking
2619 the sum of the base FEFP allocation, the declining enrollment
2620 supplement, the discretionary local effort, the state-funded

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2621 discretionary contribution, the discretionary millage
2622 compression supplement, the research-based reading instruction
2623 allocation, the exceptional student education guaranteed
2624 allocation, and the instructional materials allocation, and then
2625 dividing by the total unweighted FTE. This difference shall be
2626 multiplied by the virtual education unweighted FTE for programs
2627 and options identified in s. 1002.455(3) and the Florida Virtual
2628 School and its franchises to equal the virtual education
2629 contribution and shall be included as a separate allocation in
2630 the funding formula.
2631 (12) FLORIDA DIGITAL CLASSROOMS ALLOCATION.—
2632 (b) Each district school board shall adopt a district
2633 digital classrooms plan that meets the unique needs of students,
2634 schools, and personnel and submit the plan for approval to the
2635 Department of Education. In addition, each district school board
2636 must, at a minimum, seek input from the district's
2637 instructional, curriculum, and information technology staff to
2638 develop the district digital classrooms plan. The district's
2639 plan must be within the general parameters established in the
2640 Florida digital classrooms plan pursuant to s. 1001.20. In
2641 addition, if the district participates in federal technology
2642 initiatives and grant programs, the district digital classrooms
2643 plan must include a plan for meeting requirements of such
2644 initiatives and grant programs. Funds allocated under this
2645 subsection must be used to support implementation of district
2646 digital classrooms plans. By August ~~October 1, 2014, and by~~
2647 ~~March~~ 1 of each year ~~thereafter~~, on a date determined by the
2648 department, each district school board shall submit to the
2649 department, in a format prescribed by the department, a digital

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2650 classrooms plan. At a minimum, such plan must include, and be
2651 annually updated to reflect, the following:
2652 1. Measurable student performance outcomes. Outcomes
2653 related to student performance, including outcomes for students
2654 with disabilities, must be tied to the efforts and strategies to
2655 improve outcomes related to student performance by integrating
2656 technology in classroom teaching and learning. Results of the
2657 outcomes shall be reported at least annually for the current
2658 school year and subsequent 3 years and be accompanied by an
2659 independent evaluation and validation of the reported results.
2660 2. Digital learning and technology infrastructure purchases
2661 and operational activities. Such purchases and activities must
2662 be tied to the measurable outcomes under subparagraph 1.,
2663 including, but not limited to, connectivity, broadband access,
2664 wireless capacity, Internet speed, and data security, all of
2665 which must meet or exceed minimum requirements and protocols
2666 established by the department. For each year that the district
2667 uses funds for infrastructure, a third-party, independent
2668 evaluation of the district’s technology inventory and
2669 infrastructure needs must accompany the district’s plan.
2670 3. Professional development purchases and operational
2671 activities. Such purchases and activities must be tied to the
2672 measurable outcomes under subparagraph 1., including, but not
2673 limited to, using technology in the classroom and improving
2674 digital literacy and competency.
2675 4. Digital tool purchases and operational activities. Such
2676 purchases and activities must be tied to the measurable outcomes
2677 under subparagraph 1., including, but not limited to,
2678 competency-based credentials that measure and demonstrate

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2679 digital competency and certifications; third-party assessments
2680 that demonstrate acquired knowledge and use of digital
2681 applications; and devices that meet or exceed minimum
2682 requirements and protocols established by the department.
2683 5. Online assessment-related purchases and operational
2684 activities. Such purchases and activities must be tied to the
2685 measurable outcomes under subparagraph 1., including, but not
2686 limited to, expanding the capacity to administer assessments and
2687 compatibility with minimum assessment protocols and requirements
2688 established by the department. If the administration of online
2689 assessments after January 1, 2015, does not comply with the
2690 minimum assessment protocols and requirements established by the
2691 department, the department shall contract with an independent
2692 auditing entity that has expertise in the area of the
2693 noncompliance to evaluate the extent of the noncompliance and
2694 provide recommendations to remediate the noncompliance in future
2695 administrations of online assessments.
2696 (c) The Legislature shall annually provide in the General
2697 Appropriations Act the FEFP allocation for implementation of the
2698 Florida digital classrooms plan to be calculated in an amount up
2699 to 1 percent of the base student allocation multiplied by the
2700 total K-12 full-time equivalent student enrollment included in
2701 the FEFP calculations for the legislative appropriation or as
2702 provided in the General Appropriations Act. Each school district
2703 shall be provided a minimum of $250,000, with the remaining
2704 balance of the allocation to be distributed based on each
2705 district’s proportion of the total K-12 full-time equivalent
2706 student enrollment. Distribution of funds for the Florida
2707 digital classrooms allocation shall begin following submittal of

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2708 each district's digital classrooms plan, which must include
2709 formal verification of the superintendent's approval of the
2710 digital classrooms plan of each charter school in the district,
2711 and approval of the plan by the department. A charter school
2712 shall submit the school's digital classrooms plan, in a
2713 streamlined format prescribed by the department, to the
2714 applicable school district. Prior to the distribution of the
2715 Florida digital classrooms allocation funds, each district
2716 school superintendent shall certify to the Commissioner of
2717 Education that the district school board has approved a
2718 comprehensive district digital classrooms plan that supports the
2719 fidelity of implementation of the Florida digital classrooms
2720 allocation. District allocations shall be recalculated during
2721 the fiscal year consistent with the periodic recalculation of
2722 the FEFP. School districts shall provide a proportionate share
2723 of the digital classrooms allocation to each charter school in
2724 the district, as required for categorical programs in s.
2725 1002.33(17)(b). A school district may use a competitive process
2726 to distribute funds for the Florida digital classrooms
2727 allocation to the schools within the school district. Beginning
2728 in the 2016-2017 school year, to be eligible to receive Florida
2729 digital classrooms allocation funds, a school district must
2730 undergo an annual assessment pursuant to s. 282.0052 and an
2731 annual independent verification of its use of Florida digital
2732 classrooms allocation funds pursuant to paragraph (e).
2733 (d) To facilitate the implementation of the district
2734 digital classrooms plans and charter school digital classrooms
2735 plans, the commissioner shall support statewide, coordinated
2736 partnerships and efforts of this state's education practitioners

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2737 in the field, including, but not limited to, superintendents,
2738 principals, and teachers, to identify and share best practices,
2739 corrective actions, and other identified needs. By August 1,
2740 2016, the commissioner shall implement an online, web-based
2741 portal for school districts and charter schools to submit their
2742 digital classrooms plan.
2743 (e) Beginning in the 2015-2016 fiscal year and each year
2744 thereafter, each district school board and charter school shall
2745 report to the department its use of funds provided through the
2746 Florida digital classrooms allocation and student performance
2747 outcomes in accordance with the district's digital classrooms
2748 plan. The department may contract with an independent third-
2749 party entity to conduct an annual independent verification of
2750 the district's use of Florida digital classrooms allocation
2751 funds in accordance with the district's digital classrooms plan.
2752 In the event an independent third-party verification is not
2753 conducted, the Auditor General shall, during scheduled
2754 operational audits of the school districts, verify compliance of
2755 the use of Florida digital classrooms allocation funds in
2756 accordance with the district's digital classrooms plan. No later
2757 than October 1 of each year, beginning in the 2015-2016 fiscal
2758 year, the commissioner shall provide to the Governor, the
2759 President of the Senate, and the Speaker of the House of
2760 Representatives a summary of each district's student performance
2761 goals and outcomes, use of funds~~,~~ in support of such ~~student~~
2762 performance goals and outcomes, and progress toward meeting
2763 statutory requirements and timelines.
2764 (13) FEDERALLY CONNECTED STUDENT SUPPLEMENT.—The federally
2765 connected student supplement is created to provide supplemental

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2766 funding for school districts to support the education of
2767 students connected with federally owned military installations,
2768 National Aeronautics and Space Administration (NASA) property,
2769 and Indian lands. To be eligible for this supplement, the
2770 district must be eligible for federal Impact Aid Program funds
2771 under s. 8003, Title VIII of the Elementary and Secondary
2772 Education Act of 1965. The supplement shall be the sum of the
2773 student allocation and an exempt property allocation.
2774 (a) The student allocation shall be calculated based on the
2775 number of students reported for federal Impact Aid Program
2776 funds, including students with disabilities, who meet one of the
2777 following criteria:
2778 1. Resides with a parent who is on active duty in the
2779 uniformed services or is an accredited foreign government
2780 official and military officer. Students with disabilities shall
2781 also be reported separately for this condition.
2782 2. Resides on eligible federally owned Indian lands.
2783 Students with disabilities shall also be reported separately for
2784 this condition.
2785 3. Resides with a civilian parent who lives or works on
2786 eligible federal property connected with a military installation
2787 or NASA. The number of these students shall be multiplied by a
2788 factor of 0.5.
2789 (b) The total number of federally connected students
2790 calculated under paragraph (a) shall be multiplied by a
2791 percentage of the base student allocation as provided in the
2792 General Appropriations Act. The total of the number of students
2793 with disabilities as reported separately under subparagraphs
2794 (a)1. and (a)2. shall be multiplied by an additional percentage

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2795 of the base student allocation as provided in the General
2796 Appropriations Act. The base amount and the amount for students
2797 with disabilities shall be summed to provide the student
2798 allocation.
2799 (c) The exempt-property allocation shall be equal to the
2800 tax-exempt value of federal Impact Aid lands reserved as
2801 military installations, real property owned by NASA, or eligible
2802 federally owned Indian lands located in the district, as of
2803 January 1 of the previous year, multiplied by the millage
2804 authorized and levied under s. 1011.71(2).
2805 (14) ~~(13)~~ QUALITY ASSURANCE GUARANTEE.—The Legislature may
2806 annually in the General Appropriations Act determine a
2807 percentage increase in funds per K-12 unweighted FTE as a
2808 minimum guarantee to each school district. The guarantee shall
2809 be calculated from prior year base funding per unweighted FTE
2810 student which shall include the adjusted FTE dollars as provided
2811 in subsection (15) ~~(14)~~, quality guarantee funds, and actual
2812 nonvoted discretionary local effort from taxes. From the base
2813 funding per unweighted FTE, the increase shall be calculated for
2814 the current year. The current year funds from which the
2815 guarantee shall be determined shall include the adjusted FTE
2816 dollars as provided in subsection (15) ~~(14)~~ and potential
2817 nonvoted discretionary local effort from taxes. A comparison of
2818 current year funds per unweighted FTE to prior year funds per
2819 unweighted FTE shall be computed. For those school districts
2820 which have less than the legislatively assigned percentage
2821 increase, funds shall be provided to guarantee the assigned
2822 percentage increase in funds per unweighted FTE student. Should
2823 appropriated funds be less than the sum of this calculated

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2824 amount for all districts, the commissioner shall prorate each
2825 district's allocation. This provision shall be implemented to
2826 the extent specifically funded.
2827 Section 45. Subsection (1) and paragraph (d) of subsection
2828 (2) of section 1011.71, Florida Statutes, are amended to read:
2829 1011.71 District school tax.—
2830 (1) If the district school tax is not provided in the
2831 General Appropriations Act or the substantive bill implementing
2832 the General Appropriations Act, each district school board
2833 desiring to participate in the state allocation of funds for
2834 current operation as prescribed by s. 1011.62(15) ~~s. 1011.62(14)~~
2835 shall levy on the taxable value for school purposes of the
2836 district, exclusive of millage voted under the provisions of s.
2837 9(b) or s. 12, Art. VII of the State Constitution, a millage
2838 rate not to exceed the amount certified by the commissioner as
2839 the minimum millage rate necessary to provide the district
2840 required local effort for the current year, pursuant to s.
2841 1011.62(4)(a)1. In addition to the required local effort millage
2842 levy, each district school board may levy a nonvoted current
2843 operating discretionary millage. The Legislature shall prescribe
2844 annually in the appropriations act the maximum amount of millage
2845 a district may levy.
2846 (2) In addition to the maximum millage levy as provided in
2847 subsection (1), each school board may levy not more than 1.5
2848 mills against the taxable value for school purposes for district
2849 schools, including charter schools at the discretion of the
2850 school board, to fund:
2851 (d) The purchase, lease-purchase, or lease of new and
2852 replacement equipment; computer hardware, including electronic

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2853 hardware and other hardware devices necessary for gaining access
2854 to or enhancing the use of electronic content and resources or
2855 to facilitate the access to and the use of a school district's
2856 digital classrooms plan pursuant to s. 1011.62, excluding
2857 software other than the operating system necessary to operate
2858 the hardware or device; and enterprise resource software
2859 applications that are classified as capital assets in accordance
2860 with definitions of the Governmental Accounting Standards Board,
2861 have a useful life of at least 5 years, and are used to support
2862 districtwide administration or state-mandated reporting
2863 requirements. Enterprise resource software may be acquired by
2864 annual license fees, maintenance fees, or lease agreements.
2865 Section 46. Section 1011.802, Florida Statutes, is created
2866 to read:
2867 1011.802 Florida Apprenticeship Grant (FLAG) Program.—
2868 (1) The Florida Apprenticeship Grant Program is created to
2869 provide grants, as provided in the General Appropriations Act,
2870 to career centers, charter technical career centers, and Florida
2871 College System institutions on a competitive basis to establish
2872 new apprenticeship programs and expand existing apprenticeship
2873 programs. The Division of Career and Adult Education within the
2874 Department of Education shall administer the grant program.
2875 (2) Applications from career centers, charter technical
2876 career centers, and Florida College System institutions must
2877 contain projected enrollment and projected costs for the new or
2878 expanded apprenticeship program.
2879 (3) The department shall give priority to apprenticeship
2880 programs in the areas of information technology, health, and
2881 machining and manufacturing. Grant funds may be used for

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2882 instructional equipment, supplies, personnel, student services,
2883 and other expenses associated with the creation or expansion of
2884 an apprenticeship program. Grant funds may not be used for
2885 recurring instructional costs or for a center's or an
2886 institution's indirect costs. Grant recipients must submit
2887 quarterly reports in a format prescribed by the department.
2888 Section 47. Paragraph (e) is added to subsection (3) of
2889 section 1012.34, Florida Statutes, to read:
2890 1012.34 Personnel evaluation procedures and criteria.—
2891 (3) EVALUATION PROCEDURES AND CRITERIA.—Instructional
2892 personnel and school administrator performance evaluations must
2893 be based upon the performance of students assigned to their
2894 classrooms or schools, as provided in this section. Pursuant to
2895 this section, a school district's performance evaluation is not
2896 limited to basing unsatisfactory performance of instructional
2897 personnel and school administrators solely upon student
2898 performance, but may include other criteria approved to evaluate
2899 instructional personnel and school administrators' performance,
2900 or any combination of student performance and other approved
2901 criteria. Evaluation procedures and criteria must comply with,
2902 but are not limited to, the following:
2903 (e) A classroom teacher's performance evaluation must be
2904 based upon the performance of students with fewer than 25
2905 absences within the school year, or, for schools with block
2906 scheduling, fewer than 10 absences within the school year,
2907 assigned to their classrooms, as provided in this section.
2908 Section 48. Subsection (4) is added to section 1012.3401,
2909 Florida Statutes, to read:
2910 1012.3401 Requirements for measuring student performance in

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2911 instructional personnel and school administrator performance
2912 evaluations; performance evaluation of personnel for purposes of
2913 performance salary schedule.—Notwithstanding any provision to
2914 the contrary in ss. 1012.22 and 1012.34 regarding the
2915 performance salary schedule and personnel evaluation procedures
2916 and criteria:
2917 (4) A classroom teacher's performance evaluation must be
2918 based upon the performance of students with fewer than 25
2919 absences within the school year, or, for schools with block
2920 scheduling, fewer than 10 absences within the school year,
2921 assigned to their classrooms.
2922 Section 49. Subsection (3) of section 1012.39, Florida
2923 Statutes, is amended to read:
2924 1012.39 Employment of substitute teachers, teachers of
2925 adult education, nondegreed teachers of career education, and
2926 career specialists; students performing clinical field
2927 experience.—
2928 (3) A student who is enrolled in a state-approved teacher
2929 preparation program in a postsecondary educational institution
2930 that is approved by rules of the State Board of Education and
2931 who is jointly assigned by the postsecondary educational
2932 institution and a district school board to perform a clinical
2933 field experience under the direction of a regularly employed and
2934 certified educator shall, while serving such supervised clinical
2935 field experience, be accorded the same protection of law as that
2936 accorded to the certified educator except for the right to
2937 bargain collectively as an employee of the district school
2938 board. The district school board providing the clinical field
2939 experience shall notify the student electronically or in writing

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2940 of the availability of educator liability insurance under s.
2941 1012.75. A postsecondary educational institution or district
2942 school board may not require a student enrolled in a state-
2943 approved teacher preparation program to purchase liability
2944 insurance as a condition of participation in any clinical field
2945 experience or related activity on the premises of an elementary
2946 or secondary school.
2947 Section 50. Subsections (4), (5), and (6) of section
2948 1012.71, Florida Statutes, are amended to read:
2949 1012.71 The Florida Teachers Classroom Supply Assistance
2950 Program.—
2951 (4) Each classroom teacher must provide the school district
2952 with receipts for the expenditure of the funds. If the classroom
2953 teacher is provided funds in advance of expenditure, the ~~Each~~
2954 classroom teacher must sign a statement acknowledging receipt of
2955 the funds, provide ~~keep~~ receipts as requested by the school
2956 district ~~for no less than 4 years~~ to show that funds expended
2957 meet the requirements of this section, and return any unused
2958 funds to the district school board by ~~at~~ the end of the regular
2959 school year. Any unused funds that are returned to the district
2960 school board shall be deposited into the school advisory council
2961 account of the school at which the classroom teacher returning
2962 the funds was employed when that teacher received the funds or
2963 deposited into the Florida Teachers Classroom Supply Assistance
2964 Program account of the school district in which a charter school
2965 is sponsored, as applicable.
2966 ~~(5) The statement must be signed and dated by each~~
2967 ~~classroom teacher before receipt of the Florida Teachers~~
2968 ~~Classroom Supply Assistance Program funds and shall include the~~

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2969 ~~wording: "I, ...(name of teacher)..., am employed by the~~
2970 ~~....County District School Board or by the ....Charter School as~~
2971 ~~a full-time classroom teacher. I acknowledge that Florida~~
2972 ~~Teachers Classroom Supply Assistance Program funds are~~
2973 ~~appropriated by the Legislature for the sole purpose of~~
2974 ~~purchasing classroom materials and supplies to be used in the~~
2975 ~~instruction of students assigned to me. In accepting custody of~~
2976 ~~these funds, I agree to keep the receipts for all expenditures~~
2977 ~~for no less than 4 years. I understand that if I do not keep the~~
2978 ~~receipts, it will be my personal responsibility to pay any~~
2979 ~~federal taxes due on these funds. I also agree to return any~~
2980 ~~unexpended funds to the district school board at the end of the~~
2981 ~~regular school year for deposit into the school advisory council~~
2982 ~~account of the school where I was employed at the time I~~
2983 ~~received the funds or for deposit into the Florida Teachers~~
2984 ~~Classroom Supply Assistance Program account of the school~~
2985 ~~district in which the charter school is sponsored, as~~
2986 ~~applicable."~~
2987 (5) ~~(6)~~ The Department of Education and district school
2988 boards may, and are encouraged to, enter into public-private
2989 partnerships in order to increase the total amount of Florida
2990 Teachers Classroom Supply Assistance Programs funds available to
2991 classroom teachers.
2992 Section 51. Section 1012.731, Florida Statutes, is created
2993 to read:
2994 1012.731 The Florida Best and Brightest Teacher Scholarship
2995 Program.—
2996 (1) The Legislature recognizes that, second only to
2997 parents, teachers play the most critical role within schools in

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2998 preparing students to achieve a high level of academic
2999 performance. The Legislature further recognizes that research
3000 has linked student outcomes to a teacher's own academic
3001 achievement. Therefore, it is the intent of the Legislature to
3002 designate teachers who have achieved high academic standards
3003 during their own education as Florida's best and brightest
3004 teacher scholars.
3005 (2) There is created the Florida Best and Brightest Teacher
3006 Scholarship Program to be administered by the Department of
3007 Education. Beginning in the 2015-2016 school year, the
3008 scholarship program shall provide categorical funding for
3009 scholarships to be awarded to teachers who have demonstrated a
3010 high level of academic achievement.
3011 (3)(a) To be eligible for a scholarship, a teacher:
3012 1. Must have scored at or above the 80th percentile on
3013 either the SAT or the ACT based upon the percentile ranks in
3014 effect when the teacher took the assessment and have been
3015 evaluated as highly effective pursuant to s. 1012.34; or
3016 2. If the teacher is a first-year teacher who has not been
3017 evaluated pursuant to s. 1012.34, must have scored at or above
3018 the 80th percentile on either the SAT or the ACT based upon the
3019 percentile ranks in effect when the teacher took the assessment.
3020 (b) In order to demonstrate eligibility for an award, an
3021 eligible teacher must submit to the school district, no later
3022 than October 1, an official record of his or her SAT or ACT
3023 score demonstrating that the teacher scored at or above the 80th
3024 percentile based upon the percentile ranks in effect when the
3025 teacher took the assessment. Once a teacher is deemed eligible
3026 by the school district, the teacher shall remain eligible as

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3027 long as he or she is employed by the school district and
3028 maintains or, if the teacher is a first-year teacher, earns the
3029 evaluation designation of highly effective pursuant to s.
3030 1012.34.
3031 (4) Annually, by December 1, each school district shall
3032 submit to the department the number of eligible teachers who
3033 qualify for the scholarship.
3034 (5) Annually, by February 1, the department shall disburse
3035 scholarship funds, in an amount prescribed annually by the
3036 Legislature in the General Appropriations Act, to each school
3037 district for each eligible teacher to receive a scholarship. If
3038 the number of eligible teachers exceeds the total appropriation
3039 authorized in the General Appropriation Act, the department
3040 shall prorate the per teacher scholarship amount.
3041 (6) Annually, by April 1, each school district shall
3042 provide payment of the scholarship to each eligible teacher.
3043 (7) For purposes of this section, the term "school
3044 district" includes the Florida School for the Deaf and the Blind
3045 and charter school governing boards.
3046 Section 52. Section 1012.75, Florida Statutes, is amended
3047 to read:
3048 1012.75 Liability of teacher or principal~~; excessive~~
3049 ~~force~~.—
3050 (1) Except in the case of excessive force or cruel and
3051 unusual punishment, a teacher or other member of the
3052 instructional staff, a principal or the principal's designated
3053 representative, or a bus driver shall not be civilly or
3054 criminally liable for any action carried out in conformity with
3055 State Board of Education and district school board rules

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3056 regarding the control, discipline, suspension, and expulsion of
3057 students, including, but not limited to, any exercise of
3058 authority under s. 1003.32 or s. 1006.09.
3059 (2) The State Board of Education shall adopt rules that
3060 outline administrative standards for the use of reasonable force
3061 by school personnel to maintain a safe and orderly learning
3062 environment. Such standards shall be distributed to each school
3063 in the state and shall provide guidance to school personnel in
3064 receiving the limitations on liability specified in this
3065 section.
3066 (3) Beginning with the 2015-2016 school year, the
3067 Department of Education shall administer an educator liability
3068 insurance program, as provided in the General Appropriation Act,
3069 to protect full-time instructional personnel from liability for
3070 monetary damages and the costs of defending actions resulting
3071 from claims made against the instructional personnel arising out
3072 of occurrences in the course of activities within the
3073 instructional personnel's professional capacity. For purposes of
3074 this subsection, the terms "full-time," "part-time," and
3075 "administrative personnel" shall be defined by the individual
3076 district school board. For purposes of this subsection, the term
3077 "instructional personnel" has the same meaning as provided in s.
3078 1012.01(2).
3079 (a) Liability coverage of at least $2 million shall be
3080 provided to all full-time instructional personnel. Liability
3081 coverage may be provided to the following individuals who choose
3082 to participate in the program, at cost: part-time instructional
3083 personnel, administrative personnel, and students enrolled in a
3084 state-approved teacher preparation program pursuant to s.

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3085 1012.39(3).
3086 (b) Annually, by August 1, each district school board shall
3087 notify personnel specified in paragraph (a) of the liability
3088 coverage provided pursuant to this subsection. The department
3089 shall develop the form of the notice which each district school
3090 board must use. The notice must be on an 8 1/2-inch by 5 1/2-
3091 inch postcard and include the amount of coverage, a general
3092 description of the nature of the coverage, and the contact
3093 information for coverage and claims questions. The notification
3094 must be provided separately from any other correspondence. Each
3095 district school board shall certify to the department, by August
3096 5 of each year, that the notification required by this paragraph
3097 has been provided.
3098 (c) The department shall consult with the Department of
3099 Financial Services to select the most economically prudent and
3100 cost-effective means of implementing the program through self-
3101 insurance, a risk management program, or competitive
3102 procurement.
3103 Section 53. (1) The State University System Performance-
3104 Based Incentive must be based on indicators of institutional
3105 attainment of performance metrics adopted by the Board of
3106 Governors. The performance-based funding metrics must include
3107 metrics that measure graduation and retention rates; degree
3108 production; affordability; postgraduation employment, salaries,
3109 or further education; student loan default rates; access; and
3110 any other metrics approved by the board.
3111 (2) The Board of Governors shall evaluate the institutions'
3112 performance on the metrics based on benchmarks adopted by the
3113 board which measure the achievement of institutional excellence

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3114 or improvement. The amount of funds available for allocation to
3115 the institutions each fiscal year based on the performance
3116 funding model is composed of the state investment in performance
3117 funding, plus an institutional investment consisting of funds to
3118 be redistributed from the base funding of the State University
3119 System, as determined in the General Appropriations Act. The
3120 state investment shall be distributed in accordance with the
3121 performance funding model. The institutional investment shall be
3122 restored for all institutions that meet the board's minimum
3123 performance threshold under the performance funding model. An
3124 institution that is one of the bottom three institutions is not
3125 eligible for the state investment. An institution that fails to
3126 meet the board's minimum performance funding threshold is not
3127 eligible for the state investment, shall have a portion of its
3128 institutional investment withheld, and shall submit an
3129 improvement plan to the board which specifies the activities and
3130 strategies for improving the institution's performance. The
3131 board shall review the improvement plan, and if approved,
3132 monitor the institution's progress in implementing the
3133 activities and strategies specified in the improvement plan. The
3134 Chancellor of the State University System shall withhold
3135 disbursement of the institutional investment until such time as
3136 the monitoring report for the institution is approved by the
3137 board. Any institution that fails to make satisfactory progress
3138 may not have its full institutional investment restored. If all
3139 funds are not restored, any remaining funds shall be
3140 redistributed to the top three scorers in accordance with the
3141 board's performance funding model. The ability of an institution
3142 to submit an improvement plan to the board is limited to 1

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3143 fiscal year. If an institution subject to an improvement plan
3144 fails to meet the board's minimum performance funding threshold
3145 during any future fiscal year, the institution's institutional
3146 investment will be withheld by the board and redistributed to
3147 the top three scorers in accordance with the board's performance
3148 funding model.
3149 (3) By October 1 of each year, the Board of Governors shall
3150 submit to the Governor, the President of the Senate, and the
3151 Speaker of the House of Representatives a report on the previous
3152 year's performance funding allocation which reflects the
3153 rankings and award distributions.
3154 (4) The Board of Governors shall adopt a regulation to
3155 implement this section.
3156 Section 54. (1) The Florida College System Performance-
3157 Based Incentive must be based on indicators of institutional
3158 attainment of performance metrics adopted by the State Board of
3159 Education. The performance-based funding metrics must be limited
3160 to metrics that measure retention; program completion and
3161 graduation rates; student loan default rates; job placement; and
3162 postgraduation employment, salaries, or further education.
3163 (2) The State Board of Education shall evaluate the
3164 institutions' performance on the metrics based on benchmarks
3165 adopted by the board which measure the achievement of
3166 institutional excellence or improvement. The amount of funds
3167 available for allocation to the institutions each fiscal year
3168 based on the performance funding model is composed of the
3169 state's investment in performance funding, plus an institutional
3170 investment consisting of funds to be redistributed from the base
3171 funding of the Florida College System Program Fund, as

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3172 determined in the General Appropriations Act. The board shall
3173 establish a minimum performance threshold that institutions must
3174 meet in order to be eligible for the state's investment in
3175 performance funds. The institutional investment shall be
3176 restored for all institutions eligible for the state's
3177 investment under the performance funding model. An institution
3178 that fails to meet the board's minimum performance funding
3179 threshold is not eligible for the state's investment, shall have
3180 a portion of its institutional investment withheld, and shall
3181 submit an improvement plan to the board which specifies the
3182 activities and strategies for improving the institution's
3183 performance.
3184 (3) The State Board of Education shall review the
3185 improvement plan, and if approved, must monitor the
3186 institution's progress in implementing the specified activities
3187 and strategies. The institutions shall submit monitoring reports
3188 to the board no later than December 31 and May 31 of each year.
3189 (4) The Commissioner of Education shall withhold
3190 disbursement of the institutional investment until such time as
3191 the monitoring report for the institution is approved by the
3192 State Board of Education. Any institution that fails to make
3193 satisfactory progress will not have its full institutional
3194 investment restored. If all institutional investment funds are
3195 not restored, any remaining funds shall be redistributed in
3196 accordance with the board's performance funding model.
3197 (5) By October 1 of each year, the State Board of Education
3198 shall submit to the Governor, the President of the Senate, and
3199 the Speaker of the House of Representatives a report on the
3200 previous year's performance funding allocation which reflects

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3201 the rankings and award distributions.
3202 (6) The State Board of Education shall adopt rules to
3203 implement this section.
3204 Section 55. Section 1013.385, Florida Statutes, is created
3205 to read:
3206 1013.385 School district construction flexibility.—
3207 (1) A district school board may, with a supermajority vote
3208 at a public meeting that begins no earlier than 5 p.m., adopt a
3209 resolution to implement one or more of the exceptions to the
3210 educational facilities construction requirements provided in
3211 this section. Before voting on the resolution, a district school
3212 board must conduct a cost-benefit analysis prepared according to
3213 a professionally accepted methodology that describes how each
3214 exception selected by the district school board achieves cost
3215 savings, improves the efficient use of school district
3216 resources, and impacts the life-cycle costs and life span for
3217 each educational facility to be constructed, as applicable, and
3218 demonstrates that implementation of the exception will not
3219 compromise student safety or the quality of student instruction.
3220 The district school board must conduct at least one public
3221 workshop to discuss and receive public comment on the proposed
3222 resolution and cost-benefit analysis, which must begin no
3223 earlier than 5 p.m. and may occur at the same meeting at which
3224 the resolution will be voted upon.
3225 (2) A resolution adopted under this section may propose
3226 implementation of exceptions to requirements relating to:
3227 (a) Interior nonload-bearing walls, as specified in s.
3228 423.8.3.1.1 of the Florida Building Code, by approving the use
3229 of fire-rated wood stud walls in new construction or remodeling

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3230 for interior nonload-bearing wall assemblies that will not be
3231 exposed to water or located in wet areas.
3232 (b) Walkways, roadways, driveways, and parking areas, as
3233 specified in s. 423.10.2 of the Florida Building Code, by
3234 approving the use of designated, stabilized, and well-drained
3235 gravel or grassed student parking areas.
3236 (c) Standards for relocatables used as classroom space, as
3237 specified in s. 1013.20, by approving construction
3238 specifications for installation of relocatable buildings that do
3239 not have covered walkways leading to the permanent buildings
3240 onsite.
3241 (d) Site lighting, as specified in s. 423.10.3 of the
3242 Florida Building Code, by approving construction specifications
3243 regarding site lighting which:
3244 1. Do not provide for lighting of gravel or grassed
3245 auxiliary or student parking areas.
3246 2. Provide lighting for walkways, roadways, driveways,
3247 paved parking lots, exterior stairs, ramps, and walkways from
3248 the exterior of the building to a public walkway through
3249 installation of a timer that is set to provide lighting only
3250 during periods when the site is occupied.
3251 3. Allow lighting for building entrances and exits to be
3252 installed with a timer that is set to provide lighting only
3253 during periods in which the building is occupied. The minimum
3254 illumination level at single-door exits may be reduced to no
3255 less than 1 footcandle.
3256 Section 56. Subsection (7) is added to section 1013.74,
3257 Florida Statutes, to read:
3258 1013.74 University authorization for fixed capital outlay

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3259 projects.—
3260 (7) A university board of trustees may expend reserve or
3261 carry forward balances from prior year operational and
3262 programmatic appropriations for fixed capital outlay projects
3263 authorized for academic instructional space or critical deferred
3264 maintenance needs in this area as approved by the Board of
3265 Governors.
3266 Section 57. The State Board of Education, in collaboration
3267 with the Board of Governors, shall evaluate and report on the
3268 status of Florida's "2+2" system of articulation using the
3269 accountability measures required under this section or any other
3270 state law. By November 1, 2016, the state board and the Board of
3271 Governors shall submit their report to the Governor, the
3272 President of the Senate, and the Speaker of the House of
3273 Representatives. The report must include findings regarding the
3274 status of Florida's "2+2" system of articulation and
3275 recommendations for improvement.
3276 Section 58. The Division of Law Revision and Information is
3277 directed to prepare a reviser's bill for the 2016 Regular
3278 Session to conform the Florida Statutes to the changes in
3279 terminology made by this act. The reviser's bill must substitute
3280 the term "Division of Florida Community Colleges" for "Division
3281 of Florida Colleges"; "Florida Community College System" for
3282 "Florida College System"; and "Florida Community College System
3283 institution" for "Florida College System institution" where
3284 those terms appear in the Florida Statutes.
3285 Section 59. This act shall take effect July 1, 2015.
3286
3287 ========== T I T L E A M E N D M E N T ==========

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3288 And the title is amended as follows:
3289 Delete everything before the enacting clause
3290 and insert:
3291 A bill to be entitled
3292 An act relating to education; amending s. 282.0051,
3293 F.S.; requiring the Agency for State Technology to
3294 establish and publish information technology
3295 architecture standards for purposes of implementing
3296 digital classrooms by a specified date; requiring the
3297 agency to collaborate with the Department of Education
3298 and the Department of Management Services to identify
3299 certain state contract procurement options for
3300 services that support such standards and to identify
3301 certain shared services available through the State
3302 Data Center to facilitate the implementation of school
3303 district digital classrooms plans; requiring the
3304 agency's annual assessment of the Department of
3305 Education to review specified issues with respect to
3306 school district digital classrooms plans and to
3307 provide planning assistance to address and reduce
3308 issues identified by the assessment; amending s.
3309 282.00515, F.S.; conforming a cross-reference to
3310 changes made by the act; creating s. 282.0052, F.S.;
3311 establishing requirements for the agency or a
3312 contracted organization with respect to the
3313 establishment and assessment of digital classrooms
3314 information technology architecture standards;
3315 requiring the agency or contracted organization to
3316 annually submit a report to the Governor and the

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3317 Legislature; prescribing report requirements;
3318 requiring the agency to annually update the
3319 Commissioner of Education on the status of technology
3320 infrastructure; requiring the Department of Education
3321 to annually update school districts regarding
3322 compliance with information technology architecture
3323 standards and provide planning guidance; requiring a
3324 school district to take certain action in the event of
3325 noncompliance with information technology architecture
3326 standards; amending s. 446.021, F.S.; revising terms;
3327 amending s. 446.032, F.S.; conforming a provision to
3328 changes made by the act; requiring the Department of
3329 Education, in collaboration with the Department of
3330 Economic Opportunity, to identify, develop, and
3331 register specified apprenticeship programs; requiring
3332 the department to annually submit an accountability
3333 report with specified requirements to the Governor,
3334 the Legislature, and the Higher Education Coordinating
3335 Council; requiring the department to post on its
3336 Internet website specified information regarding
3337 apprenticeship programs; amending s. 446.045, F.S.;
3338 clarifying State Apprenticeship Advisory Council
3339 membership; amending s. 446.052, F.S.; requiring the
3340 Department of Education, in collaboration with the
3341 Department of Economic Opportunity, to identify,
3342 develop, and register specified preapprenticeship
3343 programs; requiring the department to annually submit
3344 an accountability report with specified requirements
3345 to the Governor, the Legislature, and the Higher

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3346 Education Coordinating Council; requiring the
3347 department to post on its Internet website specified
3348 information regarding preapprenticeship programs;
3349 requiring the Department of Education, in
3350 collaboration with the Department of Economic
3351 Opportunity and CareerSource Florida, Inc., to submit
3352 an operational report to the Governor, the
3353 Legislature, and the Higher Education Coordinating
3354 Council with specified information; providing for
3355 expiration; amending s. 446.081, F.S.; clarifying the
3356 limitations of certain provisions; amending s.
3357 446.091, F.S.; conforming a provision to a change made
3358 by the act; amending s. 446.092, F.S.; revising
3359 characteristics of an apprenticeable occupation;
3360 amending s. 1000.03, F.S.; revising the mission of the
3361 Florida K-20 education system; amending s. 1001.02,
3362 F.S.; revising the duties of the State Board of
3363 Education with respect to the supervision of the
3364 divisions of the Department of Education; amending s.
3365 1001.03, F.S.; revising requirements for the state
3366 board’s articulation accountability measures;
3367 authorizing the state board to take certain action in
3368 the event of noncompliance of a district school board
3369 or a Florida Community College System institution
3370 board of trustees; defining the term “college”;
3371 specifying authorized and prohibited uses of the term;
3372 conforming provisions to changes made by the act;
3373 amending s. 1001.20, F.S.; requiring the Office of
3374 Technology and Information Services of the Department

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3375 of Education to consult with the Agency for State
3376 Technology in developing the 5-year strategic plan for
3377 Florida digital classrooms; removing an obsolete date;
3378 revising requirements for the 5-year strategic plan;
3379 expanding the list of responsibilities of the Office
3380 of Technology and Information Services; amending s.
3381 1001.42, F.S.; prohibiting a technical center
3382 governing board from approving specified courses and
3383 programs; amending s. 1001.43, F.S.; authorizing
3384 district school boards to adopt a standard student
3385 attire policy; establishing criteria for and the
3386 purpose of the policy; providing immunity from civil
3387 liability for district school boards that implement a
3388 standard student attire policy under certain
3389 conditions; amending s. 1001.44, F.S.; prescribing the
3390 mission and responsibilities of a career center
3391 operated by a district school board; specifying
3392 certain restrictions applicable to a career center;
3393 amending s. 1001.60, F.S.; redesignating the “Florida
3394 College System” as the “Florida Community College
3395 System”; amending s. 1001.705, F.S.; prescribing the
3396 mission and responsibilities of the State University
3397 System; amending s. 1001.7065, F.S.; revising a
3398 requirement that a specified state research university
3399 establish an institute for online learning; conforming
3400 provisions to changes made by the act; amending s.
3401 1002.20, F.S.; conforming provisions to changes made
3402 by the act; amending s. 1002.34, F.S.; prescribing the
3403 mission and responsibilities of a charter technical

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3404 career center; specifying certain restrictions
3405 applicable to a charter technical career center;
3406 amending s. 1003.42, F.S.; requiring that
3407 instructional staff of public schools provide
3408 instruction to students about the terrorist attacks
3409 occurring on September 11, 2001, and the impact of
3410 those events; providing a short title; amending s.
3411 1004.015, F.S.; revising the composition of the Higher
3412 Education Coordinating Council; creating s. 1004.084,
3413 F.S.; requiring the Board of Governors and the State
3414 Board of Education to identify strategies and
3415 initiatives to reduce the cost of higher education;
3416 requiring the Board of Governors and the state board
3417 to annually submit a report to the Governor and the
3418 Legislature; amending s. 1004.085, F.S.; defining the
3419 term “instructional materials”; revising policies and
3420 procedures relating to textbooks; requiring a public
3421 postsecondary institution to post information relating
3422 to required and recommended textbooks and
3423 instructional materials and prices in its course
3424 registration system and on its website; requiring the
3425 state board and the Board of Governors to adopt
3426 textbook and instructional materials affordability
3427 policies, procedures, and guidelines; providing
3428 requirements for the use of adopted undergraduate
3429 textbooks and instructional materials; requiring
3430 annual reporting of textbook and instructional
3431 materials cost information and affordability policies
3432 and procedures to the Chancellor of the Florida

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3433 College System or the Chancellor of the State
3434 University System; requiring electronic copies of the
3435 affordability policies and procedures be sent annually
3436 to the state board or the Board of Governors; amending
3437 s. 1004.65, F.S.; providing that Florida Community
3438 College System institutions may offer upper level
3439 instruction and award baccalaureate degrees, as
3440 authorized; conforming provisions to changes made by
3441 the act; amending s. 1004.92, F.S.; requiring the
3442 State Board of Education to adopt rules relating to
3443 accountability for career education; amending s.
3444 1006.735, F.S.; establishing the Rapid Response
3445 Education and Training Program within the Complete
3446 Florida Plus Program; requiring the Complete Florida
3447 Plus Program to work with Enterprise Florida, Inc., to
3448 offer credible education and training commitments to
3449 businesses; specifying the duties of the Rapid
3450 Response Education and Training Program; requiring
3451 reports to the Legislature; requiring the Division of
3452 Career and Adult Education within the Department of
3453 Education to conduct an analysis and assessment of the
3454 effectiveness of the education and training programs;
3455 amending s. 1007.01, F.S.; revising required
3456 components for articulation policies established and
3457 adopted by the state board and the Board of Governors;
3458 amending s. 1007.23, F.S.; revising requirements for
3459 the statewide articulation agreement; amending s.
3460 1007.271, F.S.; exempting dual enrollment students
3461 from paying technology fees; requiring a home

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3462 education secondary student to be responsible for his
3463 or her own instructional materials and transportation
3464 in order to participate in the dual enrollment program
3465 unless the articulation agreement provides otherwise;
3466 requiring a postsecondary institution that is eligible
3467 to participate in the dual enrollment program to enter
3468 into a home education articulation agreement;
3469 requiring the postsecondary institution to annually
3470 complete and submit the agreement to the Department of
3471 Education by a specified date; conforming provisions
3472 to changes made by the act; authorizing certain
3473 instructional materials to be made available free of
3474 charge to dual enrollment students in home education
3475 programs and private schools if provided for in the
3476 articulation agreement; requiring the department to
3477 review dual enrollment articulation agreements
3478 submitted for certain students, including home
3479 education students and private school students, to
3480 participate in a dual enrollment program; requiring
3481 the Commissioner of Education to notify the district
3482 school superintendent and the president of the
3483 postsecondary institution if the dual enrollment
3484 articulation agreement does not comply with statutory
3485 requirements; requiring a district school board and a
3486 Florida College System institution to annually
3487 complete and submit to the department by a specified
3488 date a dual enrollment articulation agreement with a
3489 state university and an eligible independent college
3490 or university, as applicable; providing requirements

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3491 for a private school student to participate in a dual
3492 enrollment program; requiring a postsecondary
3493 institution eligible to participate in the dual
3494 enrollment program to enter into an articulation
3495 agreement with each private school student seeking
3496 enrollment in a dual enrollment course and his or her
3497 parent; requiring the postsecondary institution to
3498 annually complete and submit the articulation
3499 agreement to the department by a specified date;
3500 providing requirements for the articulation agreement;
3501 amending s. 1007.273, F.S.; revising requirements for
3502 a contract between a district school board and a
3503 Florida Community College System institution for the
3504 administration of collegiate high school programs;
3505 requiring school districts and Florida Community
3506 College System institutions to annually report
3507 specified information regarding collegiate high school
3508 programs to the Department of Education; amending s.
3509 1007.33, F.S.; revising provisions regarding
3510 baccalaureate degree programs that may be offered by a
3511 Florida Community College System institution;
3512 prohibiting a Florida Community College System
3513 institution from offering a Bachelor of Arts degree
3514 program; removing obsolete language; revising
3515 provisions regarding the approval process for
3516 baccalaureate degree programs; restricting total
3517 upper-level, undergraduate full-time equivalent
3518 enrollment at a Florida Community College System
3519 institution; amending s. 1008.38, F.S.; revising

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3520 minimum requirements for an articulation
3521 accountability process; amending s. 1009.22, F.S.;
3522 revising the amount tuition may vary for the combined
3523 total of the standard tuition and out-of-state fees;
3524 amending s. 1009.23, F.S.; prohibiting resident
3525 tuition at a Florida College System institution from
3526 exceeding a specified amount per credit hour; revising
3527 the amount tuition may vary for the combined total of
3528 the standard tuition and out-of-state fees; requiring
3529 a Florida College System institution to publicly
3530 notice meetings at which votes on proposed tuition or
3531 fee increases are scheduled; amending s. 1009.24,
3532 F.S.; prohibiting resident undergraduate tuition at a
3533 state university from exceeding a specified amount per
3534 credit hour; removing authority for a designee of the
3535 Board of Governors to establish graduate and
3536 professional tuition and out-of-state fees;
3537 prohibiting graduate and professional program tuition
3538 from exceeding a specified amount; requiring a state
3539 university to publicly notice meetings at which votes
3540 on proposed tuition or fee increases are scheduled;
3541 amending ss. 1009.534, 1009.535, and 1009.536, F.S.;
3542 requiring a student, as a prerequisite for the Florida
3543 Academic Scholars award, the Florida Medallion
3544 Scholars award, or the Florida Gold Seal Vocational
3545 Scholars award, to identify a social or civic issue or
3546 a professional area of interest and develop a plan for
3547 his or her personal involvement in addressing the
3548 issue or learning about the area; prohibiting the

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3549 student from receiving remuneration or academic credit
3550 for the volunteer service work performed except in
3551 certain circumstances; requiring the hours of
3552 volunteer service work to be documented in writing and
3553 signed by the student, the student's parent or
3554 guardian, and a representative of the organization for
3555 which the student performed the volunteer service
3556 work; amending s. 1009.893, F.S., changing the name of
3557 the "Florida National Merit Scholar Incentive Program"
3558 to the "Benacquisto Scholarship Program"; providing
3559 that a student who receives the scholarship award
3560 under the program be referred to as a Benacquisto
3561 Scholar; encouraging all eligible Florida public or
3562 independent postsecondary educational institutions,
3563 and requiring all eligible state universities, to
3564 become a college-sponsor of the program; conforming
3565 provisions to changes made by the act; amending s.
3566 1011.62, F.S.; requiring supplemental academic
3567 instruction categorical funds and research-based
3568 reading instruction allocation funds to be used by a
3569 school district with at least one of certain lowest-
3570 performing elementary schools for additional intensive
3571 reading instruction at such school during the summer
3572 program in addition to the school year; providing that
3573 the additional instruction requirements continue in
3574 the subsequent year for certain students; revising the
3575 funding of full-time equivalent values for students
3576 who earn CAPE industry certifications through dual
3577 enrollment; increasing the bonus awarded to teachers

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3578 who provided instruction in courses that led to
3579 certain CAPE industry certifications; specifying a
3580 maximum bonus amount per teacher per school year;
3581 revising the calculation of the discretionary millage
3582 compression supplement amount; revising the
3583 computation of district sparsity index for districts
3584 with a specified full-time equivalent student
3585 membership; deleting obsolete language; revising the
3586 calculation of the virtual education contribution;
3587 revising the date by which district school boards must
3588 annually submit a digital classrooms plan to the
3589 Department of Education; requiring the department to
3590 contract with an independent auditing entity in the
3591 event of noncompliance with minimum protocols and
3592 requirements in the administration of online
3593 assessments; requiring a charter school to submit the
3594 school’s digital classrooms plan to the applicable
3595 school district; specifying required format for the
3596 plan; specifying conditions for a school district to
3597 maintain eligibility for Florida digital classrooms
3598 allocation funds; requiring the Commissioner of
3599 Education to implement an online portal for electronic
3600 submission of digital classrooms plans by a specified
3601 date; requiring a charter school to annually report to
3602 the department regarding the use of specified funds;
3603 revising requirements for the commissioner’s annual
3604 report to the Governor and the Legislature regarding
3605 the digital classrooms plan; creating a federally
3606 connected student supplement for school districts;

149946

3607 specifying eligibility requirements and calculations
3608 for the supplement; providing for the withholding of a
3609 district's safe schools funding for failure to comply
3610 with certain reporting requirements with respect to
3611 school safety and student discipline; conforming
3612 provisions to changes made by the act; amending s.
3613 1011.71, F.S.; conforming a cross-reference;
3614 authorizing enterprise resource software to be
3615 acquired by certain fees and agreements; creating s.
3616 1011.802, F.S.; creating the Florida Apprenticeship
3617 Grant Program within the Department of Education to
3618 provide grants to specific centers and institutions
3619 for the creation of new apprenticeship programs or the
3620 expansion of existing apprenticeship programs;
3621 providing funding for the program; providing
3622 requirements related to applications, program
3623 priority, use of grant funds, and quarterly reports;
3624 amending ss. 1012.34 and 1012.3401, F.S.; requiring
3625 that classroom teacher performance evaluations be
3626 based upon the performance of students with fewer than
3627 a specified number of absences; amending s. 1012.39,
3628 F.S.; providing requirements regarding liability
3629 insurance for students performing clinical field
3630 experience; amending s. 1012.71, F.S.; requiring a
3631 classroom teacher to provide the school district with
3632 receipts for the expenditure of certain funds;
3633 creating s. 1012.731, F.S.; providing legislative
3634 intent; establishing the Florida Best and Brightest
3635 Teacher Scholarship Program; providing eligibility

149946

3636 criteria; requiring a school district to annually
3637 submit the number of eligible teachers to the
3638 department; providing for funding and the disbursement
3639 of funds; defining the term “school district” for
3640 purposes of the act; amending s. 1012.75, F.S.;
3641 requiring the department to administer an educator
3642 liability insurance program; defining terms;
3643 specifying program administration and eligibility
3644 requirements; requiring the Board of Governors and the
3645 State Board of Education to base state performance
3646 funds for the State University System and the Florida
3647 College System, respectively, on specified metrics
3648 adopted by each board; specifying allocation of the
3649 funds; requiring certain funds to be withheld from an
3650 institution based on specified performance; requiring
3651 the boards to submit reports by a specified time to
3652 the Governor and the Legislature; requiring the boards
3653 to adopt rules; creating s. 1013.385, F.S.; providing
3654 for school district construction flexibility;
3655 authorizing exceptions to educational facilities
3656 construction requirements under certain circumstances;
3657 amending s. 1013.74, F.S.; authorizing a university
3658 board of trustees to expend specified reserve or carry
3659 forward balances for academic instructional space or
3660 critical deferred maintenance needs; requiring the
3661 state board and the Board of Governors to submit a
3662 report to the Governor and the Legislature by a
3663 specified date; prescribing report requirements;
3664 providing a directive to the Division of Law Revision

149946

3665 and Information; providing an effective date.

905728

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/22/2015	.	
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The Committee on Appropriations (Ring) recommended the following:

Senate Amendment to Amendment (149946) (with title amendment)

Delete line 31
and insert:
1. State term contract or other local procurement options that are

========== T I T L E A M E N D M E N T ==========
And the title is amended as follows:

905728

11 Delete line 3299
12 and insert:
13 certain state term contract or other local procurement
14 options for

554426

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/21/2015	.	
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The Committee on Appropriations (Montford) recommended the following:

Senate Amendment to Amendment (149946) (with title amendment)

Delete lines 526 - 556
and insert:
Section 16. Paragraph (i) of subsection (12) and subsection (26) of section 1001.42, Florida Statutes, are amended to read:
1001.42 Powers and duties of district school board.—The district school board, acting as a board, shall exercise all powers and perform all duties listed below:

554426

11 (12) FINANCE.—Take steps to assure students adequate
12 educational facilities through the financial procedure
13 authorized in chapters 1010 and 1011 and as prescribed below:
14 (i) *Contracts for materials, supplies, and services.*—
15 Contract for materials, supplies, and services needed for the
16 district school system. No contract for supplying these needs
17 shall be made with any member of the district school board, with
18 the district school superintendent, or with any business
19 organization in which any district school board member or the
20 district school superintendent has any financial interest
21 whatsoever. The district school board may adopt rules to
22 facilitate the efficient and effective procurement of materials,
23 supplies, and services, including the use of online procurement
24 and electronic auction services. As used in this paragraph, the
25 term "electronic auction services" means a competitive
26 procurement conducted on a centralized website using third-party
27 software, jointly managed by an approved vendor and the district
28 school board, for the purpose of obtaining competitive prices in
29 an auction environment.
30
31 ========== T I T L E A M E N D M E N T ==========
32 And the title is amended as follows:
33 Delete lines 3381 - 3383
34 and insert:
35 1001.42, F.S.; revising the powers and duties of the
36 district school board to authorize the adoption of
37 rules regarding procurement practices; defining the
38 term "electronic auction services"; prohibiting a
39 technical center governing board from approving

554426

40 specified courses and programs; amending s. 1001.43,
41 F.S.; authorizing

688124

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/22/2015	.	
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The Committee on Appropriations (Simmons) recommended the following:

Senate Amendment to Amendment (149946) (with title amendment)

Delete lines 2291 - 2590
and insert:
For the 2015-2016, 2016-2017, and 2017-2018 ~~2014-2015~~ fiscal years ~~year~~, each school district that has one or more of the 300 lowest-performing elementary schools based on the state reading assessment shall use these funds, together with the funds provided in the district's research-based reading instruction

688124

11 allocation and other available funds, to provide an additional
12 hour of instruction beyond the normal school day for each day of
13 the entire school year for intensive reading instruction for the
14 students in each of the 300 lowest-performing ~~these~~ schools.
15 Students enrolled in these schools who have Level 5 assessment
16 scores may participate in the additional hour of instruction on
17 an optional basis. In addition, the 300 lowest-performing
18 schools must provide at least 80 hours of instruction in a
19 summer program with a focus on reading for students who have
20 Level 1 or Level 2 reading assessment scores in these schools.
21 For the 2015-2016 fiscal year, the 300 lowest-performing schools
22 shall be the same schools as identified for the 2014-2015 fiscal
23 year. Even if a participating school is no longer classified as
24 one of the 300 lowest-performing elementary schools in the
25 subsequent year, the school must continue to provide the
26 additional hour of intensive reading instruction and must
27 provide at least 80 hours of instruction in a summer program
28 with a focus on reading to all students who have Level 1 or
29 Level 2 reading assessment scores. The ~~This~~ additional hour of
30 instruction must be provided by teachers or reading specialists
31 who are effective in teaching reading or by a K-5 mentoring
32 reading program that is supervised by a teacher who is effective
33 at teaching reading. ~~Students enrolled in these schools who have~~
34 ~~level 5 assessment scores may participate in the additional hour~~
35 ~~of instruction on an optional basis.~~ Exceptional student
36 education centers may ~~shall~~ not be included in the 300 schools.
37 Beginning in the 2016-2017 fiscal year, the Department of
38 Education shall provide a list of the 300 lowest-performing
39 elementary schools to such schools no later than July 1. School

688124

40 districts are encouraged to provide a summer program in 2015
41 with a focus on reading for students who have Level 1 or Level 2
42 reading assessment scores in these schools. After this
43 requirement has been met, supplemental instruction strategies
44 may include, but are not limited to: modified curriculum,
45 reading instruction, after-school instruction, tutoring,
46 mentoring, class size reduction, extended school year, intensive
47 skills development in summer school, and other methods for
48 improving student achievement. Supplemental instruction may be
49 provided to a student in any manner and at any time during or
50 beyond the regular 180-day term identified by the school as
51 being the most effective and efficient way to best help that
52 student progress from grade to grade and to graduate.
53 3. Effective with the 1999-2000 fiscal year, funding on the
54 basis of FTE membership beyond the 180-day regular term shall be
55 provided in the FEFP only for students enrolled in juvenile
56 justice education programs or in education programs for
57 juveniles placed in secure facilities or programs under s.
58 985.19. Funding for instruction beyond the regular 180-day
59 school year for all other K-12 students shall be provided
60 through the supplemental academic instruction categorical fund
61 and other state, federal, and local fund sources with ample
62 flexibility for schools to provide supplemental instruction to
63 assist students in progressing from grade to grade and
64 graduating.
65 4. The Florida State University School, as a lab school, is
66 authorized to expend from its FEFP or Lottery Enhancement Trust
67 Fund allocation the cost to the student of remediation in
68 reading, writing, or mathematics for any graduate who requires

688124

69 remediation at a postsecondary educational institution.
70 5. Beginning in the 1999-2000 school year, dropout
71 prevention programs as defined in ss. 1003.52, 1003.53(1)(a),
72 (b), and (c), and 1003.54 shall be included in group 1 programs
73 under subparagraph (d)3.
74 (i) Calculation of full-time equivalent membership with
75 respect to dual enrollment instruction.—Students enrolled in
76 dual enrollment instruction pursuant to s. 1007.271 may be
77 included in calculations of full-time equivalent student
78 memberships for basic programs for grades 9 through 12 by a
79 district school board. Instructional time for dual enrollment
80 may vary from 900 hours; however, the full-time equivalent
81 student membership value shall be subject to the provisions in
82 s. 1011.61(4). Dual enrollment full-time equivalent student
83 membership shall be calculated in an amount equal to the hours
84 of instruction that would be necessary to earn the full-time
85 equivalent student membership for an equivalent course if it
86 were taught in the school district. Students in dual enrollment
87 courses may also be calculated as the proportional shares of
88 full-time equivalent enrollments they generate for a Florida
89 College System institution or university conducting the dual
90 enrollment instruction. Early admission students shall be
91 considered dual enrollments for funding purposes. Students may
92 be enrolled in dual enrollment instruction provided by an
93 eligible independent college or university and may be included
94 in calculations of full-time equivalent student memberships for
95 basic programs for grades 9 through 12 by a district school
96 board. However, those provisions of law which exempt dual
97 enrollment students ~~dual enrolled~~ and early admission students

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98 from payment of instructional materials and tuition and fees,
99 including technology, registration, and laboratory fees, do
100 ~~shall~~ not apply to students who select the option of enrolling
101 in an eligible independent institution. An independent college
102 or university that ~~which~~ is located and chartered in Florida, is
103 not for profit, is accredited by the Commission on Colleges of
104 the Southern Association of Colleges and Schools or the
105 Accrediting Council for Independent Colleges and Schools, and
106 confers degrees as defined in s. 1005.02 is ~~shall be~~ eligible
107 for inclusion in the dual enrollment or early admission program.
108 Students enrolled in dual enrollment instruction are ~~shall be~~
109 exempt from the payment of tuition and fees, including
110 technology, registration, and laboratory fees. A ~~No~~ student
111 enrolled in college credit mathematics or English dual
112 enrollment instruction may not ~~shall~~ be funded as a dual
113 enrollment unless the student has successfully completed the
114 relevant section of the entry-level examination required
115 pursuant to s. 1008.30.
116 (o) Calculation of additional full-time equivalent
117 membership based on successful completion of a career-themed
118 course pursuant to ss. 1003.491, 1003.492, and 1003.493, or
119 courses with embedded CAPE industry certifications or CAPE
120 Digital Tool certificates, and issuance of industry
121 certification identified on the CAPE Industry Certification
122 Funding List pursuant to rules adopted by the State Board of
123 Education or CAPE Digital Tool certificates pursuant to s.
124 1003.4203.—
125 1.a. A value of 0.025 full-time equivalent student
126 membership shall be calculated for CAPE Digital Tool

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127 certificates earned by students in elementary and middle school
128 grades.
129 b. A value of 0.1 or 0.2 full-time equivalent student
130 membership shall be calculated for each student who completes a
131 course as defined in s. 1003.493(1)(b) or courses with embedded
132 CAPE industry certifications and who is issued an industry
133 certification identified annually on the CAPE Industry
134 Certification Funding List approved under rules adopted by the
135 State Board of Education. A value of 0.2 full-time equivalent
136 membership shall be calculated for each student who is issued a
137 CAPE industry certification that has a statewide articulation
138 agreement for college credit approved by the State Board of
139 Education. For CAPE industry certifications that do not
140 articulate for college credit, the Department of Education shall
141 assign a full-time equivalent value of 0.1 for each
142 certification. Middle grades students who earn additional FTE
143 membership for a CAPE Digital Tool certificate pursuant to sub-
144 subparagraph a. may not use the previously funded examination to
145 satisfy the requirements for earning an industry certification
146 under this sub-subparagraph. Additional FTE membership for an
147 elementary or middle grades student may ~~shall~~ not exceed 0.1 for
148 certificates or certifications earned within the same fiscal
149 year. The State Board of Education shall include the assigned
150 values on the CAPE Industry Certification Funding List under
151 rules adopted by the state board. Such value shall be added to
152 the total full-time equivalent student membership for grades 6
153 through 12 in the subsequent year ~~for courses that were not~~
154 ~~provided through dual enrollment~~. CAPE industry certifications
155 earned through dual enrollment must be reported and funded

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156 pursuant to s. 1011.80. However, if a student earns a
157 certification through a dual enrollment course and the
158 certification is not a fundable certification on the
159 postsecondary certification funding list, or the dual enrollment
160 certification is earned as a result of an agreement between a
161 school district and a nonpublic postsecondary institution, the
162 bonus value shall be funded in the same manner as for other
163 nondual enrollment course industry certifications. In such
164 cases, the school district may provide for an agreement between
165 the high school and the technical center, or the school district
166 and the postsecondary institution may enter into an agreement
167 for equitable distribution of the bonus funds.
168 c. A value of 0.3 full-time equivalent student membership
169 shall be calculated for student completion of the courses and
170 the embedded certifications identified on the CAPE Industry
171 Certification Funding List and approved by the commissioner
172 pursuant to ss. 1003.4203(5)(a) and 1008.44.
173 d. A value of 0.5 full-time equivalent student membership
174 shall be calculated for CAPE Acceleration Industry
175 Certifications that articulate for 15 to 29 college credit
176 hours, and 1.0 full-time equivalent student membership shall be
177 calculated for CAPE Acceleration Industry Certifications that
178 articulate for 30 or more college credit hours pursuant to CAPE
179 Acceleration Industry Certifications approved by the
180 commissioner pursuant to ss. 1003.4203(5)(b) and 1008.44.
181 2. Each district must allocate at least 80 percent of the
182 funds provided for CAPE industry certification, in accordance
183 with this paragraph, to the program that generated the funds.
184 This allocation may not be used to supplant funds provided for

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185 basic operation of the program.
186 3. For CAPE industry certifications earned in the 2013-2014
187 school year and in subsequent years, the school district shall
188 distribute to each classroom teacher who provided direct
189 instruction toward the attainment of a CAPE industry
190 certification that qualified for additional full-time equivalent
191 membership under subparagraph 1.:
192 a. A bonus ~~in the amount~~ of $25 for each student taught by
193 a teacher who provided instruction in a course that led to the
194 attainment of a CAPE industry certification on the CAPE Industry
195 Certification Funding List with a weight of 0.1.
196 b. A bonus ~~in the amount~~ of $50 for each student taught by
197 a teacher who provided instruction in a course that led to the
198 attainment of a CAPE industry certification on the CAPE Industry
199 Certification Funding List with a weight of 0.2~~, 0.3, 0.5, and~~
200 ~~1.0~~.
201 c. A bonus of $75 for each student taught by a teacher who
202 provided instruction in a course that led to the attainment of a
203 CAPE industry certification on the CAPE Industry Certification
204 Funding List with a weight of 0.3.
205 d. A bonus of $100 for each student taught by a teacher who
206 provided instruction in a course that led to the attainment of a
207 CAPE industry certification on the CAPE Industry Certification
208 Funding List with a weight of 0.5 or 1.0.
209
210 Bonuses awarded pursuant to this paragraph shall be provided to
211 teachers who are employed by the district in the year in which
212 the additional FTE membership calculation is included in the
213 calculation. Bonuses shall be calculated based upon the

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214 associated weight of a CAPE industry certification on the CAPE
215 Industry Certification Funding List for the year in which the
216 certification is earned by the student. In a single school year,
217 a ~~Any~~ bonus awarded to a teacher under sub-subparagraph 3.a. or
218 sub-subparagraph 3.b. ~~this paragraph~~ may not exceed $2,000 or
219 under sub-subparagraph 3.c. or sub-subparagraph 3.d. may not
220 exceed $4,000. The maximum bonus that may be awarded to a
221 teacher under this paragraph is $4,000 in a single school year.
222 This bonus ~~in any given school year and~~ is in addition to any
223 regular wage or other bonus the teacher received or is scheduled
224 to receive.
225 (4) COMPUTATION OF DISTRICT REQUIRED LOCAL EFFORT.—The
226 Legislature shall prescribe the aggregate required local effort
227 for all school districts collectively as an item in the General
228 Appropriations Act for each fiscal year. The amount that each
229 district shall provide annually toward the cost of the Florida
230 Education Finance Program for kindergarten through grade 12
231 programs shall be calculated as follows:
232 (a) Estimated taxable value calculations.—
233 1.a. Not later than 2 working days prior to July 19, the
234 Department of Revenue shall certify to the Commissioner of
235 Education its most recent estimate of the taxable value for
236 school purposes in each school district and the total for all
237 school districts in the state for the current calendar year
238 based on the latest available data obtained from the local
239 property appraisers. The value certified shall be the taxable
240 value for school purposes for that year, and no further
241 adjustments shall be made, except those made pursuant to
242 paragraphs (c) and (d), or an assessment roll change required by

688124

243 final judicial decisions as specified in paragraph (15)(b)
244 ~~(14)(b)~~. Not later than July 19, the Commissioner of Education
245 shall compute a millage rate, rounded to the next highest one
246 one-thousandth of a mill, which, when applied to 96 percent of
247 the estimated state total taxable value for school purposes,
248 would generate the prescribed aggregate required local effort
249 for that year for all districts. The Commissioner of Education
250 shall certify to each district school board the millage rate,
251 computed as prescribed in this subparagraph, as the minimum
252 millage rate necessary to provide the district required local
253 effort for that year.
254 b. The General Appropriations Act shall direct the
255 computation of the statewide adjusted aggregate amount for
256 required local effort for all school districts collectively from
257 ad valorem taxes to ensure that no school district's revenue
258 from required local effort millage will produce more than 90
259 percent of the district's total Florida Education Finance
260 Program calculation as calculated and adopted by the
261 Legislature, and the adjustment of the required local effort
262 millage rate of each district that produces more than 90 percent
263 of its total Florida Education Finance Program entitlement to a
264 level that will produce only 90 percent of its total Florida
265 Education Finance Program entitlement in the July calculation.
266 2. On the same date as the certification in sub-
267 subparagraph 1.a., the Department of Revenue shall certify to
268 the Commissioner of Education for each district:
269 a. Each year for which the property appraiser has certified
270 the taxable value pursuant to s. 193.122(2) or (3), if
271 applicable, since the prior certification under sub-subparagraph

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272 1.a.
273 b. For each year identified in sub-subparagraph a., the
274 taxable value certified by the appraiser pursuant to s.
275 193.122(2) or (3), if applicable, since the prior certification
276 under sub-subparagraph 1.a. This is the certification that
277 reflects all final administrative actions of the value
278 adjustment board.
279 (5) DISCRETIONARY MILLAGE COMPRESSION SUPPLEMENT.—The
280 Legislature shall prescribe in the General Appropriations Act,
281 pursuant to s. 1011.71(1), the rate of nonvoted current
282 operating discretionary millage that shall be used to calculate
283 a discretionary millage compression supplement. If the
284 prescribed millage generates an amount of funds per unweighted
285 FTE for the district that is less than 105 percent of the state
286 average, the district shall receive an amount per FTE that, when
287 added to the funds per FTE generated by the designated levy,
288 shall equal 105 percent of the state average.
289 (7) DETERMINATION OF SPARSITY SUPPLEMENT.—
290 (b) The district sparsity index shall be computed by
291 dividing the total number of full-time equivalent students in
292 all programs in the district by the number of senior high school
293 centers in the district, not in excess of three, which centers
294 are approved as permanent centers by a survey made by the
295 Department of Education. For districts with a full-time
296 equivalent student membership of at least 20,000, but no more
297 than 24,000, the index shall be computed by dividing the total
298 number of full-time equivalent students in all programs by the
299 number of permanent senior high school centers in the district,
300 not to exceed four.

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301 (9) RESEARCH-BASED READING INSTRUCTION ALLOCATION.—
302 (a) The research-based reading instruction allocation is
303 created to provide comprehensive reading instruction to students
304 in kindergarten through grade 12. For the 2015-2016, 2016-2017,
305 and 2017-2018 ~~2014-2015~~ fiscal years ~~year~~, in each school
306 district that has one or more of the 300 lowest-performing
307 elementary schools based on the state reading assessment,
308 priority shall be given to providing an additional hour per day
309 of intensive reading instruction beyond the normal school day
310 for each day of the entire school year for the students in each
311 of the 300 lowest-performing schools. Students enrolled in these
312 schools who have Level 5 assessment scores may participate in
313 the additional hour of instruction on an optional basis. In
314 addition, the 300 lowest-performing schools must provide at
315 least 80 hours of instruction in a summer program with a focus
316 on reading for students who have Level 1 or Level 2 reading
317 assessment scores in these schools. For the 2015-2016 fiscal
318 year, the 300 lowest-performing schools shall be the same
319 schools as identified for the 2014-2015 fiscal year. Even if a
320 participating school is no longer classified as one of the 300
321 lowest-performing elementary schools in the subsequent year, the
322 school must continue to provide the additional hour of intensive
323 reading instruction and must provide at least 80 hours of
324 instruction in a summer program with a focus on reading to all
325 students who have Level 1 or Level 2 reading assessment scores
326 ~~school~~. ~~Students enrolled in these schools who have level 5~~
327 ~~assessment scores may participate in the additional hour of~~
328 ~~instruction on an optional basis.~~ Exceptional student education
329 centers may ~~shall~~ not be included in the 300 schools. The

688124

330
331 ========== T I T L E A M E N D M E N T ==========
332 And the title is amended as follows:
333 Delete line 3574
334 and insert:
335 the subsequent year for certain students; requiring
336 the Department of Education to provide a list of
337 specified elementary schools by a specified date;
338 encouraging schools districts to provide a summer
339 program with a focus on reading for specified
340 students; revising the

669280

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/22/2015	.	
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The Committee on Appropriations (Montford) recommended the following:

Senate Amendment to Amendment (149946) (with title amendment)

Delete lines 2958 - 2959
and insert:
funds or funds for which there are undocumented expenditures to the district school board by ~~at~~ the end of the regular school year. Any unused funds or funds for which there are undocumented expenditures which ~~that~~ are returned to the district

669280

11 ========== T I T L E A M E N D M E N T ==========
12 And the title is amended as follows:
13 Between lines 3632 and 3633
14 insert:
15 requiring a classroom teacher to return funds for
16 which there are undocumented expenditure to the
17 district school board; requiring such funds to be
18 deposited into the school advisory council account;

747098

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/22/2015	.	
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The Committee on Appropriations (Gaetz) recommended the following:

Senate Amendment to Amendment (149946) (with title amendment)

Delete lines 2908 - 3156
and insert:
Section 48. Subsection (3) of section 1012.39, Florida Statutes, is amended to read:
1012.39 Employment of substitute teachers, teachers of adult education, nondegreed teachers of career education, and career specialists; students performing clinical field

747098

11 experience.—
12 (3) A student who is enrolled in a state-approved teacher
13 preparation program in a postsecondary educational institution
14 that is approved by rules of the State Board of Education and
15 who is jointly assigned by the postsecondary educational
16 institution and a district school board to perform a clinical
17 field experience under the direction of a regularly employed and
18 certified educator shall, while serving such supervised clinical
19 field experience, be accorded the same protection of law as that
20 accorded to the certified educator except for the right to
21 bargain collectively as an employee of the district school
22 board. The district school board providing the clinical field
23 experience shall notify the student electronically or in writing
24 of the availability of educator liability insurance under s.
25 1012.75. A postsecondary educational institution or district
26 school board may not require a student enrolled in a state-
27 approved teacher preparation program to purchase liability
28 insurance as a condition of participation in any clinical field
29 experience or related activity on the premises of an elementary
30 or secondary school.
31 Section 49. Subsections (4), (5), and (6) of section
32 1012.71, Florida Statutes, are amended to read:
33 1012.71 The Florida Teachers Classroom Supply Assistance
34 Program.—
35 (4) Each classroom teacher must provide the school district
36 with receipts for the expenditure of the funds. If the classroom
37 teacher is provided funds in advance of expenditure, the ~~Each~~
38 classroom teacher must sign a statement acknowledging receipt of
39 the funds, provide ~~keep~~ receipts as requested by the school

747098

40 district ~~for no less than 4 years~~ to show that funds expended
41 meet the requirements of this section, and return any unused
42 funds to the district school board by ~~at~~ the end of the regular
43 school year. Any unused funds that are returned to the district
44 school board shall be deposited into the school advisory council
45 account of the school at which the classroom teacher returning
46 the funds was employed when that teacher received the funds or
47 deposited into the Florida Teachers Classroom Supply Assistance
48 Program account of the school district in which a charter school
49 is sponsored, as applicable.
50 ~~(5) The statement must be signed and dated by each~~
51 ~~classroom teacher before receipt of the Florida Teachers~~
52 ~~Classroom Supply Assistance Program funds and shall include the~~
53 ~~wording: "I, ...(name of teacher)..., am employed by the~~
54 ~~....County District School Board or by the ....Charter School as~~
55 ~~a full-time classroom teacher. I acknowledge that Florida~~
56 ~~Teachers Classroom Supply Assistance Program funds are~~
57 ~~appropriated by the Legislature for the sole purpose of~~
58 ~~purchasing classroom materials and supplies to be used in the~~
59 ~~instruction of students assigned to me. In accepting custody of~~
60 ~~these funds, I agree to keep the receipts for all expenditures~~
61 ~~for no less than 4 years. I understand that if I do not keep the~~
62 ~~receipts, it will be my personal responsibility to pay any~~
63 ~~federal taxes due on these funds. I also agree to return any~~
64 ~~unexpended funds to the district school board at the end of the~~
65 ~~regular school year for deposit into the school advisory council~~
66 ~~account of the school where I was employed at the time I~~
67 ~~received the funds or for deposit into the Florida Teachers~~
68 ~~Classroom Supply Assistance Program account of the school~~

747098

69 ~~district in which the charter school is sponsored, as~~
70 ~~applicable.”~~
71 (5) ~~(6)~~ The Department of Education and district school
72 boards may, and are encouraged to, enter into public-private
73 partnerships in order to increase the total amount of Florida
74 Teachers Classroom Supply Assistance Programs funds available to
75 classroom teachers.
76 Section 50. Section 1012.731, Florida Statutes, is created
77 to read:
78 1012.731 The Florida Best and Brightest Teacher Scholarship
79 Program.—
80 (1) The Legislature recognizes that, second only to
81 parents, teachers play the most critical role within schools in
82 preparing students to achieve a high level of academic
83 performance. The Legislature further recognizes that research
84 has linked student outcomes to a teacher’s own academic
85 achievement. Therefore, it is the intent of the Legislature to
86 designate teachers who have achieved high academic standards
87 during their own education as Florida’s best and brightest
88 teacher scholars.
89 (2) There is created the Florida Best and Brightest Teacher
90 Scholarship Program to be administered by the Department of
91 Education. Beginning in the 2015-2016 school year, the
92 scholarship program shall provide categorical funding for
93 scholarships to be awarded to teachers who have demonstrated a
94 high level of academic achievement.
95 (3)(a) To be eligible for a scholarship, a teacher:
96 1. Must have scored at or above the 80th percentile on
97 either the SAT or the ACT based upon the percentile ranks in

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98 effect when the teacher took the assessment and have been
99 evaluated as highly effective pursuant to s. 1012.34; or
100 2. If the teacher is a first-year teacher who has not been
101 evaluated pursuant to s. 1012.34, must have scored at or above
102 the 80th percentile on either the SAT or the ACT based upon the
103 percentile ranks in effect when the teacher took the assessment.
104 (b) In order to demonstrate eligibility for an award, an
105 eligible teacher must submit to the school district, no later
106 than October 1, an official record of his or her SAT or ACT
107 score demonstrating that the teacher scored at or above the 80th
108 percentile based upon the percentile ranks in effect when the
109 teacher took the assessment. Once a teacher is deemed eligible
110 by the school district, the teacher shall remain eligible as
111 long as he or she is employed by the school district and
112 maintains or, if the teacher is a first-year teacher, earns the
113 evaluation designation of highly effective pursuant to s.
114 1012.34.
115 (4) Annually, by December 1, each school district shall
116 submit to the department the number of eligible teachers who
117 qualify for the scholarship.
118 (5) Annually, by February 1, the department shall disburse
119 scholarship funds, in an amount prescribed annually by the
120 Legislature in the General Appropriations Act, to each school
121 district for each eligible teacher to receive a scholarship. If
122 the number of eligible teachers exceeds the total appropriation
123 authorized in the General Appropriation Act, the department
124 shall prorate the per teacher scholarship amount.
125 (6) Annually, by April 1, each school district shall
126 provide payment of the scholarship to each eligible teacher.

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127 (7) For purposes of this section, the term "school
128 district" includes the Florida School for the Deaf and the Blind
129 and charter school governing boards.
130 Section 51. Section 1012.75, Florida Statutes, is amended
131 to read:
132 1012.75 Liability of teacher or principal~~; excessive~~
133 ~~force~~.—
134 (1) Except in the case of excessive force or cruel and
135 unusual punishment, a teacher or other member of the
136 instructional staff, a principal or the principal's designated
137 representative, or a bus driver shall not be civilly or
138 criminally liable for any action carried out in conformity with
139 State Board of Education and district school board rules
140 regarding the control, discipline, suspension, and expulsion of
141 students, including, but not limited to, any exercise of
142 authority under s. 1003.32 or s. 1006.09.
143 (2) The State Board of Education shall adopt rules that
144 outline administrative standards for the use of reasonable force
145 by school personnel to maintain a safe and orderly learning
146 environment. Such standards shall be distributed to each school
147 in the state and shall provide guidance to school personnel in
148 receiving the limitations on liability specified in this
149 section.
150 (3) Beginning with the 2015-2016 school year, the
151 Department of Education shall administer an educator liability
152 insurance program, as provided in the General Appropriation Act,
153 to protect full-time instructional personnel from liability for
154 monetary damages and the costs of defending actions resulting
155 from claims made against the instructional personnel arising out

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156 of occurrences in the course of activities within the
157 instructional personnel's professional capacity. For purposes of
158 this subsection, the terms "full-time," "part-time," and
159 "administrative personnel" shall be defined by the individual
160 district school board. For purposes of this subsection, the term
161 "instructional personnel" has the same meaning as provided in s.
162 1012.01(2).
163 (a) Liability coverage of at least $2 million shall be
164 provided to all full-time instructional personnel. Liability
165 coverage may be provided to the following individuals who choose
166 to participate in the program, at cost: part-time instructional
167 personnel, administrative personnel, and students enrolled in a
168 state-approved teacher preparation program pursuant to s.
169 1012.39(3).
170 (b) Annually, by August 1, each district school board shall
171 notify personnel specified in paragraph (a) of the liability
172 coverage provided pursuant to this subsection. The department
173 shall develop the form of the notice which each district school
174 board must use. The notice must be on an 8 1/2-inch by 5 1/2-
175 inch postcard and include the amount of coverage, a general
176 description of the nature of the coverage, and the contact
177 information for coverage and claims questions. The notification
178 must be provided separately from any other correspondence. Each
179 district school board shall certify to the department, by August
180 5 of each year, that the notification required by this paragraph
181 has been provided.
182 (c) The department shall consult with the Department of
183 Financial Services to select the most economically prudent and
184 cost-effective means of implementing the program through self-

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185 insurance, a risk management program, or competitive
186 procurement. s. 1001.92
187 Section 52. Section 1001.92, Florida Statutes, is created
188 to read:
189 1001.92 State University System Performance-Based
190 Incentive.—
191 (1) The State University System Performance-Based Incentive
192 must be based on indicators of institutional attainment of
193 performance metrics adopted by the Board of Governors. The
194 performance-based funding metrics must include metrics that
195 measure graduation and retention rates; degree production;
196 affordability; postgraduation employment, salaries, or further
197 education; student loan default rates; access; and any other
198 metrics approved by the board.
199 (2) The Board of Governors shall evaluate the institutions'
200 performance on the metrics based on benchmarks adopted by the
201 board which measure the achievement of institutional excellence
202 or improvement. The amount of funds available for allocation to
203 the institutions each fiscal year based on the performance
204 funding model is composed of the state investment in performance
205 funding, plus an institutional investment consisting of funds to
206 be redistributed from the base funding of the State University
207 System, as determined in the General Appropriations Act. The
208 state investment shall be distributed in accordance with the
209 performance funding model. The institutional investment shall be
210 restored for all institutions that meet the board's minimum
211 performance threshold under the performance funding model. An
212 institution that is one of the bottom three institutions is not
213 eligible for the state investment. An institution that fails to

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214 meet the board's minimum performance funding threshold is not
215 eligible for the state investment, shall have a portion of its
216 institutional investment withheld, and shall submit an
217 improvement plan to the board which specifies the activities and
218 strategies for improving the institution's performance. The
219 board shall review the improvement plan, and if approved,
220 monitor the institution's progress in implementing the
221 activities and strategies specified in the improvement plan. The
222 Chancellor of the State University System shall withhold
223 disbursement of the institutional investment until such time as
224 the monitoring report for the institution is approved by the
225 board. Any institution that fails to make satisfactory progress
226 may not have its full institutional investment restored. If all
227 funds are not restored, any remaining funds shall be
228 redistributed to the top three scorers in accordance with the
229 board's performance funding model. The ability of an institution
230 to submit an improvement plan to the board is limited to 1
231 fiscal year. If an institution subject to an improvement plan
232 fails to meet the board's minimum performance funding threshold
233 during any future fiscal year, the institution's institutional
234 investment will be withheld by the board and redistributed to
235 the top three scorers in accordance with the board's performance
236 funding model.
237 (3) By October 1 of each year, the Board of Governors shall
238 submit to the Governor, the President of the Senate, and the
239 Speaker of the House of Representatives a report on the previous
240 year's performance funding allocation which reflects the
241 rankings and award distributions.
242 (4) The Board of Governors shall adopt a regulation to

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243 implement this section.
244 Section 53. Section 1001.815, Florida Statutes, is created
245 to read:
246 1001.815 Florida College System Performance Based
247 Incentive.—
248 (1) The Florida College System Performance-
249
250 ========== T I T L E A M E N D M E N T ==========
251 And the title is amended as follows:
252 Delete lines 3624 - 3644
253 and insert:
254 amending s. 1012.34, F.S.; requiring that classroom
255 teacher performance evaluations be based upon the
256 performance of students with fewer than a specified
257 number of absences; amending s. 1012.39, F.S.;
258 providing requirements regarding liability insurance
259 for students performing clinical field experience;
260 amending s. 1012.71, F.S.; requiring a classroom
261 teacher to provide the school district with receipts
262 for the expenditure of certain funds; creating s.
263 1012.731, F.S.; providing legislative intent;
264 establishing the Florida Best and Brightest Teacher
265 Scholarship Program; providing eligibility criteria;
266 requiring a school district to annually submit the
267 number of eligible teachers to the department;
268 providing for funding and the disbursement of funds;
269 defining the term “school district” for purposes of
270 the act; amending s. 1012.75, F.S.; requiring the
271 department to administer an educator liability

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272 insurance program; defining terms; specifying program
273 administration and eligibility requirements; creating
274 ss. 1001.92 and 1001.815, F.S.; requiring the Board of
275 Governors and the

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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/22/2015	.	
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	.	

The Committee on Appropriations (Montford) recommended the following:

Senate Amendment to Amendment (149946) (with title amendment)

Between lines 132 and 133
insert:
Section 4. Paragraph (a) of subsection (4) of section 402.56, Florida Statutes, is amended to read:
402.56 Children's cabinet; organization; responsibilities; annual report.—
(4) MEMBERS.—The cabinet shall consist of 16 ~~14~~ members

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11 including the Governor and the following persons:
12 (a)1. The Secretary of Children and Families;
13 2. The Secretary of Juvenile Justice;
14 3. The director of the Agency for Persons with
15 Disabilities;
16 4. The director of the Office of Early Learning;
17 5. The State Surgeon General;
18 6. The Secretary of Health Care Administration;
19 7. The Commissioner of Education;
20 8. The director of the Statewide Guardian Ad Litem Office;
21 9. The director of the Office of Adoption and Child
22 Protection ~~Child Abuse Prevention~~; ~~and~~
23 10. A superintendent of schools, appointed by the Governor;
24 and
25 11.~~10.~~ Five members who represent ~~representing~~ children and
26 youth advocacy organizations and~~,~~ who are not service providers,
27 ~~and who are~~ appointed by the Governor.
28
29 ========== T I T L E A M E N D M E N T ==========
30 And the title is amended as follows:
31 Delete line 3326
32 and insert:
33 standards; amending s. 402.56, F.S.; revising the
34 membership of the Children and Youth Cabinet; amending
35 s. 446.021, F.S.; revising terms;

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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/22/2015	.	
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The Committee on Appropriations (Negron) recommended the following:

Senate Amendment to Amendment (149946) (with title amendment)

Between lines 3284 and 3285
insert:
Section 59. Section 1006.20, Florida Statutes, is amended to read:
1006.20 Athletics in public K-12 schools.—
(1) GOVERNING NONPROFIT ASSOCIATION ~~ORGANIZATION~~.—The Florida High School Athletic Association (FHSAA) is designated

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11 ~~as~~ the governing nonprofit association for purposes of
12 membership in the National Federation of State High School
13 Associations ~~organization of athletics in Florida public~~
14 ~~schools~~. Following completion of each operational audit
15 conducted pursuant to s. 1006.19, the Commissioner of Education
16 shall review the FHSAA's performance in governing
17 interscholastic athletics in compliance with this part,
18 including the guiding principles for student eligibility for
19 extracurricular activities. If, at any time, the FHSAA fails to
20 meet the provisions of this part ~~section~~, the commissioner, with
21 the approval of the State Board of Education, shall designate
22 another ~~a~~ nonprofit association ~~organization~~ to govern
23 interscholastic athletics in this state and serve as Florida's
24 voting member association of the National Federation of State
25 High School Associations ~~athletics with the approval of the~~
26 ~~State Board of Education~~. The FHSAA is not a state agency as
27 defined in s. 120.52 but is~~. The FHSAA shall be~~ subject to ss.
28 1006.15-1006.19. Any special event fees, sanctioning fees,
29 including third-party sanctioning fees, or contest receipts
30 collected annually by the FHSAA may not exceed its actual costs
31 to perform the function or duty that is the subject of or
32 justification for the fee ~~the provisions of s. 1006.19~~. The
33 FHSAA shall offer a spectator seeking admission to athletic
34 competitions the option of purchasing a single-day pass or a
35 multiple-day pass that is at a cost below that which the
36 spectator would pay on a per-event basis for the same number of
37 contests ~~A private school that wishes to engage in high school~~
38 ~~athletic competition with a public high school may become a~~
39 ~~member of the FHSAA~~. Any high school in the state, including

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40 private schools, traditional public schools, charter schools,
41 virtual schools, and home education cooperatives, may become a
42 member of the FHSAA and participate in the activities of the
43 FHSAA. ~~However,~~ Membership in the FHSAA is not mandatory for any
44 school. FHSAA shall allow a school the option of joining the
45 association as a full-time member or on a per-sport basis and
46 may not prohibit or discourage any school from simultaneously
47 maintaining membership in FHSAA and another athletic
48 association. The FHSAA may not deny or discourage
49 interscholastic competition between its member schools and
50 nonmember ~~non-FHSAA member Florida~~ schools, including members of
51 another athletic association ~~governing~~ ~~organization~~, and may not
52 take any retributory or discriminatory action against any of its
53 member schools that participate in interscholastic competition
54 with nonmember ~~non-FHSAA member Florida~~ schools. The FHSAA may
55 not unreasonably withhold its approval of an application to
56 become an affiliate member of the National Federation of State
57 High School Associations submitted by any other association
58 ~~organization~~ that governs interscholastic athletic competition
59 in this state which meets the requirements of this section. The
60 commissioner may identify other associations that govern
61 interscholastic athletic competition in compliance with this
62 section ~~The bylaws of the FHSAA are the rules by which high~~
63 ~~school athletic programs in its member schools, and the students~~
64 ~~who participate in them, are governed, unless otherwise~~
65 ~~specifically provided by statute~~. For the purposes of this
66 section, "high school" includes grades 6 through 12.
67 (2) STUDENT ELIGIBILITY REQUIREMENTS; RECRUITING ~~ADOPTION~~
68 ~~OF BYLAWS,~~ POLICIES; ELIGIBILITY DISPUTE RESOLUTION~~, OR~~

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69 ~~GUIDELINES~~.~~—~~The FHSAA shall:
70 (a) ~~The FHSAA shall adopt bylaws that, unless specifically~~
71 ~~provided by statute,~~ Establish eligibility requirements for all
72 students who participate in high school athletic competition in
73 its member schools. A ~~The bylaws governing residence and~~
74 ~~transfer shall allow the~~ student is ~~to be~~ eligible in the school
75 in which he or she first enrolls each school year or the school
76 in which the student makes himself or herself a candidate for an
77 athletic team by engaging in a practice before ~~prior to~~
78 enrolling in the school. A student who transfers ~~The bylaws~~
79 ~~shall also allow the student to be eligible in the school to~~
80 ~~which the student has transferred~~ during the school year is
81 eligible in the school to which he or she transfers ~~if the~~
82 ~~transfer is made by a deadline established by the FHSAA, which~~
83 ~~may not be prior to the date authorized for the beginning of~~
84 ~~practice for the sport~~. ~~These transfers shall be allowed~~
85 ~~pursuant to the district school board policies in the case of~~
86 ~~transfer to a public school or pursuant to the private school~~
87 ~~policies in the case of transfer to a private school. The~~
88 ~~student shall be eligible in that school so long as he or she~~
89 ~~remains enrolled in that school. Subsequent eligibility shall be~~
90 ~~determined and enforced through the FHSAA's bylaws. Requirements~~
91 ~~governing eligibility and transfer between member schools shall~~
92 ~~be applied similarly to public school students and private~~
93 ~~school students.~~
94 (b) ~~The FHSAA shall adopt bylaws that specifically~~ Prohibit
95 the recruiting of students for athletic purposes and~~. The bylaws~~
96 ~~shall~~ prescribe penalties and an appeals process, which shall be
97 paid for by the FHSAA, for athletic recruiting violations. If it

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98 is determined that a school has recruited a student ~~in violation~~
99 ~~of FHSAA bylaws~~, the FHSAA may require the school to participate
100 in a higher classification for the sport in which the recruited
101 student competes for a minimum of one classification cycle, in
102 addition to any other appropriate fine and sanction imposed on
103 the school, its coaches, or adult representatives who commit
104 ~~violate~~ recruiting violations ~~rules~~. An initial recruiting
105 violation by an adult representative is punishable by a fine of
106 $5,000. A second recruiting violation by the adult
107 representative is punishable by a 1-year restriction of the
108 adult representative from teaching or coaching at the school. A
109 third recruiting violation by the adult representative is
110 punishable by a 5-year suspension of the representative's
111 teaching license. A student may ~~not~~ be declared ineligible based
112 on a recruiting violation only if ~~of recruiting rules unless~~ the
113 student or parent has committed an act specified in s.
114 1006.15(4)(b)1.b. or the FHSAA has imposed sanctions against the
115 individuals or member school engaging in recruiting and the
116 student or the parent has committed an act specified in s.
117 1006.15(4)(b)1.c. The FHSAA may not limit the competition of a
118 student athlete prospectively for a rule violation by his or her
119 school, the school's coach, or the student athlete's adult
120 representative. The FHSAA may not punish a student athlete for
121 an eligibility or recruiting violation perpetrated by a
122 teammate, coach, or administrator. A contest may not be
123 forfeited for an inadvertent eligibility violation unless the
124 coach or a school administrator should have known of the
125 violation. Contests may not be forfeited for other eligibility
126 violations or recruiting violations in excess of the number of

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127 contests from which the coaches and adult representatives
128 responsible for the violations are prospectively suspended. The
129 mass distribution of untargeted mailings, electronic mailings,
130 or printed guides or booklets by or on behalf of a member school
131 which include detailed information regarding the member school's
132 interscholastic athletic programs may not be considered
133 violations of the FHSAA's policies ~~falsified any enrollment or~~
134 ~~eligibility document or accepted any benefit or any promise of~~
135 ~~benefit if such benefit is not generally available to the~~
136 ~~school's students or family members or is based in any way on~~
137 ~~athletic interest, potential, or performance~~.
138 (c) ~~The FHSAA shall adopt bylaws that~~ Require all students
139 participating in interscholastic athletic competition or who are
140 candidates for an interscholastic athletic team to
141 satisfactorily pass a medical evaluation each year before ~~prior~~
142 ~~to~~ participating in interscholastic athletic competition or
143 engaging in any practice, tryout, workout, or other physical
144 activity associated with the student's candidacy for an
145 interscholastic athletic team. Such medical evaluation may be
146 administered only by a practitioner licensed under chapter 458,
147 chapter 459, chapter 460, or s. 464.012, and in good standing
148 with the practitioner's regulatory board. The FHSAA ~~bylaws~~ shall
149 establish requirements for eliciting a student's medical history
150 and performing the medical evaluation required under this
151 paragraph, which shall include a physical assessment of the
152 student's physical capabilities to participate in
153 interscholastic athletic competition as contained in a uniform
154 preparticipation physical evaluation and history form. The
155 evaluation form shall incorporate the recommendations of the

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156 American Heart Association for participation in cardiovascular
157 screening and shall provide a place for the signature of the
158 practitioner performing the evaluation with an attestation that
159 each examination procedure listed on the form was performed by
160 the practitioner or by someone under the direct supervision of
161 the practitioner. The form shall also contain a place for the
162 practitioner to indicate if a referral to another practitioner
163 was made in lieu of completion of a certain examination
164 procedure. The form shall provide a place for the practitioner
165 to whom the student was referred to complete the remaining
166 sections and attest to that portion of the examination. The
167 preparticipation physical evaluation form shall advise students
168 to complete a cardiovascular assessment and shall include
169 information concerning alternative cardiovascular evaluation and
170 diagnostic tests. Results of such medical evaluation must be
171 provided to the school. A ~~No~~ student is not ~~shall be~~ eligible to
172 participate in any interscholastic athletic competition or
173 engage in any practice, tryout, workout, or other physical
174 activity associated with the student's candidacy for an
175 interscholastic athletic team until the results of the medical
176 evaluation are ~~have been~~ received and approved by the school.
177 (d) Notwithstanding ~~the provisions of~~ paragraph (c), allow
178 a student to ~~may~~ participate in interscholastic athletic
179 competition or be a candidate for an interscholastic athletic
180 team if the parent of the student objects in writing to the
181 student undergoing a medical evaluation because such evaluation
182 is contrary to his or her religious tenets or practices.
183 However, in such case, there shall be no liability on the part
184 of any person or entity in a position to otherwise rely on the

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185 results of such medical evaluation for any damages resulting
186 from the student's injury or death arising directly from the
187 student's participation in interscholastic athletics where an
188 undisclosed medical condition that would have been revealed in
189 the medical evaluation is a proximate cause of the injury or
190 death.
191 (e) ~~The FHSAA shall adopt bylaws that~~ Regulate persons who
192 conduct investigations on behalf of the FHSAA. ~~The bylaws shall~~
193 ~~include provisions that require~~ An investigator must ~~to~~:
194 1. Undergo level 2 background screening under s. 435.04,
195 establishing that the investigator has not committed any
196 disqualifying offense listed in s. 435.04, unless the
197 investigator can provide proof of compliance with level 2
198 screening standards submitted within the previous 5 years to
199 meet any professional licensure requirements, provided:
200 a. The investigator has not had a break in service from a
201 position that requires level 2 screening for more than 90 days;
202 and
203 b. The investigator submits, under penalty of perjury, an
204 affidavit verifying that the investigator has not committed any
205 disqualifying offense listed in s. 435.04 and is in full
206 compliance with this paragraph.
207 2. Be appointed as an investigator by the FHSAA ~~executive~~
208 ~~director~~.
209 3. Carry a photo identification card that shows the FHSAA
210 name and~~,~~ logo~~,~~ and the investigator's official title.
211 4. Adhere to the following guidelines:
212 a. Investigate only those alleged violations assigned by
213 the FHSAA ~~executive director or the board of directors~~.

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214 b. Conduct interviews on Monday through Friday between the
215 hours of 9 a.m. and 7 p.m. only, unless previously agreed to by
216 the interviewee.
217 c. Allow the parent of any student being interviewed to be
218 present during the interview.
219 d. Search residences or other private areas only with the
220 permission of the FHSAA ~~executive director~~ and the written
221 consent of the student's parent and only with a parent or a
222 representative of the parent present.
223 (f) ~~The FHSAA shall adopt bylaws that~~ Establish sanctions
224 for coaches who have committed major violations ~~of the FHSAA's~~
225 ~~bylaws and policies~~.
226 1. Major violations include, but are not limited to,
227 knowingly allowing an ineligible student to participate in a
228 contest representing a member school in an interscholastic
229 contest or committing a violation of the FHSAA's recruiting or
230 sports ethics ~~sportsmanship~~ policies.
231 2. Sanctions placed upon an individual coach may include,
232 but are not limited to, prohibiting or suspending the coach from
233 coaching, participating in, or attending any athletic activity
234 sponsored, recognized, or sanctioned by the FHSAA and the member
235 school for which the coach committed the violation. If a coach
236 is sanctioned by the FHSAA and the coach transfers to another
237 member school, those sanctions remain in full force and effect
238 during the term of the sanction.
239 3. If a member school is assessed a financial penalty as a
240 result of a coach committing a major violation, the coach shall
241 reimburse the member school before being allowed to coach,
242 participate in, or attend any athletic activity sponsored,

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243 recognized, or sanctioned by the FHSAA and a member school.
244 4. The FHSAA shall establish a due process procedure for
245 coaches sanctioned under this paragraph~~, consistent with the~~
246 ~~appeals procedures set forth in subsection (7)~~.
247 (g) Provide a process for the resolution of student
248 eligibility disputes. The FHSAA shall provide an opportunity to
249 resolve eligibility issues through an informal conference
250 procedure. The FHSAA must provide written notice to the student
251 athlete, parent, and member school stating specific findings of
252 fact which support a determination of ineligibility. The student
253 athlete must request an informal conference if he or she intends
254 to contest the charges. The informal conference must be held
255 within 10 days after receipt of the student athlete's request.
256 If the eligibility dispute is not resolved at the informal
257 conference, the FHSAA shall provide a process for the timely and
258 cost-effective resolution of an eligibility dispute using a
259 neutral third party, including the use of retired or former
260 judges, mediation, or arbitration. The neutral third party shall
261 be selected by the parent of the student athlete from a list
262 maintained by the FHSAA. A final determination regarding the
263 eligibility dispute must be issued no later than 30 days after
264 the informal conference. The ~~FHSAA shall adopt bylaws~~
265 ~~establishing the~~ process for resolving eligibility disputes must
266 ~~and standards by which FHSAA determinations of eligibility are~~
267 ~~made. Such bylaws shall~~ provide that:
268 1. Ineligibility must be established by clear and
269 convincing evidence.~~;~~
270 2. Student athletes, parents, and schools must have notice
271 of the initiation of any investigation or other inquiry into

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272 eligibility and may present, to the investigator and to the
273 individual or body making the eligibility determination, any
274 information or evidence that is credible, persuasive, and of a
275 kind reasonably prudent persons rely upon in the conduct of
276 serious affairs.~~;~~
277 3. An investigator may not determine matters of eligibility
278 but must submit information and evidence to the individual or
279 body designated by the FHSAA ~~executive director or a person~~
280 ~~designated by the executive director or by the board of~~
281 ~~directors~~ for an unbiased and objective determination of
282 eligibility.~~; and~~
283 4. A determination of ineligibility must be made in
284 writing, setting forth the findings of fact and specific
285 violation upon which the decision is based.
286 5. Any proceedings concerning student athlete eligibility
287 must be held in the county in which the student athlete resides
288 and may be conducted by telephone, videoconference, or other
289 electronic means.
290 6. A student athlete may not be declared ineligible to
291 participate in athletic competition until a final decision is
292 issued by the neutral third party unless the determination of
293 ineligibility is based on s. 1006.15(4)(b)1.a., e., or f. It is
294 the responsibility of the member school to assess the facts
295 underlying the eligibility dispute and any potential penalties
296 that may result from a determination of ineligibility in
297 deciding whether to allow the student athlete to continue to
298 participate before a final eligibility determination. If a
299 student is determined ineligible by the neutral third party, the
300 school shall forfeit any contests in which the school won and in

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301 which the student athlete played. For the purposes of this
302 subparagraph, the term "played" means the student athlete
303 dressed out and actively participated in the contest.
304 ~~(h) In lieu of bylaws adopted under paragraph (g), the~~
305 ~~FHSAA may adopt bylaws providing as a minimum the procedural~~
306 ~~safeguards of ss. 120.569 and 120.57, making appropriate~~
307 ~~provision for appointment of unbiased and qualified hearing~~
308 ~~officers.~~
309 ~~(i) The FHSAA bylaws may not limit the competition of~~
310 ~~student athletes prospectively for rule violations of their~~
311 ~~school or its coaches or their adult representatives. The FHSAA~~
312 ~~bylaws may not unfairly punish student athletes for eligibility~~
313 ~~or recruiting violations perpetrated by a teammate, coach, or~~
314 ~~administrator. Contests may not be forfeited for inadvertent~~
315 ~~eligibility violations unless the coach or a school~~
316 ~~administrator should have known of the violation. Contests may~~
317 ~~not be forfeited for other eligibility violations or recruiting~~
318 ~~violations in excess of the number of contests that the coaches~~
319 ~~and adult representatives responsible for the violations are~~
320 ~~prospectively suspended.~~
321 (h) ~~(j)~~ ~~The FHSAA shall~~ Adopt guidelines to educate athletic
322 coaches, officials, administrators, and student athletes and
323 their parents about ~~of~~ the nature and risk of concussion and
324 head injury.
325 (i) ~~(k)~~ ~~The FHSAA shall adopt bylaws or policies that~~
326 Require the parent of a student who is participating in
327 interscholastic athletic competition or who is a candidate for
328 an interscholastic athletic team to sign and return an informed
329 consent that explains the nature and risk of concussion and head

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330 injury, including the risk of continuing to play after
331 concussion or head injury, each year before participating in
332 interscholastic athletic competition or engaging in any
333 practice, tryout, workout, or other physical activity associated
334 with the student's candidacy for an interscholastic athletic
335 team.
336 (j) ~~(l) The FHSAA shall adopt bylaws or policies that~~
337 Require each student athlete who is suspected of sustaining a
338 concussion or head injury in a practice or competition to be
339 immediately removed from the activity. A student athlete who has
340 been removed from an activity may not return to practice or
341 competition until the student submits to the school a written
342 medical clearance to return stating that the student athlete no
343 longer exhibits signs, symptoms, or behaviors consistent with a
344 concussion or other head injury. Medical clearance must be
345 authorized by the appropriate health care practitioner trained
346 in the diagnosis, evaluation, and management of concussions as
347 defined by the Sports Medicine Advisory Committee of the Florida
348 High School Athletic Association.
349 (k) ~~(m)~~ Establish ~~The FHSAA shall adopt bylaws for the~~
350 ~~establishment and~~ duties of a sports medicine advisory committee
351 composed of the following members:
352 1. Eight physicians licensed under chapter 458 or chapter
353 459, with at least one member licensed under chapter 459.
354 2. One chiropractor licensed under chapter 460.
355 3. One podiatrist licensed under chapter 461.
356 4. One dentist licensed under chapter 466.
357 5. Three athletic trainers licensed under part XIII of
358 chapter 468.

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359 6. One member who is a current or retired head coach of a
360 high school in the state.
361 (3) GOVERNING STRUCTURE OF THE FHSAA.—
362 (a) The FHSAA shall operate as a representative democracy
363 in which the sovereign authority is within its member schools
364 and the parents of students participating in interscholastic
365 athletics within those schools. ~~Except as provided in this~~
366 ~~section, the FHSAA shall govern its affairs through its bylaws.~~
367 (b) Each member school, on its annual application for
368 membership, shall name its official representative to the FHSAA.
369 This representative must be either the school principal or his
370 or her designee. That designee must ~~either~~ be an assistant
371 principal or athletic director housed within that same school.
372 (c) The governing board of the FHSAA shall consist of 16
373 members composed proportionately of representatives from
374 traditional public schools, public schools of choice, private
375 schools, home education cooperatives, and parents of student
376 athletes who are enrolled in such schools or programs. The
377 governing board must also be constituted in a manner that
378 provides for equitable representation among the various regions
379 of the state where the association's member schools are located.
380 Any additional policymaking body established by the FHSAA must
381 provide for proportionate representation of schools, programs,
382 parents, and regions of the state as described in this paragraph
383 ~~FHSAA's membership shall be divided along existing county lines~~
384 ~~into four contiguous and compact administrative regions, each~~
385 ~~containing an equal or nearly equal number of member schools to~~
386 ~~ensure equitable representation on the FHSAA's board of~~
387 ~~directors, representative assembly, and appeals committees~~.

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388 (d) The FHSAA shall annually require each member of the
389 governing board or other policymaking body to attend nonprofit
390 governance training, which must include government in the
391 sunshine, conflicts of interest, ethics, and student athlete-
392 centered decisionmaking consistent with the guiding principles
393 for participation in extracurricular activities under s.
394 1006.15.
395 ~~(4) BOARD OF DIRECTORS.—~~
396 ~~(a) The executive authority of the FHSAA shall be vested in~~
397 ~~its board of directors. Any entity that appoints members to the~~
398 ~~board of directors shall examine the ethnic and demographic~~
399 ~~composition of the board when selecting candidates for~~
400 ~~appointment and shall, to the greatest extent possible, make~~
401 ~~appointments that reflect state demographic and population~~
402 ~~trends. The board of directors shall be composed of 16 persons,~~
403 ~~as follows:~~
404 ~~1. Four public member school representatives, one elected~~
405 ~~from among its public school representative members within each~~
406 ~~of the four administrative regions.~~
407 ~~2. Four nonpublic member school representatives, one~~
408 ~~elected from among its nonpublic school representative members~~
409 ~~within each of the four administrative regions.~~
410 ~~3. Three representatives appointed by the commissioner, one~~
411 ~~appointed from the two northernmost administrative regions and~~
412 ~~one appointed from the two southernmost administrative regions.~~
413 ~~The third representative shall be appointed to balance the board~~
414 ~~for diversity or state population trends, or both.~~
415 ~~4. Two district school superintendents, one elected from~~
416 ~~the two northernmost administrative regions by the members in~~

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417 ~~those regions and one elected from the two southernmost~~
418 ~~administrative regions by the members in those regions.~~
419 ~~5. Two district school board members, one elected from the~~
420 ~~two northernmost administrative regions by the members in those~~
421 ~~regions and one elected from the two southernmost administrative~~
422 ~~regions by the members in those regions.~~
423 ~~6. The commissioner or his or her designee from the~~
424 ~~department executive staff.~~
425 ~~(b) A quorum of the board of directors shall consist of~~
426 ~~nine members.~~
427 ~~(c) The board of directors shall elect a president and a~~
428 ~~vice president from among its members. These officers shall also~~
429 ~~serve as officers of the FHSAA.~~
430 ~~(d) Members of the board of directors shall serve terms of~~
431 ~~3 years and are eligible to succeed themselves only once. A~~
432 ~~member of the board of directors, other than the commissioner or~~
433 ~~his or her designee, may serve a maximum of 6 consecutive years.~~
434 ~~The FHSAA's bylaws shall establish a rotation of terms to ensure~~
435 ~~that a majority of the members' terms do not expire~~
436 ~~concurrently.~~
437 ~~(e) The authority and duties of the board of directors,~~
438 ~~acting as a body and in accordance with the FHSAA's bylaws, are~~
439 ~~as follows:~~
440 ~~1. To act as the incorporated FHSAA's board of directors~~
441 ~~and to fulfill its obligations as required by the FHSAA's~~
442 ~~charter and articles of incorporation.~~
443 ~~2. To establish such guidelines, regulations, policies, and~~
444 ~~procedures as are authorized by the bylaws.~~
445 ~~3. To employ an FHSAA executive director, who shall have~~

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446 ~~the authority to waive the bylaws of the FHSAA in order to~~
447 ~~comply with statutory changes.~~
448 ~~4. To levy annual dues and other fees and to set the~~
449 ~~percentage of contest receipts to be collected by the FHSAA.~~
450 ~~5. To approve the budget of the FHSAA.~~
451 ~~6. To organize and conduct statewide interscholastic~~
452 ~~competitions, which may or may not lead to state championships,~~
453 ~~and to establish the terms and conditions for these~~
454 ~~competitions.~~
455 ~~7. To act as an administrative board in the interpretation~~
456 ~~of, and final decision on, all questions and appeals arising~~
457 ~~from the directing of interscholastic athletics of member~~
458 ~~schools.~~
459 ~~(5) REPRESENTATIVE ASSEMBLY.—~~
460 ~~(a) The legislative authority of the FHSAA is vested in its~~
461 ~~representative assembly.~~
462 ~~(b) The representative assembly shall be composed of the~~
463 ~~following:~~
464 ~~1. An equal number of member school representatives from~~
465 ~~each of the four administrative regions.~~
466 ~~2. Four district school superintendents, one elected from~~
467 ~~each of the four administrative regions by the district school~~
468 ~~superintendents in their respective administrative regions.~~
469 ~~3. Four district school board members, one elected from~~
470 ~~each of the four administrative regions by the district school~~
471 ~~board members in their respective administrative regions.~~
472 ~~4. The commissioner or his or her designee from the~~
473 ~~department executive staff.~~
474 ~~(c) The FHSAA's bylaws shall establish the number of member~~

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475 ~~school representatives to serve in the representative assembly~~
476 ~~from each of the four administrative regions and shall establish~~
477 ~~the method for their selection.~~
478 ~~(d) No member of the board of directors other than the~~
479 ~~commissioner or his or her designee can serve in the~~
480 ~~representative assembly.~~
481 ~~(e) The representative assembly shall elect a chairperson~~
482 ~~and a vice chairperson from among its members.~~
483 ~~(f) Elected members of the representative assembly shall~~
484 ~~serve terms of 2 years and are eligible to succeed themselves~~
485 ~~for two additional terms. An elected member, other than the~~
486 ~~commissioner or his or her designee, may serve a maximum of 6~~
487 ~~consecutive years in the representative assembly.~~
488 ~~(g) A quorum of the representative assembly consists of one~~
489 ~~more than half of its members.~~
490 ~~(h) The authority of the representative assembly is limited~~
491 ~~to its sole duty, which is to consider, adopt, or reject any~~
492 ~~proposed amendments to the FHSAA's bylaws.~~
493 ~~(i) The representative assembly shall meet as a body~~
494 ~~annually. A two-thirds majority of the votes cast by members~~
495 ~~present is required for passage of any proposal.~~
496 ~~(6) PUBLIC LIAISON ADVISORY COMMITTEE.—~~
497 ~~(a) The FHSAA shall establish, sustain, fund, and provide~~
498 ~~staff support to a public liaison advisory committee composed of~~
499 ~~the following:~~
500 ~~1. The commissioner or his or her designee.~~
501 ~~2. A member public school principal.~~
502 ~~3. A member private school principal.~~
503 ~~4. A member school principal who is a member of a racial~~

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504 ~~minority.~~
505 ~~5. An active athletic director.~~
506 ~~6. An active coach, who is employed full time by a member~~
507 ~~school.~~
508 ~~7. A student athlete.~~
509 ~~8. A district school superintendent.~~
510 ~~9. A district school board member.~~
511 ~~10. A member of the Florida House of Representatives.~~
512 ~~11. A member of the Florida Senate.~~
513 ~~12. A parent of a high school student.~~
514 ~~13. A member of a home education association.~~
515 ~~14. A representative of the business community.~~
516 ~~15. A representative of the news media.~~
517 ~~(b) No member of the board of directors, committee on~~
518 ~~appeals, or representative assembly is eligible to serve on the~~
519 ~~public liaison advisory committee.~~
520 ~~(c) The public liaison advisory committee shall elect a~~
521 ~~chairperson and vice chairperson from among its members.~~
522 ~~(d) The authority and duties of the public liaison advisory~~
523 ~~committee are as follows:~~
524 ~~1. To act as a conduit through which the general public may~~
525 ~~have input into the decisionmaking process of the FHSAA and to~~
526 ~~assist the FHSAA in the development of procedures regarding the~~
527 ~~receipt of public input and disposition of complaints related to~~
528 ~~high school athletic and competition programs.~~
529 ~~2. To conduct public hearings annually in each of the four~~
530 ~~administrative regions during which interested parties may~~
531 ~~address issues regarding the effectiveness of the rules,~~
532 ~~operation, and management of the FHSAA.~~

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533 ~~3. To conduct an annual evaluation of the FHSAA as a whole~~
534 ~~and present a report of its findings, conclusion, and~~
535 ~~recommendations to the board of directors, to the commissioner,~~
536 ~~and to the respective education committees of the Florida Senate~~
537 ~~and the Florida House of Representatives. The recommendations~~
538 ~~must delineate policies and procedures that will improve the~~
539 ~~implementation and oversight of high school athletic programs by~~
540 ~~the FHSAA.~~
541 ~~(c) The public liaison advisory committee shall meet four~~
542 ~~times annually. Additional meetings may be called by the~~
543 ~~committee chairperson, the FHSAA president, or the FHSAA~~
544 ~~executive director.~~
545 ~~(7) APPEALS.—~~
546 ~~(a) The FHSAA shall establish a procedure of due process~~
547 ~~which ensures each student the opportunity to appeal an~~
548 ~~unfavorable ruling with regard to his or her eligibility to~~
549 ~~compete. The initial appeal shall be made to a committee on~~
550 ~~appeals within the administrative region in which the student~~
551 ~~lives. The FHSAA's bylaws shall establish the number, size, and~~
552 ~~composition of each committee on appeals.~~
553 ~~(b) No member of the board of directors is eligible to~~
554 ~~serve on a committee on appeals.~~
555 ~~(c) Members of a committee on appeals shall serve terms of~~
556 ~~3 years and are eligible to succeed themselves only once. A~~
557 ~~member of a committee on appeals may serve a maximum of 6~~
558 ~~consecutive years. The FHSAA's bylaws shall establish a rotation~~
559 ~~of terms to ensure that a majority of the members' terms do not~~
560 ~~expire concurrently.~~
561 ~~(d) The authority and duties of a committee on appeals~~

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562 ~~shall be to consider requests by member schools seeking~~
563 ~~exceptions to bylaws and regulations, to hear undue hardship~~
564 ~~eligibility cases filed by member schools on behalf of student~~
565 ~~athletes, and to hear appeals filed by member schools or student~~
566 ~~athletes.~~
567 ~~(e) A student athlete or member school that receives an~~
568 ~~unfavorable ruling from a committee on appeals shall be entitled~~
569 ~~to appeal that decision to the board of directors at its next~~
570 ~~regularly scheduled meeting or called meeting. The board of~~
571 ~~directors shall have the authority to uphold, reverse, or amend~~
572 ~~the decision of the committee on appeals. In all such cases, the~~
573 ~~decision of the board of directors shall be final.~~
574 ~~(f) The FHSAA shall expedite the appeals process on~~
575 ~~determinations of ineligibility so that disposition of the~~
576 ~~appeal can be made before the end of the applicable sports~~
577 ~~season, if possible.~~
578 ~~(g) In any appeal from a decision on eligibility made by~~
579 ~~the executive director or a designee, a school or student~~
580 ~~athlete filing the appeal must be permitted to present~~
581 ~~information and evidence that was not available at the time of~~
582 ~~the initial determination or if the determination was not made~~
583 ~~by an unbiased, objective individual using a process allowing~~
584 ~~full due process rights to be heard and to present evidence. If~~
585 ~~evidence is presented on appeal, a de novo decision must be made~~
586 ~~by the committee or board hearing the appeal, or the~~
587 ~~determination may be suspended and the matter remanded for a new~~
588 ~~determination based on all the evidence. If a de novo decision~~
589 ~~is made on appeal, the decision must be made in writing, setting~~
590 ~~forth the findings of fact and specific violation upon which the~~

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591 ~~decision is based. If a de novo decision is not required, the~~
592 ~~decision appealed must be set aside if the decision on~~
593 ~~ineligibility was not based on clear and convincing evidence.~~
594 ~~Any further appeal shall be considered on a record that includes~~
595 ~~all evidence presented.~~
596 ~~(8) AMENDMENT OF BYLAWS.—Each member school representative,~~
597 ~~the board of directors acting as a whole or as members acting~~
598 ~~individually, any advisory committee acting as a whole to be~~
599 ~~established by the FHSAA, and the FHSAA's executive director are~~
600 ~~empowered to propose amendments to the bylaws. Any other~~
601 ~~individual may propose an amendment by securing the sponsorship~~
602 ~~of any of the aforementioned individuals or bodies. All proposed~~
603 ~~amendments must be submitted directly to the representative~~
604 ~~assembly for its consideration. The representative assembly,~~
605 ~~while empowered to adopt, reject, or revise proposed amendments,~~
606 ~~may not, in and of itself, as a body be allowed to propose any~~
607 ~~amendment for its own consideration.~~
608 Section 60. Section 1006.15, Florida Statutes, are amended
609 to read:
610 1006.15 Student standards for eligibility to participate
611 ~~participation~~ in ~~interscholastic and intrascholastic~~
612 extracurricular ~~student~~ activities; regulation.—
613 (1) This section may be cited as the "Craig Dickinson Act."
614 (2) District school board and nonprofit association
615 policies governing student eligibility for extracurricular
616 activities shall be guided by the following principles:
617 (a) ~~Interscholastic~~ Extracurricular ~~student~~ activities are
618 an important complement to the academic curriculum and provide
619 students with incentives to succeed academically.

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620 (b) Participation in a comprehensive extracurricular and
621 academic program contributes to ~~student~~ development of the
622 social and intellectual skills necessary to become a well-
623 rounded adult.
624 (c) Extracurricular activities promote teamwork and
625 collaboration, expose students to individuals from diverse
626 backgrounds, and enhance parental engagement in the school.
627 (d) Policies governing student eligibility for
628 extracurricular activities should not impede parental school
629 choice.
630 (3) As used in this part ~~section~~, the term:
631 (a) "Extracurricular activity" means a ~~any~~ school-
632 authorized or education-related activity occurring during or
633 outside the regular instructional school day.
634 (b) "Home education cooperative" means a parent-directed
635 group of individual home education students which provides
636 opportunities for interscholastic competition to those students.
637 (c) "Impermissible benefit" means a benefit or promise of
638 benefit that is based in any way on athletic interest,
639 potential, or performance, that is a benefit not generally
640 available to the school's students or their family members, and
641 that induces a student athlete to participate in the athletic
642 programs of a member school. The term does not include
643 transportation arrangements.
644 (d) "Nonprofit association" means the nonprofit association
645 that governs interscholastic athletic competition in this state
646 pursuant to s. 1006.20.
647 (e) "Public school student" means a student who is
648 attending a traditional public school, charter school, magnet

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649 school, alternative school, developmental research laboratory
650 school, other public school of choice, or public virtual school.
651 (f) "Recruiting" means an effort by a school employee or
652 athletic department staff member to pressure, urge, or entice a
653 student to attend that school for the purpose of participating
654 in interscholastic athletics.
655 (g) "Unaffiliated private school" means a private school
656 that has an enrollment of 125 or fewer students in grades 6
657 through 12 and that is not a member of the nonprofit
658 association.
659 (4)~~(3)~~(a) A student is ~~To be~~ eligible to participate in
660 interscholastic extracurricular ~~student~~ activities if the~~, a~~
661 student ~~must~~:
662 1. Maintains ~~Maintain~~ a grade point average of 2.0 or above
663 on a 4.0 scale, or its equivalent, in the previous semester ~~or a~~
664 ~~cumulative grade point average of 2.0 or above on a 4.0 scale,~~
665 ~~or its equivalent, in the courses required by s. 1002.3105(5) or~~
666 ~~s. 1003.4282~~.
667 2. Executes ~~Execute~~ and fulfills ~~fulfill~~ the requirements
668 of an academic performance contract between the student, the
669 district school board or private school, the appropriate
670 governing association, and the student's parents~~,~~ if the
671 student's cumulative grade point average falls below 2.0, or its
672 equivalent, on a 4.0 scale ~~in the courses required by s.~~
673 ~~1002.3105(5) or s. 1003.4282~~. At a minimum, the contract must
674 require that the student attend summer school, or its graded
675 equivalent, between grades 9 and 10 or grades 10 and 11, as
676 necessary.
677 3. Has ~~Have~~ a cumulative grade point average of 2.0 or

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678 above on a 4.0 scale, or its equivalent, ~~in the courses required~~
679 ~~by s. 1002.3105(5) or s. 1003.4282~~ during his or her junior or
680 senior year.
681 4. Maintains ~~Maintain~~ satisfactory conduct as prescribed by
682 the district school board's or private school's code~~, including~~
683 ~~adherence to appropriate dress and other codes~~ of student
684 conduct ~~policies described in s. 1006.07(2)~~. If a student is
685 convicted of, or is found to have committed, a felony or a
686 delinquent act that would have been a felony if committed by an
687 adult, regardless of whether adjudication is withheld, the
688 student's participation in ~~interscholastic~~ extracurricular
689 activities is contingent upon established and published district
690 school board or private school policy.
691 5. Is a home education student who meets the requirements
692 of the home education program pursuant to s. 1002.41, including
693 requirements relating to annual educational evaluations. The
694 evaluation processes or requirements placed on home education
695 student participants may not exceed those that apply under s.
696 1002.41 to home education students generally.
697 (b)1. A student may be declared ineligible to participate
698 in interscholastic extracurricular activities only if:
699 a. The student fails to achieve compliance with paragraph
700 (a);
701 b. The student or parent falsifies an enrollment or
702 eligibility document;
703 c. The student or parent accepts an impermissible benefit;
704 d. The student commits a flagrant act of unsportsmanlike
705 conduct toward a contest official, opponent, or other person
706 attending an athletic contest or violates substance abuse

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707 policies established by the nonprofit association;
708 e. The student has exhausted 4 years of athletic
709 eligibility, graduated from high school, or attained the maximum
710 age established by the nonprofit association, whichever occurs
711 first;
712 f. The student does not pass a medical evaluation pursuant
713 to s. 1006.20(2)(c), except as otherwise provided in s.
714 1006.20(2)(d); or
715 g. The student forfeits his or her amateur status, as
716 defined by the nonprofit association.
717 2. A student may not be declared ineligible to participate
718 in interscholastic athletics based upon a violation of the
719 nonprofit association's recruitment policy or otherwise because
720 the student participated on a nonschool team or nonschool team
721 affiliated with the school in which the student ultimately
722 enrolls; or the student participated in nonschool athletic
723 activities sponsored by a member school of the nonprofit
724 association if, after participating, the student registers for,
725 enrolls in, or applies to attend the sponsoring school. As used
726 in this subparagraph, the terms "nonschool team" and "nonschool
727 athletic activities" include, but are not limited to, club
728 teams, travel teams, grade school teams, recreational league
729 teams, personal instruction sessions, summer camp teams, and
730 summer camp nonschool athletic programs.
731 (c)1.~~(b)~~ A ~~Any~~ student who is exempt from attending a full
732 school day based on rules adopted by the district school board
733 for double session schools or programs, experimental schools, or
734 schools operating under emergency conditions must maintain the
735 grade point average required by this section and pass each class

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736 for which he or she is enrolled.
737 2. A student who transfers from a home education program to
738 a public or private school before or during the first semester
739 of the school year is academically eligible to participate in
740 extracurricular activities during the first semester if the
741 student has a successful evaluation from the previous school
742 year pursuant to subparagraph (a)5.
743 3. A public school or private school student who transfers
744 into a home education program after being declared ineligible
745 for participation in extracurricular activities pursuant to sub-
746 subparagraph (b)1.a. is ineligible to participate in such
747 activities as a home education student until the student has
748 successfully completed one semester in a home education program
749 pursuant to s. 1002.41.
750 4. A public school student who transfers to a private
751 school or another public school, or a private school student who
752 transfers to a public school or another private school, after
753 being declared ineligible to participate in extracurricular
754 activities pursuant to sub-subparagraph (b)1.a. is ineligible to
755 participate in such activities until the student has
756 successfully completed one semester at the school to which he or
757 she transfers and meets the requirements of paragraph (a).
758 (d) ~~(c)~~ An individual home education student is eligible to
759 participate in an extracurricular activity that is not offered
760 by the student's home education program. Participation may occur
761 at any ~~the~~ public school in the school district in which the
762 student resides ~~to which the student would be assigned according~~
763 ~~to district school board attendance area policies~~ or a public
764 school in another school district which the student could choose

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765 to attend pursuant to an ~~district or~~ interdistrict controlled
766 open enrollment policy. A home education student ~~provisions, or~~
767 may also develop an agreement to participate at a private
768 school~~,~~ in the interscholastic or extracurricular activities of
769 that school. In order to participate under this paragraph, a
770 student must meet~~, provided~~ the following conditions ~~are met~~:
771 ~~1. The home education student must meet the requirements of~~
772 ~~the home education program pursuant to s. 1002.41.~~
773 ~~2. During the period of participation at a school, the home~~
774 ~~education student must demonstrate educational progress as~~
775 ~~required in paragraph (b) in all subjects taken in the home~~
776 ~~education program by a method of evaluation agreed upon by the~~
777 ~~parent and the school principal which may include: review of the~~
778 ~~student's work by a certified teacher chosen by the parent;~~
779 ~~grades earned through correspondence; grades earned in courses~~
780 ~~taken at a Florida College System institution, university, or~~
781 ~~trade school; standardized test scores above the 35th~~
782 ~~percentile; or any other method designated in s. 1002.41.~~
783 ~~3. The home education student must meet the same residency~~
784 ~~requirements as other students in the school at which he or she~~
785 ~~participates.~~
786 1.~~4.~~ The ~~home education~~ student must meet the same
787 standards of acceptance, behavior, and performance as required
788 of other students in extracurricular activities.
789 2.~~5.~~ The student must register with the school his or her
790 intent to participate in ~~interscholastic~~ extracurricular
791 activities as a representative of the school before the
792 beginning date of the nonathletic activity or season for the
793 athletic activity in which he or she wishes to participate. A

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794 ~~home education~~ student must be able to participate in curricular
795 activities if that is a requirement for an extracurricular
796 activity.
797 3. A student who is enrolled in an unaffiliated private
798 school, a home education program, a full-time public virtual
799 school, or any public school that does not offer any
800 interscholastic athletic programs may only participate in
801 interscholastic athletics at the public school in which the
802 student is first registered.
803 4. The student's parent is responsible for transporting the
804 student to and from the school at which the student
805 participates. The school the student attends, the school at
806 which the student participates in the extracurricular activity,
807 the district school board, and the nonprofit association are
808 exempt from civil liability arising from any injury to the
809 student which occurs during such transportation.
810 ~~6. A student who transfers from a home education program to~~
811 ~~a public school before or during the first grading period of the~~
812 ~~school year is academically eligible to participate in~~
813 ~~interscholastic extracurricular activities during the first~~
814 ~~grading period provided the student has a successful evaluation~~
815 ~~from the previous school year, pursuant to subparagraph 2.~~
816 ~~7. Any public school or private school student who has been~~
817 ~~unable to maintain academic eligibility for participation in~~
818 ~~interscholastic extracurricular activities is ineligible to~~
819 ~~participate in such activities as a home education student until~~
820 ~~the student has successfully completed one grading period in~~
821 ~~home education pursuant to subparagraph 2. to become eligible to~~
822 ~~participate as a home education student.~~

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823 ~~(d) An individual charter school student pursuant to s.~~
824 ~~1002.33 is eligible to participate at the public school to which~~
825 ~~the student would be assigned according to district school board~~
826 ~~attendance area policies or which the student could choose to~~
827 ~~attend, pursuant to district or interdistrict controlled open-~~
828 ~~enrollment provisions, in any interscholastic extracurricular~~
829 ~~activity of that school, unless such activity is provided by the~~
830 ~~student's charter school, if the following conditions are met:~~
831 ~~1. The charter school student must meet the requirements of~~
832 ~~the charter school education program as determined by the~~
833 ~~charter school governing board.~~
834 ~~2. During the period of participation at a school, the~~
835 ~~charter school student must demonstrate educational progress as~~
836 ~~required in paragraph (b).~~
837 ~~3. The charter school student must meet the same residency~~
838 ~~requirements as other students in the school at which he or she~~
839 ~~participates.~~
840 ~~4. The charter school student must meet the same standards~~
841 ~~of acceptance, behavior, and performance that are required of~~
842 ~~other students in extracurricular activities.~~
843 ~~5. The charter school student must register with the school~~
844 ~~his or her intent to participate in interscholastic~~
845 ~~extracurricular activities as a representative of the school~~
846 ~~before the beginning date of the season for the activity in~~
847 ~~which he or she wishes to participate. A charter school student~~
848 ~~must be able to participate in curricular activities if that is~~
849 ~~a requirement for an extracurricular activity.~~
850 ~~6. A student who transfers from a charter school program to~~
851 ~~a traditional public school before or during the first grading~~

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852 ~~period of the school year is academically eligible to~~
853 ~~participate in interscholastic extracurricular activities during~~
854 ~~the first grading period if the student has a successful~~
855 ~~evaluation from the previous school year, pursuant to~~
856 ~~subparagraph 2.~~
857 ~~7. Any public school or private school student who has been~~
858 ~~unable to maintain academic eligibility for participation in~~
859 ~~interscholastic extracurricular activities is ineligible to~~
860 ~~participate in such activities as a charter school student until~~
861 ~~the student has successfully completed one grading period in a~~
862 ~~charter school pursuant to subparagraph 2. to become eligible to~~
863 ~~participate as a charter school student.~~
864 ~~(c) A student of the Florida Virtual School full-time~~
865 ~~program may participate in any interscholastic extracurricular~~
866 ~~activity at the public school to which the student would be~~
867 ~~assigned according to district school board attendance area~~
868 ~~policies or which the student could choose to attend, pursuant~~
869 ~~to district or interdistrict controlled open enrollment~~
870 ~~policies, if the student:~~
871 ~~1. During the period of participation in the~~
872 ~~interscholastic extracurricular activity, meets the requirements~~
873 ~~in paragraph (a).~~
874 ~~2. Meets any additional requirements as determined by the~~
875 ~~board of trustees of the Florida Virtual School.~~
876 ~~3. Meets the same residency requirements as other students~~
877 ~~in the school at which he or she participates.~~
878 ~~4. Meets the same standards of acceptance, behavior, and~~
879 ~~performance that are required of other students in~~
880 ~~extracurricular activities.~~

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881 ~~5. Registers his or her intent to participate in~~
882 ~~interscholastic extracurricular activities with the school~~
883 ~~before the beginning date of the season for the activity in~~
884 ~~which he or she wishes to participate. A Florida Virtual School~~
885 ~~student must be able to participate in curricular activities if~~
886 ~~that is a requirement for an extracurricular activity.~~
887 ~~(f) A student who transfers from the Florida Virtual School~~
888 ~~full-time program to a traditional public school before or~~
889 ~~during the first grading period of the school year is~~
890 ~~academically eligible to participate in interscholastic~~
891 ~~extracurricular activities during the first grading period if~~
892 ~~the student has a successful evaluation from the previous school~~
893 ~~year pursuant to paragraph (a).~~
894 ~~(g) A public school or private school student who has been~~
895 ~~unable to maintain academic eligibility for participation in~~
896 ~~interscholastic extracurricular activities is ineligible to~~
897 ~~participate in such activities as a Florida Virtual School~~
898 ~~student until the student successfully completes one grading~~
899 ~~period in the Florida Virtual School pursuant to paragraph (a).~~
900 (5) ~~(4)~~ The student standards for participation in
901 ~~interscholastic~~ extracurricular activities must be applied
902 beginning with the student’s first semester of the 9th grade.
903 Each student must meet such other requirements for participation
904 as may be established by the district school board; however,
905 such requirements must apply on an equal basis to all students
906 and ~~a district school board~~ may not make ~~establish requirements~~
907 ~~for~~ participation in ~~interscholastic~~ extracurricular activities
908 ~~which make participation in such activities~~ less accessible to a
909 transfer student or a student enrolled in a public school of

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910 choice, an unaffiliated private school, or a home education
911 program ~~students than to other students~~. A district school board
912 or private school may not establish policies regarding transfer
913 student eligibility for extracurricular activities which are
914 more stringent than the policies established by the nonprofit
915 association ~~Except as set forth in paragraph (3)(c), evaluation~~
916 ~~processes or requirements that are placed on home education~~
917 ~~student participants may not go beyond those that apply under s.~~
918 ~~1002.41 to home education students generally~~.
919 (6) ~~(5)~~ An ~~Any~~ organization or entity that regulates or
920 governs interscholastic extracurricular activities of public
921 schools:
922 (a) Shall permit home education associations or home
923 education cooperatives to join as member schools.
924 (b) Shall not discriminate against any eligible student
925 based on an educational choice of public, private, or home
926 education.
927 (7) ~~(6)~~ Public schools are prohibited from membership in any
928 organization or entity that ~~which~~ regulates or governs
929 interscholastic extracurricular activities and discriminates
930 against eligible students in public, private, or home education.
931 ~~(7) Any insurance provided by district school boards for~~
932 ~~participants in extracurricular activities shall cover the~~
933 ~~participating home education student. If there is an additional~~
934 ~~premium for such coverage, the participating home education~~
935 ~~student shall pay the premium.~~
936 ~~(8)(a) The Florida High School Athletic Association~~
937 ~~(FHSAA), in cooperation with each district school board, shall~~
938 ~~facilitate a program in which a middle school or high school~~

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939 ~~student who attends a private school shall be eligible to~~
940 ~~participate in an interscholastic or intrascholastic sport at a~~
941 ~~public high school, a public middle school, or a 6-12 public~~
942 ~~school that is zoned for the physical address at which the~~
943 ~~student resides if:~~
944 ~~1. The private school in which the student is enrolled is~~
945 ~~not a member of the FHSAA and does not offer an interscholastic~~
946 ~~or intrascholastic athletic program.~~
947 ~~2. The private school student meets the guidelines for the~~
948 ~~conduct of the program established by the FHSAA's board of~~
949 ~~directors and the district school board. At a minimum, such~~
950 ~~guidelines shall provide:~~
951 ~~a. A deadline for each sport by which the private school~~
952 ~~student's parents must register with the public school in~~
953 ~~writing their intent for their child to participate at that~~
954 ~~school in the sport.~~
955 ~~b. Requirements for a private school student to~~
956 ~~participate, including, but not limited to, meeting the same~~
957 ~~standards of eligibility, acceptance, behavior, educational~~
958 ~~progress, and performance which apply to other students~~
959 ~~participating in interscholastic or intrascholastic sports at a~~
960 ~~public school or FHSAA member private school.~~
961 ~~(b) The parents of a private school student participating~~
962 ~~in a public school sport under this subsection are responsible~~
963 ~~for transporting their child to and from the public school at~~
964 ~~which the student participates. The private school the student~~
965 ~~attends, the public school at which the student participates in~~
966 ~~a sport, the district school board, and the FHSAA are exempt~~
967 ~~from civil liability arising from any injury that occurs to the~~

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968 ~~student during such transportation.~~
969 ~~(c) For each academic year, a private school student may~~
970 ~~only participate at the public school in which the student is~~
971 ~~first registered under sub-subparagraph (a)2.a. or makes himself~~
972 ~~or herself a candidate for an athletic team by engaging in a~~
973 ~~practice.~~
974 ~~(d) The athletic director of each participating FHSAA~~
975 ~~member public school shall maintain the student records~~
976 ~~necessary for eligibility, compliance, and participation in the~~
977 ~~program.~~
978 ~~(e) Any non-FHSAA member private school that has a student~~
979 ~~who wishes to participate in this program must make all student~~
980 ~~records, including, but not limited to, academic, financial,~~
981 ~~disciplinary, and attendance records, available upon request of~~
982 ~~the FHSAA.~~
983 ~~(f) A student must apply to participate in this program~~
984 ~~through the FHSAA program application process.~~
985 ~~(g) Only students who are enrolled in non-FHSAA member~~
986 ~~private schools consisting of 125 students or fewer are eligible~~
987 ~~to participate in the program in any given academic year.~~
988 Section 61. Section 1006.16, Florida Statutes, is amended
989 to read:
990 1006.16 Insuring school students engaged in extracurricular
991 ~~athletic~~ activities against injury.~~—~~A ~~Any~~ district school board,
992 school athletic association, or school may formulate, conduct,
993 and purchase a plan or method of insuring, or may self-insure,
994 participants in extracurricular activities ~~school students~~
995 against injury sustained by reason of such participation
996 ~~students engaging and participating~~ in the extracurricular

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997 ~~athletic~~ activities conducted or sponsored by the district
998 school board, association, or school ~~in which such students are~~
999 ~~enrolled~~. A district school board, school athletic association,
1000 or school may add a surcharge to the fee charged for admission
1001 to athletic events as a means of producing revenue to purchase
1002 such insurance or to provide self-insurance. A ~~Any~~ district
1003 school board may pay for all or part of such plan or method of
1004 insurance or self-insurance from available district school board
1005 funds. Insurance provided by a district school board for
1006 participants in extracurricular activities must cover home
1007 education and unaffiliated private school students participating
1008 in extracurricular activities at a district public school
1009 pursuant to s. 1006.15 under the same terms and conditions that
1010 apply to students enrolled in a district public school.
1011 Section 62. Section 1006.19, Florida Statutes, is amended
1012 to read:
1013 1006.19 Audit of records of nonprofit ~~corporations and~~
1014 associations handling interscholastic activities.—
1015 (1) Each nonprofit association ~~or corporation~~ that operates
1016 for the purpose of supervising and controlling interscholastic
1017 activities of public high schools and whose membership is
1018 composed of duly certified representatives of public high
1019 schools~~, and whose rules and regulations are established by~~
1020 ~~members thereof,~~ shall have an annual financial audit of its
1021 accounts and records conducted by an independent certified
1022 public accountant retained by it and paid from its funds. The
1023 accountant shall furnish a copy of the audit report to the
1024 Auditor General within 30 days after completion of the audit. At
1025 least every 3 years, the Auditor General shall conduct an

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1026 operational audit of the accounts and records of each nonprofit
1027 association.
1028 (2) Any such nonprofit association or corporation shall
1029 keep adequate and complete records of all moneys received by it,
1030 including the source and amount, and all moneys spent by it,
1031 including salaries, fees, expenses, travel allowances, and all
1032 other items of expense. All records of any such organization
1033 shall be open for inspection by the Auditor General.
1034 Section 63. Subsections (17) and (18) of section 1002.20,
1035 Florida Statutes, are amended to read:
1036 1002.20 K-12 student and parent rights.—Parents of public
1037 school students must receive accurate and timely information
1038 regarding their child's academic progress and must be informed
1039 of ways they can help their child to succeed in school. K-12
1040 students and their parents are afforded numerous statutory
1041 rights including, but not limited to, the following:
1042 (17) ATHLETICS; PUBLIC HIGH SCHOOL.—
1043 (a) *Eligibility.*—Eligibility requirements for all students
1044 participating in high school athletic competition must allow a
1045 student to be eligible in the school in which he or she first
1046 enrolls each school year, the school in which the student makes
1047 himself or herself a candidate for an athletic team by engaging
1048 in practice before enrolling, or the school to which the student
1049 has transferred with approval of the district school board, in
1050 accordance with s. 1006.20 ~~the provisions of s. 1006.20(2)(a)~~.
1051 (b) *Medical evaluation.*—Students must satisfactorily pass a
1052 medical evaluation each year before participating in athletics,
1053 unless the parent objects in writing based on religious tenets
1054 or practices, in accordance with s. 1006.20 ~~the provisions of s.~~

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1055 ~~1006.20(2)(d)~~.
1056 (18) EXTRACURRICULAR ACTIVITIES.—In accordance with ~~the~~
1057 ~~provisions of~~ s. 1006.15:
1058 (a) *Eligibility.*—Students who meet specified academic and
1059 conduct requirements are eligible to participate in
1060 extracurricular activities.
1061 ~~(b) *Home education students.*—Home education students who~~
1062 ~~meet specified academic and conduct requirements are eligible to~~
1063 ~~participate in extracurricular activities at the public school~~
1064 ~~to which the student would be assigned or could choose to attend~~
1065 ~~according to district school board policies, or may develop an~~
1066 ~~agreement to participate at a private school~~.
1067 ~~(c) *Charter school students.*—Charter school students who~~
1068 ~~meet specified academic and conduct requirements are eligible to~~
1069 ~~participate in extracurricular activities at the public school~~
1070 ~~to which the student would be assigned or could choose to attend~~
1071 ~~according to district school board policies, unless such~~
1072 ~~activity is provided by the student's charter school.~~
1073 ~~(d) *Florida Virtual School full-time students.*—Florida~~
1074 ~~Virtual School full-time students who meet specified academic~~
1075 ~~and conduct requirements are eligible to participate in~~
1076 ~~extracurricular activities at the public school to which the~~
1077 ~~student would be assigned or could choose to attend according to~~
1078 ~~district school board policies.~~
1079 (b) ~~(e)~~ *Discrimination prohibited.*—Organizations that
1080 regulate or govern extracurricular activities of public schools
1081 shall not discriminate against any eligible student based on an
1082 educational choice of public, private, or home education.
1083 Section 64. Subsection (11) of section 1002.33, Florida

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1084 Statutes, is amended to read:
1085 1002.33 Charter schools.—
1086 (11) PARTICIPATION IN ~~INTERSCHOLASTIC~~ EXTRACURRICULAR
1087 ACTIVITIES.—A charter school student is eligible to participate
1088 in an ~~interscholastic~~ extracurricular activity at another ~~the~~
1089 public school ~~to which the student would be otherwise assigned~~
1090 ~~to attend~~ pursuant to s. 1006.15 ~~s. 1006.15(3)(d)~~.
1091
1092 ========== T I T L E A M E N D M E N T ==========
1093 And the title is amended as follows:
1094 Delete line 3665
1095 and insert:
1096 and Information; amending s. 1006.20, F.S.; providing
1097 for review of the Florida High School Athletic
1098 Association (FHSAA) performance of duties; providing
1099 requirements regarding fees and admission prices;
1100 revising member in the FHSAA; revising provisions
1101 regarding student eligibility and transfer; providing
1102 procedures for resolving student eligibility disputes;
1103 revising the governing structure of the FHSAA;
1104 deleting provisions relating to the FHSAA's board of
1105 directors, representative assembly, public liaison
1106 advisory committee, and appeals committees; deleting
1107 requirements with respect to amendments to the FHSAA's
1108 bylaws; amending s. 1006.15, F.S.; establishing
1109 guiding principles for extracurricular activities;
1110 defining terms; revising academic eligibility
1111 requirements; specifying grounds for student
1112 ineligibility for participation in interscholastic

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1113 extracurricular activities; specifying conditions
1114 under which students who are enrolled in public
1115 schools, certain private schools, or home education
1116 programs may participate in the extracurricular
1117 activities of a public school; deleting obsolete
1118 provisions; amending s. 1006.16, F.S.; revising
1119 insurance requirements to include students who
1120 participate in nonathletic extracurricular activities;
1121 requiring that insurance coverage provided by district
1122 school boards for participants in extracurricular
1123 activities include certain students; amending s.
1124 1006.19, F.S.; providing a period within which an
1125 audit of a nonprofit association’s records must be
1126 provided to the Auditor General; requiring the Auditor
1127 General to conduct operational audits of the nonprofit
1128 association’s accounts and records; amending s.
1129 1002.20, F.S.; conforming cross-references; revising
1130 provisions related to participation in extracurricular
1131 activities; amending ss. 1002.33, F.S.; conforming
1132 cross-references; providing an effective date.

911584

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/22/2015	.	
	.	
	.	
	.	

The Committee on Appropriations (Flores) recommended the following:

Senate Amendment to Amendment (149946) (with title amendment)

Between lines 3255 and 3256
insert:
Section 56. Subsection (4) of section 1013.40, Florida Statutes, is amended to read:
1013.40 Planning and construction of Florida College System institution facilities; property acquisition.—
(4) The campus of a Florida College System institution

911584

11 within a municipality designated as an area of critical state
12 concern, as defined in s. 380.05, and having a comprehensive
13 plan and land development regulations containing a building
14 permit allocation system that limits annual growth, may
15 construct dormitories for up to 400 ~~100~~ beds for Florida College
16 System institution students. Such dormitories are ~~shall be~~
17 exempt from the building permit allocation system and may be
18 constructed up to 45 feet in height if the dormitories ~~provided~~
19 ~~that they~~ are otherwise consistent with the comprehensive plan,
20 the Florida College System institution has a hurricane
21 evacuation plan that requires all dormitory occupants to be
22 evacuated 48 hours in advance of tropical force winds, and ~~that~~
23 transportation is provided for dormitory occupants during an
24 evacuation.
25
26 ========== T I T L E A M E N D M E N T ==========
27 And the title is amended as follows:
28 Between lines 3656 and 3657
29 insert:
30 amending s. 1013.40, F.S.; increasing the number of
31 beds that may be in a dormitory constructed by certain
32 Florida College System institutions;

817392

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/22/2015	.	
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The Committee on Appropriations (Montford) recommended the following:

Senate Amendment to Amendment (149946) (with title amendment)

Delete lines 526 - 530
and insert:
Section 16. Paragraph (i) of subsection (12) and subsection (26) of section 1001.42, Florida Statutes, are amended to read:
1001.42 Powers and duties of district school board.—The district school board, acting as a board, shall exercise all powers and perform all duties listed below:

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11 (12) FINANCE.—Take steps to assure students adequate
12 educational facilities through the financial procedure
13 authorized in chapters 1010 and 1011 and as prescribed below:
14 (i) *Contracts for materials, supplies, and services.*—
15 Contract for materials, supplies, and services needed for the
16 district school system. No contract for supplying these needs
17 shall be made with any member of the district school board, with
18 the district school superintendent, or with any business
19 organization in which any district school board member or the
20 district school superintendent has any financial interest
21 whatsoever. The district school board may adopt rules to
22 facilitate the efficient and effective procurement of materials,
23 supplies, and services, including the use of online procurement
24 and electronic auction services. As used in this paragraph, the
25 term "electronic auction services" means a competitive
26 procurement conducted on a centralized website using third-party
27 software, jointly managed by an approved vendor and the district
28 school board, for the purpose of obtaining competitive prices in
29 an auction environment.
30
31 ========== T I T L E A M E N D M E N T ==========
32 And the title is amended as follows:
33 Delete line 3381
34 and insert:
35 1001.42, F.S.; revising the powers and duties of the
36 district school board to authorize the adoption of
37 rules regarding procurement practices; defining the
38 term "electronic auction services"; prohibiting a
39 technical center

689974

576-03703-15

Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on Education)

A bill to be entitled

An act relating to education; amending s. 282.0051, F.S.; requiring the Agency for State Technology to establish and publish information technology architecture standards for purposes of implementing digital classrooms by a specified date; requiring the agency to collaborate with the Department of Education and the Department of Management Services to identify certain state contract procurement options for services that support such standards and to identify certain shared services available through the State Data Center to facilitate the implementation of school district digital classrooms plans; requiring the agency's annual assessment of the Department of Education to review specified issues with respect to school district digital classrooms plans and to provide planning assistance to address and reduce issues identified by the assessment; amending s. 282.00515, F.S.; conforming a cross-reference to changes made by the act; creating s. 282.0052, F.S.; establishing requirements for the agency or a contracted organization with respect to the establishment and assessment of digital classrooms information technology architecture standards; requiring the agency or contracted organization to annually submit a report to the Governor and the Legislature; prescribing report requirements;

689974

576-03703-15

requiring the agency to annually update the Commissioner of Education on the status of technology infrastructure; requiring the Department of Education to annually update school districts regarding compliance with information technology architecture standards and provide planning guidance; requiring a school district to take certain action in the event of noncompliance with information technology architecture standards; amending s. 446.021, F.S.; revising terms; amending s. 446.032, F.S.; conforming a provision to changes made by the act; requiring the Department of Education, in collaboration with the Department of Economic Opportunity, to identify, develop, and register specified apprenticeship programs; requiring the department to annually submit an accountability report with specified requirements to the Governor, the Legislature, and the Higher Education Coordinating Council; requiring the department to post on its Internet website specified information regarding apprenticeship programs; amending s. 446.045, F.S.; clarifying State Apprenticeship Advisory Council membership; amending s. 446.052, F.S.; requiring the Department of Education, in collaboration with the Department of Economic Opportunity, to identify, develop, and register specified preapprenticeship programs; requiring the department to annually submit an accountability report with specified requirements to the Governor, the Legislature, and the Higher Education Coordinating Council; requiring the

department to post on its Internet website specified information regarding preapprenticeship programs; requiring the Department of Education, in collaboration with the Department of Economic Opportunity and CareerSource Florida, Inc., to submit an operational report to the Governor, the Legislature, and the Higher Education Coordinating Council with specified information; providing for expiration; amending s. 446.081, F.S.; clarifying the limitations of certain provisions; amending s. 446.091, F.S.; conforming a provision to a change made by the act; amending s. 446.092, F.S.; revising characteristics of an apprenticeable occupation; amending s. 1001.20, F.S.; requiring the Office of Technology and Information Services of the Department of Education to consult with the Agency for State Technology in developing the 5-year strategic plan for Florida digital classrooms; removing an obsolete date; revising requirements for the 5-year strategic plan; expanding the list of responsibilities of the Office of Technology and Information Services; amending s. 1001.43, F.S.; authorizing district school boards to adopt a standard student attire policy; establishing criteria for and the purpose of the policy; providing immunity from civil liability for district school boards that implement a standard student attire policy under certain conditions; amending s. 1001.7065, F.S.; requiring a state research university to enter into and maintain a formal agreement with a specified

organization to offer college-sponsored merit scholarship awards as a condition of designation as a preeminent state research university; specifying that continuation of a state research university's institute for online learning is contingent on the university entering into and maintaining such an agreement; conforming provisions to changes made by the act; amending s. 1003.42, F.S.; requiring that instructional staff of public schools provide instruction to students about the terrorist attacks occurring on September 11, 2001, and the impact of those events; providing a short title; creating s. 1004.084, F.S.; requiring the Board of Governors and the State Board of Education to identify strategies and initiatives to reduce the cost of higher education; requiring the Board of Governors and the state board to annually submit a report to the Governor and the Legislature; amending s. 1004.085, F.S.; defining the term "instructional materials"; revising policies and procedures relating to textbooks; requiring a public postsecondary institution to post information relating to required and recommended textbooks and instructional materials and prices in its course registration system and on its website; requiring the state board and the Board of Governors to adopt textbook and instructional materials affordability policies, procedures, and guidelines; providing requirements for the use of adopted undergraduate textbooks and instructional

115 materials; requiring annual reporting of textbook and
116 instructional materials cost information and
117 affordability policies and procedures to the
118 Chancellor of the Florida College System or the
119 Chancellor of the State University System; requiring
120 electronic copies of the affordability policies and
121 procedures be sent annually to the state board or the
122 Board of Governors; amending s. 1004.92, F.S.;
123 requiring the State Board of Education to adopt rules
124 relating to accountability for career education;
125 amending s. 1006.735, F.S.; establishing the Rapid
126 Response Education and Training Program within the
127 Complete Florida Plus Program; requiring the Complete
128 Florida Plus Program to work with Enterprise Florida,
129 Inc., to offer credible education and training
130 commitments to businesses; specifying the duties of
131 the Rapid Response Education and Training Program;
132 requiring reports to the Legislature; requiring the
133 Division of Career and Adult Education within the
134 Department of Education to conduct an analysis and
135 assessment of the effectiveness of the education and
136 training programs; amending s. 1009.22, F.S.; revising
137 the amount tuition may vary for the combined total of
138 the standard tuition and out-of-state fees; amending
139 s. 1009.23, F.S.; prohibiting resident tuition at a
140 Florida College System institution from exceeding a
141 specified amount per credit hour; revising the amount
142 tuition may vary for the combined total of the
143 standard tuition and out-of-state fees; requiring a

144 Florida College System institution to publicly notice
145 meetings at which votes on proposed tuition or fee
146 increases are scheduled; amending s. 1009.24, F.S.;
147 prohibiting resident undergraduate tuition at a state
148 university from exceeding a specified amount per
149 credit hour; removing authority for a designee of the
150 Board of Governors to establish graduate and
151 professional tuition and out-of-state fees;
152 prohibiting graduate and professional program tuition
153 from exceeding a specified amount; requiring a state
154 university to publicly notice meetings at which votes
155 on proposed tuition or fee increases are scheduled;
156 amending s. 1009.893, F.S., changing the name of the
157 "Florida National Merit Scholar Incentive Program" to
158 the "Benacquisto Scholarship Program"; providing that
159 a student who receives the scholarship award under the
160 program be referred to as a Benacquisto Scholar;
161 conforming provisions to changes made by the act;
162 amending s. 1011.62, F.S.; requiring supplemental
163 academic instruction categorical funds and research-
164 based reading instruction allocation funds to be used
165 by a school district with at least one of certain
166 lowest-performing elementary schools for additional
167 intensive reading instruction at such school during
168 the summer program in addition to the school year;
169 providing that the additional instruction requirements
170 continue in the subsequent year for certain students;
171 revising the funding of full-time equivalent values
172 for students who earn CAPE industry certifications

173 through dual enrollment; increasing the bonus awarded
174 to teachers who provided instruction in courses that
175 led to certain CAPE industry certifications;
176 specifying a maximum bonus amount per teacher per
177 school year; revising the calculation of the
178 discretionary millage compression supplement amount;
179 revising the computation of district sparsity index
180 for districts with a specified full-time equivalent
181 student membership; deleting obsolete language;
182 revising the calculation of the virtual education
183 contribution; revising the date by which district
184 school boards must annually submit a digital
185 classrooms plan to the Department of Education;
186 requiring the department to contract with an
187 independent auditing entity in the event of
188 noncompliance with minimum protocols and requirements
189 in the administration of online assessments; requiring
190 a charter school to submit the school's digital
191 classrooms plan to the applicable school district;
192 specifying required format for the plan; specifying
193 conditions for a school district to maintain
194 eligibility for Florida digital classrooms allocation
195 funds; requiring the Commissioner of Education to
196 implement an online portal for electronic submission
197 of digital classrooms plans by a specified date;
198 requiring a charter school to annually report to the
199 department regarding the use of specified funds;
200 revising requirements for the commissioner's annual
201 report to the Governor and the Legislature regarding

202 the digital classrooms plan; creating a federally
203 connected student supplement for school districts;
204 specifying eligibility requirements and calculations
205 for the supplement; providing for the withholding of a
206 district's safe schools funding for failure to comply
207 with certain reporting requirements with respect to
208 school safety and student discipline; amending s.
209 1011.71, F.S.; conforming a cross-reference;
210 authorizing enterprise resource software to be
211 acquired by certain fees and agreements; creating s.
212 1011.802, F.S.; creating the Florida Apprenticeship
213 Grant Program within the Department of Education to
214 provide grants to specific centers and institutions
215 for the creation of new apprenticeship programs or the
216 expansion of existing apprenticeship programs;
217 providing funding for the program; providing
218 requirements related to applications, program
219 priority, use of grant funds, and quarterly reports;
220 amending ss. 1012.34 and 1012.3401, F.S.; requiring
221 that classroom teacher performance evaluations be
222 based upon the performance of students with fewer than
223 a specified number of absences; amending s. 1012.39,
224 F.S.; providing requirements regarding liability
225 insurance for students performing clinical field
226 experience; amending s. 1012.71, F.S.; requiring a
227 classroom teacher to provide the school district with
228 receipts for the expenditure of certain funds;
229 creating s. 1012.731, F.S.; providing legislative
230 intent; establishing the Florida Best and Brightest

Teacher Scholarship Program; providing eligibility criteria; requiring a school district to annually submit the number of eligible teachers to the department; providing for funding and the disbursement of funds; defining the term "school district" for purposes of the act; amending s. 1012.75, F.S.; requiring the department to administer an educator liability insurance program; defining terms; specifying program administration and eligibility requirements; requiring the Board of Governors and the State Board of Education to base state performance funds for the State University System and the Florida College System, respectively, on specified metrics adopted by each board; specifying allocation of the funds; requiring certain funds to be withheld from an institution based on specified performance; requiring the boards to submit reports by a specified time to the Governor and the Legislature; requiring the boards to adopt rules; providing an effective date.

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

Section 1. Subsections (2), (7), and (10) of section 282.0051, Florida Statutes, are amended to read:

282.0051 Agency for State Technology; powers, duties, and functions.—The Agency for State Technology shall have the following powers, duties, and functions:

(2) Establish and publish information technology architecture standards that:

(a) ~~to~~ Provide for the most efficient use of the state's information technology resources and that ~~to~~ ensure compatibility and alignment with the needs of state agencies. The agency shall assist state agencies in complying with the standards.

(b) Address for purposes of implementing digital classrooms under s. 1011.62(12) issues that include, but are not limited to, device recommendations, security requirements, connectivity requirements, and browser expectations. Such standards must be published by December 1, 2015.

(7)(a) Participate with the Department of Management Services in evaluating, conducting, and negotiating competitive solicitations for state term contracts for information technology commodities, consultant services, or staff augmentation contractual services pursuant to s. 287.0591.

(b) Collaborate with the Department of Management Services in information technology resource acquisition planning.

(c) Collaborate with the Department of Education and the Department of Management Services to identify:

1. State term contract procurement options that are available to school districts which provide information technology commodities, consultant services, or staff augmentation contractual services that support the information technology architecture standards applicable to digital classrooms.

2. Shared services available to school districts through the State Data Center to facilitate the implementation of school district digital classrooms plans.

(10)(a) Beginning July 1, 2016, and annually thereafter,

conduct annual assessments of state agencies to determine compliance with all information technology standards and guidelines developed and published by the agency, and beginning December 1, 2016, and annually thereafter, provide results of the assessments to the Executive Office of the Governor, the President of the Senate, and the Speaker of the House of Representatives.

(b) Include in the annual assessment of the Department of Education under paragraph (a), the status of statewide implementation of digital classrooms and each school district's status of compliance with the information technology architecture standards identified under paragraph (2)(b), planning guidance to address identified gaps, and recommendations for improving cost efficiencies pursuant to s. 282.0052.

Section 2. Section 282.00515, Florida Statutes, is amended to read:

282.00515 Duties of Cabinet agencies.—The Department of Legal Affairs, the Department of Financial Services, and the Department of Agriculture and Consumer Services shall adopt the standards established in s. 282.0051(2)(a) ~~s. 282.0051(2)~~, (3), and (8) or adopt alternative standards based on best practices and industry standards, and may contract with the Agency for State Technology to provide or perform any of the services and functions described in s. 282.0051 for the Department of Legal Affairs, the Department of Financial Services, or the Department of Agriculture and Consumer Services.

Section 3. Section 282.0052, Florida Statutes, is created to read:

282.0052 Digital classrooms information technology architecture standards.—

(1) Beginning July 1, 2015, the Agency for State Technology, or an independent third-party professional organization that the agency contracts with, shall:

(a) Consult with the Department of Education to identify information technology architecture standards pursuant to s. 282.0051 for the successful implementation of digital classrooms, pursuant to s. 1011.62(12), in public schools within the state beginning in the 2016-2017 school year. Such standards must include, but are not limited to, device recommendations, security requirements, connectivity requirements, and browser expectations.

(b) Perform an annual assessment of the state 5-year strategic plan developed pursuant to s. 1001.20 and school district digital classrooms plan adopted pursuant to s. 1011.62(12) to determine the digital readiness of school districts and their compliance with the information technology architecture standards identified under paragraph (a). The digital readiness of school districts must be assessed using the digital readiness scorecard established under s. 1001.20(4)(a).

(c) Provide prospective planning guidance and technical assistance to the Department of Education, school districts, and public schools regarding identified gaps in technology infrastructure and recommended improvements to meet the information technology architecture standards identified under paragraph (a).

347 (d) Summarize and report, by May 1, 2016, for the 2015-2016
348 school year, and by December 1 for each school year thereafter,
349 to the Governor, the President of the Senate, and the Speaker of
350 the House of Representatives:
351 1. The status of technology infrastructure of school
352 districts and public schools within the state.
353 2. Recommendations for improving cost efficiencies and
354 maximizing investments in technology by the state and school
355 districts to establish digital classrooms.
356 (2) For the 2015-2016 school year, the Agency for State
357 Technology must provide the status of technology infrastructure
358 information regarding implementation of digital classrooms
359 statewide and by each school district to the Commissioner of
360 Education by April 1, 2016. For each school year thereafter, the
361 status of technology infrastructure information must be provided
362 to the commissioner by November 1 of each year.
363 (3) For the 2015-2016 school year, the Department of
364 Education must provide to each school district the status of the
365 statewide implementation of digital classrooms and the school
366 district's status regarding compliance with the information
367 technology architecture standards identified under paragraph
368 (1)(a) by June 1, 2016. For each school year thereafter, the
369 Department of Education must notify a school district regarding
370 compliance with the information technology architecture
371 standards by January 1 of each year. In addition, the Department
372 of Education must provide planning guidance to address
373 identified gaps and recommendations for improving cost
374 efficiencies in accordance with subsection (1) to each school
375 district. If the annual assessment indicates that a school

376 district is not in compliance with the information technology
377 architecture standards identified under paragraph (1)(a), the
378 school district must, within 60 days from the date of receipt of
379 such notification from the Department of Education become
380 compliant; obtain an exemption to waive compliance from the
381 Department of Education; or procure services through the agency
382 or the Department of Management Services to achieve compliance.
383 Section 4. Subsections (2), (4), (5), (6), and (9) of
384 section 446.021, Florida Statutes, are amended to read:
385 446.021 Definitions of terms used in ss. 446.011-446.092.—
386 As used in ss. 446.011-446.092, the term:
387 (2) "Apprentice" means a person at least 16 years of age
388 who is engaged in learning a recognized skilled trade through
389 actual work experience under the supervision of journeyworker
390 ~~journeymen~~ craftsmen, which training should be combined with
391 properly coordinated studies of related technical and
392 supplementary subjects, and who has entered into a written
393 agreement, which may be cited as an apprentice agreement, with a
394 registered apprenticeship sponsor who may be ~~either~~ an employer,
395 an association of employers, or a local joint apprenticeship
396 committee.
397 (4) "Journeyworker" ~~"Journeyman"~~ means a worker who has
398 attained certain skills, abilities, and competencies and who is
399 recognized within an industry as having mastered the skills and
400 competencies required for the occupation, including, but not
401 limited to, attainment of a nationally recognized industry
402 certification. The term includes a mentor, technician,
403 specialist, or other skilled worker who has documented
404 sufficient skills and knowledge of an occupation, through formal

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apprenticeship, attainment of a nationally recognized industry certification, or through practical, on-the-job experience or formal training ~~a person working in an apprenticeable occupation who has successfully completed a registered apprenticeship program or who has worked the number of years required by established industry practices for the particular trade or occupation~~.

(5) "Preapprenticeship program" means an organized course of instruction, including, but not limited to, industry certifications identified under s. 1008.44, in the public school system or elsewhere, which course is designed to prepare a person 16 years of age or older to become an apprentice and which course is approved by and registered with the department and sponsored by a registered apprenticeship program.

(6) "Apprenticeship program" means an organized course of instruction, including, but not limited to, industry certifications identified under s. 1008.44, registered and approved by the department, which course shall contain all terms and conditions for the qualifications, recruitment, selection, employment, and training of apprentices including such matters as the requirements for a written apprenticeship agreement.

(9) "Related instruction" means an organized and systematic form of instruction designed to provide the apprentice with knowledge of the theoretical and technical subjects related to a specific trade or occupation. Such instruction may be given in a classroom, through occupational or industrial courses, or by correspondence courses of equivalent value, including electronic media or other forms of self-study instruction approved by the department.

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Section 5. Section 446.032, Florida Statutes, is amended to read:

446.032 General duties of the department for apprenticeship training.—The department shall:

(1) Establish uniform minimum standards and policies governing apprentice programs and agreements. The standards and policies shall govern the terms and conditions of the apprentice's employment and training, including the quality training of the apprentice for, but not limited to, such matters as ratios of apprentices to journeyworkers ~~journeymen~~, safety, related instruction, and on-the-job training; but these standards and policies may not include rules, standards, or guidelines that require the use of apprentices and job trainees on state, county, or municipal contracts. The department may adopt rules necessary to administer the standards and policies.

(2) Establish procedures to be used by the State Apprenticeship Advisory Council.

(3) Collaborate with the Department of Economic Opportunity to identify, develop, and register apprenticeship programs that are aligned with statewide demand for a skilled labor force in high-demand occupations and with regional workforce needs. Beginning in the 2015-2016 fiscal year, the department shall annually, by December 31, submit an accountability report, which must include information related to program usage, student demographics and performance outcomes, and program requirements for the existing apprenticeship and preapprenticeship programs and the development of new programs. The report must include regional information about program and student performance outcomes. The report must be submitted to the Governor, the

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463 President of the Senate, the Speaker of the House of
464 Representatives, and the Higher Education Coordinating Council.
465 (4) Post on its Internet website information regarding
466 apprenticeship programs, which must, at a minimum, include:
467 (a) Program admission requirements;
468 (b) Program standards and training requirements; and
469 (c) A summary of program and student performance outcomes.
470 Section 6. Paragraph (b) of subsection (2) of section
471 446.045, Florida Statutes, is amended to read:
472 446.045 State Apprenticeship Advisory Council.—
473 (2)
474 (b) The Commissioner of Education or the commissioner's
475 designee shall serve ex officio as chair of the State
476 Apprenticeship Advisory Council, but may not vote. The state
477 director of the Office of Apprenticeship of the United States
478 Department of Labor shall serve ex officio as a nonvoting member
479 of the council. The Governor shall appoint to the council four
480 members representing employee organizations and four members
481 representing employer organizations. Each of these eight members
482 shall represent industries that have registered apprenticeship
483 programs. The Governor shall also appoint two public members who
484 are knowledgeable about registered apprenticeship and
485 apprenticeable occupations, who are independent of any joint or
486 nonjoint organization ~~one of whom shall be recommended by joint~~
487 ~~organizations, and one of whom shall be recommended by nonjoint~~
488 ~~organizations~~. Members shall be appointed for 4-year staggered
489 terms. A vacancy shall be filled for the remainder of the
490 unexpired term.
491 Section 7. Subsections (5) and (6) are added to section

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492 446.052, Florida Statutes, to read:
493 446.052 Preapprenticeship program.—
494 (5) The department shall collaborate with the Department of
495 Economic Opportunity to identify, develop, and register
496 preapprenticeship programs that are aligned with statewide
497 demand for a skilled labor force in high-demand occupations and
498 with regional workforce needs. Beginning in the 2015-2016 fiscal
499 year, the department shall annually, by December 31, submit an
500 accountability report, which must include information related to
501 program usage, student demographics and performance outcomes,
502 and program requirements for the existing apprenticeship and
503 preapprenticeship programs and the development of new programs.
504 The report must include regional information about program and
505 student performance outcomes. The report must be submitted to
506 the Governor, the President of the Senate, the Speaker of the
507 House of Representatives, and the Higher Education Coordinating
508 Council.
509 (6) The department shall post on its Internet website
510 information regarding preapprenticeship programs, which must, at
511 a minimum, include:
512 (a) Program admission requirements;
513 (b) Program standards and training requirements; and
514 (c) A summary of program and student performance outcomes.
515 Section 8. Preapprenticeship and apprenticeship operational
516 report.—(1) By December 31, 2015, the Department of Education,
517 in collaboration with the Department of Economic Opportunity and
518 CareerSource Florida, Inc., shall submit an operational report
519 to the Governor, the President of the Senate, the Speaker of the
520 House of Representatives, and the Higher Education Coordinating

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521 Council providing:
522 (a) A summary of the activities and coordination between
523 the two agencies to identify, develop, register, and administer
524 preapprenticeship and apprenticeship programs over the last 5
525 years.
526 (b) The strategies employed by the two agencies to engage
527 school districts, Florida College System institutions, technical
528 centers, businesses, and other stakeholders as partners in the
529 workforce system to expand employment opportunities for
530 individuals, including, but not limited to, those individuals
531 with unique abilities, which must include work-based learning
532 experiences, such as preapprenticeships and apprenticeships.
533 (c) Recommendations to maximize the resources of the two
534 agencies to gain efficiency in program development,
535 administration, and funding and make program governance changes
536 to improve the delivery and management of preapprenticeship and
537 apprenticeship programs based on workforce demands. These
538 recommendations must take into account federal resources and
539 must include any necessary or suggested changes to the programs
540 ensuing from implementation of the Workforce Innovation and
541 Opportunity Act of 2014 and related regulations.
542 (d) Recommendations and strategies for the two agencies to
543 communicate effectively with employers in this state and ensure
544 that employers have access to information and consultative
545 services, at no cost to the employers, regarding sponsorship of
546 demand-driven, registered preapprenticeship and apprenticeship
547 programs and information about the availability of program
548 students for employment.
549 (e) An evaluation of the feasibility of linking or

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550 incorporating, and of the resources necessary to link or
551 incorporate, the Department of Education's website information
552 on preapprenticeship and apprenticeship programs with the
553 Department of Economic Opportunity and CareerSource Florida,
554 Inc., workforce information system required under chapter 445,
555 Florida Statutes.
556 (2) This section expires on July 1, 2016.
557 Section 9. Subsection (4) is added to section 446.081,
558 Florida Statutes, to read:
559 446.081 Limitation.—
560 (4) Nothing in ss. 446.011-446.092 or the implementing
561 rules in these sections shall operate to invalidate any special
562 provision for veterans, minority persons, or women in the
563 standards, qualifications, or operation of the apprenticeship
564 program or in the apprenticeship agreement which is not
565 otherwise prohibited by law, executive order, or authorized
566 regulation.
567 Section 10. Section 446.091, Florida Statutes, is amended
568 to read:
569 446.091 On-the-job training program.—All provisions of ss.
570 446.011-446.092 relating to apprenticeship and
571 preapprenticeship, including, but not limited to, programs,
572 agreements, standards, administration, procedures, definitions,
573 expenditures, local committees, powers and duties, limitations,
574 grievances, and ratios of apprentices and job trainees to
575 journeyworkers ~~journeymen~~ on state, county, and municipal
576 contracts, shall be appropriately adapted and made applicable to
577 a program of on-the-job training authorized under those
578 provisions for persons other than apprentices.

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Section 11. Section 446.092, Florida Statutes, is amended to read:

446.092 Criteria for apprenticeship occupations.—An apprenticeable occupation is a skilled trade which possesses all of the following characteristics:

(1) It is customarily learned in a practical way through a structured, systematic program of on-the-job, supervised training.

(2) It is clearly identified and commonly recognized throughout an ~~the~~ industry, and may be associated with a nationally recognized industry certification ~~or recognized with a positive view towards changing technology~~.

(3) It involves manual, mechanical, or technical skills and knowledge which, in accordance with the industry standard for the occupation, requires ~~require~~ a minimum of 2,000 hours of on-the-job ~~work and~~ training, which hours are excluded from the time spent at related instruction.

(4) It requires related instruction to supplement on-the-job training. Such instruction may be given in a classroom, through occupational or industrial courses, or through correspondence courses of equivalent value, including electronic media or other forms of self-study instruction approved by the department.

~~(5) It involves the development of skill sufficiently broad to be applicable in like occupations throughout an industry, rather than of restricted application to the products or services of any one company.~~

~~(6) It does not fall into any of the following categories:~~

~~(a) Selling, retailing, or similar occupations in the~~

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~~distributive field.~~

~~(b) Managerial occupations.~~

~~(c) Professional and scientific vocations for which entrance requirements customarily require an academic degree.~~

Section 12. Paragraph (a) of subsection (4) of section 1001.20, Florida Statutes, is amended to read:

1001.20 Department under direction of state board.—

(4) The Department of Education shall establish the following offices within the Office of the Commissioner of Education which shall coordinate their activities with all other divisions and offices:

(a) *Office of Technology and Information Services.*—

1. Responsible for developing a 5-year strategic plan, in consultation with the Agency for State Technology, to incorporate the minimum information technology architecture standards for the successful implementation of digital classrooms to improve student performance outcomes under s. 1011.62(12) ~~for establishing Florida digital classrooms by October 1, 2014~~, and annually updating the plan by January 1 ~~each year thereafter~~. The Florida digital classrooms plan shall be provided to each school district and published on the department's website. The plan must:

a. Describe how technology will be integrated into classroom teaching and learning to assist the state in improving student performance outcomes and enable all students in Florida to be digital learners with access to digital tools and resources.

b. Identify minimum information technology architecture standards requirements, which ~~that~~ include specifications for

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637 hardware, software, devices, networking, security, and bandwidth
638 capacity and guidelines for the ratio of students per device.
639 The Office of Technology and Information Services shall consult
640 with the Agency for State Technology in identifying minimum
641 information technology architecture standards.
642 c. Establish minimum requirements for professional
643 development opportunities and training to assist district
644 instructional personnel and staff with the integration of
645 technology into classroom teaching.
646 d. Identify the types of digital tools and resources that
647 can assist district instructional personnel and staff in the
648 management, assessment, and monitoring of student learning and
649 performance.
650 2. Responsible for making budget recommendations to the
651 commissioner, providing data collection and management for the
652 system, assisting school districts in securing Internet access
653 and telecommunications services, including those eligible for
654 funding under the Schools and Libraries Program of the federal
655 Universal Service Fund, and coordinating services with other
656 state, local, and private agencies.
657 3. Responsible for coordinating with the Agency for State
658 Technology to facilitate school districts' access to state term
659 contract procurement options and shared services pursuant to s.
660 282.0051(7)(c).
661 4. Responsible for consulting with the Agency for State
662 Technology to establish uniform definitions of information
663 technology architecture components which must be incorporated
664 into the department's 5-year strategic plan. The uniform
665 definitions must be incorporated by each charter school that

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666 seeks Florida digital classrooms allocation funds and by each
667 district school board in the technology information annually
668 submitted to the department which includes, but is not limited
669 to, digital classroom plans and technology resources inventory.
670 5. Responsible for consulting with the Agency for State
671 Technology to create a digital readiness scorecard to compare
672 the digital readiness of school districts within the state. The
673 scorecard must use the uniform definitions identified under this
674 section and information technology architecture standards
675 identified under s. 282.0052(1)(a). At a minimum, the scorecard
676 must include the student-to-device ratio, the percentage of
677 schools within each district that meet bandwidth standards, the
678 percentage of classrooms within each district that meet wireless
679 standards, the refresh rate of devices, network capacity,
680 information storage capacity, and information security services.
681 Section 13. Paragraph (b) of subsection (1) of section
682 1001.43, Florida Statutes, is amended to read:
683 1001.43 Supplemental powers and duties of district school
684 board.—The district school board may exercise the following
685 supplemental powers and duties as authorized by this code or
686 State Board of Education rule.
687 (1) STUDENT MANAGEMENT.—The district school board may adopt
688 programs and policies to ensure the safety and welfare of
689 individuals, the student body, and school personnel, which
690 programs and policies may:
691 (b) Require that the attire ~~uniforms~~ to be worn by the
692 student body conform to a standard student attire policy that
693 prohibits certain types or styles of clothing and requires solid
694 colored clothing and fabrics for pants, skirts, shorts, or

similar clothing and short or long sleeved shirts with collars. The policy may authorize a small logo but may not authorize a motto or slogan. The purpose of a standard student attire policy is to provide a safe environment that fosters learning and improves school safety and discipline by:

1. Encouraging students to express their individuality through personality and academic achievements, rather than outward appearance.

2. Enabling students to focus on academics, rather than fashion, because they are able to project a neat, serious, and studious image.

3. Minimizing disciplinary problems because students are not distracted by clothing.

4. Reducing the time needed to correct dress code violations through a readily available inventory of compliant attire.

5. Minimizing visible differences and eliminating social pressures to wear brand name clothing or "gang colors," thereby easing financial pressures on parents and enhancing school safety.

6. Creating a sense of school pride and belonging.

A district school board may implement a standard student attire policy as part of an overall program to foster and promote desirable school operating conditions and a safe and supportive educational environment. A standard student attire policy must allow a parent to opt his or her student out of the policy for religious purposes or by reason of a disability. A district school board that implements a districtwide standard student

attire policy for all students in at least kindergarten through eighth grade is immune from civil liability resulting from adoption of the policy in accordance with this paragraph~~, or impose other dress-related requirements, if the district school board finds that those requirements are necessary for the safety or welfare of the student body or school personnel~~. ~~However,~~ Students may wear sunglasses, hats, or other sun-protective wear while outdoors during school hours, such as when students are at recess.

Section 14. Subsections (3) and (4) of section 1001.7065, Florida Statutes, are amended to read:

1001.7065 Preeminent state research universities program.—

(3) PREEMINENT STATE RESEARCH UNIVERSITY DESIGNATION.—The Board of Governors shall designate each state research university that meets at least 11 of the 12 academic and research excellence standards identified in subsection (2) and that enters into and maintains a formal agreement with the National Merit Scholarship Corporation to offer college-sponsored merit scholarship awards a preeminent state research university.

(4) PREEMINENT STATE RESEARCH UNIVERSITY INSTITUTE FOR ONLINE LEARNING.—A state research university that, as of July 1, 2013, met ~~meets~~ all 12 of the academic and research excellence standards identified in subsection (2), as verified by the Board of Governors, shall establish an institute for online learning. Continuation of the institute for online learning is contingent upon a state research university entering into and maintaining a formal agreement with the National Merit Scholarship Corporation to offer college-sponsored merit scholarship awards. The

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753 institute shall establish a robust offering of high-quality,
754 fully online baccalaureate degree programs at an affordable cost
755 in accordance with this subsection.
756 (a) By August 1, 2013, the Board of Governors shall convene
757 an advisory board to support the development of high-quality,
758 fully online baccalaureate degree programs at the university.
759 (b) The advisory board shall:
760 1. Offer expert advice, as requested by the university, in
761 the development and implementation of a business plan to expand
762 the offering of high-quality, fully online baccalaureate degree
763 programs.
764 2. Advise the Board of Governors on the release of funding
765 to the university upon approval by the Board of Governors of the
766 plan developed by the university.
767 3. Monitor, evaluate, and report on the implementation of
768 the plan to the Board of Governors, the Governor, the President
769 of the Senate, and the Speaker of the House of Representatives.
770 (c) The advisory board shall be composed of the following
771 five members:
772 1. The chair of the Board of Governors or the chair's
773 permanent designee.
774 2. A member with expertise in online learning, appointed by
775 the Board of Governors.
776 3. A member with expertise in global marketing, appointed
777 by the Governor.
778 4. A member with expertise in cloud virtualization,
779 appointed by the President of the Senate.
780 5. A member with expertise in disruptive innovation,
781 appointed by the Speaker of the House of Representatives.

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782 (d) The president of the university shall be consulted on
783 the advisory board member appointments.
784 (e) A majority of the advisory board shall constitute a
785 quorum, elect the chair, and appoint an executive director.
786 (f) By September 1, 2013, the university shall submit to
787 the advisory board a comprehensive plan to expand high-quality,
788 fully online baccalaureate degree program offerings. The plan
789 shall include:
790 1. Existing on-campus general education courses and
791 baccalaureate degree programs that will be offered online.
792 2. New courses that will be developed and offered online.
793 3. Support services that will be offered to students
794 enrolled in online baccalaureate degree programs.
795 4. A tuition and fee structure that meets the requirements
796 in paragraph (k) for online courses, baccalaureate degree
797 programs, and student support services.
798 5. A timeline for offering, marketing, and enrolling
799 students in the online baccalaureate degree programs.
800 6. A budget for developing and marketing the online
801 baccalaureate degree programs.
802 7. Detailed strategies for ensuring the success of students
803 and the sustainability of the online baccalaureate degree
804 programs.
805
806 Upon recommendation of the plan by the advisory board and
807 approval by the Board of Governors, the Board of Governors shall
808 award the university $10 million in nonrecurring funds and $5
809 million in recurring funds for fiscal year 2013-2014 and $5
810 million annually thereafter, subject to appropriation in the

811 General Appropriations Act.
812 (g) Beginning in January 2014, the university shall offer
813 high-quality, fully online baccalaureate degree programs that:
814 1. Accept full-time, first-time-in-college students.
815 2. Have the same rigorous admissions criteria as equivalent
816 on-campus degree programs.
817 3. Offer curriculum of equivalent rigor to on-campus degree
818 programs.
819 4. Offer rolling enrollment or multiple opportunities for
820 enrollment throughout the year.
821 5. Do not require any on-campus courses. However, for
822 courses or programs that require clinical training or
823 laboratories that cannot be delivered online, the university
824 shall offer convenient locational options to the student, which
825 may include, but are not limited to, the option to complete such
826 requirements at a summer-in-residence on the university campus.
827 The university may provide a network of sites at convenient
828 locations and contract with commercial testing centers or
829 identify other secure testing services for the purpose of
830 proctoring assessments or testing.
831 6. Apply the university's existing policy for accepting
832 credits for both freshman applicants and transfer applicants.
833 (h) The university may offer a fully online Master's in
834 Business Administration degree program and other master's degree
835 programs.
836 (i) The university may develop and offer degree programs
837 and courses that are competency based as appropriate for the
838 quality and success of the program.
839 (j) The university shall periodically expand its offering

840 of online baccalaureate degree programs to meet student and
841 market demands.
842 (k) The university shall establish a tuition structure for
843 its online institute in accordance with this paragraph,
844 notwithstanding any other provision of law.
845 1. For students classified as residents for tuition
846 purposes, tuition for an online baccalaureate degree program
847 shall be set at no more than 75 percent of the tuition rate as
848 specified in the General Appropriations Act pursuant to s.
849 1009.24(4) and 75 percent of the tuition differential pursuant
850 to s. 1009.24(16). No distance learning fee, fee for campus
851 facilities, or fee for on-campus services may be assessed,
852 except that online students shall pay the university's
853 technology fee, financial aid fee, and Capital Improvement Trust
854 Fund fee. The revenues generated from the Capital Improvement
855 Trust Fund fee shall be dedicated to the university's institute
856 for online learning.
857 2. For students classified as nonresidents for tuition
858 purposes, tuition may be set at market rates in accordance with
859 the business plan.
860 3. Tuition for an online degree program shall include all
861 costs associated with instruction, materials, and enrollment,
862 excluding costs associated with the provision of textbooks <u>and</u>
863 <u>instructional materials</u> pursuant to s. 1004.085 and physical
864 laboratory supplies.
865 4. Subject to the limitations in subparagraph 1., tuition
866 may be differentiated by degree program as appropriate to the
867 instructional and other costs of the program in accordance with
868 the business plan. Pricing must incorporate innovative

869 approaches that incentivize persistence and completion,
870 including, but not limited to, a fee for assessment, a bundled
871 or all-inclusive rate, and sliding scale features.
872 5. The university must accept advance payment contracts and
873 student financial aid.
874 6. Fifty percent of the net revenues generated from the
875 online institute of the university shall be used to enhance and
876 enrich the online institute offerings, and 50 percent of the net
877 revenues generated from the online institute shall be used to
878 enhance and enrich the university's campus state-of-the-art
879 research programs and facilities.
880 7. The institute may charge additional local user fees
881 pursuant to s. 1009.24(14) upon the approval of the Board of
882 Governors.
883 8. The institute shall submit a proposal to the president
884 of the university authorizing additional user fees for the
885 provision of voluntary student participation in activities and
886 additional student services.
887 Section 15. Paragraph (u) is added to subsection (2) of
888 section 1003.42, Florida Statutes, to read:
889 1003.42 Required instruction.—
890 (2) Members of the instructional staff of the public
891 schools, subject to the rules of the State Board of Education
892 and the district school board, shall teach efficiently and
893 faithfully, using the books and materials required that meet the
894 highest standards for professionalism and historic accuracy,
895 following the prescribed courses of study, and employing
896 approved methods of instruction, the following:
897 (u) The events surrounding the terrorist attacks occurring

898 on September 11, 2001, and the impact of those events on the
899 nation. This paragraph may be cited as the "Representative Clay
900 Ford, Jr., Memorial Act."
901
902 The State Board of Education is encouraged to adopt standards
903 and pursue assessment of the requirements of this subsection.
904 Section 16. Section 1004.084, Florida Statutes, is created
905 to read:
906 1004.084 College affordability.—The Board of Governors and
907 State Board of Education shall continue to identify strategies
908 and initiatives to further ensure college affordability for all
909 Floridians.
910 (1) Specific strategies and initiatives to reduce the cost
911 of higher education must include, at a minimum, consideration of
912 the following:
913 (a) The impact of tuition and fee increases at state
914 colleges and universities, including graduate, professional,
915 medical, and law schools.
916 (b) The total cost of fees to a student and family at a
917 state university or a state college, including orientation fees.
918 (c) The cost of textbooks and instructional materials for
919 all students. The Board of Governors and State Board of
920 Education shall use the information provided pursuant to s.
921 1004.085(5) and (6) and consult with students, faculty,
922 bookstores, and publishers, to determine the best methods to
923 reduce costs and must, at a minimum, consider the following:
924 1. Any existing Florida College System or State University
925 System initiatives to reduce the cost of textbooks and
926 instructional materials.

927 2. Purchasing e-textbooks in bulk.
928 3. Expanding the use of open-access textbooks and
929 instructional materials.
930 4. The rental options for textbook and instructional
931 materials.
932 5. Increasing the availability and use of affordable
933 digital textbooks and learning objects for faculty and students.
934 6. Supporting efficient used book sales, buy-back sales,
935 and student-to-student sales.
936 7. Developing online portals at each institution to assist
937 students in buying, renting, selling, and sharing textbooks and
938 instructional materials.
939 8. The feasibility of expanding and enhancing digital
940 access platforms that are used by campus stores to help students
941 acquire the correct and least expensive required course
942 materials.
943 9. The cost to school districts of instructional materials
944 for dual enrollment students.
945 (2) By December 31, 2015, and annually thereafter, the
946 Board of Governors and State Board of Education shall submit a
947 report on their respective college affordability efforts, which
948 must include recommendations, to the Governor, the President of
949 the Senate, and the Speaker of the House of Representatives.
950 Section 17. Section 1004.085, Florida Statutes, is amended
951 to read:
952 1004.085 Textbook and instructional materials
953 affordability.—
954 (1) As used in this section, the term "instructional
955 materials" means educational materials, in printed or digital

956 format, which are required or recommended for use within a
957 course.
958 (2) ~~(1)~~ An ~~No~~ employee of a Florida College System
959 institution or a state university may not demand or receive any
960 payment, loan, subscription, advance, deposit of money, service,
961 or anything of value, present or promised, in exchange for
962 requiring students to purchase a specific textbook or
963 instructional material for coursework or instruction.
964 (3) ~~(2)~~ An employee may receive:
965 (a) Sample copies, instructor copies, or instructional
966 materials. These materials may not be sold for any type of
967 compensation if they are specifically marked as free samples not
968 for resale.
969 (b) Royalties or other compensation from sales of textbooks
970 or instructional materials that include the instructor's own
971 writing or work.
972 (c) Honoraria for academic peer review of course materials.
973 (d) Fees associated with activities such as reviewing,
974 critiquing, or preparing support materials for textbooks or
975 instructional materials pursuant to guidelines adopted by the
976 State Board of Education or the Board of Governors.
977 (e) Training in the use of course materials and learning
978 technologies.
979 (4) ~~(3)~~ Each Florida College System institution ~~institutions~~
980 and state university ~~universities~~ shall prominently post in the
981 course registration system and on its website ~~on their websites~~,
982 as early as is feasible, but at least 14 ~~not less than 30~~ days
983 before ~~prior to~~ the first day of student registration ~~class~~ for
984 each term, a hyperlink to lists ~~list~~ of ~~each textbook~~ required

985 and recommended textbooks and instructional materials for at
986 least 90 percent of the courses and course sections ~~each course~~
987 offered at the institution during the upcoming term.
988 (a) These lists ~~The posted list~~ must include:
989 1. The International Standard Book Number (ISBN) for each
990 required and recommended textbook and instructional materials.
991 2. For a textbook or instructional materials for which an
992 ISBN is not available, ~~textbook or~~ other identifying
993 information, which must include, at a minimum, all of the
994 following: the title, all authors listed, publishers, edition
995 number, copyright date, published date, and other relevant
996 information necessary to identify the specific textbook or
997 instructional materials ~~textbooks~~ required and recommended for
998 each course.
999 3. The new and used retail price and the rental price, if
1000 applicable, for a required or recommended textbook or
1001 instructional materials for purchase at the institution's
1002 designated bookstore or other specified vendor, including the
1003 website or other contact information for the bookstore.
1004 (b) The State Board of Education and the Board of Governors
1005 shall include in the policies, procedures, and guidelines
1006 adopted under subsection (5) ~~(4)~~ certain limited exceptions to
1007 this notification requirement for courses ~~classes~~ added after
1008 the notification deadline.
1009 (c) An institution that is unable to comply with this
1010 subsection by the 2015 fall semester must provide the
1011 information required by this subsection to students, in a format
1012 determined by the institution, at least 60 days before the first
1013 day of classes. The institution must also submit a quarterly

1014 report to the State Board of Education or to the Board of
1015 Governors, as applicable, documenting the institution's efforts
1016 to comply with this subsection by the 2016 fall semester.
1017 (5) ~~(4)~~ The State Board of Education and the Board of
1018 Governors each shall adopt textbook and instructional materials
1019 affordability policies, procedures, and guidelines for
1020 implementation by Florida College System institutions and state
1021 universities, respectively, which ~~that~~ further efforts to
1022 minimize the cost of textbooks and instructional materials for
1023 students attending such institutions, while maintaining the
1024 quality of education and academic freedom. The policies,
1025 procedures, and guidelines must, at a minimum, require ~~shall~~
1026 ~~provide for~~ the following:
1027 (a) That textbook and instructional materials adoptions are
1028 made with sufficient lead time to bookstores so as to confirm
1029 availability of the requested materials and, if ~~where~~ possible,
1030 ensure maximum availability of used textbooks and instructional
1031 materials ~~books~~.
1032 (b) That, in the textbook and instructional material
1033 adoption process, the intent to use all items ordered,
1034 particularly each individual item sold as part of a bundled
1035 package, is confirmed by the course instructor or the academic
1036 department offering the course before the adoption is finalized.
1037 (c) That a course instructor or the academic department
1038 offering the course determine ~~determines~~, before a textbook or
1039 instructional materials are ~~is~~ adopted, the extent to which a
1040 new edition differs significantly and substantively from earlier
1041 versions and the value to the student of changing to a new
1042 edition or the extent to which an open-access textbook or

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1043 instructional materials may exist and be used.
1044 (d) That the establishment of policies shall address the
1045 availability of required and recommended textbooks and
1046 instructional materials to students otherwise unable to afford
1047 the cost, including consideration of the extent to which an
1048 open-access textbook or instructional materials may be used.
1049 (e) That course instructors and academic departments are
1050 encouraged to participate in the development, adaptation, and
1051 review of open-access textbooks and instructional materials and,
1052 in particular, open-access textbooks and instructional materials
1053 for high-demand general education courses.
1054 (f) That postsecondary institutions consult with school
1055 districts with which they have a dual enrollment articulation
1056 agreement to identify practices that impact the cost to school
1057 districts of dual enrollment textbooks and instructional
1058 materials, including, but not limited to, the length of time
1059 that textbooks and instructional materials remain in use and the
1060 costs associated with digital materials.
1061 (g) That cost-benefit analyses be conducted regularly in
1062 comparing options to ensure that students receive the highest
1063 quality product at the lowest available price.
1064 (6) Each Florida College System institution and each state
1065 university shall report annually to the Chancellor of the
1066 Florida College System or the Chancellor of the State University
1067 System, as applicable, the cost of undergraduate textbooks and
1068 instructional materials, by course and course section; the
1069 textbook and instructional materials selection process for high-
1070 enrollment courses as determined by the chancellors; specific
1071 initiatives of the institution which reduce the cost of

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1072 textbooks and instructional materials; the number of courses and
1073 course sections that were not able to meet the textbook and
1074 instructional materials posting deadline; and additional
1075 information as determined by the chancellors. Annually, by
1076 December 31, the chancellors shall compile the institution
1077 reports and submit a comprehensive report to the Governor, the
1078 President of the Senate, and the Speaker of the House of
1079 Representatives.
1080 (7) Each Florida College System institution and state
1081 university shall annually send the State Board of Education or
1082 the Board of Governors, as applicable, electronic copies of its
1083 current textbook and instructional materials affordability
1084 policies and procedures. The State Board of Education and the
1085 Board of Governors shall provide a link to this information on
1086 their respective websites.
1087 Section 18. Paragraph (b) of subsection (2) of section
1088 1004.92, Florida Statutes, is amended to read:
1089 1004.92 Purpose and responsibilities for career education.—
1090 (2)
1091 (b) Department of Education accountability for career
1092 education includes, but is not limited to:
1093 1. The provision of timely, accurate technical assistance
1094 to school districts and Florida College System institutions.
1095 2. The provision of timely, accurate information to the
1096 State Board of Education, the Legislature, and the public.
1097 3. The development of policies, rules, and procedures that
1098 facilitate institutional attainment of the accountability
1099 standards and coordinate the efforts of all divisions within the
1100 department.

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1101 4. The development of program standards and industry-driven
1102 benchmarks for career, adult, and community education programs,
1103 which must be updated every 3 years. The standards must include
1104 career, academic, and workplace skills; viability of distance
1105 learning for instruction; ~~and~~ work/learn cycles that are
1106 responsive to business and industry; and reflect the quality
1107 components of a career and technical education program. The
1108 State Board of Education shall adopt rules to administer this
1109 section.
1110 5. Overseeing school district and Florida College System
1111 institution compliance with the provisions of this chapter.
1112 6. Ensuring that the educational outcomes for the technical
1113 component of career programs are uniform and designed to provide
1114 a graduate who is capable of entering the workforce on an
1115 equally competitive basis regardless of the institution of
1116 choice.
1117 Section 19. Present subsections (5) and (6) of section
1118 1006.735, Florida Statutes, are redesignated as subsections (6)
1119 and (7), respectively, and a new subsection (5) is added to that
1120 section, to read:
1121 1006.735 Complete Florida Plus Program.—The Complete
1122 Florida Plus Program is created at the University of West
1123 Florida.
1124 (5) RAPID RESPONSE EDUCATION AND TRAINING PROGRAM.—The
1125 Rapid Response Education and Training Program is established
1126 within the Complete Florida Plus Program. Under the Rapid
1127 Response Education and Training Program, the Complete Florida
1128 Plus Program shall work directly with Enterprise Florida, Inc.,
1129 in project-specific industry recruitment and retention efforts

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1130 to offer credible education and training commitments to
1131 businesses.
1132 (a) The Rapid Response Education and Training Program must:
1133 1. Issue challenge grants through requests for proposals
1134 that are open to all education and training providers, public or
1135 private. These grants match state funding with education and
1136 training provider funds to implement particular education and
1137 training programs.
1138 2. Generate periodic reports from an independent forensic
1139 accounting or auditing entity to ensure transparency of the
1140 program. These periodic reports must be submitted to the
1141 President of the Senate and the Speaker of the House of
1142 Representatives.
1143 3. Keep administrative costs to a minimum through the use
1144 of existing organizational structures.
1145 4. Work directly with businesses to recruit individuals for
1146 education and training.
1147 5. Be able to terminate an education and training program
1148 by giving 30 days' notice.
1149 6. Survey employers after completion of an education and
1150 training program to ascertain the effectiveness of the program.
1151 (b) The Division of Career and Adult Education within the
1152 Department of Education shall conduct an analysis and assessment
1153 of the effectiveness of the education and training programs
1154 under this section in meeting labor market and occupational
1155 trends and gaps.
1156 Section 20. Paragraph (d) of subsection (3) of section
1157 1009.22, Florida Statutes, is amended to read:
1158 1009.22 Workforce education postsecondary student fees.—

1159 (3)
1160 (d) Each district school board and each Florida College
1161 System institution board of trustees may adopt tuition and out-
1162 of-state fees that vary ~~no more than 5 percent~~ below or no more
1163 than 5 percent above the combined total of the standard tuition
1164 and out-of-state fees established in paragraph (c).
1165 Section 21. Paragraph (b) of subsection (3) and subsection
1166 (4) of section 1009.23, Florida Statutes, are amended, and
1167 subsection (20) is added to that section, to read:
1168 1009.23 Florida College System institution student fees.—
1169 (3)
1170 (b) ~~Effective July 1, 2014,~~ For baccalaureate degree
1171 programs, the following tuition and fee rates shall apply:
1172 1. The tuition may not exceed ~~shall be~~ $91.79 per credit
1173 hour for students who are residents for tuition purposes.
1174 2. The sum of the tuition and the ~~he~~ out-of-state fee per
1175 credit hour for students who are nonresidents for tuition
1176 purposes shall be no more than 85 percent of the sum of the
1177 tuition and the out-of-state fee at the state university nearest
1178 the Florida College System institution.
1179 (4) Each Florida College System institution board of
1180 trustees shall establish tuition and out-of-state fees, which
1181 may vary ~~no more than 10 percent~~ below and no more than 15
1182 percent above the combined total of the standard tuition and
1183 fees established in subsection (3).
1184 (20) Each Florida College System institution shall notice
1185 to the public and to all enrolled students any board of trustees
1186 meeting that votes on proposed increases in tuition or fees. The
1187 noticed meeting must allow for public comment on the proposed

1188 increase and must:
1189 (a) Be posted 28 days before the board of trustees meeting
1190 takes place.
1191 (b) Include the date and time of the meeting.
1192 (c) Be clear and specifically outline the details of the
1193 original tuition or fee, the rationale for the proposed
1194 increase, and what the proposed increase will fund.
1195 (d) Be posted on the institution's website homepage and
1196 issued in a press release.
1197 Section 22. Paragraphs (a) and (b) of subsection (4) of
1198 section 1009.24, Florida Statutes, are amended, present
1199 subsection (19) of that section is redesignated as subsection
1200 (20), and a new subsection (19) is added to that section, to
1201 read:
1202 1009.24 State university student fees.—
1203 (4)(a) ~~Effective July 1, 2014,~~ The resident undergraduate
1204 tuition for lower-level and upper-level coursework may not
1205 exceed ~~shall be~~ $105.07 per credit hour.
1206 (b) The Board of Governors~~, or the board's designee,~~ may
1207 establish tuition for graduate and professional programs, and
1208 out-of-state fees for all programs. Except as otherwise provided
1209 in this section, the sum of tuition and out-of-state fees
1210 assessed to nonresident students must be sufficient to offset
1211 the full instructional cost of serving such students. However,
1212 adjustments to out-of-state fees or tuition for graduate
1213 programs and professional programs may not exceed 15 percent in
1214 any year. Adjustments to the resident tuition for graduate
1215 programs and professional programs may not exceed the tuition
1216 amount set on July 1, 2015.

1217 (19) Each university shall publicly notice to the public
1218 and to all enrolled students any board of trustees meeting that
1219 votes on proposed increases in tuition or fees. The noticed
1220 meeting must allow for public comment on the proposed increase
1221 and must:
1222 (a) Be posted 28 days before the board of trustees meeting
1223 takes place.
1224 (b) Include the date and time of the meeting.
1225 (c) Be clear and specifically outline the details of the
1226 original tuition or fee, the rationale for the proposed
1227 increase, and what the proposed increase will fund.
1228 (d) Be posted on the institution's website homepage and
1229 issued in a press release.
1230 Section 23. Section 1009.893, Florida Statutes, is amended
1231 to read:
1232 1009.893 Benacquisto Scholarship ~~Florida National Merit~~
1233 ~~Scholar Incentive~~ Program.—
1234 (1) As used in this section, the term:
1235 (a) "Department" means the Department of Education.
1236 (b) "Scholarship ~~Incentive~~ program" means the Benacquisto
1237 Scholarship ~~Florida National Merit Scholar Incentive~~ Program.
1238 (2) The Benacquisto Scholarship ~~Florida National Merit~~
1239 ~~Scholar Incentive~~ Program is created to reward any Florida high
1240 school graduate who receives recognition as a National Merit
1241 Scholar or National Achievement Scholar and who initially
1242 enrolls in the 2014-2015 academic year or, later, in a
1243 baccalaureate degree program at an eligible Florida public or
1244 independent postsecondary educational institution.
1245 (3) The department shall administer the scholarship

1246 ~~incentive~~ program according to rules and procedures established
1247 by the State Board of Education. The department shall advertise
1248 the availability of the scholarship ~~incentive~~ program and notify
1249 students, teachers, parents, certified school counselors, and
1250 principals or other relevant school administrators of the
1251 criteria.
1252 (4) In order to be eligible for an award under the
1253 scholarship ~~incentive~~ program, a student must:
1254 (a) Be a state resident as determined in s. 1009.40 and
1255 rules of the State Board of Education;
1256 (b) Earn a standard Florida high school diploma or its
1257 equivalent pursuant to s. 1002.3105, s. 1003.4281, s. 1003.4282,
1258 or s. 1003.435 unless:
1259 1. The student completes a home education program according
1260 to s. 1002.41; or
1261 2. The student earns a high school diploma from a non-
1262 Florida school while living with a parent who is on military or
1263 public service assignment out of this state;
1264 (c) Be accepted by and enroll in a Florida public or
1265 independent postsecondary educational institution that is
1266 regionally accredited; and
1267 (d) Be enrolled full-time in a baccalaureate degree program
1268 at an eligible regionally accredited Florida public or
1269 independent postsecondary educational institution during the
1270 fall academic term following high school graduation.
1271 (5)(a) An eligible student who is a National Merit Scholar
1272 or National Achievement Scholar and who attends a Florida public
1273 postsecondary educational institution shall receive a
1274 scholarship ~~an incentive~~ award equal to the institutional cost

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1275 of attendance minus the sum of the student's Florida Bright
1276 Futures Scholarship and National Merit Scholarship or National
1277 Achievement Scholarship.
1278 (b) An eligible student who is a National Merit Scholar or
1279 National Achievement Scholar and who attends a Florida
1280 independent postsecondary educational institution shall receive
1281 a scholarship ~~an incentive~~ award equal to the highest cost of
1282 attendance at a Florida public university, as reported by the
1283 Board of Governors of the State University System, minus the sum
1284 of the student's Florida Bright Futures Scholarship and National
1285 Merit Scholarship or National Achievement Scholarship.
1286 (6)(a) To be eligible for a renewal award, a student must
1287 earn all credits for which he or she was enrolled and maintain a
1288 3.0 or higher grade point average.
1289 (b) A student may receive the scholarship ~~incentive~~ award
1290 for a maximum of 100 percent of the number of credit hours
1291 required to complete a baccalaureate degree program, or until
1292 completion of a baccalaureate degree program, whichever comes
1293 first.
1294 (7) The department shall annually issue awards from the
1295 scholarship ~~incentive~~ program. Before the registration period
1296 each semester, the department shall transmit payment for each
1297 award to the president or director of the postsecondary
1298 educational institution, or his or her representative, except
1299 that the department may withhold payment if the receiving
1300 institution fails to report or to make refunds to the department
1301 as required in this section.
1302 (a) Each institution shall certify to the department the
1303 eligibility status of each student to receive a disbursement

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1304 within 30 days before the end of its regular registration
1305 period, inclusive of a drop and add period. An institution is
1306 not required to reevaluate the student eligibility after the end
1307 of the drop and add period.
1308 (b) An institution that receives funds from the scholarship
1309 ~~incentive~~ program must certify to the department the amount of
1310 funds disbursed to each student and remit to the department any
1311 undisbursed advances within 60 days after the end of regular
1312 registration.
1313 (c) If funds appropriated are not adequate to provide the
1314 maximum allowable award to each eligible student, awards must be
1315 prorated using the same percentage reduction.
1316 (8) Funds from any award within the scholarship ~~incentive~~
1317 program may not be used to pay for remedial coursework or
1318 developmental education.
1319 (9) A student may use an award for a summer term if funds
1320 are available and appropriated by the Legislature.
1321 (10) The department shall allocate funds to the appropriate
1322 institutions and collect and maintain data regarding the
1323 scholarship ~~incentive~~ program within the student financial
1324 assistance database as specified in s. 1009.94.
1325 (11) Section 1009.40(4) does not apply to awards issued
1326 under this section.
1327 (12) A student who receives an award under the scholarship
1328 program shall be known as a Benacquisto Scholar.
1329 (13) ~~(12)~~ The State Board of Education shall adopt rules
1330 necessary to administer this section.
1331 Section 24. Paragraphs (f) and (o) of subsection (1),
1332 paragraph (a) of subsection (4), subsection (5), paragraph (b)

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1333 of subsection (7), paragraph (a) of subsection (9), subsection
1334 (11), paragraphs (b) through (e) of subsection (12), and present
1335 subsection (13) of section 1011.62, Florida Statutes, are
1336 amended, present subsections (13), (14), and (15) of that
1337 section are redesignated as subsections (14), (15), and (16),
1338 respectively, and a new subsection (13) is added to that
1339 section, to read:
1340 1011.62 Funds for operation of schools.—If the annual
1341 allocation from the Florida Education Finance Program to each
1342 district for operation of schools is not determined in the
1343 annual appropriations act or the substantive bill implementing
1344 the annual appropriations act, it shall be determined as
1345 follows:
1346 (1) COMPUTATION OF THE BASIC AMOUNT TO BE INCLUDED FOR
1347 OPERATION.—The following procedure shall be followed in
1348 determining the annual allocation to each district for
1349 operation:
1350 (f) *Supplemental academic instruction; categorical fund.*—
1351 1. There is created a categorical fund to provide
1352 supplemental academic instruction to students in kindergarten
1353 through grade 12. This paragraph may be cited as the
1354 "Supplemental Academic Instruction Categorical Fund."
1355 2. Categorical funds for supplemental academic instruction
1356 shall be allocated annually to each school district in the
1357 amount provided in the General Appropriations Act. These funds
1358 shall be in addition to the funds appropriated on the basis of
1359 FTE student membership in the Florida Education Finance Program
1360 and shall be included in the total potential funds of each
1361 district. These funds shall be used to provide supplemental

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1362 academic instruction to students enrolled in the K-12 program.
1363 For the 2014-2015, 2015-2016, 2016-2017, and 2017-2018 fiscal
1364 years ~~year~~, each school district that has one or more of the 300
1365 lowest-performing elementary schools based on the state reading
1366 assessment shall use these funds, together with the funds
1367 provided in the district's research-based reading instruction
1368 allocation and other available funds, to provide an additional
1369 hour of instruction beyond the normal school day for each day of
1370 the entire school year, and to provide the equivalent hours of
1371 instruction in a summer program, for intensive reading
1372 instruction for the students in each of these schools. If a
1373 participating school is no longer classified as one of the 300
1374 lowest-performing elementary schools in the subsequent year, the
1375 school must continue to provide the additional hour of intensive
1376 reading instruction to all students who have Level 1 or Level 2
1377 reading assessment scores. This additional hour of instruction
1378 must be provided by teachers or reading specialists who are
1379 effective in teaching reading or by a K-5 mentoring reading
1380 program that is supervised by a teacher who is effective at
1381 teaching reading. Students enrolled in these schools who have
1382 level 5 assessment scores may participate in the additional hour
1383 of instruction on an optional basis. Exceptional student
1384 education centers may ~~shall~~ not be included in the 300 schools.
1385 After this requirement has been met, supplemental instruction
1386 strategies may include, but are not limited to: modified
1387 curriculum, reading instruction, after-school instruction,
1388 tutoring, mentoring, class size reduction, extended school year,
1389 intensive skills development in summer school, and other methods
1390 for improving student achievement. Supplemental instruction may

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1391 be provided to a student in any manner and at any time during or
1392 beyond the regular 180-day term identified by the school as
1393 being the most effective and efficient way to best help that
1394 student progress from grade to grade and to graduate.
1395 3. Effective with the 1999-2000 fiscal year, funding on the
1396 basis of FTE membership beyond the 180-day regular term shall be
1397 provided in the FEFP only for students enrolled in juvenile
1398 justice education programs or in education programs for
1399 juveniles placed in secure facilities or programs under s.
1400 985.19. Funding for instruction beyond the regular 180-day
1401 school year for all other K-12 students shall be provided
1402 through the supplemental academic instruction categorical fund
1403 and other state, federal, and local fund sources with ample
1404 flexibility for schools to provide supplemental instruction to
1405 assist students in progressing from grade to grade and
1406 graduating.
1407 4. The Florida State University School, as a lab school, is
1408 authorized to expend from its FEFP or Lottery Enhancement Trust
1409 Fund allocation the cost to the student of remediation in
1410 reading, writing, or mathematics for any graduate who requires
1411 remediation at a postsecondary educational institution.
1412 5. Beginning in the 1999-2000 school year, dropout
1413 prevention programs as defined in ss. 1003.52, 1003.53(1)(a),
1414 (b), and (c), and 1003.54 shall be included in group 1 programs
1415 under subparagraph (d)3.
1416 (o) *Calculation of additional full-time equivalent*
1417 *membership based on successful completion of a career-themed*
1418 *course pursuant to ss. 1003.491, 1003.492, and 1003.493, or*
1419 *courses with embedded CAPE industry certifications or CAPE*

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1420 *Digital Tool certificates, and issuance of industry*
1421 *certification identified on the CAPE Industry Certification*
1422 *Funding List pursuant to rules adopted by the State Board of*
1423 *Education or CAPE Digital Tool certificates pursuant to s.*
1424 *1003.4203.*—
1425 1.a. A value of 0.025 full-time equivalent student
1426 membership shall be calculated for CAPE Digital Tool
1427 certificates earned by students in elementary and middle school
1428 grades.
1429 b. A value of 0.1 or 0.2 full-time equivalent student
1430 membership shall be calculated for each student who completes a
1431 course as defined in s. 1003.493(1)(b) or courses with embedded
1432 CAPE industry certifications and who is issued an industry
1433 certification identified annually on the CAPE Industry
1434 Certification Funding List approved under rules adopted by the
1435 State Board of Education. A value of 0.2 full-time equivalent
1436 membership shall be calculated for each student who is issued a
1437 CAPE industry certification that has a statewide articulation
1438 agreement for college credit approved by the State Board of
1439 Education. For CAPE industry certifications that do not
1440 articulate for college credit, the Department of Education shall
1441 assign a full-time equivalent value of 0.1 for each
1442 certification. Middle grades students who earn additional FTE
1443 membership for a CAPE Digital Tool certificate pursuant to sub-
1444 subparagraph a. may not use the previously funded examination to
1445 satisfy the requirements for earning an industry certification
1446 under this sub-subparagraph. Additional FTE membership for an
1447 elementary or middle grades student may ~~shall~~ not exceed 0.1 for
1448 certificates or certifications earned within the same fiscal

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1449 year. The State Board of Education shall include the assigned
1450 values on the CAPE Industry Certification Funding List under
1451 rules adopted by the state board. Such value shall be added to
1452 the total full-time equivalent student membership for grades 6
1453 through 12 in the subsequent year ~~for courses that were not~~
1454 ~~provided through dual enrollment~~. CAPE industry certifications
1455 earned through dual enrollment must be reported and funded
1456 pursuant to s. 1011.80. However, if a student earns a
1457 certification through a dual enrollment course and the
1458 certification is not a fundable certification on the
1459 postsecondary certification funding list, or the dual enrollment
1460 certification is earned as a result of an agreement between a
1461 school district and a nonpublic postsecondary institution, the
1462 bonus value shall be funded in the same manner as for other
1463 nondual enrollment course industry certifications. In such
1464 cases, the school district may provide for an agreement between
1465 the high school and the technical center, or the school district
1466 and the postsecondary institution may enter into an agreement
1467 for equitable distribution of the bonus funds.
1468 c. A value of 0.3 full-time equivalent student membership
1469 shall be calculated for student completion of the courses and
1470 the embedded certifications identified on the CAPE Industry
1471 Certification Funding List and approved by the commissioner
1472 pursuant to ss. 1003.4203(5)(a) and 1008.44.
1473 d. A value of 0.5 full-time equivalent student membership
1474 shall be calculated for CAPE Acceleration Industry
1475 Certifications that articulate for 15 to 29 college credit
1476 hours, and 1.0 full-time equivalent student membership shall be
1477 calculated for CAPE Acceleration Industry Certifications that

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1478 articulate for 30 or more college credit hours pursuant to CAPE
1479 Acceleration Industry Certifications approved by the
1480 commissioner pursuant to ss. 1003.4203(5)(b) and 1008.44.
1481 2. Each district must allocate at least 80 percent of the
1482 funds provided for CAPE industry certification, in accordance
1483 with this paragraph, to the program that generated the funds.
1484 This allocation may not be used to supplant funds provided for
1485 basic operation of the program.
1486 3. For CAPE industry certifications earned in the 2013-2014
1487 school year and in subsequent years, the school district shall
1488 distribute to each classroom teacher who provided direct
1489 instruction toward the attainment of a CAPE industry
1490 certification that qualified for additional full-time equivalent
1491 membership under subparagraph 1.:
1492 a. A bonus ~~in the amount~~ of $25 for each student taught by
1493 a teacher who provided instruction in a course that led to the
1494 attainment of a CAPE industry certification on the CAPE Industry
1495 Certification Funding List with a weight of 0.1.
1496 b. A bonus ~~in the amount~~ of $50 for each student taught by
1497 a teacher who provided instruction in a course that led to the
1498 attainment of a CAPE industry certification on the CAPE Industry
1499 Certification Funding List with a weight of 0.2~~, 0.3, 0.5, and~~
1500 ~~1.0~~.
1501 c. A bonus of $75 for each student taught by a teacher who
1502 provided instruction in a course that led to the attainment of a
1503 CAPE industry certification on the CAPE Industry Certification
1504 Funding List with a weight of 0.3.
1505 d. A bonus of $100 for each student taught by a teacher who
1506 provided instruction in a course that led to the attainment of a

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1507 CAPE industry certification on the CAPE Industry Certification
1508 Funding List with a weight of 0.5 or 1.0.
1509
1510 Bonuses awarded pursuant to this paragraph shall be provided to
1511 teachers who are employed by the district in the year in which
1512 the additional FTE membership calculation is included in the
1513 calculation. Bonuses shall be calculated based upon the
1514 associated weight of a CAPE industry certification on the CAPE
1515 Industry Certification Funding List for the year in which the
1516 certification is earned by the student. In a single school year,
1517 a ~~Any~~ bonus awarded to a teacher under sub-subparagraph 3.a. or
1518 sub-subparagraph 3.b. ~~this paragraph~~ may not exceed $2,000 or
1519 under sub-subparagraph 3.c. or sub-subparagraph 3.d. may not
1520 exceed $4,000. The maximum bonus that may be awarded to a
1521 teacher under this paragraph is $4,000 in a single school year.
1522 This bonus ~~in any given school year and~~ is in addition to any
1523 regular wage or other bonus the teacher received or is scheduled
1524 to receive.
1525 (4) COMPUTATION OF DISTRICT REQUIRED LOCAL EFFORT.—The
1526 Legislature shall prescribe the aggregate required local effort
1527 for all school districts collectively as an item in the General
1528 Appropriations Act for each fiscal year. The amount that each
1529 district shall provide annually toward the cost of the Florida
1530 Education Finance Program for kindergarten through grade 12
1531 programs shall be calculated as follows:
1532 (a) *Estimated taxable value calculations.*—
1533 1.a. Not later than 2 working days prior to July 19, the
1534 Department of Revenue shall certify to the Commissioner of
1535 Education its most recent estimate of the taxable value for

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1536 school purposes in each school district and the total for all
1537 school districts in the state for the current calendar year
1538 based on the latest available data obtained from the local
1539 property appraisers. The value certified shall be the taxable
1540 value for school purposes for that year, and no further
1541 adjustments shall be made, except those made pursuant to
1542 paragraphs (c) and (d), or an assessment roll change required by
1543 final judicial decisions as specified in paragraph (15)(b)
1544 ~~(14)(b)~~. Not later than July 19, the Commissioner of Education
1545 shall compute a millage rate, rounded to the next highest one
1546 one-thousandth of a mill, which, when applied to 96 percent of
1547 the estimated state total taxable value for school purposes,
1548 would generate the prescribed aggregate required local effort
1549 for that year for all districts. The Commissioner of Education
1550 shall certify to each district school board the millage rate,
1551 computed as prescribed in this subparagraph, as the minimum
1552 millage rate necessary to provide the district required local
1553 effort for that year.
1554 b. The General Appropriations Act shall direct the
1555 computation of the statewide adjusted aggregate amount for
1556 required local effort for all school districts collectively from
1557 ad valorem taxes to ensure that no school district's revenue
1558 from required local effort millage will produce more than 90
1559 percent of the district's total Florida Education Finance
1560 Program calculation as calculated and adopted by the
1561 Legislature, and the adjustment of the required local effort
1562 millage rate of each district that produces more than 90 percent
1563 of its total Florida Education Finance Program entitlement to a
1564 level that will produce only 90 percent of its total Florida

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1565 Education Finance Program entitlement in the July calculation.
1566 2. On the same date as the certification in sub-
1567 subparagraph 1.a., the Department of Revenue shall certify to
1568 the Commissioner of Education for each district:
1569 a. Each year for which the property appraiser has certified
1570 the taxable value pursuant to s. 193.122(2) or (3), if
1571 applicable, since the prior certification under sub-subparagraph
1572 1.a.
1573 b. For each year identified in sub-subparagraph a., the
1574 taxable value certified by the appraiser pursuant to s.
1575 193.122(2) or (3), if applicable, since the prior certification
1576 under sub-subparagraph 1.a. This is the certification that
1577 reflects all final administrative actions of the value
1578 adjustment board.
1579 (5) DISCRETIONARY MILLAGE COMPRESSION SUPPLEMENT.—The
1580 Legislature shall prescribe in the General Appropriations Act,
1581 pursuant to s. 1011.71(1), the rate of nonvoted current
1582 operating discretionary millage that shall be used to calculate
1583 a discretionary millage compression supplement. If the
1584 prescribed millage generates an amount of funds per unweighted
1585 FTE for the district that is less than 105 percent of the state
1586 average, the district shall receive an amount per FTE that, when
1587 added to the funds per FTE generated by the designated levy,
1588 shall equal 105 percent of the state average.
1589 (7) DETERMINATION OF SPARSITY SUPPLEMENT.—
1590 (b) The district sparsity index shall be computed by
1591 dividing the total number of full-time equivalent students in
1592 all programs in the district by the number of senior high school
1593 centers in the district, not in excess of three, which centers

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1594 are approved as permanent centers by a survey made by the
1595 Department of Education. For districts with a full-time
1596 equivalent student membership of at least 20,000, but no more
1597 than 24,000, the index shall be computed by dividing the total
1598 number of full-time equivalent students in all programs by the
1599 number of permanent senior high school centers in the district,
1600 not to exceed four.
1601 (9) RESEARCH-BASED READING INSTRUCTION ALLOCATION.—
1602 (a) The research-based reading instruction allocation is
1603 created to provide comprehensive reading instruction to students
1604 in kindergarten through grade 12. For the 2014-2015, 2015-2016,
1605 2016-2017, and 2017-2018 fiscal years ~~year~~, in each school
1606 district that has one or more of the 300 lowest-performing
1607 elementary schools based on the state reading assessment,
1608 priority shall be given to providing an additional hour per day
1609 of intensive reading instruction beyond the normal school day
1610 for each day of the entire school year, and to providing the
1611 equivalent hours of instruction in a summer program, for the
1612 students in each school. If a participating school is no longer
1613 classified as one of the 300 lowest-performing elementary
1614 schools in the subsequent year, the school must continue to
1615 provide the additional hour of intensive reading instruction to
1616 all students who have Level 1 or Level 2 reading assessment
1617 scores. Students enrolled in these schools who have level 5
1618 assessment scores may participate in the additional hour of
1619 instruction on an optional basis. Exceptional student education
1620 centers may ~~shall~~ not be included in the 300 schools. The
1621 intensive reading instruction delivered in this additional hour
1622 and for other students shall include: research-based reading

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1623 instruction that has been proven to accelerate progress of
1624 students exhibiting a reading deficiency; differentiated
1625 instruction based on student assessment data to meet students'
1626 specific reading needs; explicit and systematic reading
1627 development in phonemic awareness, phonics, fluency, vocabulary,
1628 and comprehension, with more extensive opportunities for guided
1629 practice, error correction, and feedback; and the integration of
1630 social studies, science, and mathematics-text reading, text
1631 discussion, and writing in response to reading. ~~For the 2012-~~
1632 ~~2013 and 2013-2014 fiscal years, a school district may not hire~~
1633 ~~more reading coaches than were hired during the 2011-2012 fiscal~~
1634 ~~year unless all students in kindergarten through grade 5 who~~
1635 ~~demonstrate a reading deficiency, as determined by district and~~
1636 ~~state assessments, including students scoring Level 1 or Level 2~~
1637 ~~on the statewide, standardized reading assessment or, upon~~
1638 ~~implementation, the English Language Arts assessment, are~~
1639 ~~provided an additional hour per day of intensive reading~~
1640 ~~instruction beyond the normal school day for each day of the~~
1641 ~~entire school year.~~
1642 (11) VIRTUAL EDUCATION CONTRIBUTION.—The Legislature may
1643 annually provide in the Florida Education Finance Program a
1644 virtual education contribution. The amount of the virtual
1645 education contribution shall be the difference between the
1646 amount per FTE established in the General Appropriations Act for
1647 virtual education and the amount per FTE for each district and
1648 the Florida Virtual School, which may be calculated by taking
1649 the sum of the base FEFP allocation, the declining enrollment
1650 supplement, the discretionary local effort, the state-funded
1651 discretionary contribution, the discretionary millage

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1652 compression supplement, the research-based reading instruction
1653 allocation, the exceptional student education guaranteed
1654 allocation, and the instructional materials allocation, and then
1655 dividing by the total unweighted FTE. This difference shall be
1656 multiplied by the virtual education unweighted FTE for programs
1657 and options identified in s. 1002.455(3) and the Florida Virtual
1658 School and its franchises to equal the virtual education
1659 contribution and shall be included as a separate allocation in
1660 the funding formula.
1661 (12) FLORIDA DIGITAL CLASSROOMS ALLOCATION.—
1662 (b) Each district school board shall adopt a district
1663 digital classrooms plan that meets the unique needs of students,
1664 schools, and personnel and submit the plan for approval to the
1665 Department of Education. In addition, each district school board
1666 must, at a minimum, seek input from the district's
1667 instructional, curriculum, and information technology staff to
1668 develop the district digital classrooms plan. The district's
1669 plan must be within the general parameters established in the
1670 Florida digital classrooms plan pursuant to s. 1001.20. In
1671 addition, if the district participates in federal technology
1672 initiatives and grant programs, the district digital classrooms
1673 plan must include a plan for meeting requirements of such
1674 initiatives and grant programs. Funds allocated under this
1675 subsection must be used to support implementation of district
1676 digital classrooms plans. By August ~~October 1, 2014, and by~~
1677 ~~March~~ 1 of each year ~~thereafter~~, on a date determined by the
1678 department, each district school board shall submit to the
1679 department, in a format prescribed by the department, a digital
1680 classrooms plan. At a minimum, such plan must include, and be

1681 annually updated to reflect, the following:
1682 1. Measurable student performance outcomes. Outcomes
1683 related to student performance, including outcomes for students
1684 with disabilities, must be tied to the efforts and strategies to
1685 improve outcomes related to student performance by integrating
1686 technology in classroom teaching and learning. Results of the
1687 outcomes shall be reported at least annually for the current
1688 school year and subsequent 3 years and be accompanied by an
1689 independent evaluation and validation of the reported results.
1690 2. Digital learning and technology infrastructure purchases
1691 and operational activities. Such purchases and activities must
1692 be tied to the measurable outcomes under subparagraph 1.,
1693 including, but not limited to, connectivity, broadband access,
1694 wireless capacity, Internet speed, and data security, all of
1695 which must meet or exceed minimum requirements and protocols
1696 established by the department. For each year that the district
1697 uses funds for infrastructure, a third-party, independent
1698 evaluation of the district's technology inventory and
1699 infrastructure needs must accompany the district's plan.
1700 3. Professional development purchases and operational
1701 activities. Such purchases and activities must be tied to the
1702 measurable outcomes under subparagraph 1., including, but not
1703 limited to, using technology in the classroom and improving
1704 digital literacy and competency.
1705 4. Digital tool purchases and operational activities. Such
1706 purchases and activities must be tied to the measurable outcomes
1707 under subparagraph 1., including, but not limited to,
1708 competency-based credentials that measure and demonstrate
1709 digital competency and certifications; third-party assessments

1710 that demonstrate acquired knowledge and use of digital
1711 applications; and devices that meet or exceed minimum
1712 requirements and protocols established by the department.
1713 5. Online assessment-related purchases and operational
1714 activities. Such purchases and activities must be tied to the
1715 measurable outcomes under subparagraph 1., including, but not
1716 limited to, expanding the capacity to administer assessments and
1717 compatibility with minimum assessment protocols and requirements
1718 established by the department. <u>If the administration of online</u>
1719 <u>assessments after January 1, 2015, does not comply with the</u>
1720 <u>minimum assessment protocols and requirements established by the</u>
1721 <u>department, the department shall contract with an independent</u>
1722 <u>auditing entity that has expertise in the area of the</u>
1723 <u>noncompliance to evaluate the extent of the noncompliance and</u>
1724 <u>provide recommendations to remediate the noncompliance in future</u>
1725 <u>administrations of online assessments.</u>
1726 (c) The Legislature shall annually provide in the General
1727 Appropriations Act the FEFP allocation for implementation of the
1728 Florida digital classrooms plan to be calculated in an amount up
1729 to 1 percent of the base student allocation multiplied by the
1730 total K-12 full-time equivalent student enrollment included in
1731 the FEFP calculations for the legislative appropriation or as
1732 provided in the General Appropriations Act. Each school district
1733 shall be provided a minimum of $250,000, with the remaining
1734 balance of the allocation to be distributed based on each
1735 district's proportion of the total K-12 full-time equivalent
1736 student enrollment. Distribution of funds for the Florida
1737 digital classrooms allocation shall begin following submittal of
1738 each district's digital classrooms plan, which must include

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1739 formal verification of the superintendent's approval of the
1740 digital classrooms plan of each charter school in the district,
1741 and approval of the plan by the department. A charter school
1742 shall submit the school's digital classrooms plan, in a
1743 streamlined format prescribed by the department, to the
1744 applicable school district. Prior to the distribution of the
1745 Florida digital classrooms allocation funds, each district
1746 school superintendent shall certify to the Commissioner of
1747 Education that the district school board has approved a
1748 comprehensive district digital classrooms plan that supports the
1749 fidelity of implementation of the Florida digital classrooms
1750 allocation. District allocations shall be recalculated during
1751 the fiscal year consistent with the periodic recalculation of
1752 the FEFP. School districts shall provide a proportionate share
1753 of the digital classrooms allocation to each charter school in
1754 the district, as required for categorical programs in s.
1755 1002.33(17)(b). A school district may use a competitive process
1756 to distribute funds for the Florida digital classrooms
1757 allocation to the schools within the school district. Beginning
1758 in the 2016-2017 school year, to be eligible to receive Florida
1759 digital classrooms allocation funds, a school district must
1760 undergo an annual assessment pursuant to s. 282.0052 and an
1761 annual independent verification of its use of Florida digital
1762 classrooms allocation funds pursuant to paragraph (e).
1763 (d) To facilitate the implementation of the district
1764 digital classrooms plans and charter school digital classrooms
1765 plans, the commissioner shall support statewide, coordinated
1766 partnerships and efforts of this state's education practitioners
1767 in the field, including, but not limited to, superintendents,

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1768 principals, and teachers, to identify and share best practices,
1769 corrective actions, and other identified needs. By August 1,
1770 2016, the commissioner shall implement an online, web-based
1771 portal for school districts and charter schools to submit their
1772 digital classrooms plan.
1773 (e) Beginning in the 2015-2016 fiscal year and each year
1774 thereafter, each district school board and charter school shall
1775 report to the department its use of funds provided through the
1776 Florida digital classrooms allocation and student performance
1777 outcomes in accordance with the district's digital classrooms
1778 plan. The department may contract with an independent third-
1779 party entity to conduct an annual independent verification of
1780 the district's use of Florida digital classrooms allocation
1781 funds in accordance with the district's digital classrooms plan.
1782 In the event an independent third-party verification is not
1783 conducted, the Auditor General shall, during scheduled
1784 operational audits of the school districts, verify compliance of
1785 the use of Florida digital classrooms allocation funds in
1786 accordance with the district's digital classrooms plan. No later
1787 than October 1 of each year, beginning in the 2015-2016 fiscal
1788 year, the commissioner shall provide to the Governor, the
1789 President of the Senate, and the Speaker of the House of
1790 Representatives a summary of each district's student performance
1791 goals and outcomes, use of funds~~,~~ in support of such ~~student~~
1792 performance goals and outcomes, and progress toward meeting
1793 statutory requirements and timelines.
1794 (13) FEDERALLY CONNECTED STUDENT SUPPLEMENT.—The federally
1795 connected student supplement is created to provide supplemental
1796 funding for school districts to support the education of

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1797 students connected with federally owned military installations,
1798 National Aeronautics and Space Administration (NASA) property,
1799 and Indian lands. To be eligible for this supplement, the
1800 district must be eligible for federal Impact Aid Program funds
1801 under s. 8003, Title VIII of the Elementary and Secondary
1802 Education Act of 1965. The supplement shall be the sum of the
1803 student allocation and an exempt property allocation.
1804 (a) The student allocation shall be calculated based on the
1805 number of students reported for federal Impact Aid Program
1806 funds, including students with disabilities, who meet one of the
1807 following criteria:
1808 1. Resides with a parent who is on active duty in the
1809 uniformed services or is an accredited foreign government
1810 official and military officer. Students with disabilities shall
1811 also be reported separately for this condition.
1812 2. Resides on eligible federally owned Indian lands.
1813 Students with disabilities shall also be reported separately for
1814 this condition.
1815 3. Resides with a civilian parent who lives or works on
1816 eligible federal property connected with a military installation
1817 or NASA. The number of these students shall be multiplied by a
1818 factor of 0.5.
1819 (b) The total number of federally connected students
1820 calculated under paragraph (a) shall be multiplied by a
1821 percentage of the base student allocation as provided in the
1822 General Appropriations Act. The total of the number of students
1823 with disabilities as reported separately under subparagraphs
1824 (a)1. and (a)2. shall be multiplied by an additional percentage
1825 of the base student allocation as provided in the General

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1826 Appropriations Act. The base amount and the amount for students
1827 with disabilities shall be summed to provide the student
1828 allocation.
1829 (c) The exempt-property allocation shall be equal to the
1830 tax-exempt value of federal Impact Aid lands reserved as
1831 military installations, real property owned by NASA, or eligible
1832 federally owned Indian lands located in the district, as of
1833 January 1 of the previous year, multiplied by the millage
1834 authorized and levied under s. 1011.71(2).
1835 (14) ~~(13)~~ QUALITY ASSURANCE GUARANTEE.—The Legislature may
1836 annually in the General Appropriations Act determine a
1837 percentage increase in funds per K-12 unweighted FTE as a
1838 minimum guarantee to each school district. The guarantee shall
1839 be calculated from prior year base funding per unweighted FTE
1840 student which shall include the adjusted FTE dollars as provided
1841 in subsection (15) ~~(14)~~, quality guarantee funds, and actual
1842 nonvoted discretionary local effort from taxes. From the base
1843 funding per unweighted FTE, the increase shall be calculated for
1844 the current year. The current year funds from which the
1845 guarantee shall be determined shall include the adjusted FTE
1846 dollars as provided in subsection (15) ~~(14)~~ and potential
1847 nonvoted discretionary local effort from taxes. A comparison of
1848 current year funds per unweighted FTE to prior year funds per
1849 unweighted FTE shall be computed. For those school districts
1850 which have less than the legislatively assigned percentage
1851 increase, funds shall be provided to guarantee the assigned
1852 percentage increase in funds per unweighted FTE student. Should
1853 appropriated funds be less than the sum of this calculated
1854 amount for all districts, the commissioner shall prorate each

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1855 district's allocation. This provision shall be implemented to
1856 the extent specifically funded.
1857 Section 25. Subsection (1) and paragraph (d) of subsection
1858 (2) of section 1011.71, Florida Statutes, are amended to read:
1859 1011.71 District school tax.—
1860 (1) If the district school tax is not provided in the
1861 General Appropriations Act or the substantive bill implementing
1862 the General Appropriations Act, each district school board
1863 desiring to participate in the state allocation of funds for
1864 current operation as prescribed by s. 1011.62(15) ~~s. 1011.62(14)~~
1865 shall levy on the taxable value for school purposes of the
1866 district, exclusive of millage voted under the provisions of s.
1867 9(b) or s. 12, Art. VII of the State Constitution, a millage
1868 rate not to exceed the amount certified by the commissioner as
1869 the minimum millage rate necessary to provide the district
1870 required local effort for the current year, pursuant to s.
1871 1011.62(4)(a)1. In addition to the required local effort millage
1872 levy, each district school board may levy a nonvoted current
1873 operating discretionary millage. The Legislature shall prescribe
1874 annually in the appropriations act the maximum amount of millage
1875 a district may levy.
1876 (2) In addition to the maximum millage levy as provided in
1877 subsection (1), each school board may levy not more than 1.5
1878 mills against the taxable value for school purposes for district
1879 schools, including charter schools at the discretion of the
1880 school board, to fund:
1881 (d) The purchase, lease-purchase, or lease of new and
1882 replacement equipment; computer hardware, including electronic
1883 hardware and other hardware devices necessary for gaining access

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1884 to or enhancing the use of electronic content and resources or
1885 to facilitate the access to and the use of a school district's
1886 digital classrooms plan pursuant to s. 1011.62, excluding
1887 software other than the operating system necessary to operate
1888 the hardware or device; and enterprise resource software
1889 applications that are classified as capital assets in accordance
1890 with definitions of the Governmental Accounting Standards Board,
1891 have a useful life of at least 5 years, and are used to support
1892 districtwide administration or state-mandated reporting
1893 requirements. Enterprise resource software may be acquired by
1894 annual license fees, maintenance fees, or lease agreements.
1895 Section 26. Section 1011.802, Florida Statutes, is created
1896 to read:
1897 1011.802 Florida Apprenticeship Grant (FLAG) Program.—
1898 (1) The Florida Apprenticeship Grant Program is created to
1899 provide grants, as provided in the General Appropriations Act,
1900 to career centers, charter technical career centers, and Florida
1901 College System institutions on a competitive basis to establish
1902 new apprenticeship programs and expand existing apprenticeship
1903 programs. The Division of Career and Adult Education within the
1904 Department of Education shall administer the grant program.
1905 (2) Applications from career centers, charter technical
1906 career centers, and Florida College System institutions must
1907 contain projected enrollment and projected costs for the new or
1908 expanded apprenticeship program.
1909 (3) The department shall give priority to apprenticeship
1910 programs in the areas of information technology, health, and
1911 machining and manufacturing. Grant funds may be used for
1912 instructional equipment, supplies, personnel, student services,

1913 and other expenses associated with the creation or expansion of
1914 an apprenticeship program. Grant funds may not be used for
1915 recurring instructional costs or for a center's or an
1916 institution's indirect costs. Grant recipients must submit
1917 quarterly reports in a format prescribed by the department.
1918 Section 27. Paragraph (e) is added to subsection (3) of
1919 section 1012.34, Florida Statutes, to read:
1920 1012.34 Personnel evaluation procedures and criteria.—
1921 (3) EVALUATION PROCEDURES AND CRITERIA.—Instructional
1922 personnel and school administrator performance evaluations must
1923 be based upon the performance of students assigned to their
1924 classrooms or schools, as provided in this section. Pursuant to
1925 this section, a school district's performance evaluation is not
1926 limited to basing unsatisfactory performance of instructional
1927 personnel and school administrators solely upon student
1928 performance, but may include other criteria approved to evaluate
1929 instructional personnel and school administrators' performance,
1930 or any combination of student performance and other approved
1931 criteria. Evaluation procedures and criteria must comply with,
1932 but are not limited to, the following:
1933 (e) A classroom teacher's performance evaluation must be
1934 based upon the performance of students with fewer than 25
1935 absences within the school year, or, for schools with block
1936 scheduling, fewer than 10 absences within the school year,
1937 assigned to their classrooms, as provided in this section.
1938 Section 28. Subsection (4) is added to section 1012.3401,
1939 Florida Statutes, to read:
1940 1012.3401 Requirements for measuring student performance in
1941 instructional personnel and school administrator performance

1942 evaluations; performance evaluation of personnel for purposes of
1943 performance salary schedule.—Notwithstanding any provision to
1944 the contrary in ss. 1012.22 and 1012.34 regarding the
1945 performance salary schedule and personnel evaluation procedures
1946 and criteria:
1947 (4) A classroom teacher's performance evaluation must be
1948 based upon the performance of students with fewer than 25
1949 absences within the school year, or, for schools with block
1950 scheduling, fewer than 10 absences within the school year,
1951 assigned to their classrooms.
1952 Section 29. Subsection (3) of section 1012.39, Florida
1953 Statutes, is amended to read:
1954 1012.39 Employment of substitute teachers, teachers of
1955 adult education, nondegreed teachers of career education, and
1956 career specialists; students performing clinical field
1957 experience.—
1958 (3) A student who is enrolled in a state-approved teacher
1959 preparation program in a postsecondary educational institution
1960 that is approved by rules of the State Board of Education and
1961 who is jointly assigned by the postsecondary educational
1962 institution and a district school board to perform a clinical
1963 field experience under the direction of a regularly employed and
1964 certified educator shall, while serving such supervised clinical
1965 field experience, be accorded the same protection of law as that
1966 accorded to the certified educator except for the right to
1967 bargain collectively as an employee of the district school
1968 board. The district school board providing the clinical field
1969 experience shall notify the student electronically or in writing
1970 of the availability of educator liability insurance under s.

1971 1012.75. A postsecondary educational institution or district
1972 school board may not require a student enrolled in a state-
1973 approved teacher preparation program to purchase liability
1974 insurance as a condition of participation in any clinical field
1975 experience or related activity on the premises of an elementary
1976 or secondary school.
1977 Section 30. Subsections (4), (5), and (6) of section
1978 1012.71, Florida Statutes, are amended to read:
1979 1012.71 The Florida Teachers Classroom Supply Assistance
1980 Program.—
1981 (4) Each classroom teacher must provide the school district
1982 with receipts for the expenditure of the funds. If the classroom
1983 teacher is provided funds in advance of expenditure, the ~~Each~~
1984 classroom teacher must sign a statement acknowledging receipt of
1985 the funds, provide ~~keep~~ receipts as requested by the school
1986 district ~~for no less than 4 years~~ to show that funds expended
1987 meet the requirements of this section, and return any unused
1988 funds to the district school board by ~~at~~ the end of the regular
1989 school year. Any unused funds that are returned to the district
1990 school board shall be deposited into the school advisory council
1991 account of the school at which the classroom teacher returning
1992 the funds was employed when that teacher received the funds or
1993 deposited into the Florida Teachers Classroom Supply Assistance
1994 Program account of the school district in which a charter school
1995 is sponsored, as applicable.
1996 ~~(5) The statement must be signed and dated by each~~
1997 ~~classroom teacher before receipt of the Florida Teachers~~
1998 ~~Classroom Supply Assistance Program funds and shall include the~~
1999 ~~wording: "I, ...(name of teacher)..., am employed by the~~

2000 ~~....County District School Board or by the ....Charter School as~~
2001 ~~a full-time classroom teacher. I acknowledge that Florida~~
2002 ~~Teachers Classroom Supply Assistance Program funds are~~
2003 ~~appropriated by the Legislature for the sole purpose of~~
2004 ~~purchasing classroom materials and supplies to be used in the~~
2005 ~~instruction of students assigned to me. In accepting custody of~~
2006 ~~these funds, I agree to keep the receipts for all expenditures~~
2007 ~~for no less than 4 years. I understand that if I do not keep the~~
2008 ~~receipts, it will be my personal responsibility to pay any~~
2009 ~~federal taxes due on these funds. I also agree to return any~~
2010 ~~unexpended funds to the district school board at the end of the~~
2011 ~~regular school year for deposit into the school advisory council~~
2012 ~~account of the school where I was employed at the time I~~
2013 ~~received the funds or for deposit into the Florida Teachers~~
2014 ~~Classroom Supply Assistance Program account of the school~~
2015 ~~district in which the charter school is sponsored, as~~
2016 ~~applicable."~~
2017 (5) ~~(6)~~ The Department of Education and district school
2018 boards may, and are encouraged to, enter into public-private
2019 partnerships in order to increase the total amount of Florida
2020 Teachers Classroom Supply Assistance Programs funds available to
2021 classroom teachers.
2022 Section 31. Section 1012.731, Florida Statutes, is created
2023 to read:
2024 1012.731 The Florida Best and Brightest Teacher Scholarship
2025 Program.—
2026 (1) The Legislature recognizes that, second only to
2027 parents, teachers play the most critical role within schools in
2028 preparing students to achieve a high level of academic

2029 performance. The Legislature further recognizes that research
2030 has linked student outcomes to a teacher's own academic
2031 achievement. Therefore, it is the intent of the Legislature to
2032 designate teachers who have achieved high academic standards
2033 during their own education as Florida's best and brightest
2034 teacher scholars.
2035 (2) There is created the Florida Best and Brightest Teacher
2036 Scholarship Program to be administered by the Department of
2037 Education. Beginning in the 2015-2016 school year, the
2038 scholarship program shall provide categorical funding for
2039 scholarships to be awarded to teachers who have demonstrated a
2040 high level of academic achievement.
2041 (3)(a) To be eligible for a scholarship, a teacher:
2042 1. Must have scored at or above the 80th percentile on
2043 either the SAT or the ACT based upon the percentile ranks in
2044 effect when the teacher took the assessment and have been
2045 evaluated as highly effective pursuant to s. 1012.34; or
2046 2. If the teacher is a first-year teacher who has not been
2047 evaluated pursuant to s. 1012.34, must have scored at or above
2048 the 80th percentile on either the SAT or the ACT based upon the
2049 percentile ranks in effect when the teacher took the assessment.
2050 (b) In order to demonstrate eligibility for an award, an
2051 eligible teacher must submit to the school district, no later
2052 than October 1, an official record of his or her SAT or ACT
2053 score demonstrating that the teacher scored at or above the 80th
2054 percentile based upon the percentile ranks in effect when the
2055 teacher took the assessment. Once a teacher is deemed eligible
2056 by the school district, the teacher shall remain eligible as
2057 long as he or she is employed by the school district and

2058 maintains or, if the teacher is a first-year teacher, earns the
2059 evaluation designation of highly effective pursuant to s.
2060 1012.34.
2061 (4) Annually, by December 1, each school district shall
2062 submit to the department the number of eligible teachers who
2063 qualify for the scholarship.
2064 (5) Annually, by February 1, the department shall disburse
2065 scholarship funds, in an amount prescribed annually by the
2066 Legislature in the General Appropriations Act, to each school
2067 district for each eligible teacher to receive a scholarship. If
2068 the number of eligible teachers exceeds the total appropriation
2069 authorized in the General Appropriation Act, the department
2070 shall prorate the per teacher scholarship amount.
2071 (6) Annually, by April 1, each school district shall
2072 provide payment of the scholarship to each eligible teacher.
2073 (7) For purposes of this section, the term "school
2074 district" includes the Florida School for the Deaf and the Blind
2075 and charter school governing boards.
2076 Section 32. Section 1012.75, Florida Statutes, is amended
2077 to read:
2078 1012.75 Liability of teacher or principal~~; excessive~~
2079 ~~force~~.—
2080 (1) Except in the case of excessive force or cruel and
2081 unusual punishment, a teacher or other member of the
2082 instructional staff, a principal or the principal's designated
2083 representative, or a bus driver shall not be civilly or
2084 criminally liable for any action carried out in conformity with
2085 State Board of Education and district school board rules
2086 regarding the control, discipline, suspension, and expulsion of

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2087 students, including, but not limited to, any exercise of
2088 authority under s. 1003.32 or s. 1006.09.
2089 (2) The State Board of Education shall adopt rules that
2090 outline administrative standards for the use of reasonable force
2091 by school personnel to maintain a safe and orderly learning
2092 environment. Such standards shall be distributed to each school
2093 in the state and shall provide guidance to school personnel in
2094 receiving the limitations on liability specified in this
2095 section.
2096 (3) Beginning with the 2015-2016 school year, the
2097 Department of Education shall administer an educator liability
2098 insurance program, as provided in the General Appropriation Act,
2099 to protect full-time instructional personnel from liability for
2100 monetary damages and the costs of defending actions resulting
2101 from claims made against the instructional personnel arising out
2102 of occurrences in the course of activities within the
2103 instructional personnel's professional capacity. For purposes of
2104 this subsection, the terms "full-time," "part-time," and
2105 "administrative personnel" shall be defined by the individual
2106 district school board. For purposes of this subsection, the term
2107 "instructional personnel" has the same meaning as provided in s.
2108 1012.01(2).
2109 (a) Liability coverage of at least $2 million shall be
2110 provided to all full-time instructional personnel. Liability
2111 coverage may be provided to the following individuals who choose
2112 to participate in the program, at cost: part-time instructional
2113 personnel, administrative personnel, and students enrolled in a
2114 state-approved teacher preparation program pursuant to s.
2115 1012.39(3).

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2116 (b) Annually, by August 1, each district school board shall
2117 notify personnel specified in paragraph (a) of the liability
2118 coverage provided pursuant to this subsection. The department
2119 shall develop the form of the notice which each district school
2120 board must use. The notice must be on an 8 1/2-inch by 5 1/2-
2121 inch postcard and include the amount of coverage, a general
2122 description of the nature of the coverage, and the contact
2123 information for coverage and claims questions. The notification
2124 must be provided separately from any other correspondence. Each
2125 district school board shall certify to the department, by August
2126 5 of each year, that the notification required by this paragraph
2127 has been provided.
2128 (c) The department shall consult with the Department of
2129 Financial Services to select the most economically prudent and
2130 cost-effective means of implementing the program through self-
2131 insurance, a risk management program, or competitive
2132 procurement.
2133 Section 33. (1) The State University System Performance
2134 Based Incentive shall be based on indicators of institutional
2135 attainment of performance metrics adopted by the Board of
2136 Governors. The performance-based funding metrics must include,
2137 but are not limited to, metrics that measure graduation and
2138 retention rates; degree production; affordability;
2139 postgraduation employment, salaries, or further education;
2140 student loan default rates; access; and any other metrics
2141 approved by the board.
2142 (2) The Board of Governors shall evaluate the institutions'
2143 performance on the metrics based on benchmarks adopted by the
2144 board which measure the achievement of institutional excellence

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2145 or improvement. Each fiscal year, the amount of funds available
2146 for allocation to the institutions based on the performance
2147 funding model shall consist of the state's investment in
2148 performance funding, plus an institutional investment consisting
2149 of funds to be redistributed from the base funding of the State
2150 University System, as determined in the General Appropriations
2151 Act. The institutional investment shall be restored for all
2152 institutions that meet the board's minimum performance threshold
2153 under the performance funding model. An institution that is one
2154 of the bottom three institutions or fails to meet the board's
2155 minimum performance funding threshold is not eligible for the
2156 state's investment, shall have a portion of its institutional
2157 investment withheld, and shall submit an improvement plan to the
2158 board that specifies the activities and strategies for improving
2159 the institution's performance.
2160 (3) By October 1 of each year, the Board of Governors shall
2161 submit to the Governor, the President of the Senate, and the
2162 Speaker of the House of Representatives a report on the previous
2163 year's performance funding allocation which reflects the
2164 rankings and award distributions.
2165 (4) The Board of Governors shall adopt a regulation to
2166 implement this section.
2167 Section 34. (1) The Florida College System Performance
2168 Based Incentive shall be based on indicators of institutional
2169 attainment of performance metrics adopted by the State Board of
2170 Education. The performance-based funding metrics must be limited
2171 to metrics that measure retention; program completion and
2172 graduation rates; student loan default rates; job placement; and
2173 postgraduation employment, salaries, or further education.

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2174 (2) The State Board of Education shall evaluate the
2175 institutions' performance on the metrics based on benchmarks
2176 adopted by the board which measure the achievement of
2177 institutional excellence or improvement. Each fiscal year, the
2178 amount of funds available for allocation to the institutions
2179 based on the performance funding model shall consist of the
2180 state's investment in performance funding, plus an institutional
2181 investment consisting of funds to be redistributed from the base
2182 funding of the Florida College System Program Fund, as
2183 determined in the General Appropriations Act. The board shall
2184 establish a minimum performance threshold that institutions must
2185 meet in order to be eligible for the state's investment in
2186 performance funds. The institutional investment shall be
2187 restored for all institutions eligible for the state's
2188 investment under the performance funding model. Any institution
2189 that fails to meet the board's minimum performance funding
2190 threshold is not eligible for the state's investment, shall have
2191 a portion of its institutional investment withheld, and shall
2192 submit an improvement plan to the board that specifies the
2193 activities and strategies for improving the institution's
2194 performance.
2195 (3) The State Board of Education must review the
2196 improvement plan, and if approved, must monitor the
2197 institution's progress on implementing the specified activities
2198 and strategies. The institutions shall submit monitoring reports
2199 to the board no later than December 31 and May 31 of each year.
2200 (4) The Commissioner of Education shall withhold
2201 disbursement of the institutional investment until such time as
2202 the monitoring report for the institution is approved by the

2203 State Board of Education. Any institution that fails to make
2204 satisfactory progress will not have its full institutional
2205 investment restored. If all institutional investment funds are
2206 not restored, any remaining funds shall be redistributed in
2207 accordance with the board's performance funding model.
2208 (5) By October 1 of each year, the State Board of Education
2209 shall submit to the Governor, the President of the Senate, and
2210 the Speaker of the House of Representatives a report on the
2211 previous year's performance funding allocation which reflects
2212 the rankings and award distributions.
2213 (6) The State Board of Education shall adopt rules to
2214 implement this section.
2215 Section 35. This act shall take effect July 1, 2015.

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 Appropriations

BILL: CS/CS/SB 948

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Education); Higher Education Committee; and Senator Gaetz

SUBJECT: Education

DATE: April 23, 2015 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Scott	Klebacha	HE	**Fav/CS**
2.	Sikes	Elwell	AED	**Recommend: Fav/CS**
3.	Sikes	Kynoch	AP	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 948 updates and establishes numerous public K-12 and postsecondary education statutes relating to Florida digital classrooms, apprenticeships, public school funding and policy issues, state requirements for educational facilities, extracurricular activities, dual enrollment, public postsecondary systems missions and roles, postsecondary affordability, postsecondary performance-based incentive funding models, a Rapid Response Education and Training Program, educator liability insurance, and the Florida Best and Brightest Teacher Scholarship Program.

Florida Digital Classrooms

The bill provides a mechanism for comparing the status of digital readiness of school districts and public schools, which is independently verified, based on technology infrastructure standards identified by the Agency for State Technology (Agency), or a contracted organization. The digital readiness of school districts must be assessed using a digital readiness scorecard and uniform definitions of technology infrastructure components established by the Department of Education (DOE) in consultation with the Agency.

Apprenticeships

The bill updates definitions, authorizes the appointment of independent public members to the State Apprenticeship Advisory Council, and revises the criteria for an apprenticeable occupation. The bill also creates the Florida Apprenticeship Grant (FLAG) Program to provide competitive grants to career centers, charter technical career centers and Florida College System (FCS) institutions for the purpose of expanding existing programs and establishing new apprenticeship programs.

Public School Funding and Policy Issues.

The bill modifies the Florida Education Finance Program (FEFP) funding formula by:

- Extending and expanding the requirement of providing an additional hour of intensive reading instruction to students enrolled in the 300 lowest-performing elementary schools.
- Authorizing performance funding for a career and professional education (CAPE) industry certification earned through a dual enrollment course.
- Establishing two new tiers of bonuses and raises the maximum annual bonus for CAPE industry certification teachers.
- Increasing the discretionary millage compression supplement above the state average.
- Revising the formula for calculating the sparsity supplement.
- Revising the formula for calculating the virtual education contribution.
- Creating the federally connected student supplement.

The bill also:

- Clarifies that annual license fees, maintenance fees, and lease agreements for enterprise resource software are allowable uses of local capital improvement funds.
- Provides audit protection for teachers under the Florida Teacher Classroom Supply Assistance Program by requiring teachers to provide the school district with receipts for the expenditure of the funds and to return to the district school board any funds for which there are undocumented expenditures.
- Authorizes a district school board to adopt policies for standard student attire.
- Requires the DOE to administer an educator liability insurance program.
- Requires public school instruction on the events surrounding the terrorist attacks occurring on September 11, 2001, and the impact of those events on the nation.
- Provides an exemption for the performance of students with excessive absences from counting against a teacher's performance evaluation.
- Allows district school boards to implement exceptions to educational facilities construction requirements with a supermajority vote.
  Modifies dual enrollment requirements and policies, especially those related to home education and private school students

Performance-Based Funding

The bill establishes the State University System and Florida College System Performance-Based Incentive funding models based on metrics adopted by the Board of Governors and the State Board of Education (State Board), respectively.

Rapid Response Education and Training Program

The bill creates the Rapid Response Education and Training Program (Program) within the Complete Florida Plus Program to recruit and retain employees through industry-specific education and training. The bill:

- Specifies the responsibilities of the Program.
- Requires the DOE to evaluate and report on the effectiveness of the Program.
- Requires the DOE to develop standards.
- Requires the State Board to adopt rules.

Florida Best and Brightest Teacher Scholarship Program

The bill creates the Florida Best and Brightest Teacher Scholarship Program (Scholarship Program) to award teachers who demonstrate a high level of academic achievement, authorizes funding for the Scholarship Program, and, and, for teachers other than first-year teachers, have been evaluated as highly effective.

The Senate's Fiscal Year 2015-2016 proposed General Appropriations Bill, SB 2500, appropriates a total of $90 million for the additional hour of intensive reading instruction through the Supplemental Academic Instruction (SAI) and the Research-Based Reading Instruction Allocation categoricals in the FEFP. The increase in the discretionary millage supplement is funded at $34 million and the federally connected student supplement categorical is funded at $12.4 million. The State University System and Florida College System Performance-Based Incentive funding models are funded at $400 million and $60 million respectively. The Rapid Response Education and Training Program is funded at $19.2 million.

The Florida Best and Brightest Program and the educator liability insurance program, which do not have an appropriation in SB 2500, have an estimated cost of $45.5 million and $1.2 million respectively for the 2015-2016 fiscal year.

The bill provides an effective date of July 1, 2015.

II. Present Situation:

Florida Digital Classrooms Allocation

In 2014, the Legislature elevated policy and funding for technology-enhanced classroom teaching and learning by creating the Florida digital classrooms allocation (allocation) to support efforts and strategies of school districts and public schools in integrating technology into classroom instruction to improve student performance outcomes.[1] In response to the 2014 legislation that created the allocation,[2] the Department of Education (DOE or department)

[1] Section 1011.62(12)(a), F.S.
[2] Sections 5 and 27, ch. 2014-56, L.O.F.

adopted a Strategic Technology Plan establishing the general parameters for digital classrooms which are used by the by the district school boards to adopt their district digital classrooms plan.[3] For the 2014-2015 fiscal year, the Legislature appropriated $40 million to school districts to support digital classrooms.[4] A minimum of $250,000 was provided to each school district and the remaining balance was allocated based on each district's share of the state's total unweighted student enrollment.[5]

State Digital Classrooms Plan

The Office of Technology and Information Services, within the DOE, is responsible for developing a 5-year strategic plan (state plan) that must:[6]

- Describe how technology will be integrated into classroom teaching and learning to improve student performance outcomes and prepare students to be digital learners.
- Establish minimum technology requirements that include specifications for hardware, software, devices, networking, security, and bandwidth capacity and guidelines for the ratio of students per device.
- Establish minimum requirements for professional development opportunities and training to assist district instructional personnel staff with integrating technology into classroom teaching.
- Identify the types of digital tools and resources that can assist district instructional personnel and staff in management, assessment, and monitoring of student learning and performance.

The DOE must update the state plan annually by January 1st.[7]

Technology Integration Matrix

To assist with integrating technology into curriculum, the DOE has prepared a Technology Integration Matrix (TIM)[8] for teachers to use technology to enhance learning by:[9]

- Providing a framework for defining and evaluating technology integration;
- Setting a clear vision for effective teaching with technology;
- Giving teachers and administrators a common language for setting goals; and

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[3] Florida Department of Education, *FDOE Digital Classrooms Plan*, http://www.fldoe.org/about-us/division-of-technology-info-services/bureau-of-edu-tech.stml (last visited March 6, 2015); *see* ss. 1001.20(4) and 1011.62(12)(b), F.S. The Department of Education has provided to school districts, technical assistance memo and guidance document regarding digital classrooms. Florida Department of Education, *Digital Classrooms Plan (DCP) and Allocation*, http://www.fldoe.org/about-us/division-of-technology-info-services/bureau-of-edu-tech.stml (last visited March 9, 2015).
[4] Specific Appropriation 96, s. 2, ch. 2014-51, LO.F.
[5] *Id*.
[6] Section 1001.20(4)(a)1., F.S.
[7] Section 1001.20(4)(a)1., F.S
[8] Florida Department of Education, *Presentation to the Florida Senate Appropriations Subcommittee on Education* (March 4, 2015), *available at* http://www.flsenate.gov/PublishedContent/Committees/2014-2016/AED/MeetingRecords/MeetingPacket_2873.pdf, at 115 of 120.
[9] Florida Department of Education, *The Technology Integration Matrix*, http://fcit.usf.edu/matrix/index.php (last visited March 10, 2015). The five interdependent characteristics of meaningful learning environments are: active, constructive, goal directed (i.e., reflective), authentic, and collaborative. The five levels of technology integration (i.e., entry, adoption, adaptation, infusion, and transformation) with each of the five characteristics of meaningful learning environments. Together, the five levels of technology integration and the five characteristics of meaningful learning environments create a matrix of 25 cells to set a clear vision for effective teaching with technology. Florida Department of Education, *The Technology Integration Matrix* (March 9, 2015), *available at* http://fcit.usf.edu/matrix/matrix.php.

- Helping target professional development resources effectively.

District Digital Classrooms Plan

The 2014 legislation required each district school board to adopt a district digital classrooms plan (DCP) that meets the unique needs of students, schools, and personnel and submit the district DCP to the DOE for approval.[10] By permitting the customization of district digital classrooms plan to meet local needs, the legislation promoted local control of targeted and purposeful technology enhancements in Florida's classrooms. At a minimum, the district DCPs must be updated annually to include the following:[11]

- Measurable student performance outcomes, including the outcomes for students with disabilities.
- Digital learning and technology infrastructure purchases and operational activities including, but not limited to, connectivity, broadband access, wireless capacity, internet speed, and data security, all of which must meet or exceed the minimum requirements and protocols established by the department.
- Professional development purchases and operational activities including, but not limited to, using technology in the classroom and improving digital literacy and competency.
- Digital tool purchases and operational activities including, but not limited to, competency-based credentials that measure and demonstrate digital competency and certifications; third-party assessments that demonstrate acquired knowledge and use of digital applications; and devices that meet or exceed the minimum requirements and protocols established by the department.
- Online assessment-related purchases and operational activities including, but not limited to, expanding the capacity to administer assessments and compatibility with minimum assessment requirements and protocols established by the department.

Each district superintendent must certify to the Commissioner of Education (commissioner) that "the district school board has approved a comprehensive district digital classrooms plan that supports the fidelity of implementation of the Florida digital classrooms allocation."[12] In addition, each district's DCP must include a formal verification of the district superintendent's approval of the DCP for each charter school in the district.[13] The DOE must approve the DCPs before distributing the allocation funds to the school districts.[14]

For the 2014-2015 school year, the deadline for submitting district DCPs was October 1, 2014.[15] All 67 district school boards have submitted their district DCP and the DOE has approved all district DCPs.[16] For the 2015-2016 school year and each year thereafter, the district school boards must submit their district DCPs annually by March 1.[17]

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[10] Section 1011.62(12)(b), F.S.
[11] *Id*.
[12] Section 1011.62(12)(c), F.S.
[13] Section 1011.62(12)(b)5(c), F.S.
[14] *Id*.
[15] Section 1011.62(12)(b), F.S.
[16] Florida Department of Education, *Approved Districts' Digital Classroom Plans*, http://www.fldoe.org/about-us/division-of-technology-info-services/dcp.stml (last visited March 6, 2015).
[17] Section 1011.62(12)(b), F.S.

In addition to submitting DCPs, beginning in the 2015-2016 fiscal year, each district school board must report to the department its use of allocation funds and student performance outcomes.[18] The department may contract with an independent third-party entity to conduct an annual independent verification of the district's use of allocation funds in accordance with the district's DCP.[19] If an independent third-party verification is not conducted, the Auditor General must, during scheduled operational audits of school districts, verify compliance of the use of allocation funds in accordance with the district's DCP.[20]

Annually, by October 1, beginning in the 2015-2016 fiscal year, the commissioner must provide to the Governor, President of the Senate, and Speaker of the House of Representatives, a summary of each district's use of funds, student performance outcomes, and progress toward meeting statutory requirements and timelines.[21]

Apprenticeship Programs

Registered Apprenticeship (RA) "connects job seekers looking to learn new skills with employers looking for qualified workers, resulting in a workforce with industry-driven training and employers with a competitive edge."[22]

Federal Program Requirements

The United States Congress enacted the National Apprenticeship Act (also known as the Fitzgerald Act in honor of its author, Congressman William J. Fitzgerald)[23] in 1937.[24] Following the passage of the act, RA programs consisted mainly of manufacturing, construction, and utilities industries.[25] Since 1937, RA programs have grown to 24,000 programs providing education and training to approximately 400,000 apprentices in emerging and high-growth sectors such as energy conservation, health care, and information technology, in addition to traditional industries such as manufacturing and construction.[26] "As the need for skilled workers increases and our economy faces greater global competition, RA continues to be a competitive advantage for all parties-individuals, businesses, labor management organizations, education, the workforce investment system and government. For these reasons, [the Employment and Training Administration, U.S. Department of Labor] issued revised regulations that increase program flexibility to better serve the needs of today's apprentices and program sponsors."[27]

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[18] Section 1011.62(12)(e), F.S.
[19] *Id*.
[20] *Id*.
[21] *Id*.
[22] U.S. Department of Labor, *Apprentices*, http://www.doleta.gov/oa/apprentices.cfm (last visited March 2, 2015).
[23] U.S. Department of Labor, *Workforce System Results* (Sep. 30, 2012), *available at* http://www.doleta.gov/Farmworker/pdf/workforceSystemResultsSept2012.pdf, at 4 of 38.
[24] U.S. Department of Labor, *Registered Apprenticeship*, http://www.doleta.gov/oa/history.cfm (last visited March 2, 2015); *see* 29 U.S.C., s. 50.
[25] U.S. Department of Labor, *Registered Apprenticeship*, http://www.doleta.gov/oa/history.cfm (last visited March 2, 2015).
[26] *Id*.
[27] *Id*. "These revised regulations published, on October 29, 2008, update Title 29 CFR, part 29 and provide a framework that supports an enhanced, modernized apprenticeship system." U.S. Department of Labor, *Regulations*, http://www.doleta.gov/oa/regulations.cfm (last visited March 2, 2015).

For apprentices and program sponsors, the regulations:[28]

- Incorporate technology-based learning;
- Provide additional pathways to certification;
- Introduce interim credentials;
- Improve registration and review process;
- Update the reciprocal registration provision; and
- Introduce provisional registration.

For State Apprenticeship Agencies (SSAs), the regulations:[29]

- Increase linkages with the workforce investment system;
- Redefine the roles and responsibilities of SSAs and State Apprenticeship Councils (SACs);
- Establish a process for continued recognition; and
- Increase flexibility for location of an SSA.

For the U.S. Department of Labor, the regulations:[30]

- Enhance program accountability; and
- Ensure national conformity with federal apprenticeship legislation and regulations.

Registered apprenticeship program sponsors (i.e., employers, employer associations, and labor management organizations)[31] identify the minimum qualifications to apply into their apprenticeship program.[32] An individual must be at least 16 years of age to be an apprentice.[33] In hazardous occupations, individuals must generally be 18 years of age.[34] Program sponsors may also identify additional minimum qualifications and credentials to apply (e.g., education, ability to physically perform the essential functions of the occupation, and proof of age). All applicants are required to meet the minimum qualifications. Additional qualification standards, such as fair aptitude tests and interviews, school grades, and previous work experience may be identified.[35] Apprenticeship programs range from 1 year to 6 years, but the majority are 4 years in length.[36] During the program, the apprentice receives both structured, on-the-job learning and related classroom instruction.[37] For each year of the apprenticeship, the apprentice typically receives 2,000 hours of on-the-job learning and a recommended minimum of 144 hours of related classroom instruction.[38]

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[28] U.S. Department of Labor, *Apprenticeship Final Rule Fact Sheet*, *available at* http://www.doleta.gov/oa/pdf/Apprenticeship_Final_Fact_Sheet.pdf, at 1-2 of 4.
[29] U.S. Department of Labor, *Apprenticeship Final Rule Fact Sheet*, *available at* http://www.doleta.gov/oa/pdf/Apprenticeship_Final_Fact_Sheet.pdf, at 2-3 of 4.
[30] U.S. Department of Labor, *Apprenticeship Final Rule Fact Sheet*, *available at* http://www.doleta.gov/oa/pdf/Apprenticeship_Final_Fact_Sheet.pdf, at 3 of 4.
[31] Registered Apprenticeship program sponsors vary from small, privately owned businesses to national employer and industry associations. There are nearly 29,000 sponsors representing more than 250,000 employers, such as UPS, the United States Military Apprenticeship Program, Werner Enterprises, and CVS/pharmacy. U.S. Department of Labor, *Apprentices*, http://www.doleta.gov/oa/apprentices.cfm (last visited March 2, 2015).
[32] U.S. Department of Labor, *Apprentices*, http://www.doleta.gov/oa/apprentices.cfm (last visited March 2, 2015).
[33] *Id*.
[34] U.S. Department of Labor, *Apprentices*, http://www.doleta.gov/oa/apprentices.cfm (last visited March 2, 2015).
[35] *Id*.
[36] U.S. Department of Labor, *Apprentices*, http://www.doleta.gov/oa/apprentices.cfm (last visited March 2, 2015).
[37] *Id*.
[38] *Id*.

State Law

Florida law provides educational and training opportunities, in the form of apprenticeship and preapprenticeship programs, to prepare individuals for trades, occupations, and professions suited to their abilities.[39]

An apprenticeship program means "an organized course of instruction, registered and approved by the department, which course shall contain all terms and conditions for the qualifications, recruitment, selection, employment, and training of apprentices[40] including such matters as the requirements for a written apprenticeship agreement."[41] A preapprenticeship program means "an organized course of instruction in the public school system or elsewhere, which course is designed to prepare a person 16 years of age or older to become an apprentice and which course is approved by and registered with the department and sponsored by a registered apprenticeship program."[42]

The DOE is responsible for administering, facilitating, and supervising registered apprenticeship programs (e.g., developing and encouraging apprenticeship programs, cooperating with and assisting apprenticeship sponsors to develop apprenticeship standards and training requirements, monitoring RA programs, investigating complaints regarding failure to meet the standards[43] established by the department, and canceling registration of programs that fail to comply with the standards and policies of the department).[44]

Additionally, the department, the district school boards, and the community college district boards of trustees must work together with existing apprenticeship programs so that individuals

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[39] Section 446.011(1), F.S.

[40] An apprentice means "a person at least 16 years of age who is engaged in learning a recognized skilled trade through actual work experience under the supervision of journeyman craftsmen, which training should be combined with properly coordinated studies of technical and supplementary subjects, and who has entered into a written agreement, which may be cited as an apprentice agreement, with a registered apprenticeship sponsor who may be either an employer, an association of employers, or a local joint apprenticeship committee." Section 446.021(2), F.S. A journeyman means "a person working in an apprenticeable occupation who has successfully completed a registered apprenticeship program or who has worked the number of years required by established industry practices for the particular trade or occupation." Section 446.021(4), F.S. An apprenticeable occupation is a skilled trade which possesses all of the characteristics that are specified in law (e.g., customarily learned in a practical way through a structures, systemic program of on-the-job, supervised training and involves manual, mechanical, or technical skills and knowledge which require a minimum of 2,000 hours of work and training, which hours are excluded from the time spent at related instruction). Section 446.092, F.S.

[41] Section 446.021(6), F.S. An apprenticeship agreement may not operate to invalidate any apprenticeship provision in a collective agreement between employers and employees which establishes higher apprenticeship standards. Section 446.081(1), F.S.

[42] Section 446.021(5), F.S.

[43] The Department of Education (DOE or department) is responsible for developing apprenticeship and preapprenticeship uniform minimum standards for the apprenticeable trades and assisting district school boards and community college district boards of trustees in developing preapprenticeship programs. Sections 446.011(2), 446.032, and 446.052, F.S. Uniform minimum preapprenticeship standards means "the minimum requirements established uniformly for each craft under which a preapprenticeship program is administered and includes standards for admission, training goals, training objectives, curriculum outlines, objective standards to measure successful completion of the preapprenticeship program, and the percentage of credit which may be given to preapprenticeship graduates upon acceptance into the apprenticeship program." Section 446.021(8), F.S.

[44] Section 446.041, F.S.

completing the preapprenticeship programs may be able to receive credit towards completing a registered apprenticeship program.[45]

The State Apprenticeship Advisory Council (Council) advises the department on matters related to apprenticeship.[46] The Council is comprised of 10 voting members appointed by the Governor and two ex officio nonvoting members.[47] The Commissioner of Education (commissioner) or the commissioner's designee must serve ex officio as chair of the Council, but may not vote.[48] Two public members who are knowledgeable about registered apprenticeship and apprenticeable occupations are appointed by the Governor to the Council.[49] One of the public members must be recommended by joint organizations and one must be recommended by nonjoint organizations.[50]

State Requirements for Educational Facilities

The Florida Building Commission (commission) adopts the State Requirements for Educational Facilities (SREF) within the Florida Building Code (FBC), which governs the planning and construction of public educational and ancillary plants.[51] The State Fire Marshal adopts standards for public school fire safety within the Florida Fire Prevention Code (FFPC).[52]
The construction of public educational facilities[53] and ancillary plants by a district school board must conform to the FBC, FFPC, and the Florida Accessibility Code for Building Construction[54] (FACBC).[55] Collectively, the FBC, FFPC, and FACBC form the uniform building code for public educational facilities construction and ensure that such facilities are a safe, secure, sanitary, and accessible learning environment for all students, and that the structures will perform efficiently over their expected life cycles.[56] The requirements preempt local codes and local amendments to the FBC.[57]

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[45] Section 446.052(3), F.S.
[46] Section 446.045(2)(a), F.S.
[47] *Id*.
[48] Section 446.045(2)(b), F.S.
[49] *Id.*
[50] *Id.* A "joint organization" means an apprenticeship sponsor who participates in a collective bargaining agreement. Section 446.045(1)(a), F.S. A "nonjoint organization" means an apprenticeship sponsor who does not participate in a collective bargaining agreement. *Id.* at (1)(b).
[51] Sections 553.73 and 1013.37(1), F.S.; rule 6A-2.0010, F.A.C.; and section 423, FBC. The 2014 *State Requirements for Educational Facilities* (effective November 1, 2014) are *available at* http://www.fldoe.org/core/fileparse.php/7738/urlt/srefrule14.pdf. *See* Florida Department of Education, Office of Educational Facilities, *2015 Agency Bill Analysis* (March 5, 2015) at 3; on file with the Committee on Education Pre-K – 12.
[52] Sections 381.006(16), 1013.03(6), and 1013.37(1) and (4), F.S. and section 443, FBC.
[53] Educational facilities" is defined as the buildings and equipment, structures, and special educational use areas that are built, installed, or established to serve primarily the educational purposes and secondarily the social and recreational purposes of the community and which may lawfully be used as authorized by the Florida Statutes and approved by boards. Section 1013.01(6), F.S.
[54] The federal Americans with Disabilities Act Standards for Accessible Design, and related regulations in 28 C.F.R. parts 35 and 36 and 49 C.F.R. part 37, are adopted by the Florida Building Commission. Sections 553.503 and 553.73(1)(b), F.S.
[55] The ancillary plants are exempt from other state building codes; county, municipal, or other local amendments to the FBC and local amendments to the FFPC; building permits, and assessments of fees for building permits; ordinances; road closures; and impact fees or service availability fees. Section 1013.371(1)(a), F.S. *See also* Florida Department of Education, Office of Educational Facilities, *2015 Agency Bill Analysis* (March 5, 2015) at 3; on file with the Committee on Education Pre-K – 12.
[56] Florida Department of Education, Office of Educational Facilities, *2015 Agency Bill Analysis* (March 5, 2015) at 3; on file with the Committee on Education Pre-K – 12.
[57] The enforcement of construction regulations governing public schools districts is conducted by personnel and contract providers who are certified to perform plan reviews and inspections. Section 553.80(1)(e) and (6), F.S. *See also* Florida

The SREF specifies standards including, but not limited to:[58]

- Interior walls;[59]
- Walks, roads, drives, and parking areas;[60]
- Covered walks;[61] and
- Site lighting.[62]

Proposed Construction, Renovation, or Remodeling Plans

Review by the District School Board

Before the commencement of the construction, renovation, or remodeling of any educational or ancillary plants, a district school board must review the construction plans, including any related documents.[63] In reviewing the plans, the district school board must consider, including but not limited to:[64]

- The need for the new facility.
- The energy efficiency and conservation of design.
- Life-cycle cost considerations.
- The proposed construction cost per gross square foot.
- Plans for future expansion.
- The type of construction.
- Sanitary provisions.
- The design to accommodate physically handicapped persons.
- Conformity with the FBC and FFPC standards.

Approval by the District School Board

Before approving any construction plans, a district school board must ensure that the plans comply with the applicable standards of the FBC and the FFPC.[65] For each proposed new facility and each proposed new addition, exceeding 2,500 square feet, the district school board must

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Department of Education, Office of Educational Facilities, *2015 Agency Bill Analysis* (March 5, 2015) at 3; on file with the Committee on Education Pre-K – 12.

[58] Section 423 of the FBC contains the State Requirements for Educational Facilities (SREF). However, the Florida Building Code has been redrafted and section 423 will be renumbered as section 453. *The Florida Building Code, Draft Building Chapters*, 5th Edition (2014) is *available at* http://ecodes.biz/ecodes_support/free_resources/14FloridaDraft/Building/14FL_Building_Draft.html (last visited March 24, 2015).

[59] Interior nonload-bearing wood studs or partitions may not be used in permanent educational and auxiliary facilities or relocatable buildings. Section 423.8.3.1.1, FBC.

[60] Walks, roads, drives, and parking areas on educational and ancillary sites must be paved. Roads, drives, and parking areas shall be in compliance with Department of Transportation (DOT) road specifications and striped in compliance with DOT paint specifications. All paved areas must have positive drainage. Section 423.10.2, FBC.

[61] All buildings in K-12 educational facilities must be connected by paved walks and accessible under continuous roof cover. New relocatable classroom buildings must be connected to permanent buildings by paved covered walks where applicable. Section 423.10.2.1, FBC.

[62] Design, construction, and installation of exterior security lighting for educational and ancillary facilities must be provided for auto, bus, and service drives and loading areas; parking areas; building perimeter; and covered and connector walks between buildings and between buildings and parking. Section 423.10.3, FBC.

[63] Section 1013.37(2)(a) and (b), F.S.

[64] Section 1013.37(2)(b), F.S.

[65] Sections 1013.37(2), 1013.371(1)(c), and 1013.38(4)(a), F.S.

submit a copy of the plans[66] to the county, municipality, or independent special fire control district providing fire protection services to the facility for review at no charge.[67] Upon determining that the construction plans comply with the applicable standards, the district school board may approve the plans and construction may begin on the facilities.[68]

Waivers or Variances

The State Constitution prohibits the enactment of any special act or general law of local application that proposes to amend, alter, or contravene the provisions of the SREF.[69] Legislative intent is that building officials, local enforcement agencies, and the commission interpret the FBC in a manner that protects the public safety, health, and welfare at the most reasonable cost.[70]

The Florida Building Commission (commission) is not authorized to accept a petition for and may not grant any waiver[71] or variance[72] from the requirements of the FBC.[73] However, the commission is required to adopt criteria and procedures for granting alternative means of compliance with the FBC standards, or local amendments to the FBC, for enforcement by local governments, local enforcement districts, or other entities authorized by law to enforce the FBC.[74]

Upon a determination by the commission of unnecessary, unreasonable, or extreme economic hardship, provided the waiver does not violate federal accessibility laws and regulations, the commission must grant an applicant's request for waiver.[75]

If planned or actual construction of a facility deviates from the standards, a district school board must, at a public hearing, quantify and compare the costs of constructing the facility with the proposed deviations and in compliance with the adopted standards and the FBC, and explain the reason for the proposed deviations.[76]

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[66] Such site plans are exempt from all other state building codes; local amendments to the FBC and FFPC; local ordinances; building permits, including related fees; road closures; and impact fees or service availability fees. Sections 1013.371(1)(a) and 1013.38(1)(b), F.S.
[67] Section 1013.38(1)(a) and (b), F.S.
[68] Sections 1013.37(2)(a) and 1013.38(4)(a), F.S.
[69] Section 1013.37(5), F.S. The enactment of a special law or general law of local application is prohibited if pertaining to a subject prohibited by general law. Art. III, s. 11(a)(21), Fla. Const.
[70] Section 553.775(1), F.S.
[71] "Waiver" means a decision by an agency to apply all or part of a rule to a person who is subject to the rule. Any waiver must conform to the standards for waivers outlined in the Administrative Procedure Act and in the uniform rulemaking procedures. Section 120.52(22), F.S. (definition of "waiver"); Section 120.54, F.S. (rulemaking procedure).
[72] "Variance" means a decision by an agency to grant a modification to all or part of the literal requirements of an agency rule to a person who is subject to the rule. Any variance must conform to the standards for variances outlined in the Administrative Procedure Act and in the uniform rulemaking procedures. Section 120.52(21), F.S. (definition of "variance"); Section 120.54, F.S. (rulemaking procedure).
[73] Sections 120.80(16)(a) and (b) and 553.512(1), F.S.
[74] Section 120.80(16)(b), F.S. Each local government and each code enforcement agency with statutory authority must regulate building construction and enforce the FBC standards. Section 553.513, F.S.
[75] Section 553.512(1), F.S. Alterations made to provide an accessible path of travel to the altered area will be deemed disproportionate to the overall alteration when the cost exceeds 20 percent of the cost of the alteration to the primary function area. 28 C.F.R. s. 36.403(f)(1)
[76] Section 1013.371(2), F.S.

Florida Education Finance Program (FEFP)

Intensive Reading Instruction

A school district that has one or more of the 300 lowest-performing elementary schools based on the state reading assessment is required to provide an additional hour of intensive reading instruction beyond the normal school day for each day of the entire school year in those schools.[77] Funds for this program are designated in the Supplemental Academic Instruction and the Research-Based Reading Instruction Allocation categoricals in the FEFP within the General Appropriations Act (GAA).[78]

Dual Enrollment Industry Certification Funding

In 2007, the Legislature created the Florida Career and Professional Education (CAPE) Act to:[79]

- Improve middle and high school academic performance by providing rigorous and relevant curriculum opportunities;
- Provide rigorous and relevant career-themed courses[80] that articulate to postsecondary-level coursework and lead to industry certification[81];
- Support local and regional economic development;
- Respond to Florida's critical workforce needs; and
- Provide state residents with access to high-wage and high-demand careers.

The State Board of Education (SBE or State Board) adopts by rule, the list of industry certifications that are eligible for funding through the Florida Education Finance Program (FEFP).[82] The list of industry certifications approved by Workforce Florida, Inc., and the DOE, called the Industry Certification Funding List, is updated annually.[83] Industry certifications on the "Gold Standard Career Pathways" list, which is incorporated by reference in SBE rule,[84] articulate to Associate in Applied Science and Associate in Science degree programs and are a subset of the Industry Certification Funding List.[85]

Performance funding for a CAPE industry certification earned through dual enrollment is allocated to the Florida College System institution or district career center providing the

[77] Section 1011.62(1)(f) and (9), F.S.
[78] Chapter 2014-51, L.O.F.
[79] Section 1003.491(1), F.S.
[80] A "career-themed course" is a course, or a course in a series of courses, that leads to an industry certification identified in the Industry Certification Funding List pursuant to rules adopted by the State Board of Education. Career-themed courses have industry-specific curriculum aligned directly to priority workforce needs established by the regional workforce board or the Department of Economic Opportunity. Section 1003.493(1)(b), F.S.
[81] Through third-party assessments called industry certifications, students demonstrate competency to perform specific industry-endorsed and -recognized skills and abilities required to perform particular jobs. Sections 1003.4203(8)(b) and 1003.492(2), F.S.
[82] Sections 1008.44 and 1003.492, F.S.
[83] Section 1003.492(2), F.S.
[84] Rule 6A-10.0401, F.A.C.
[85] Florida Department of Education, *Process for Establishing Gold Standard Career Pathways Industry Certification to AAS/AS Degree Statewide Articulation Agreements*, *available at* http://www.fldoe.org/workforce/dwdframe/pdf/GSCPICprocess.pdf.

instruction only if the industry certification is eligible for funding on the Postsecondary Industry Certification Funding List approved by the State Board.[86]

Bonus Funding

Bonus funding is authorized for school districts and for teachers if a student earns a qualifying score on the following examinations and certifications: International Baccalaureate (IB) examinations; Advanced International Certificate of Education (AICE) examinations; Advance Placement (AP) examinations; and CAPE industry certifications.[87]

School District Bonus Funding

School district bonus funding is awarded as follows:[88]

- 0.16 full-time equivalent (FTE) bonus funding for every qualifying score earned on an IB or AP examination or full-credit AICE examination.
- 0.8 FTE bonus funding for every qualifying score earned on a half-credit AICE examination.
- 0.1, 0.2, 0.3, 0.5, or 1.0 FTE for CAPE industry certifications.

Teacher Bonus Funding

Teacher bonus funding is awarded for IB, AICE, and AP examinations, and CAPE industry certifications.[89] For IB examinations, a bonus in the amount of $50 is awarded for each student taught by the IB teacher who receives a qualifying score on the IB examination.[90] An additional bonus of $500 is awarded to each IB teacher in a school designated with a grade of "D" or "F" who has at least one student earning a qualifying score on the IB examination.[91] IB bonuses must not exceed $2,000 given to a teacher in any given school year. However, the maximum bonus shall be $3,000 if at least 50 percent of the students enrolled in a teacher's course earn a qualifying score in a school designated with a grade of "A," "B," or "C"; or if at least 25 percent of the students enrolled in a teacher's course earn a qualifying score in a school designated with a grade of "D" or "F."[92]

For AICE examinations, a bonus in the amount of $50 is awarded for each student taught by the AICE teacher in each full-credit AICE course who receives a qualifying score on the AICE examination.[93] A bonus in the amount of $25 is awarded for each student taught by the AICE teacher in each half-credit AICE course who receives a qualifying score on the AICE examination.[94] An additional bonus of $500 is awarded to each AICE teacher in a school designated with a grade of "D" or "F" who has at least one student earning a qualifying score on the full-credit AICE examination, or $250 is awarded each to teachers of half-credit AICE classes in a school designated with a grade of "D" or "F" which has at least one student earning a

[86] Section 1011.80, F.S.
[87] Section 1011.62(1)(l)-(o), F.S.
[88] *Id*.
[89] *Id*.
[90] *Id*.
[91] *Id*.
[92] *Id*.
[93] *Id*.
[94] *Id*.

qualifying score on the half-credit AICE examination.[95] AICE bonuses must not exceed $2,000 given to a teacher in any given school year.[96]

For AP examinations, a bonus in the amount of $50 is awarded for each student taught by the AP teacher who receives a qualifying score on the AP examination.[97] An additional bonus of $500 is awarded to each AP teacher in a school designated with a grade of "D" or "F" who has at least one student earning a qualifying score on the AP examination.[98] AP bonuses must not exceed $2,000 given to a teacher in any given school year.[99] However, the maximum bonus shall be $3,000 if at least 50 percent of the students enrolled in a teacher's course earn a qualifying score in a school designated with a grade of "A," "B," or "C"; or if at least 25 percent of the students enrolled in a teacher's course earn a qualifying score in a school designated with a grade of "D" or "F."[100]

For CAPE Industry Certifications, a bonus in the amount of $25 is awarded for each student taught by a teacher who provided instruction in a course that led to the attainment of a CAPE industry certification on the CAPE Industry Certification Funding List with a weight of 0.1.[101] A bonus in the amount of $50 is awarded for each student taught by a teacher who provided instruction in a course that led to the attainment of a CAPE industry certification on the CAPE Industry Certification Funding List with a weight of 0.2, 0.3, 0.5, and 1.0.[102] CAPE industry certification bonuses must not exceed $2,000 given to a teacher in any given school year.[103]

Discretionary Millage Compression Supplement

A school district that levies the full 0.748 discretionary millage authorized under s. 1011.71(1), F.S., and prescribed in the GAA,[104] and generates an amount of funds per unweighted FTE student that is less than the state average amount per unweighted FTE student, receives a discretionary millage compression supplement that brings the district up to the state average.[105]

Sparsity Supplement

The FEFP recognizes the relatively higher operating cost of smaller districts due to sparse student populations through a statutory formula in which the variable factor is a sparsity index.[106] This index is computed by dividing the FTE student membership of the qualified district by the number of permanent senior high school centers (not to exceed three).[107] A qualified district's

[95] *Id*.
[96] *Id*.
[97] *Id*.
[98] *Id*.
[99] *Id*.
[100] *Id*.
[101] *Id*.
[102] *Id*.
[103] *Id*.
[104] Chapter 2014-51, L.O.F.
[105] Florida Department of Education, 2014-15 Funding for Florida School Districts, Statistical Report, *available at* http://fldoe.org/core/fileparse.php/7507/urlt/Fefpdist.pdf.
[106] Section 1011.62(7)(a), F.S. Florida Department of Education, 2014-15 Funding for Florida School Districts, Statistical Report, *available at* http://fldoe.org/core/fileparse.php/7507/urlt/Fefpdist.pdf.
[107] Section 1011.62(7)(b), F.S.

FTE shall equal or be less than that prescribed annually by the Legislature in the GAA.[108] The amount prescribed annually by the Legislature shall be no less than 17,000, but no more than 24,000 FTE.[109]

Virtual Education Contribution

The virtual education contribution is calculated within the FEFP for the Florida Virtual School and its franchises, as well as other virtual instruction programs and options.[110] The virtual education contribution is the difference between the amount per FTE established in the GAA for virtual education and the amount per FTE for each district and the Florida Virtual School, which is calculated by taking the sum of the base FEFP allocation, the discretionary local effort, the state-funded discretionary contribution, the discretionary millage compression supplement, the research-based reading instruction allocation, and the instructional materials allocation, and then dividing by the total unweighted FTE.[111] In the 2014-2015 fiscal year, funding for virtual education was established at $5,230 per FTE.[112]

Federally Connected Students

Title VIII of the Elementary and Secondary Education Act of 1965 authorizes certain school districts to receive federal Impact Aid funding to support the education of students whose parents are employed by the federal government, including active duty uniformed services, or who live or work on federally owned property, such as military installations, National Aeronautics and Space Administration property, and Indian lands.[113]

The Impact Aid funding for Florida school districts has decreased by 50 percent from $13.9 million in the 1993-1994 fiscal year to $6.9 million in the 2013-2014 fiscal year.[114] Currently, 14 school districts in Florida qualify for federal Impact Aid funding.[115]

Local Capital Improvement Revenue for Computer Hardware and Enterprise Software

School districts are authorized to use local improvement revenue to purchase, lease-purchase, or lease:

- New and replacement equipment;
- Computer hardware; and

[108] *Id.* at (7)(a).
[109] *Id.*
[110] Section 1011.62(11), F.S. Students are eligible to participate in: (a) school-district operated part-time and full-time kindergarten through grade 12 virtual instruction programs, if enrolled in the school district; (b) full-time virtual charter school instruction programs; or (c) virtual courses offered in the course code directory within the school district or other school districts throughout the state. Section 1002.455(3), F.S.
[111] Section 1011.62(11), F.S.
[112] Chapter 2014-51, L.O.F., *see* Specific Appropriations 9 and 96 of the 2014-2015 GAA.
[113] 20 U.S.C. s. 7703.
[114] Florida Department of Education, presentation to the Senate Appropriations Subcommittee on Education (January 22, 2015), *available at* http://www.flsenate.gov/PublishedContent/Committees/2014-2016/AED/MeetingRecords/MeetingPacket_2761.pdf.
[115] *Id.*

- Enterprise resource software applications that are classified as capital assets, have a useful life of at least 5 years, and are used to support districtwide administration or state-mandated reporting requirements.

Florida Classroom Teacher Supply Program

Under the Florida Teachers Classroom Supply Assistance Program, each school district is provided an allocation based on the prorated total of each school district's share of the total K-12 unweighted FTE student enrollment. These funds are to be used only by classroom teachers for the purchase of classroom instructional materials and supplies for use in teaching students.[116] Teachers are required to sign an acknowledgement stating they understand the appropriate use of these funds and that they will keep all receipts for expenditures of the funds for at least four years.[117]

Student Safety & Discipline

Each district school board is authorized to adopt policies requiring students to wear uniforms or policies imposing other dress-related requirements, if a district school board finds that the policies are necessary for the safety and welfare of the students or school personnel.[118] However, students are permitted to wear sunglasses, hats, or other sun-protective wear while outdoors during school hours.[119]

A district school board must adopt rules and policies relating to the control, discipline, suspension, and expulsion of students.[120] The district school board must decide on the expulsion of a student based on the school superintendent's recommendation.[121] In addition, a district school board must adopt a student code of conduct for elementary, middle, and high schools and distribute the code to teachers, school personnel, students, and parents at the beginning of the school year.[122]

The student code of conduct must include a dress code policy prohibiting a student, while on the grounds of a public school during a regular school day, from wearing clothing that exposes underwear or body parts in an indecent or vulgar manner or that disrupts the orderly learning environment.[123] Any student who violates the dress code policy is subject to specified disciplinary actions determined by the number of violations committed by the student.[124] If a student wears clothing or an accessory that causes a substantial disruption to student learning, the district school board may discipline such student in a manner consistent with its policies for similar infractions.[125]

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[116] 2014-15 Funding for Florida School Districts, Florida Department of Education. http://fldoe.org/core/fileparse.php/7507/urlt/Fefpdist.pdf
[117] s. 1012.71 (5), F.S.
[118] Section 1001.43(1)(b), F.S.
[119] *Id.*
[120] Section 1006.07(1), F.S.
[121] *Id.*
[122] *Id.* at (2).
[123] *Id.* at (2)(d).
[124] *Id.*
[125] *Id.* at (2)(g).

Florida Bright Futures Scholarship Program

The Florida Bright Futures Scholarship Program (Program) is a lottery-funded scholarship program to reward a Florida high school graduate who merits recognition for high academic achievement and who enrolls in a degree program, certificate program, or applied technology program at an eligible public or private postsecondary institutions in Florida after graduating from high school.[126] The DOE administers the Program in accordance with rules and procedures adopted by the State Board of Education.[127]

The Bright Futures Scholarship Program consists of three types of awards:[128]

- Florida Academic Scholarship (FAS),
- Florida Medallion Scholarship (FMS), and
- Florida Gold Seal Vocational Scholarship (FGSV).

To be eligible to receive a Program award, students must meet the general eligibility criteria[129] and specific academic and community service work requirements.[130] The community service work must be approved by the district school board, the administrators of a nonpublic school, or the DOE for home education program students.[131]

To fulfill the community service work requirement for FAS, students graduating in the 2011-2012 academic year and thereafter, must perform at least 100 hours of community service work, identify a social problem of interest, develop a plan for personal involvement in addressing the problem, and reflect on such experience through papers or presentations.[132] The community service work requirement for the FMS and FGSV is the same as the requirement for FAS except for the number of community service work hours that FMS and FGSV students must volunteer. FMS students must perform a minimum of 75 hours of community service work[133] and FGSV students must perform at least 30 hours of community service work.[134]

Florida National Merit Scholarship Incentive Program

The Florida National Merit Scholarship Incentive Program is a merit scholarship for 2013-14 and later Florida high school graduates who achieved the National Merit or National Achievement

[126] Section 1009.53(1), F.S. and 1009.531(2)(a-c), F.S., specify a student graduating from high school prior to the 2010-2011 academic year is eligible to accept an initial award for 3 years following high school graduation and to accept a renewal award for 7 years following high school graduation. Students graduating in the 2010-2011 and 2011-2012 academic school years are eligible to accept an initial award for 3 years following high school graduation and to accept a renewal award for 5 years following high school graduation. In the 2012-2013 academic school year, and thereafter, a student graduating from high school is able to accept an initial award for 2 years following high school and to accept a renewal award for 5 years following high school graduation.
[127] Section 1009.53(3), F.S.
[128] Section 1009.53(2), F.S.
[129] Section 1009.531, F.S.
[130] Sections 1009.534(1), 1009.535(1), and 1009.536(1)(e), F.S.
[131] Sections 1009.534(1), 1009.535(1), and 1009.536(1)(e), F.S.
[132] Sections 1009.534(1), F.S.
[133] Section 1009.535(1), F.S.
[134] Section 1009.536(1)(e), F.S.

Finalist designation. The scholarship award is equal to the per term cost of institutional attendance minus the sum of Bright Futures and the award associated with the National Merit/Achievement process.

Postsecondary Textbooks

Florida College System (FCS) institutions and state universities must post on their websites, not less than 30 days prior to the first day of class for each term, a list of each textbook required for each course for the term.[135] The list must include the International Standard Book Number (ISBN) for each required textbook and specific information necessary to identify the specific textbook required for each course.[136]

The State Board and the Board of Governors (BOG) must adopt policies, procedures, principles, and guidelines for implementation by FCS institutions and state universities that further efforts to minimize the costs of textbooks for students attending such institutions while maintaining the quality of education and academic freedom.[137] The policies, procedures, and guidelines must provide for the following:[138]

- That textbook adoptions are made with sufficient lead time to bookstores so as to confirm availability of the requested materials and ensure maximum availability of used books.
- That, in the textbook adoption process, the intent to use all items ordered, is confirmed by the course instructor or academic department offering the course before the adoption is finalized.
- That a course instructor or the academic department offering the course, determines, before a textbook is adopted, the extent to which a new edition differs significantly and substantively from earlier versions and the value of changing to a new edition or the extent to which an open access textbook may exist and be used.
- That the establishment of policies shall address the availability of required textbooks to students who are otherwise unable to afford the cost, including consideration of the extent to which an open-access textbook may be used.
- The course instructors and academic departments are encouraged to participate in the development, adaptation, and review of open-access textbooks, especially open-access textbooks for high-demand general education courses.

Tuition and Fees

Under Florida law, "tuition" is defined as "the basic fee charged to a student for instruction provided by a public postsecondary educational institution in this state."[139] A student who is classified as a "resident for tuition purposes" is a student who qualifies for the in-state tuition rate.[140] An "out-of-state fee" is "the additional fee for instruction provided by a public

[135] Section 1004.085(3), F.S.
[136] *Id*.
[137] Section 1004.085(3)-(4), F.S.
[138] Section 1004.085(3)-(4), F.S.
[139] Section 1009.01(1), F.S. Additionally, the definition of tuition states that "[a] charge for any other purpose shall not be included within this fee." *Id.*
[140] Section 1009.21(1)(g), F.S.

postsecondary education institution in this state, which fee is charged to a student who does not qualify for the in-state tuition rate."[141]

Workforce Education Postsecondary Fees

A student who enrolls in workforce education postsecondary programs is charged tuition and other fees, unless the student is eligible for an exemption or a waiver.[142] The Legislature establishes the standard tuition and out-of-state fee per contact hour. Since July 1, 2014, for programs leading to a career certificate or an applied technology diploma, the standard tuition is $2.33 per contact hour for residents and nonresidents. The out-of-state fee for such programs is $6.99 per contact hour.[143] For adult general education programs, a block tuition of $45 per half year or $30 per term is assessed.[144]

Each district school board and each FCS System institution board of trustees are authorized to adopt tuition and out-of-state fees that vary no more than 5 percent below of 5 percent above the combined total of the standard tuition and out-of-state fees.[145]

Florida College System Institution Student Fees

A student who enrolls in a college credit course, a college preparatory course, or an educator preparation institute (EPI) program at a FCS institution is charged tuition and other fees, unless the student is eligible for an exemption or a waiver.[146] The Legislature establishes the standard tuition and out-of-state fee per credit hour. Since July 1, 2014, the standard tuition per credit hour for residents and non-residents enrolled in advanced and professional, postsecondary vocational, developmental education, and EPI programs is $71.98. The out-of-state fees for such programs is $215.94 per credit hour.[147] For baccalaureate programs, the tuition per credit hour for resident students is $91.79 per credit hour.[148] The sum of tuition and out-of-state fee per credit hour for non-resident students must not be more than 85 percent of the sum of tuition and out-of-state fee at a state university nearest to the FCS institution.[149]

Each FCS system institution board of trustees must establish tuition and out-of-state fees, which may vary no more than 10 percent below and 15 percent above the combined total of the standard tuition and fees.[150]

State University Student Fees

A student who enrolls in a college credit course at a state university is charged tuition and other fees, unless the student is eligible for an exemption or a waiver.[151] The amount of resident

[141] Section 1009.01(2), F.S. Additionally, the definition of out-of-state fee states that "[a] charge for any other purpose shall not be included within this fee." *Id.*
[142] Sections 1009.22(1)-(2), 1009.25, and 1009.26, F.S.
[143] Section 1009.22(3)(c), F.S.
[144] *Id*.
[145] Section 1009.22(3)(d), F.S.
[146] Sections 1009.23(1)-(2)(a), 1009.25, and 1009.26, F.S.
[147] Section 1009.23(3)(a), F.S.
[148] Section 1009.23(3)(b)1., F.S.
[149] Section 1009.23(3)(b)2., F.S.
[150] Section 1009.23(4), F.S.
[151] Sections 1009.24(1)-(2), 1009.25, and 1009.26, F.S.

undergraduate tuition per credit hour is established by the Legislature. Since July 1, 2014, the resident undergraduate tuition is $105.07 per credit hour for lower-level and upper-level coursework at a state university.[152]

The BOG is authorized to establish tuition for graduate and professional programs, and out-of-state fees for all programs.[153] The sum of tuition and out-of-state fees assessed to nonresident students must be sufficient to offset the full instructional cost of serving such students.[154] However, adjustments to out-of-state fees or tuition for graduate programs and professional programs must not exceed 15 percent in a year.[155]

Performance-Based Funding

Performance-based funding models include performance metrics that evaluate the achievement and improvement of public postsecondary educational institutions.[156]

State University System

In the 2014-2015 GAA, proviso specifically required performance funding be allocated based on the BOG's model approved on January 16, 2014.[157] The BOG model contained 10 performance metrics, which included the following:[158]

- Percent of bachelor's degree graduates employed and/or continuing their education;
- Average wages of employed baccalaureate graduates;
- Cost per undergraduate degree;
- Six-year graduation rate (full-time and part-time first time in college (FTIC));
- Academic Progress Rate (second year retention with a grade point average above 2.0);
- Bachelor's degrees awarded in areas of strategic emphasis (including Science, Technology, Engineering and Math (STEM) education);
- University access rate (percent of undergraduates with a Pell Grant);
- Graduate degrees awarded in areas of strategic emphasis (including STEM);
- Two additional metrics, one chosen by each of the following:
  - Board of Governors, and
  - University Board of Trustees

State University System (SUS) institutions will be evaluated for their performance based on benchmarks adopted by the BOG for achievement of excellence or improvement these specified metrics. The 2014-2015 GAA appropriated $200 million for State University Performance Based Incentives in the 2014-2015 fiscal year, which included $100 million in new funding and $100

[152] Section 1009.24(4)(a), F.S.
[153] Section 1009.24(4)(b), F.S.
[154] *Id*.
[155] *Id*.
[156] Chapters 2013-40 and 2014-51, L.O.F.
[157] Chapter. 2014-51, L.O.F.
[158] *See* Florida Board of Governors, Meeting Archives (January 15-16, 2014) *available at* http://www.flbog.edu/pressroom/meeting_items.php?id=185&agenda=765&type=Past (last visited March 23, 2015); *see also* Florida Board of Governors, Meeting Minutes (January 16, 2014) *available at* http://www.flbog.edu/documents_meetings/0187_0790_5874_10.2.2%20BOG%202014_01_16_Board_of_Governors_minutes.pdf.

million redistributed from the state university's base funds.[159] Institutions qualifying for new funding also have their base funding restored. Any institution which fails to meet the minimum threshold set by the BOG will have a portion of its base funding withheld and must submit an improvement plan to the BOG. The BOG must approve the improvement plan and conduct progress monitoring of the improvement plan's implementation. An institution will have its full base funding restored upon BOG approval of the improvement plan monitoring report. Any institution that fails to make satisfactory progress will not have its full base funding restored.

Florida College System

In the 2014-2015 GAA, proviso directed the Commissioner of Education to recommend a performance funding formula that may be used to allocate funds to Florida College System institutions.[160] The commissioner's recommendations were to include up to ten performance measures, appropriate performance benchmarks for each measure, and a detailed methodology for allocating performance funds to the colleges.[161] At a minimum, the measures were to include job placement rates, cost per degree, and graduation / retention rates. In January 2015, these recommendations were finalized and included the required measures, as well as additional measures for:[162]

- Pell Grant student graduation rate,
- Program completer entry level wages,
- Time to degree,
- Credit milestones, and a
- Local measure selected by each college's board of trustees.

Career and Workforce Education

The Legislature has established mechanisms to facilitate coordination between public and private postsecondary education institutions and employment agencies to assist students in completing degree programs to meet the state's workforce needs.

In 2012, the Legislature created the Complete Florida Plus Program[163] at the University of West Florida (UWF) for the purpose of:[164]

- Facilitating degree completion for the state's adult learners through the Complete Florida Degree Initiative.
- Providing information relating to and access to distance learning courses and degree programs offered by public postsecondary education institutions.

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[159] ch. 2014-51, L.O.F.
[160] *Id.*
[161] Chapter 2014-51, L.O.F., *see* Florida Department of Education, Division of Colleges, *Florida College System Performance Funding Commissioner's Recommendations*, presentation to the Senate Appropriations Subcommittee on Education (February 11, 2015) *available at* http://www.floridahighereducation.org/_doc_meetings/20150223/Senate-Education-Appropriations-Commissioners-FCS-Performance-Funding.pptx (last visited March 23, 2015).
[162] Florida Department of Education, Division of Colleges, *Florida College System Performance Funding Commissioner's Recommendations*, presentation to the Senate Appropriations Subcommittee on Education (February 11, 2015) *available at* http://www.floridahighereducation.org/_doc_meetings/20150223/Senate-Education-Appropriations-Commissioners-FCS-Performance-Funding.pptx (last visited March 23, 2015).
[163] The program was formerly established as the Degree Completion Pilot Project pursuant to s. 15, ch. 2012-34, L.O.F.
[164] Section 1006.735(1), F.S.

- Coordinating with the FCS and the SUS to identify and provide online academic support services and resources when the multi-institutional provision of such services and resources is more cost effective or operationally effective.
- Administering the Florida Academic Library Services Cooperative[165] (Cooperative) and consulting with the chancellors of the FCS and the SUS regarding the Cooperative.

The UWF must submit annual reports to the President of the Senate and the Speaker of the House of Representatives relating to the implementation and operation of the components of the Complete Florida Plus Program and the Cooperative.[166]

Complete Florida Degree Initiative

In 2014, the Legislature established the Complete Florida Degree Initiative ("Initiative") within the Complete Florida Plus Program for the purpose of recruiting, recovering, and retaining the state's adult learners[167] and assisting them in completing an associate degree or a baccalaureate degree aligned to the state's high-wage, high-skill workforce needs.[168] The Initiative coordinates with FCS institutions, state universities, and private postsecondary institutions and partners with public and private job recruitment and placement agencies to identify associate, applied baccalaureate, and baccalaureate degree programs that meet the state's workforce needs.[169]

Specifically, the Initiative must:[170]

- Give priority to degree programs using labor market data and projections, including data and projections included in the Board of Governor's gap analysis,[171] to identify the specific workforce needs and targeted occupations of the state.
- Provide adult learners with a single point of access to information and links to innovative online and accelerated distance learning courses,[172] student and library support services, and electronic resources[173] that will aid them in completing a postsecondary degree.
- Use existing or develop new competency-based instructional and evaluation tools to assess prior performance, experience, and education to award college credit and reduce the time required for adults to complete degrees.

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[165] Section 1006.73, F.S. The cooperative provides a single library automation system and associated resources and services for public postsecondary institutions to use to support learning, teaching, and research needs. *Id.* at (1).
[166] Sections 1006.73(4) and 1006.735(5), F.S.
[167] Section 1006.735(2), F.S. Adult learners who are veterans or active duty members of the United States Armed Forces are given priority. *Id.* An "adult learner" is defined as "a student who has successfully completed college-level coursework in multiple semesters but has left an institution in good standing before completing his or her degree." *Id.*
[168] Section 1006.735(2), F.S.; s*ee also*, s. 16, ch. 2014-56, L.O.F.
[169] Section 1006.735(2)(a), F.S.
[170] Section 1006.735(2), F.S.
[171] Section 1001.706(5), F.S.
[172] Section 1006.735(3), F.S. The Complete Florida Plus Program manages a statewide Internet-based catalog of distance learning courses, degree programs, and resources offered by public postsecondary education institutions to facilitate the institutions' efforts in developing a statewide articulation system that allows students to rapidly proceed toward their educational objectives and transfer between institutions. *Id.*; s*ee also*, s. 1007.01, F.S.
[173] Section 1006.735(4), F.S. Statewide online services and support include a streamlined online admissions application process for undergraduate transient students and a K-20 statewide computer-assisted student advising system that supports K-12 career and education planning and the advisement, registration, and certification of postsecondary students for graduation. *Id.*

- Develop and implement an evaluation process to collect and analyze appropriate data to report the effectiveness of the Initiative to the chancellors of the FCS and the SUS, the participating postsecondary education institutions, the chairs of the legislative appropriations committees, and the Executive Office of the Governor.
- Develop and implement a statewide student recruitment campaign targeted toward adult learners, particularly veterans and active duty members of the United States Armed Forces, for enrollment in degree programs offered through the Initiative.

Public Postsecondary Education Mission and Roles

The Legislature establishes education policies, enacts education laws, and appropriates and allocates education resources.[174] The Florida K-20 education system is established to provide high-quality education to students,[175] through publicly supported and controlled public K-12 schools, FCS institutions, state universities, technical centers[176] that are operated by district school boards or FCS institution boards of trustees, Florida Schools for the Deaf and the Blind, and the Florida Virtual School.[177]

The mission of Florida's K-20 education system is to provide to students opportunities to expand their knowledge and skills through rigorous and relevant learning opportunities in accordance with the mission statement and accountability requirements of the K-20 education performance accountability system.[178]

In addition to the publicly supported colleges and universities, higher education in the state is also delivered by certain private postsecondary educational institutions that are authorized to operate in Florida by law.[179]

Governance

The oversight responsibilities for the state universities rest with the BOG[180] and SBE is responsible for enforcing compliance with law by all school districts and public postsecondary educational institutions, except for the state universities.[181]

<u>Board of Governors of the State University System of Florida</u>

The BOG is a constitutionally created body to operate, regulate, control, be fully responsible for managing the whole university system.[182] The BOG's responsibilities must "include, but not be limited to, defining the distinctive mission of each constituent university and its articulation with free public schools and community colleges, ensuring the well-planned coordination and

[174] Section 1000.03(2)(a), F.S.
[175] Section 1000.01(3), F.S.
[176] Technical centers mean career centers pursuant to s. 1001.44, F.S., and charter technical career centers pursuant to s. 1002.34, F.S.
[177] Section 1000.04, F.S.
[178] Section 1003.03(4), F.S.
[179] Chapter 1005, F.S.
[180] Art. IX, s. 7, Fla. Const.
[181] Art. IX, s. 2, Fla. Const.; s. 1001.03(8), F.S.
[182] Art. IX, s. 7(d), Fla. Const.

operation of the system, and avoiding wasteful duplication of facilities or programs."[183] The BOG's management is subject to the powers of the legislature to appropriate for the expenditure of funds, and BOG must account for such expenditures as provided by law.[184]

State University System

The university system consists of 12 state universities.[185] The BOG is comprised of 17 members: the Commissioner of Education; the chair of the advisory council of faculty senates, or the equivalent; the president of the Florida student association, or the equivalent; and 14 citizen-appointments by the Governor.[186]

Each institution in the state university system is governed locally by a board of trustees[187] comprised of 13 members – the chair of the faculty senate or the equivalent, the president of the student body of that institution, six citizen members appointed by the Governor, and five citizen members appointed by the BOG. The members appointed by the Governor and the BOG must be confirmed by the Florida Senate.[188] The local boards of trustees must govern their institutions in accordance with BOG rules and regulations.[189] Each local board's responsibilities include strategic planning and adopting policies regarding admissions, programs, administration, personnel, contracts, and facilities.[190]

Eleven of the 12 state universities are regionally accredited by the Southern Association of Colleges and Schools (SACS).[191] Florida Polytechnic University, which was established in 2012, is expected to achieve accreditation from SACS by December 31, 2016.[192]

State Board of Education

The SBE is the "chief implementing and coordinating body of public education in Florida, except for the State University System" and is authorized to adopt rules to implement the provisions of law conferring duties upon the SBE to improve the state system of K-20 public education except for the state university system.[193] As such, the SBE has governing authority over the FCS institutions and districts school boards, and is authorized to delegate SBE's general powers to the Commissioner of Education or the directors of the divisions of the Florida Department of Education.[194]

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[183] Art. IX, s. 7(d), Fla. Const.; s. 1001.705(2), F.S.
[184] *Id*.
[185] The State University System of Florida consists of 12 state universities: Florida Agricultural and Mechanical University, Florida Atlantic University, Florida Gulf Coast University, Florida International University, Florida Polytechnic University, Florida State University, New College of Florida, University of Central Florida, University of Florida, University of North Florida, University of South Florida, and University of West Florida. Florida Board of Governors, State University System of Florida, http://www.flbog.edu/aboutsus/universities/ (March 21, 2015).
[186] Art. IX, s. 7(d), Fla. Const.
[187] Art. IX, s. 7(c), Fla. Const.; s. 1001.71(1), F.S.
[188] *Id*.
[189] Art. IX, s. 7(c), Fla. Const.; *see also* Florida Board of Governors Regulation 1.001.
[190] Florida Board of Governors Regulation 1.001(3)-(7).
[191] Southern Association of Colleges and Schools, *Highest Degree Offered by an Institution*, http://www.sacscoc.org/searchResults.asp (last visited March 22, 2015).
[192] Section 1, ch. 2012-129, L.O.F.
[193] Section 1001.02(1), F.S.
[194] Section 1001.02((1) and (4), F.S.

Florida College System

There are 28 FCS institutions and their regional service areas are specified in law.[195] Each FCS institution is governed by a local board of trustees.[196] Each FCS institution board of trustees must be comprised of 5 members if a FCS institution district is confined to one school board district; 7 members if a FCS institution district is confined to one school board district and the board of trustees so elects; and not more than 9 members if a FCS institution district contains two or more school board districts.[197] The FCS boards of trustees are appointed by the Governor and confirmed by the Senate.[198] Each FCS board of trustees is responsible for cost-effective policy decisions regarding the FCS institution's mission, the implementation and maintenance of high-quality education programs within law and rules of the SBE, the measurement of performance, the reporting of information, and the provision of input on state policy, budgeting, and education standards.[199] FCS boards of trustees are authorized to adopt rules, procedures, and policies regarding admissions, programs, administration, personnel, contracts, and facilities.[200]

All 28 FCS institutions are regionally accredited by SACS.[201]

Technical Centers Operated by District School Boards

The state constitution provides that each county in Florida constitutes a school district and requires each district to be governed by a school board comprised of at least 5 members chosen by vote of the electors.[202] There are 67 district school boards. Each district school board must operate, control, and supervise all free public schools within the school district and determine the rate of school district taxes within the prescribed limits.[203] Florida law specifies the powers and duties of the districts school board.[204]

District school boards are authorized to establish or acquire career centers, after first obtaining approval from the DOE.[205] A career center is a part of the district school system and offers terminal courses of a technical nature, and courses for out-of-school youth and adults.[206] A career

[195] The 28 Florida College System (FCS) institutions are Eastern Florida State College; Broward College; College of Central Florida; Chipola College; Daytona State College; Florida SouthWestern State College; Florida State College at Jacksonville; Florida Keys Community College; Gulf Coast State College; Hillsborough Community College; Indian River State College; Florida Gateway College; Lake-Sumter State College; State College of Florida, Manatee-Sarasota; Miami Dade College, North Florida Community College; Northwest Florida State College; Palm Beach State College; Pasco-Hernando State College; Pensacola State College; Polk State College; St. Johns River State College; St. Petersburg College; Santa Fe College; Seminole State College of Florida; South Florida State College; Tallahassee Community College; and Valencia College. Section 1000.21(3), F.S.
[196] Sections 1001.60(3), 1001.61(1), and 1004.65(1), F.S. FCS institutions are statutorily-designated as political subdivisions of the state. Section 1004.67, F.S.
[197] Section 1001.61(1), F.S. Florida State College at Jacksonville must have an odd number of trustees. *Id*.
[198] Section 1001.61(2), F.S.
[199] Section 1001.64(1), F.S.
[200] Section 1001.64(4), F.S.
[201] Southern Association of Colleges and Schools, *Highest Degree Offered by an Institution*, http://www.sacscoc.org/searchResults.asp (last visited March 22, 2015).
[202] Art. IX, s. 4(a), Fla. Const.
[203] Art. IX, s. 4(b), Fla. Const.
[204] Part II, ch. 1001, F.S.
[205] Section 1001.44(1)-(2), F.S.
[206] Section 1001.44(3)(a), F.S.

center must be under the control of the district school board of the school district in which the center is located, and must be directed by a director "responsible through the district school superintendent to the district school board of the school district in which the center is located."[207] There are 47 career centers that are operated by district school boards in Florida.[208]

In addition, to career centers, the Legislature also authorized the creation of charter technical career centers that may be formed by creating a new school or converting an existing school district or FCS institution program to charter technical status.[209] According to legislative findings, a charter technical career center "can assist in promoting advances and innovations in workforce preparation and economic development."[210] Further, a charter technical career center "may provide a learning environment that better serves the needs of a specific population or a group of occupations, thus promoting diversity and choices within the public education and public postsecondary technical education community in this state."[211] There are 2 charter technical career centers that are operated by district school boards in Florida.[212]

All 47 career centers and 2 charter technical career centers are accredited by the Council on Occupational Education (COE).[213]

Mission

State University System

The purpose of the state university system is to "achieve excellence through teaching students, advancing research and providing public service for the benefit of Florida's citizens, their communities and economies."[214]

Florida College System

The primary mission and responsibility of FCS institutions is responding to community needs for postsecondary academic education and career degree education.[215] Florida law specifies the following as the primary mission of FCS institutions:[216]

- Providing lower level undergraduate instruction and awarding associate degrees.

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[207] *Id*.
[208] Florida Department of Education, *2013-14 Career and Adult Education Quick Facts*, *available at* http://www.fldoe.org/core/fileparse.php/9904/urlt/1314quickfacts.pdf (last visited March 22, 2015).
[209] Section 1002.34(1), F.S.
[210] *Id*.
[211] Section 1002.34(1), F.S.
[212] Florida Department of Education, *A Comparison of State of Florida Charter Technical Career Centers to District Non-Charter Career Centers, 2013-14, available at* http://www.fldoe.org/core/fileparse.php/9904/urlt/charterreview14.pdf, at 2 of 25.
[213] Florida Department of Education, Presentation to the Florida House of Representatives Higher Education & Workforce Subcommittee (Jan. 7, 2015), *available at* *http://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=2853&Session=2015&DocumentType=Meeting%20Packets&FileName=hews%201-7-15.pdf*, at 8 of 87; Florida Department of Education, *A Comparison of State of Florida Charter Technical Career Centers to District Non-Charter Career Centers, 2013-14, available at* http://www.fldoe.org/core/fileparse.php/9904/urlt/charterreview14.pdf, at 3-4 of 25.
[214] Art. IX, s. 7(a), Fla. Const.
[215] Section 1004.65(5), F.S.
[216] *Id*.

- Preparing students directly for careers requiring less than baccalaureate degrees.
- Providing student development services to ensure student success.
- Promoting economic development for the state through special programs (e.g., Enterprise Florida-related programs and workforce literacy programs).
- Providing dual enrollment instruction.
- Providing upper level instruction and awarding baccalaureate degrees that are authorized by law.

Additionally, a secondary mission of FCS institutions includes offering programs in:[217]

- Community services that are not directly related to academic or occupational advancement.
- Adult education services.
- Recreational and leisure services.

Florida College System Institution Baccalaureate Degree Programs

The Legislature created the site-determined baccalaureate degree access program in 1999 to authorize community colleges to offer baccalaureate degrees to meet the economic development and educational needs of place-bound, nontraditional students in areas of the state that are underserved by 4-year institutions.[218]

In 2001, the Legislature redesignated St. Petersburg Junior College as St. Petersburg College and authorized community colleges to offer baccalaureate degrees in populous counties that are underserved by public baccalaureate degree granting institutions.[219] The legislative intent to provide access to baccalaureate degrees was to "address the state's workforce needs, especially the need for teachers, nurses, and business managers in agencies and firms that require expertise in technology."[220] St. Petersburg College was the first college that the Legislature authorized to offer baccalaureate degrees. [221] The Legislature specified the purpose for authorizing St. Petersburg College to offer high quality undergraduate education at affordable prices is to "promote economic development by preparing people for occupations that require a bachelor's degree and are in demand by existing or emerging public and private employers in this state."[222]

The SBE is responsible for reviewing and approving proposals by FCS institutions to offer baccalaureate degree programs.[223] The approval process requires the FCS institutions to submit a notice of intent to the Division of Florida Colleges (Division), DOE, regarding the proposed baccalaureate degree program 100 days before the submission of the program proposal.[224] Within 10 days after receipt of the notice, the Division must forward the notice of intent to the Chancellor of the State University System, the President of Independent Colleges and Universities of Florida (ICUF), and the Executive Director of the Commission for Independent

[217] Section 1004.65(6), F.S.
[218] Section 1, ch. 99-290, L.O.F.
[219] Section 40, ch. 2001-170, L.O.F.
[220] *Id*.
[221] Office of Program Policy Analysis and Government Accountability, Presentation to the Florida Senate Committee on Higher Education (March 10, 2015), *available at* http://www.flsenate.gov/PublishedContent/Committees/2014-2016/HE/MeetingRecords/MeetingPacket_2894.pdf, at 48-49 of 97.
[222] Section 40, ch. 2001-170, L.O.F.
[223] Section 1001.03(15), F.S.
[224] Section 1007.33(5)(a), F.S.

Education.[225] The state universities have 60 days, after receipt of the notice by the Chancellor of the State University system, to submit objections to the proposed program or submit an alternative proposal to offer the baccalaureate degree program. If the SBE does not receive a proposal from a state university within the 60-day period, the SBE is required to provide regionally accredited private colleges and universities 30 days to submit objections to the proposed program or submit an alternative proposal. Objections and alternative proposals must be submitted to the Division, and must be considered by the SBE in making its decision to approve or deny a FCS institution's baccalaureate degree program proposal.[226] The alternative proposal must address specified information (e.g., the extent to which the workforce demand and unmet need described in the notice of intent will be met; and the level of financial commitment of the college or university to develop, implement, and maintain the specified degree program).[227]

Currently, 24 FCS institutions offer 175 baccalaureate degree programs.[228] In 2014, the Legislature placed a one-year moratorium on the State Board of Education's approval of new baccalaureate degree program offerings by FCS institutions.[229]

Technical Centers Operated by District School Boards

Florida law does not provide a specific mission for the career centers.[230] However, the law specifies that career centers, under the control of district school boards, must offer terminal courses of a technical nature and courses for out-of-school youth and adults.[231]

The purpose of charter technical career centers is to:[232]

- Develop a competitive workforce to support local business and industry and economic development.
- Create a training and education model that is reflective of marketplace realities.
- Offer a continuum of career educational opportunities using school-to-work, tech-prep, technical academy, and magnet school model.
- Provide career pathways for lifelong learning and career mobility.
- Enhance career and technical training.

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[225] Section 1007.33(5)(b), F.S.
[226] *Id*.
[227] Section 1007.33(5)(c), F.S.
[228] The 24 colleges that are authorized to offer baccalaureate degree programs include St. Petersburg College, Chipola College, Miami Dade College, Northwest Florida State College, Daytona State College, Florida SouthWestern State College, Florida State College at Jacksonville, Indian River State College, Broward College, Palm Beach State College, Polk State College, Santa Fe College, Seminole College, State College of Florida-Manatee, College of Central Florida, Gulf Coast State College, Pensacola College, St. Johns River State College, Valencia College, Florida Gateway College, South Florida State College, Lake-Sumter State College, Eastern Florida State College, and Pasco-Hernando State College. Office of Program Policy Analysis and Government Accountability, Presentation to the Florida Senate Committee on Higher Education (March 10, 2015), *available at* http://www.flsenate.gov/PublishedContent/Committees/2014-2016/HE/MeetingRecords/MeetingPacket_2894.pdf, at 49 of 97; Email, Office of Program Policy Analysis and Government Accountability (Feb. 13, 2015).
[229] Sections 3 and 22, ch. 2014-56, LO.F.
[230] Section 1001.44, F.S.
[231] Section 1001.44(3)(a), F.S.
[232] Section 1002.34(2), F.S.

Articulation

The SBE and the BOG must collaborate to establish and adopt articulation policies with input from statewide K-20 advisory groups established by the Commissioner of Education and the Chancellor of the State University System, and recommend policies to the Legislature.[233] The policies must relate to:[234]

- The alignment between exit requirements of one education system and the admissions requirements of another education system into which students typically transfer.
- The identification of common courses, the level of courses, institutional participation in the statewide course numbering system, and the transferability of credits among such institutions.
- Identification of courses that meet general education or common degree program prerequisite requirements at public postsecondary educational institutions.
- Dual enrollment course equivalencies.
- Articulation agreements.

The SBE, in conjunction with the BOG, must establish an articulation accountability process, which must address specified issues such as:[235]

- The impact of articulation processes on educational continuity and the orderly and unobstructed transition of students between public secondary and postsecondary education systems and facilitating the transition of students between public and private sectors.
- The smooth transfer of FCS associate degree graduates to a state university.

Dual Enrollment

Each year, more than 50,000 students participate in Florida's dual enrollment program and participation is continuing to grow.[236] Dual enrollment is an acceleration mechanism that allows a student, who is enrolled in grades 6 through 12 in a Florida public school or in a Florida private school[237] or who is a home education[238] student, to enroll in a postsecondary course that is

[233] Section 1007.01(2), F.S.
[234] *Id*.
[235] Section 1008.38, F.S.
[236] Florida Department of Education, *Dual Enrollment FAQs, available at* http://www.fldoe.org/core/fileparse.php/5423/urlt/DualEnrollmentFAQ.pdf, at 1 of 12.
[237] A private school is "a nonpublic school defined as an individual, association, copartnership, or corporation, or department, division, or section of such organizations, that designates itself as an educational center that includes kindergarten or a higher grade or as an elementary, secondary, business, technical, or trade school below college level or any organization that provides instructional services that meet the intent of s. 1003.01(13) or that gives preemployment or supplementary training in technology or in fields of trade or industry or that offers academic, literary, or career training below college level, or any combination of the above, including an institution that performs the functions of the above schools through correspondence or extension, except those licensed under the provisions of chapter 1005. A private school may be a parochial, religious, denominational, for-profit, or nonprofit school. This definition does not include home education programs conducted in accordance with s. 1002.41." Section 1002.01(2), F.S. The Florida Department of Education (DOE) maintains a database of private schools that meet the specified requirements in law. Section 1002.42(2), F.S.
[238] A home education program means "the sequentially progressive instruction of a student directed by his or her parent in order to satisfy the attendance requirements of ss. 1002.41, 1003.01(13), and 1003.21(1)." Section 1002.01(1), F.S. A parent must notify the district school superintendent of the county in which the parent resides of his or her intent to establish and maintain a home education program. The notice must be in writing, signed by the parent, and must include the names, addresses, and birthdates of all children who shall be enrolled as students in the home education program. The notice must be

creditable toward high school completion and a career certificate, an associate degree, or a baccalaureate degree.[239] A student who is enrolled in postsecondary instruction that is not creditable toward a high school diploma must not be classified as a dual enrollment student.[240] Eligible students are authorized to enroll in dual enrollment courses conducted during school hours, after school hours, and during the summer term.[241] If, however, a student is projected to graduate from high school before the scheduled completion date for a postsecondary course, the student must not register for that course through dual enrollment.[242]

Student Eligibility Requirements

To enroll in a postsecondary course through dual enrollment, a student must demonstrate readiness to perform college-level work.[243] To demonstrate readiness for college-credit dual enrollment courses, students must attain a 3.0 unweighted high school grade point average (GPA) and the minimum required score on a common placement test[244] adopted by the State Board of Education.[245] To enroll in a career dual enrollment course, students must attain a 2.0 unweighted high school GPA.[246] FCS institution boards of trustees may establish additional initial student eligibility requirements which must be specified in dual enrollment articulation agreements.[247] However, such requirements must not "arbitrarily prohibit students who have demonstrated the ability to master advanced courses from participating in dual enrollment courses."[248]

Dual Enrollment Articulation Agreements

Dual enrollment articulation agreements (articulation agreement) are locally-developed agreements between a school district, a home education parent, or a private school and an eligible postsecondary education institution[249] regarding participation in dual enrollment courses.[250] The articulation agreement between each school district and public postsecondary institution are mandatory and must be submitted to the DOE annually by August 1.[251] However, articulation agreements between postsecondary education institutions and private secondary

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filed in the district school superintendent's office within 30 days of the establishment of the home education program. Section 1002.41(1)(a), F.S.

[239] Section 1007.271(1)-(2), F.S.

[240] Section 1007.271(1), F.S.

[241] Section 1007.271(2), F.S.

[242] *Id*.

[243] Section 1007.271(3), F.S.

[244] A student may take the Florida Postsecondary Education Readiness Test (PERT), Accuplacer, SAT, or Enhanced ACT to demonstrate reading, writing, and mathematics proficiency, by meeting specified minimum test scores, to perform college-level work. Rule 61-10.0315, F.A.C.

[245] Section 1007.271(3), F.S.

[246] *Id*.

[247] *Id*.

[248] *Id*.

[249] An eligible postsecondary education institution is a state university, a Florida College System (FCS) institution, or "an independent college or university which is located and chartered in Florida, is not for profit, is accredited by the Commission on Colleges of the Southern Association of Colleges and Schools or the Accrediting Council for Independent Colleges and Schools, and confers degrees as defined in s. 1005.02" Sections 1007.271 and 1011.62(1)(i), F.S.

[250] Section 1007.271, F.S.; Florida Department of Education, *Dual Enrollment FAQs*, *available at* http://www.fldoe.org/core/fileparse.php/5423/urlt/DualEnrollmentFAQ.pdf, at 3 of 12.

[251] Section 1007.271(21), F.S.

schools are optional and not submitted to the department.[252] In addition, articulation agreements between a home education parent and the partnering postsecondary education institution are not required to be submitted to the department.[253] Consequently, DOE does not annually collect information on articulation agreements for private school and home education program students.

Currently, two of Florida's 12 state universities and all 28 FCS institutions participate in dual enrollment.[254]

Tuition, Fees, and Other Costs

A student who enrolls in a postsecondary course through dual enrollment is exempt from the payment of registration, tuition, and laboratory fees.[255]

Instructional materials assigned for dual enrollment courses must be provided to dual enrollment students from Florida public high schools free of charge.[256] This requirement does not prohibit a FCS institution from providing instructional materials at no cost to a home education program or a private school student.[257] Instructional materials purchased by a district school board or a FCS institution board of trustees on behalf of dual enrollment students must be the property of the board that purchased the instructional materials.[258]

Governing Nonprofit Organization

The Florida High School Athletic Association (FHSAA) is the designated governing nonprofit organization of athletics in Florida public schools in grades 6 through 12.[259] If the FHSAA fails to meet its obligations and responsibilities, the Commissioner of Education is directed to designate a nonprofit organization to manage interscholastic athletics with the approval of the State Board of Education.[260]

Governing Structure

The FHSAA operates as a representative democracy in which the sovereign authority is within the member schools.[261] FHSAA member schools are divided along existing county lines into four administrative regions.

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[252] Section 1007.271(24), F.S.
[253] Section 1007.271(13), F.S.
[254] Email, Florida Department of Education (March 13, 2015), on file with the Committee on Education Pre-K – 12 staff; Florida Department of Education, *2014-15 Dual Enrollment Agreements*, http://www.fldoe.org/policy/articulation/1415dual-enrollment-agreements.stml (last visited March 13, 2015).
[255] Section 1007.271(2), F.S.
[256] Section 1007.271(17), F.S.
[257] *Id*.
[258] *Id*.
[259] Section 1006.20, F.S.
[260] Section 1006.20(1), F.S.
[261] Section 1006.20(1), F.S.

FHSAA's governance structure consists of a 16 member board of directors.[262] The members of the board of directors serve terms of 3 years and are eligible to succeed themselves only once.[263] The board is responsible for levying dues and fees, formulating administrative policies, and acting as the final decision-maker in disputes regarding student eligibility, member sanctions, and other FHSAA bylaws and policies.[264]

Bylaws

The FHSAA must adopt bylaws specifying the process and standards for eligibility determinations. The bylaws must provide the following:[265]

- Ineligibility must be established by clear and convincing evidence;
- Student athletes, parents, and schools must have notice of the initiation of any investigation or other eligibility inquiry and may present information or evidence to the investigator and to the individual making the eligibility determination;
- Eligibility determinations must be made by the executive director or designee for an unbiased and objective determination of eligibility; and
- Determination of ineligibility must be made in writing, setting forth the findings of fact and specific violation upon which the decision is based.

The law provides specific direction to FHSAA on such eligibility matters as residency, transfer, recruiting, and medical evaluations.[266] FHSAA has discretion to adopt bylaws on eligibility, provided they do not conflict with statutory requirements.[267]

The FHSAA must adopt bylaws that establish sanctions for coaches who have committed major violations of the FHSAA's bylaws and policies.[268] Major violations include, but are not limited to:[269]

- Knowingly allowing an ineligible student to participate in a contest representing a member school in an interscholastic contest; or
- Committing a violation of the FHSAA's recruiting or sportsmanship policies.

Appeals

The FHSAA must establish a procedure of due process which ensures each student the opportunity to appeal an unfavorable ruling with regard to his or her eligibility to compete.[270] The initial appeal is made to a committee on appeals in the administrative region where the

[262] The board is composed of four public member school representatives, four nonpublic member school representatives, three representatives appointed by the commissioner, two district school superintendents, two district school board members, the commissioner or designee. Section 1006.20(4)(a), F.S.
[263] Members of the board of directors shall serve terms of 3 years and are eligible to succeed themselves only once. A member of the board of directors, other than the commissioner or his or her designee, may serve a maximum of 6 consecutive years. The FHSAA's bylaws shall establish a rotation of terms to ensure that a majority of the members' terms do not expire concurrently. Section 1006.20(4)(d), F.S.
[264] Section 1006.20(4)(e), F.S.
[265] Section 1006.20(2)(g), F.S.
[266] Section 1006.20(2)(c), F.S.
[267] Section 1006.20(1) and (2)(a)-(c), F.S.
[268] Section 1006.20(2)(f), F.S.
[269] *Id.*
[270] Section 1006.20(7), F.S.

student lives.[271] The FHSAA bylaws establish the number, size, and composition of each committee on appeals. The bylaws specify the process and standards for eligibility determinations.[272]

Student Participation in Extracurricular Activities

Public Student Eligibility

To be eligible for participation in interscholastic extracurricular activities, a public high school student must:[273]

- Maintain either a 2.0 grade point average (GPA) or above on a 4.0 scale in the semester preceding participation; or a cumulative 2.0 GPA or above in the courses required for high school graduation.
- Execute and fulfill the requirements of an academic performance contract if the student's GPA falls below 2.0 in the courses required for graduation.
- Have a cumulative GPA of 2.0 or above in the courses required for graduation in his or her junior or senior year.
- Maintain satisfactory conduct to be eligible to participate in interscholastic extracurricular activities.

Home Education Student Eligibility

A home education student may participate in any sport at any public high school for which the student is zoned or could attend through district or interdistrict controlled open enrollment provisions.[274] A home education student may also develop an agreement to participate at a private school.[275] The student must demonstrate educational progress during the period of participation in all subjects taken in the home education program by a method of evaluation agreed upon by the parent and the school principal.[276]

Charter School Student Eligibility

A charter school student may participate in any sport that is not offered by the charter school, at any public high school for which the student is assigned according to district school board attendance policies or which the student could choose to attend through district or interdistrict controlled open enrollment provisions.[277]

Virtual School Student Eligibility

A student of the Florida Virtual School full-time program may participate in any interscholastic extracurricular activity at the public school in which the student would be assigned according to

[271] *Id.*
[272] Bylaw 10.4.1, FHSAA
[273] Section 1006.15(3), F.S.
[274] *Id.*
[275] *Id.*
[276] *Id.*
[277] Section 1006.15(3)(d), F.S.

district policy or where the student could attend according to controlled open enrollment policies.[278]

Private School Student Eligibility

A student attending a private middle school or high school may participate in interscholastic or intrascholastic sports at a public school that is zoned for the physical address at which the student resides if the private school where the student is enrolled is not a member of the FHSAA and does not offer an interscholastic or intrascholastic athletic program.[279]

A private school student may only participate at the public school in which the student first registers or is a candidate for participation by engaging in a practice.[280]

Only students attending a FHSAA nonmember private school with enrollment of 125 or fewer students may participate in a public school athletic program.[281]

The parents of a private school student who participates in athletics at a public school are responsible for transporting the student to and from the public school.[282] The student's private school, the public school where the student participates in athletics, the district school board, and the FHSAA are exempt from liability arising from any injury that occurs during such transportation.[283]

Student Ineligibility

A student may only be declared ineligible based upon violation of recruiting rules if the student or parent has: [284]

- Falsified any enrollment or eligibility document; or
- Accepted an impermissible benefit, i.e., any benefit or promise not generally available to the school's students or family members or is based in any way on athletic interest, potential, or performance.

The FHSAA is required to adopt bylaws to prohibit the recruitment of students for athletic purposes.[285] The bylaws may not: [286]

- Limit the competition of student athletes for rule violations of their adult representatives, their school, or the school's coaches.
- Unfairly punish students for eligibility or recruiting violations perpetrated by a teammate, coach, or administrator.
- Forfeit contests for inadvertent eligibility violations due to the actions of a coach or a school administrator.

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[278] Section 1006.15(2), F.S.
[279] Section 1006.15(8), F.S.
[280] *Id*
[281] *Id*.
[282] *Id*
[283] *Id*
[284] Section 1006.20(2), F.S.; bylaw 9.1.2.3, FHSAA.
[285] Section 1006.20(2), F.S.
[286] *Id.*

- Forfeit contests for other eligibility violations or recruiting violations in excess of the number of contests that the coaches and adult representatives responsible for the violations are prospectively suspended.

Location of Student Eligibility

A student may participate in interscholastic athletics at the school in which he or she first enrolls each school year or, at the school in which the student becomes a candidate for an athletic team by engaging in a practice prior to enrolling in the school.[287]

The FHSAA is required to adopt bylaws for transfer eligibility requirements, unless otherwise specifically provided by statute. [288] The bylaws also allow the student to be eligible in the school where the student has transferred during the school year if the transfer is made by deadlines established by the FHSAA, which may not be prior to the date authorized for the beginning of practice for the sport.[289] Transfers will be allowed pursuant to the district school board policies.[290]

Insurance

Any insurance provided by district school boards for participants in extracurricular activities will cover the participating home education student.[291] If there is an additional premium for such coverage, the participating home education student shall pay the premium.[292]

III. Effect of Proposed Changes:

The bill updates and establishes numerous K-12 and postsecondary education statutes relating to Florida digital classrooms, apprenticeships, public school funding and policy issues, preeminent state research university designation, postsecondary affordability, postsecondary performance-based incentive funding models, a Rapid Response Education and Training Program, educator liability insurance, and the Florida Best and Brightest Teacher Scholarship Program.

Florida Digital Classrooms

The bill provides a mechanism for assessing and comparing the status of digital readiness of school districts and public schools based on technology infrastructure standards and targets identified by the Agency for State Technology (AST or agency) or a professional organization that the agency contracts with (contracted organization). The digital readiness of school districts must be assessed using a digital readiness scorecard and uniform definitions of technology infrastructure components established by the Department of Education (DOE or department) in consultation with the agency.

[287] Section 1006.20(2)(a), F.S.
[288] Section 1006.20(2), F.S
[289] Section 1006.20(2), F.S.; bylaw 9.3, FHSAA.
[290] Section 1006.20(2), F.S.
[291] Section 1006.15(7), F.S.
[292] *Id*.

Specifically, the bill requires the AST, or a contracted organization, to consult with the department to identify technology infrastructure standards for the successful implementation of digital classrooms. These standards must include, but are not limited to, device recommendations, security and connectivity requirements, and browser expectations. This provision will likely facilitate a collaboration between AST, the agency that establishes the standards for the most efficient use of state's information technology resources,[293] and the DOE, the department that is familiar with public schools' instructional needs.

Requirements for the Agency for State Technology

The AST was established in 2014 by the Legislature to oversee the state's essential technology projects and is responsible for establishing standards and processes for information technology (IT).[294] The agency is responsible for establishing technology architecture standards to provide the most efficient use of the state's IT resources which must include, but not be limited to, performance measurements and metrics that objectively reflect the status of an IT project based on a defined and documented scope, cost, and schedule.[295]

In addition to identifying the technology infrastructure standards and targets, the bill requires AST, or a contracted organization, to:

- Perform an annual assessment of the DOE's 5-year strategic plan for establishing Florida digital classrooms and the districts' and charter schools' digital classrooms plans for the 2015-2016 school year, and annually thereafter, to determine the status of technology infrastructure and digital readiness of school districts. The retrospective analyses will likely provide the state with an independent assessment of the districts' and schools' technology infrastructure and digital readiness status and needs. Currently, technology readiness data are self-reported by the school districts. In addition, the retrospective analyses will likely assist with identifying gaps in technology infrastructure relative to the identified standards and targets. The bill requires school districts to be assessed using a digital readiness scorecard to provide a mechanism for comparing the status of school districts' digital readiness.
- Provide prospective planning guidance and technical assistance to the department, school districts, and public schools regarding identified gaps in technology infrastructure and recommended improvements to meet the standards and targets identified by AST or a contracted organization. The guidance and technical assistance will likely help the DOE, school districts, and public schools to make strategic and purposeful investments in technology infrastructure.
- Submit a report by May 1, 2016, for the 2015-2016 school year, and annually by December 1 thereafter, to the Governor, President of the Senate, and Speaker of the House of Representatives, summarizing the status of technology infrastructure and recommending strategies for improving cost efficiencies and maximizing the state's and school districts'

[293] Section 282.0051(2), F.S. The Agency for State Technology is responsible for developing and publishing "information technology policy for the management of the state's information technology resources." Section 282.0051(1), F.S.
[294] Section 10, ch. 2014-221, L.O.F.; Agency for State Technology, *About Us*, http://www.ast.myflorida.com/about.asp (lasted visited March 9, 2015) Information technology means " equipment, hardware, software, firmware, programs, systems, networks, infrastructure, media, and related material used to automatically, electronically, and wirelessly collect, receive, access, transmit, display, store, record, retrieve, analyze, evaluate, process, classify, manipulate, manage, assimilate, control, communicate, exchange, convert, converge, interface, switch, or disseminate information of any kind or form." Section 282.0041, F.S.
[295] Section 282.0051(2)-(3), F.S.

investments in technology to establish digital classrooms. The annual report, which AST must provide to the Commissioner of Education (commissioner) by November 1 of each year, will likely help to inform the state about the school districts' and public schools' technology infrastructure status and progress toward meeting the technology infrastructure standards and targets that are identified by AST or a contracted organization in consultation with the DOE. Additionally, the recommendations regarding cost efficiencies may help inform strategic budgetary investments in technology infrastructure.

- Collaborate with the DOE and the Department of Management Services (DMS) to identify:
  - State term contract or other local procurement options available to school districts that provide information technology commodities, consultant services, or staff augmentation contractual services that support the information technology architecture standards applicable to digital classrooms.
  - Shared services available to school districts through the State Data Center to facilitate the implementation of school district digital classrooms plans.

Requirements for the Department of Education

The bill specifies requirements for the DOE regarding incorporating the identified technology infrastructure standards and targets in the department's 5-year strategic plan (state plan), establishing uniform definitions of technology infrastructure components, creating a digital readiness scorecard, and providing access to statewide procurement service agreements:

- The DOE must include the identified technology infrastructure standards and targets in the state plan for successful implementation of digital classrooms to improve student performance outcomes. In addition to the components that must be included in the state plan, which are specified in law,[296] the bill clarifies that the state plan must also identify minimum technology infrastructure requirements in consultation with the AST. The minimum technology infrastructure requirements will likely help the school districts and public schools strategically plan for technology investments and allocate funds purposefully.
- The DOE must coordinate with the AST to facilitate school districts' access to statewide procurement service agreements. Access to competitively procured service agreements may result in cost savings and efficiencies for the school districts.
- The DOE must consult with the AST to establish uniform definitions of technology infrastructure components which must be incorporated into the state plan. The uniform definitions must also be used by charter schools that seek Florida digital classrooms allocation funds and by each district school board in the technology information submitted annually to the DOE. Uniform definitions will allow for comparability of technology infrastructure components across school districts to assess the status of districts' digital readiness.
- The DOE must consult with the AST to create a digital readiness scorecard to compare the digital readiness of school districts within the state. The scorecard must use the uniform definitions and identified technology infrastructure standards and targets identified by the department in consultation with the AST. At a minimum, the scorecard must include the student-to-device ratio, the percentage of schools within each district that meet bandwidth standards, the percentage of classrooms within each district that must meet wireless

[296] Section 1001.20(4)(a)1., F.S.

standards, the refresh rate of devices, network capacity, information storage capacity, and information security services.
- The DOE if it determines the administration of online assessments after January 1, 2015, does not comply with the minimum assessment protocols and requirements it established must contract with an independent, auditing entity that has expertise in the area to evaluate the extent of the noncompliance and provide recommendations to remediate the noncompliance in future administrations of online assessments.

Requirements for School Districts

Beginning in the 2016-2017 school year, each school district must undergo an annual assessment and independent verification of its use of Florida digital classrooms allocation funds (digital classrooms funds) for the district to be eligible to receive digital classrooms funds. An independent assessment of the districts' use of digital classrooms funds will likely help inform the state about school districts' technology needs and investments to improve student performance outcomes. Access to such information will also likely assist the state with budgetary decisions concerning school districts' and public schools' preparedness to integrate technology into classroom teaching and learning and administer computer-based assessments.

Requirements for Submitting Digital Classrooms Plans

The bill also makes modifications to the format and deadline for submitting digital classrooms plans:
- The DOE must develop a streamlined format for charter schools to use for submitting their digital classrooms plan. This process may result in creating a precise accountability measurement tool matching the charter school's mission, program, goals, students served, methods of assessment and ways to measure success of charter schools.[297]
- The commissioner must implement an online, web-based portal for school districts and charter schools to submit their digital classrooms plan. The online submission system may result in a cost-effective method for the school districts to timely report their digital classrooms plan information to the department.
- District school boards must submit their digital classrooms plan annually to the DOE by August 1, instead of the March 1 deadline which is the current statutory deadline. The August 1 deadline will likely assist the districts with budgetary planning by taking into consideration allocation funds appropriated for the next school year.

Finally, the bill clarifies that the annual report the commissioner must provide to the Governor, President of the Senate, and Speaker of the House of Representatives, by October 1 of each year, include a summary of each district's:
- Student performance goals and outcomes; and
- Use of funds in support of such goals and outcomes.

The clarification emphasizes that improving student performance outcomes should be the goal that drives technology integration in classroom teaching and learning.

[297] Florida Department of Education, *General Information* (March 9, 2015), *available at* http://www.fldoe.org/schools/school-choice/charter-schools/charter-school-faqs.stml.

Apprenticeships

The bill changes the term "journeyman" to "journeyworker." Also, the bill clarifies the definition of the term "journeyworker" as a worker who has mastered the skills, abilities, and competencies required for an occupation through a formal apprenticeship or on-the-job experience or formal training. Such skills, abilities, and competencies may be evidenced through a formal apprenticeship, attainment of a nationally recognized industry certification, or through practical, on-the-job experience or formal training. The revised definition may benefit apprentices and apprenticeship programs by clarifying the criteria and enhancing the qualifications of "journeyworkers."

The bill redefines "related instruction" by specifying that such instruction may be given in occupational or industrial courses taught in the classroom or by correspondence courses, including electronic media or other forms of self-study instruction approved by the DOE. The bill expands the definition to broaden the types of courses and options for receiving instruction on those courses, which may benefit people who would not otherwise have the opportunity to receive such instruction in a traditional setting.

The bill revises the criteria for an apprenticeable occupation as a skilled trade that is clearly defined and:

- May be associated with a nationally recognized industry certification.
- Involves skills and knowledge in accordance with the applicable industry standards.
- Includes a minimum number of hours of on-the-job training.
- Includes related instruction through occupational or industrial courses.

Also, the bill authorizes the Governor to appoint two public members to the State Apprenticeship Advisory Council who are independent of, rather than recommended by, joint or nonjoint organizations affiliated with apprenticeship sponsors.

The bill prohibits an apprenticeship program or agreement from invalidating special provisions for veterans, minority persons, or women.

Florida Apprenticeship Grant Program

The bill creates the Florida Apprenticeship Grant (FLAG) Program to provide competitive grants to career centers, charter technical career centers and Florida College System (FCS) institutions for the purpose of expanding existing programs and establishing new apprenticeship programs. Program applications must contain projected enrollment and cost data and funds may be used for instructional equipment, supplies, personnel, student services or other administrative costs. The Division of Career and Adult Education within the DOE shall administer the program and give priority to applications for programs in the critical need areas of information technology, health, and machining and manufacturing. Grant recipients must submit quarterly reports to the DOE.

State Requirements for Educational Facilities

The bill authorizes a district school board to adopt, by supermajority vote, a resolution to implement exceptions to the State Requirements for Educational Facilities (SREF). The bill

requires that the district school board adopt the resolution at a public meeting that begins no earlier than 5 p.m., and conduct a cost-benefit analysis using a professionally accepted methodology for each exception selected by the district school board.

The bill authorizes implementation of the following exceptions to the SREF relating to:

- Interior nonload-bearing walls, by approving the use of fire-rated wood stud walls in new construction or remodeling for interior nonload-bearing wall assemblies that will not be exposed to water or located in wet areas.
- Walkways, roadways, driveways, and parking areas, by approving the use of designated, stabilized, and well-drained gravel or grassed student parking areas.
- Standards for relocatables used as classroom space, by approving construction specifications for installation of relocatable buildings that do not have covered walkways leading to the permanent buildings onsite.
- Site lighting, by approving construction specifications regarding site lighting that:
  - Do not provide for lighting of gravel or grassed auxiliary or student parking areas.
  - Provide lighting for walkways, roadways, driveways, paved parking lots, exterior stairs, ramps, and walkways from the exterior of the building to a public walkway through installation of a timer that is set to provide lighting only during periods when the site is occupied.
  - Allow lighting for building entrances and exits to be installed with a timer that is set to provide lighting only during periods in which the building is occupied. The minimum illumination level at single-door exits may be reduced to no less than 1 footcandle.[298]

Before voting on a resolution, the district school board must conduct a cost-benefit analysis using a professionally accepted methodology that describes how each proposed exception:

- Achieves cost savings;
- Improves the efficient use of school district resources; and
- Impacts the life-cycle costs and life span for each educational facility to be constructed.
- Preserves student safety or the quality of student instruction.

The bill requires that the district school board hold at least one public workshop, beginning no earlier than 5 p.m., to discuss and receive public comment on the proposed resolution and cost-benefit analysis, and authorizes the district school board to vote on the resolution at the same meeting. Otherwise, the vote on the resolution must be made during a public meeting beginning no earlier than 5 p.m.

FEFP Funding

Intensive Reading Instruction

The bill extends the requirement of providing an additional hour of intensive reading instruction daily to students enrolled in the 300 lowest-performing elementary schools through the 2017-

[298] A "footcandle" is defined as a unit of illuminance on a surface that is everywhere one foot from a uniform point source of light of one candle and equal to one lumen per square foot. *See* Merriam-Webster: Dictionary and Thesaurus *available at* http://www.merriam-webster.com/dictionary/foot-candle (last visited March 26, 2015).

2018 academic year. The 300 lowest performing schools for 2014-2015 academic year will remain the 300 lowest performing schools for 2015-2016.

Additionally, the bill requires participating schools to:

- Provide 80 hours of additional instruction in a summer program with a focus on reading for students who have Level 1 or Level 2 reading assessment scores; and
- Continue to provide the additional hour of instruction and the 80 hour summer program to all students who have level 1 or 2 reading assessment scores in the subsequent year after the school is no longer classified as one of the 300 lowest performing.

Dual Enrollment Industry Certification Funding

The bill authorizes performance funding for a career and professional education (CAPE) industry certification earned through a dual enrollment course, which is not a fundable certification on the Postsecondary Industry Certification Funding List or is earned as a result of an agreement between a school district and a nonpublic postsecondary institution, to be funded in the same manner as a non-dual enrollment course industry certification. The bill authorizes a school district to provide for an agreement between a high school and a technical center, or the school district and the postsecondary institution may enter into an agreement for equitable distribution of the bonus funds.

CAPE Teacher Bonus Funding

The bill establishes two new tiers of bonuses available to CAPE industry certification teachers. A teacher providing in instruction to a student in a course that led to the attainment of a CAPE industry certification on the CAPE Industry Certification Funding List with a weight of 0.3 will earn a $75 bonus, which is $25 more than currently authorized. A teacher providing instruction to a student in a course that led to the attainment of a CAPE industry certification on the CAPE Industry Certification Funding List with a weight of 0.5 or 1.0 will earn a $100 bonus, which is $50 more than currently authorized. The maximum annual bonus for teachers providing instruction in courses leading to these CAPE industry certifications is increased from $2,000 to $4,000.

Discretionary Millage Compression Supplement

The bill increases the discretionary millage compression supplement for the school district 0.748 mill discretionary levy for operations from the state average to five percent above the state average funds per full-time equivalent (FTE) student membership.

Sparsity Supplement

The bill modifies the calculation for determining the sparsity supplement for larger eligible districts with between 20,000 and 24,000 FTE, by dividing the total number of FTE by the number of permanent senior high school centers in the district, not in excess of four rather than three.

Virtual Education Contribution

The bill modifies the virtual education contribution calculation within the FEFP by including the declining enrollment supplement and exceptional student education (ESE) guaranteed allocation.

Federally Connected Student Supplement

The bill creates the federally connected student supplement categorical within the FEFP. Fourteen school districts, which currently receive federal impact aid under Title VIII of the Elementary and Secondary Education Act of 1965, could be eligible for additional FEFP funding under this new categorical.

The supplement is based on two components: a student allocation and an exempt-property allocation. The student allocation is based on the number of students in the district reported for federal impact aid, including students with disabilities, who

- Reside with a parent who is on active duty in the uniformed services or is an accredited foreign government official and military officer;
- Reside on eligible federally-owned Indian lands; or
- Reside with a civilian parent who lives or works on eligible federal property connected with a military installation or NASA. The number of these students shall be multiplied by a factor of 0.5.

The exempt-property allocation is based on the district's real property value of exempt federal property of federal impact aid lands reserved as military installations, NASA properties, or federally-owned Indian lands, multiplied by the millage authorized and levied under s. 1011.71 (2), F.S. The student allocation and the exempt-property allocation will be added together for each eligible district to produce the federally connected student supplement.

Local Capital Improvement Revenue for Computer Hardware and Enterprise Software

School districts are currently authorized to purchase enterprise resource software with their local capital improvement revenue, however, it is unclear as to whether annual license fees, maintenance fees, or lease agreements for enterprise resource software are authorized uses of these funds. The bill specifically authorizes school districts to use their local capital improvement revenue for enterprise resource software annual license fees, maintenance fees, or lease agreements.

Florida Classroom Teacher Supply Program

The bill requires classroom teachers to provide receipts for the expenditure of Florida Teachers Classroom Supply Assistance Program funds to the school district, in place of the currently required signed acknowledgement that the teacher understands the appropriate use of the funds and will keep all receipts for expenditures of the funds for at least four years. The bill also requires teachers to return any funds to the district school board for which there are undocumented expenditures. This change, while requiring additional effort from the school district, protects teachers from potential income tax audit issues arising from situations in which the teacher has not retained receipts, and has the funds counted as taxable income.

Student Safety & Discipline

The bill authorizes a district school board to adopt and implement a standard school attire policy that requires students to conform to wearing specific types and styles of clothing. Furthermore,

the bill grants a district school board immunity from civil liability for implementing a districtwide standard school attire policy in at least kindergarten through grade 8.

Educator Liability Insurance Program

The bill requires the DOE to administer an educator liability insurance program, as provided in the General Appropriations Act, to protect full-time instructional personnel from liability for monetary damages and the costs of defending actions resulting from claims made against the instructional personnel's professional capacity. The bill provides that liability coverage of at least $2 million shall be provided to all full-time instructional personnel and may be provided to part time instructional personnel, administrative personnel, and students enrolled in a state-approved teacher preparation program that choose to participate in the program.

Florida Bright Futures Scholarship Program

The bill modifies student community service requirements affecting student eligibility for the Florida Academic Scholarship (FAS), Florida Medallion Scholarship (FMS), and Florida Gold Seal Vocational Scholarship (FGSV) awards by clarifying that community service work means volunteer service work, expanding the permissible activities that students can participate in to meet the volunteer service work requirement, and placing parameters on such activities.

Specifically, the bill:

- Expands service work areas beyond social areas of interest to include a civic issue or a professional area of interest.
- Requires students to develop a plan for personal involvement in the social or civic issue or learning about the professional area, as well as to reflecting on such experience through papers or presentations.
- Provides accountability requirements for a student's service work.
- Prohibits a student from receiving compensation or academic credit for the volunteer service work.

Additionally, the bill specifies that volunteer service work may include, but is not limited to, the following activities:

- Internship with a business or government entity;
- Work for a nonprofit community service organization; or
- Activity on behalf of a candidate for public office.

The volunteer service hours must be documented in writing and signed by the student, the student's parent or guardian, and a representative of the organization where the student volunteered.

Florida National Merit Scholarship Incentive Program

The Florida National Merit Scholarship Incentive Program is renamed as the Benacquisto Scholarship Program, and a recipient of an award is identified as a Benacquisto Scholar. The bill also encourages all public and private postsecondary institutions to become, and requires eligible state universities to become, a college sponsor of the National Merit Scholarship Program.

Postsecondary Affordability

The bill includes provisions related to textbooks and tuition and fees, both of which serve to improve postsecondary affordability.

Textbook Affordability

The bill promotes public awareness about textbook and instructional material costs by requiring each FCS institution and state university to prominently post on the institution's website for course registration, a hyperlink to lists of required and recommended textbooks and instructional materials for at least 90 percent of the courses and course sections offered by the institution. The bill also changes the deadline for posting the textbook information online from at least 30 days before the first day of class to at least 14 days before the first day of student registration for each term. Such information will help students with financial planning for course registrations.

Additionally, the bill:

- Requires that the lists of required and recommended textbooks include new and used retail price and rental price, if applicable, for a required or recommended textbook or instructional materials for purchase at an institution's designated bookstore or other specified vendor. The lists must also include website or other contact information for the bookstore.
- Requires institutions that are unable to provide the specified information on textbooks within the specified timeframe (i.e., at least 14 days before the first day of student registration for each term) by the 2015 fall semester, to provide the required information to students at least 60 days before the first day of classes. The bill requires institutions to submit quarterly reports to the applicable board, the Board of Governors (BOG) or the State Board of Education (SBE), to document institutions' efforts to comply with the specified requirements by 2016 fall semester.
- Requires postsecondary institutions to consult with school districts regarding textbooks and instructional materials used for dual enrollment courses (e.g., the length of time that textbooks and instructional materials remain in use and the cost associated with digital materials).
- Requires regular cost-benefit analyses to help students receive the highest quality product at the lowest available price.
- Requires the policies, procedures, and guidelines that are adopted by the BOG and the SBE to include instructional materials in addition to textbooks; and requires state universities and FCS institutions to annually send to the BOG or the SBE, as applicable, electronic copies of the institutional policies regarding textbooks and instructional materials, which must be available on the boards' websites.
- Requires each FCS institution and state university to annually report specified textbook and instructional material information to the Chancellor of the Florida College System or the Chancellor of the State University System, as applicable (e.g., cost of undergraduate textbooks and instructional materials by course and course section, textbook and instructional material selection process for high-enrollment courses as determined by the chancellors, and specific initiatives to reduce the cost of textbooks and instructional materials). The chancellors must compile the information and report to the Governor, President of the Senate, and Speaker of the House of Representatives by December 31 of each year.

College Affordability Strategies

The bill promotes strategies to maintain college affordability for all Floridians by requiring the BOG and the SBE to identify strategies and initiatives that must include consideration of the following:

- The impact of tuition and fee increases at state colleges and universities, including graduate, professional, medical, and law schools.
- The total cost of fees, including orientation fees, to a student and family at a state university and a state college.
- The cost of textbooks and instructional materials for all students. To determine the best methods to reduce costs, the BOG and the SBE must consult with students, faculty, bookstores, and publishers, at a minimum, consider specified options (e.g., purchasing e-textbooks in bulk, expanding the use of open-access textbooks and instructional materials, rental options for textbook and instructional materials, and supporting efficient used book sales, buy-back sales, student-to-student sales, and the cost of instructional materials for dual enrollment students to school districts).

The BOG and the SBE must annually, by December 31, report on the boards' college affordability efforts to the Governor, President of the Senate, and Speaker of the House of Representatives.

Tuition and Fees

The bill caps tuition and out-of-state fees for workforce education at no more than 5 percent above the combined total of standard tuition and out-of-state fees. For FCS institutions, tuition must not exceed $91.79 per credit hour and the tuition and out-of-state fees must not be more than 15 percent above the combined total of standard tuition and out-of-state fees. For state universities, the resident undergraduate tuition for lower-level and upper-level coursework must not exceed $105.07 per credit hour. Establishing tuition caps rather than a set tuition amount per credit hour may allow postsecondary institutions to charge lower tuition than currently established. The bill prohibits adjustments to the resident tuition for graduate program and professional programs which is set on July 1, 2015.

The bill requires FCS institutions and state universities to notify students and the public about any institutional boards of trustees meeting regarding votes on proposed increases in tuition and fees. The notice must be posted on the institutions' website homepage 28 days before the scheduled meeting of the institutions' boards of trustees. Additionally, the notice must specify the date and time of the meeting, and clearly outline the tuition and fee details and the rationale for the proposed increase. The tuition and fee information may help students and their families plan for higher education at public postsecondary institutions within the state.

Performance-Based Funding

State University System

The bill statutorily establishes State University System (SUS) Performance Based Incentive, which is based on indicators of institutional attainment of performance metrics adopted by the BOG. These performance metrics include, but are not limited to, metrics that measure graduation

and retention rates; degree production; affordability; postgraduation employment, salaries, or further education; student loan default rates; access; and any other metrics approved by the BOG. SUS institutions will be evaluated for their performance based on benchmarks adopted by the BOG for achievement of excellence or improvement on specified metrics.

Each fiscal year, the amount of funds available for allocation to universities based upon the performance funding model consists of a state investment, plus an institutional investment consisting of funds redistributed from the base funding for the SUS, as determined in the General Appropriations Act (GAA). Institutions qualifying for the state's investment will also have their institutional investment restored. The institutional investment will be restored for all institutions that meet the board's minimum performance funding threshold under the performance funding model. Any institution that is in the bottom three or fails to meet the board's minimum performance funding threshold will not be eligible for the state's investment, will have a portion of its institutional investment withheld, and must submit an improvement plan to the board that specifies the activities and strategies for improving the institution's performance.

Florida College System

The bill establishes the Florida College System (FCS) Performance Based Incentive, which is based on indicators of institutional attainment of performance metrics adopted by the State Board of Education (state board). These performance metrics include, but are not limited to, metrics that measure retention; program completion and graduation rates; student loan default rates; job placement; and post-graduation employment, salaries, or further education. FCS institutions will be evaluated for their performance based on benchmarks adopted by the state board for achievement of excellence or improvement on specified metrics.

Each fiscal year, the amount of funds available for allocation to institutions based upon the performance funding model consists of a state investment, plus an institutional investment consisting of funds redistributed from the base funding for the Florida College System Program Fund, as determined in the GAA. Institutions qualifying for the state investment shall also have their institutional investment restored. Any institution which fails to meet the minimum threshold set by the state board will have a portion of its institutional investment withheld and must submit an improvement plan to the state board. The state board must approve the improvement plan and conduct progress monitoring of the improvement plan's implementation. An institution will have its full institutional investment restored upon state board approval of the improvement plan monitoring report. Any institution that fails to make satisfactory progress will not have its full institutional investment restored.

Rapid Response Education and Training Program

The bill creates the Rapid Response Education and Training Program (Program) within the Complete Florida Plus Program to work with Enterprise Florida, Inc., to recruit and retain employees through industry-specific education and training.

Specifically, the bill requires that the Program:

- Award matching grants to public and private education and training providers.
- Submit to the Legislature periodic reports generated by an independent forensic accounting or auditing entity.

- Keep administrative costs to a minimum through the use of existing organizational structures.
- Work with businesses to recruit individuals for education and training.
- Terminate an education and training program by giving 30-days' notice.
- Survey businesses regarding the effectiveness of the education and training programs.

Additionally, the bill requires that the Division of Career and Adult Education within the DOE analyze and assess the effectiveness of the education and training programs offered through the Program in meeting labor market and occupational trends and gaps.

Finally, the bill requires the DOE to develop career education program standards that reflect the quality components of a career and technical education program, and requires the State Board of Education to adopt rules.

Florida Best and Brightest Teacher Scholarship Program

The bill creates the Florida Best and Brightest Teacher Scholarship Program (Scholarship Program) to reward teachers who demonstrate a high level of academic achievement and, for teachers other than first-year teachers, who have been evaluated as highly effective. The bill requires that the Scholarship Program be administered by the DOE. Also, the bill authorizes funding for the Scholarship Program as provided in the GAA, beginning in the 2015-2016 school year, and establishes reporting and payment deadlines for school districts.

Public Postsecondary Education Mission and Roles

The bill realigns the mission and roles of Florida's public postsecondary education systems and institutions in meeting Florida's labor market demands and community and regional needs. Specifically, the bill:

- Clarifies the mission of state universities, Florida Community College System (FCCS) institutions, career centers, and charter technical career centers regarding state expectations.
- Strengthens Florida's "2+2" system of articulation and guaranteed transfer of credit hours earned through acceleration mechanisms (e.g., Advanced Placement, International Baccalaureate Program, Advanced International Certificate of Education Program, and dual enrollment), CAPE industry certifications, and courses at FCCS institutions.
- Strengthens expectations and state oversight of baccalaureate degree programs offered by FCCS institutions.
- Modifies the purpose and responsibilities of career education.
- Emphasizes access to the collegiate high school program by prohibiting the establishment of an enrollment cap in the collegiate high school program contract and requires school districts and colleges to report student enrollment information to the DOE.

Mission

The bill reinforces the state's expectation that institutions within Florida's K-20 education system must avoid wasteful duplication of programs offered by state universities, FCCS institutions, and technical centers that are operated by district school boards. Specifically, the bill:

- Reinforces the SBE's authority to monitor compliance, initiate action, and report to the legislature instances of noncompliance.
- Reinforces the mission of the state university system is to promote excellence through teaching students, advancing research, and providing public service for the benefit of Florida's citizens and their communities and economies, including offering undergraduate and graduate level instruction.

The bill renames the Florida College System (FCS) as the Florida Community College System (FCCS) and the Division of Florida Colleges as the Division of Florida Community Colleges, and directs the Division of Law Revision and Information to develop reviser's bill for the 2016 legislative session to codify the name change.

The bill also revises the mission statements of public postsecondary institutions by:
- Specifying that the primary mission of a career center or a charter technical career center that is operated by a district school board is to promote advances and innovations in workforce preparation and economic development; except that a career center or a charter technical career center may not award college credit.
- Changing from a primary to a secondary mission of FCCS institutions, the award of upper level instruction and baccalaureate degree programs to serve community and regional needs.

The bill defines "college" to accurately reflect the primary mission of public postsecondary institutions serving community and regional needs:
- A community college institution that offers a substantially complete program that confers at least an associate degree requiring at least 15 semester hours or the equivalent of general education, or that furnishes or offers to furnish instruction leading toward, or prerequisite to, college credit.
- Prohibits an FCCS institution or an institution licensed by the Commission for Independent Education from using the designation "college" without proper approval.
- Prohibits a career center or charter technical career center from including the term "college" in its name and from offering college credit courses, college credit certificates, associate degrees, or baccalaureate degrees.

Florida's 2+2 System of Articulation

The bill reinforces a primary responsibility of the SBE and the BOG is to preserve Florida's "2+2" system of articulation and to improve and facilitate articulation systemwide. Specifically, the bill requires articulation policies to address the application of credit hours earned through acceleration mechanisms (e.g., Advanced Placement, International Baccalaureate Program, Advanced International Certificate of Education Program, and dual enrollment), CAPE industry certifications, and courses at FCCS institutions to general education, associate degree, or bachelor degree.

Baccalaureate Degree Programs Offered by Community Colleges

The bill prohibits colleges from offering Bachelor of Arts degrees and reinforces the primary mission of colleges to offer lower level instruction by establishing a cap on upper level full-time

equivalent (FTE) enrollment at a college as a percentage of combined total lower level and upper level FTE enrollment at the college.

Additionally, the bill extends the timeline for approving baccalaureate degree programs proposed by FCCS institutions to provide sufficient time for objections by state universities or non-profit, SACS-accredited independent colleges and universities in the college's regional service area. Specifically, the bill:

- Requires colleges to provide at least 120 days' notice before submitting a proposal to offer a bachelor degree to the Chancellor of the State University System, and the President of Independent Colleges and Universities of Florida (ICUF).
- Requires a college baccalaureate degree proposal to include a justification for the proposed program, including a data-driven analysis, verified by more than one third-party professional entity, of workforce demand and unmet need and to what extent the proposed program will meet the workforce demand and unmet need; requires the justification be forwarded to the Chancellor of the State University System, the President of ICUF, and Executive Director of the Commission for Independent Education.
- Eliminates the requirement that an alternative proposal be submitted by a state university or ICUF institution.

The bill also reinforces the state's expectation of college affordability by requiring the college's program enrollment projections and funding requirements to include the college's efforts to sustain the program at a cost of tuition and fees for Florida residents not to exceed $10,000 for the entire degree program, including utilization of waivers authorized by law.

Finally, the bill strengthens state oversight responsibilities by requiring:

- The SBE to consult with the Chancellor of the State University System to consider objections raised by state universities before approving or denying a college's proposal.
- The SBE to annually review baccalaureate degree program performance and compliance indicators, and needs assessments.
- The SBE to direct a FCCS boards of trustees to terminate a baccalaureate degree program if the state's review indicates negative performance and compliance results and the college fails to demonstrate a need for the program.

Collegiate High School Program

The bill emphasizes access to the collegiate high school program by prohibiting establishment of an enrollment cap in the collegiate high school program contract. Additionally, the bill requires:

- Each school district to document and annually report to DOE the number of students accepted into or denied access to the collegiate high school program.
- Each Florida Community College System institution to document and annually report to DOE the percent of collegiate high school program students in its institution relative to the total lower level full-time equivalent enrollment at that institution.

Dual Enrollment

The bill modifies public and private dual enrollment articulation agreements to expand benefits for home education program and private school students and establishes August 1 as the annual deadline for submitting such agreements to the DOE. Specifically, the bill:

- Clarifies that the provision of instructional materials and transportation for home education program and private school students will be addressed in the articulation agreement with the postsecondary institution.[299]
- Specifies dual enrollment articulation agreement provisions and requirements for agreements with private school students, similar to current law for home education program students.[300]
- Adds technology fees to the existing fees that public and private school students and home education program students are exempt from paying for dual enrollment courses.

Dual Enrollment Articulation Agreements

The bill:

- Clarifies that public and private postsecondary institutions that are eligible to receive funding for participation in dual enrollment,[301] must enter into a home education articulation agreement with each home education program student seeking enrollment in dual enrollment courses.
    - Requires public and private postsecondary institutions that enter into articulation agreements with home education program students, to complete and submit the articulation agreements annually to the DOE by August 1. This provision will allow the department to compile information on locally-developed articulation agreements between home education program student and eligible postsecondary institutions.
    - Requires that the articulation agreement include a provision expressing whether the student or the postsecondary institution is responsible for providing instructional materials and transportation.
- Requires district school boards and FCS institutions that enter into articulation agreements with state universities or eligible private postsecondary education institutions, to complete and submit the articulation agreements annually to the DOE by August 1. This provision will allow the department to compile information on locally-developed school district and FCS institution articulation agreements with eligible postsecondary institutions.
- Requires each eligible postsecondary education institution to enter into an articulation agreement with each private school student seeking to participate in dual enrollment courses that are creditable toward a career certificate, an associate degree, or a baccalaureate degree, in effect, aligning this provision to the articulation agreement requirements for home education program students.
    - Specifies information that must be included in the articulation agreements with private school students similar to information that must be included in articulation agreements with home education program students (i.e., delineation of available courses and

[299] Section 1007.271(17), F.S.
[300] Section 1007.271(13), F.S.
[301] An eligible postsecondary education institution is a state university, a Florida College System (FCS) institution, or "an independent college or university which is located and chartered in Florida, is not for profit, is accredited by the Commission on Colleges of the Southern Association of Colleges and Schools or the Accrediting Council for Independent Colleges and Schools, and confers degrees as defined in s. 1005.02" Sections 1007.271 and 1011.62(1)(i), F.S.

programs, initial and continued student eligibility requirements which must not exceed the requirements for other dual enrollment students, whether the student or postsecondary institution is responsible for providing instructional materials and transportation, and a copy of transfer guarantees developed by the DOE to inform students and parents about transferability of credits earned through dual enrollment toward elective or general education requirement).
  - Requires the postsecondary education institutions to complete and submit the articulation agreements annually to the DOE by August 1.
- Requires the electronic submission system for submitting dual enrollment articulation agreements between public postsecondary education institutions and school districts to also be used for the submission of articulation agreements with home education program and private school students. This provision may streamline the process for submitting the articulation agreements with home education program and private school students which will assist with compiling relevant information.
  - Requires the DOE to review, for compliance, articulation agreements with home education program and private school students, in effect, aligning this provision with the department's oversight responsibility for articulation agreements between public postsecondary education institutions and school districts.

Tuition, Fees, and Other Costs

The bill requires that, in addition to registration, tuition, and laboratory fees, all dual enrollment students will also be exempt from paying technology fees.

Governing Nonprofit Association

Governing Structure

The bill repeals statutory provisions requiring the FHSAA to have a board of directors, representative assembly, committee on appeals, a public liaison advisory committee, and bylaws.

The bill establishes a 16 member governing board comprised proportionately of representatives from:
- Traditional public schools;
- Public schools of choice;
- Private schools;
- Home education cooperatives;[302] and
- Parents of student athletes who are enrolled in such schools or programs.

The board's membership must be equitably drawn from the various regions of the state where the association's member schools are located. Each member of the governing board must attend nonprofit governance training, which must include:
- Government in the sunshine;
- Conflicts of interest;
- Ethics; and

[302] The bill creates and defines a "home education cooperative" as a parent-directed group of individual home education students which provides opportunities for interscholastic athletic competition to those students.

- Student athlete-centered decision making consistent with the guiding principles for participation in extracurricular activities.

Membership

The bill:

- Authorizes any high school in the state,[303] to join the FHSAA as a full-time member or to participate on a per sport basis;
- Allows a school the option to join other organizations for some sports, while maintaining membership in FHSAA for others;
- Requires the FHSAA to adopt guidelines, provide resources, and develop sports ethics training courses by an established deadline; and
- Allows for home education cooperatives to join as member schools.

Accountability

The bill requires:

- Annual operational audit of each nonprofit association, and the Auditor General to conduct an operational audit at least every 3 years.
- Commissioner of Education to review the nonprofit association's performance of duties each year through an operational audit.
- Nonprofit association designated by the commissioner to be the state's governing body for the purposes of membership in the National Federation of State High School Associations and the commissioner, with the approval of the State Board of Education, to identify another nonprofit association to govern interscholastic athletic competition if the FHSAA fails to meet the provisions of law.
- Any special event fees, sanctioning fees, including third party sanctioning fees, or contest receipts collected annually, may not exceed the actual costs to perform the function or duty of the nonprofit association which is the subject or justification for the fees.
- The FHSAA to offer spectators at an event the option of purchasing a single-day pass or multiple-day pass.

Appeals

The bill repeals the current appeal process and creates a new process which allows for eligibility issues to be resolved through an informal conference procedure. The conference must be held within 10 days after receipt of the student's request, and if the dispute is not resolved, the FHSAA must provide for a neutral third party review within 30 days. All eligibility proceedings must be conducted in the county where the student resides. A student athlete may not be declared ineligible to participate until a final decision is issued by the neutral third party.

[303] Any high school in the state may join FHSAA, including private schools, traditional public schools, charter schools, virtual schools, and home education cooperatives.

Student Participation in Extracurricular Activities

Student Eligibility

The bill requires the eligibility standards and requirements to apply on an equal basis for all students, including public school[304] or certain private school students, and may not make participation less accessible to a student enrolled in a public school of choice, an unaffiliated private school,[305] or a home education program.

The bill:
- Clarifies that a home education student is academically eligible to participate in extracurricular activities if he or she has a satisfactory evaluation conducted according to the home education requirements.
- Prohibits a district school board or private school from establishing policies regarding transfer student eligibility for extracurricular activities which are more stringent than the policies established by the governing nonprofit association.

Student Ineligibility

The bill limits the grounds for declaring a student ineligible to participate to:
- Failing to meet academic and conduct requirements;
- Falsifying enrollment or eligibility documents;
- Accepting of an impermissible benefit by the student or parent;
- Committing a flagrant act of unsportsmanlike conduct;
- Exhausting 4 years of athletic eligibility;
- Failing to pass a required medical exam;
- Forfeiting amateur status; or
- Failing to meet transfer requirements.

The bill imposes specific penalties on an adult representative of a school who commits a recruiting violation:
- An initial violation is punishable by a fine of $5,000.
- A second violation is punishable by a 1-year restriction of the adult representative from teaching or coaching at the school.
- A third violation is punishable by a 5-year suspension of the representative's teaching license.

The FHSAA may not punish a student athlete for an eligibility or recruiting violation perpetrated by a teammate, coach, or administrator.

[304] The bill defines "public school student" to mean a student who is attending a traditional public school, charter school, magnet school, alternative school, developmental research laboratory school, other public school of choice, or public virtual school.
[305] The bill defines "unaffiliated private school" to mean a private school that has an enrollment of 125 or fewer students in grades 6-12 and that is not a member of the nonprofit association.

Location of Student Eligibility

The bill provides for a student who is eligible in the school in which he or she first enrolls each school year to make himself a candidate for an athletic team by engaging in a practice before enrolling in the school.

The bill allows a home education student to participate in an extracurricular activity that is not offered by the student's home education program. Participation may occur at any public school in the school district in which the student resides or a public school in another school district which the student could choose to attend pursuant to an interdistrict controlled open enrollment policy. A home education student may also develop an agreement to participate at a private school.

However, a student who is enrolled in an unaffiliated private school, home education program, a full-time public virtual school, or any public school that does not offer any interscholastic programs may only participate in interscholastic athletics at the public school in which the student is first registered.

The bill provides the following transfer requirements:

- A student who transfers from a home education program to a public or private school before or during the first semester of the school year is academically eligible to participate in extracurricular activities during the first semester if the student has a successful evaluation from the previous school year.
- A public school or private school student who transfers into a home education program after being declared ineligible for participation in extracurricular activities is ineligible to participate in such activities as a home education student until the student has successfully completed one semester in a home education program.
- A public school student who transfers to a private school or another public school, or a private school student who transfers to a public school or another private school, after being declared ineligible to participate in extracurricular activities for certain grounds is ineligible to participate in such activities until the student has successfully completed one semester at the school to which he or she transfers and meets additional requirements.

Insurance

The bill requires insurance provisions to be added by a district school board for unaffiliated private school students who participate in extracurricular activities at the district public school under the same terms and conditions that apply to students enrolled in a district public school.

The bill provides an effective date of July 1, 2015.

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:

CS/CS/SB 948 increases the bonus funding for teachers who provide instruction to a student in a course that led to the attainment of a 0.3, 0.5, or 1.0 weighted industry certification. These teachers are eligible for up to an additional $2,000 annually in bonus funding.

Under this bill, dual enrollment students will be exempt from technology fees for dual enrollment courses. In 2014-2015, the average technology fee was $5.23 per credit hour at state universities and $3.90 per credit hour at Florida College System institutions.

The bill prohibits a governing nonprofit organization from collecting any special event fees, sanctioning fees, including third party sanctioning fees, or contest receipts in excess of the actual costs to perform the function or duty of the nonprofit association which is the subject of or justification for the fees.

C. Government Sector Impact:

The bill requires the Agency for State Technology (AST), or a contracted organization, to perform a digital classrooms implementation and compliance assessment, provide planning guidance to address identified gaps, and recommend cost efficiency improvements. The estimated cost of these requirements is $10 million.

The bill modifies the calculation for the sparsity supplement to continue to include the Hernando County School District. The Hernando County School District would be eligible for an estimated $2 million in sparsity supplement funds in the 2015-2016 fiscal year.

The bill modifies the virtual education contribution calculation in the Florida Education Finance Program (FEFP) by including the declining enrollment supplement and the exceptional student education (ESE) guaranteed allocation in the calculation to maintain funding for virtual education at 5,230 per full-time equivalent (FTE) student.

The bill extends the requirement of providing an additional hour of intensive reading instruction daily to students enrolled in the 300 lowest performing elementary schools through the 2017-2018 academic year, requires participating schools to also provide the required additional instruction through an equivalent number of hours in a summer program, and requires participating schools to continue to provide the additional hour of instruction to all students who have level 1 or 2 reading assessment scores in the subsequent year after the school is no longer classified as one of the 300 lowest performing. This additional hour of reading instruction is funded through the Supplemental Academic Instruction (SAI) and the Research-Based Reading Instruction Allocation categoricals in the FEFP. A total of $90 million is provided for this instruction in SB 2500, the Senate's 2015-2016 fiscal year Fiscal Year General Appropriations Bill.

The bill increases the discretionary millage compression supplement for the school district 0.748 mill discretionary levy for operations from the state average to five percent above the state average funds per FTE student. This change will increase the discretionary millage supplement by approximately $34 million.

The bill creates the federally connected student supplement categorical within the FEFP. The school districts eligible for funding through the categorical will receive their proportional share of the $12,441,144, as proposed in SB 2500, allocated through the FEFP.

The bill statutorily establishes the State University Performance Based Incentive, which is funded at $400 million in SB 2500. The state's investment consists of $200 million and the institutional investment constitutes the remaining $200 million. The funds received by an individual state university will be contingent upon the university's performance on the established metrics.

The bill establishes the Florida College System Performance Based Incentive, which is funded at $60 million in SB 2500. The state's investment consists of $30 million and the institutional investment constitutes the remaining $30 million. The funds received by each institution will be contingent upon the institution's performance on the established metrics.

The bill establishes the Rapid Response Education and Training Program, which is funded at $19.2 million in SB 2500.

The dual enrollment requirements outlined in the bill will likely result in a loss of revenue state universities and Florida College System institutions and increased administrative costs.

- According the Board of Governors (BOG), the requirement for state universities to enter into dual enrollment articulation agreements with private and home education program students, who are exempt from payment of tuition and fees, will result in a loss of revenue for the state universities. However, due to the uncertainty in the number of eligible students, the potential loss in revenues to the universities is indeterminable at this time. Universities may also need to increase administrative staff to implement the required dual enrollment policies, provide additional oversight

over the admission and retention of dual enrollment students, and maintain additional academic records. [306]

- Florida College System institutions should experience a similar, yet also indeterminate, loss of revenue and need to increase administrative staff to implement the required dual enrollment policies.
- The bill requires electronic submission of dual enrollment articulation agreements for home education program and private school students to the Department of Education and requires the department to review each agreement for compliance. According to the department, this will require modifications to the existing electronic submission system and additional staff to review each of these agreements at a cost of $100,000.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

The bill substantially amends the following sections of the Florida Statutes: 282.0051, 282.00515, 402.56, 446.021, 446.032, 446.045, 446.052, 446.081, 446.091, 446.092, 1000.03, 1001.02, 1001.03, 1001.20, 1001.42, 1001.43, 1001.44, 1001.60, 1001.705, 1001.7065, 1002.20, 1002.33, 1002.34, 1003.42, 1004.015, 1004.085, 1004.65, 1004.92, 1006.15, 1006.16, 1006.19, 1006.20, 1006.735, 1007.01, 1007.23, 1007.271, 1007.273, 1007.33, 1008.38, 1009.22, 1009.23, 1009.24, 1009.534, 1009.535, 1009.536, 1009.893, 1011.62, 1011.71, 1012.34, 1012.39, 1012.71, 1012.75, 1013.40, and 1013.74.

The bill creates the following sections of the Florida Statute: 282.0052, 1001.815, 1001.92, 1004.084, 1011.802, 1012.731, and 1013.385.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

CS/CS by Appropriations on April 21, 2015:
The committee substitute:

- Renames the Florida National Merit Scholarship Incentive Program as the Benacquisto Scholarship Program.
- Clarifies that annual license fees, maintenance fees, and lease agreements for enterprise resource software are allowable uses of local capital improvement funds.
- Provides audit protection for teachers under the Florida Teacher Classroom Supply Assistance Program by requiring teachers to provide the school district with receipts

[306] Board of Governors, *2015 Legislative Bill Analysis for SB 874*, on file with Appropriations Subcommittee on Education staff.

for the expenditure of the funds and to return to the district school board any funds for which there are undocumented expenditures.

- Authorizes a district school board to adopt policies for standard student attire.
- Requires the Department of Education (DOE) to administer an educator liability insurance program.
- Requires public school instruction on the events surrounding the terrorist attacks occurring on September 11, 2001, and the impact of those events on the nation.
- Provides an exemption for the performance of students with excessive absences from counting against a teacher's performance evaluation.
- Requires the Agency for State Technology (AST), or contracted entity, to:
  - Consult with the DOE to identify information technology architectural standards for the successful implementation of digital classrooms.
  - Perform annual assessment of state and school district digital classrooms plans.
  - Provide prospective planning guidance and technical assistance to the DOE, school districts, and public schools.
  - Provide technology infrastructure implementation reports and recommendations to the Legislature, Governor; and the Commissioner of Education regarding the implementation of digital classrooms and status of technology infrastructure.
  - Establish information technology architecture standards for purposes of implementing digital classrooms, including but not limited to, device recommendations, security requirements, connectivity requirements, and browser expectations.
  - Collaborate with the DOE and the Department of Management Services (DMS) to identify state term contract procurement and shared services options for school districts.
  - Include, in the annual assessment of the DOE, the status of statewide implementation of digital classrooms and recommendations for improving cost efficiencies.
- Requires the DOE to:
  - Consult with the AST to incorporate the minimum information technology architecture standards into the state strategic plan.
  - Facilitate school district access to state term contract and shared service options and consult with the AST to establish uniform definitions and create digital readiness scorecard to facilitate implementation of digital classrooms.
  - Implement online, web-based portal for submission of digital classroom plans.
  - Highlight student performance goals and outcomes in its annual report.
  - Contract with independent auditing entity to make recommendations to remediate technology infrastructure issues associated with the administration of 2014-15 online assessments.
- Clarifies the responsibilities of the DOE regarding collaboration with the Department of Economic Opportunity (DEO) to identify, develop, and register apprenticeship and preapprenticeship programs.
- Clarifies that the annual accountability report must include regional information related to program usage, student demographics and performance outcomes, and program requirements for existing and new programs.

- Requires the DOE to collaborate with CareerSource Florida, Inc., in addition to the DEO, to prepare an operational report which must also include:
  - A summary of activities and coordination between the DOE and the DEO to identify, develop, register, and administer apprenticeship and preapprenticeship programs over the last 5 years.
  - Recommendations to maximize resources of the DOE and the DEO to gain efficiencies in program development, administration, and funding.
  - An evaluation of the feasibility of linking the DOE's information on apprenticeship and preapprenticeship programs with the DEO and CareerSource Florida, Inc. workforce information system.
- Establishes the Florida Apprenticeship Grant Program to provide competitive grants to career centers, charter technical career centers and Florida College System (FCS) institutions for the purpose of expanding existing programs and establishing new apprenticeship programs.
- Requires the Board of Governors of the State University System of Florida (BOG) and the State Board of Education (SBE) to identify strategies and initiatives to maintain college affordability for all Floridians and annually report on the boards' college affordability efforts to the Governor, President of the Senate, and Speaker of the House of Representatives.
- Modifies current law regarding a postsecondary educational institution's responsibility to post textbook information online by requiring each FCS institution and state university to prominently post on the institution's website for course registration, a hyperlink to lists of required and recommended textbooks and instructional materials for at least 90 percent of the courses and course sections offered by the institution. The bill also changes the deadline for posting the textbook information online from at least 30 days before the first day of class for each term to at least 14 days before the first day of student registration for each term.
- Specifies modifications to postsecondary educational institutions' policies and procedures for instructional materials.
- Specifies reporting requirements for FCS institutions; state universities; president of a college or university, or his or her designee; Chancellor of the Florida College System, and the Chancellor for the State University System regarding college affordability efforts, and textbooks and instructional materials costs and selection process.
- Establishes caps for tuition and out-of-state workforce education fees, FCS institution fees, and state university tuition per credit hour.
- Requires the FCS institutions and state universities to notify students and the public about any institutional boards of trustees meeting regarding votes on proposed increases in tuition and fees; and provides specifications and timelines for such notifications.
- Allows district school boards to implement exceptions to educational facilities construction requirements with a supermajority vote.
- Amends the composition of the Children and Youth Cabinet by adding a superintendent of schools, appointed by the Governor, and correcting the title of the director of the Office of Child Abuse Prevention to the director of the Office of Adoption and Child Protection.

- Clarifies provision of the additional hour of reading instruction and summer program requirements for the 300 lowest-performing elementary schools.
- Specifies that the lowest performing elementary schools for 2014-2015 will remain the lowest performing for 2015-2016.
- Requires the DOE to provide the list of the 300 lowest performing schools no later than July 1 beginning with the 2016-2107 school year.
- Expands eligible volunteer service work for qualifying for the Bright Futures Scholarship program to include business or government internships, work for a nonprofit community service organization, or work on behalf of a candidate for public office.
- Amends the governance structure and accountability requirements of the Florida High School Athletic Association (FHSAA), and substantially revises the student eligibility requirements.
- Authorizes SUS institutions to expend surplus reserves on academic instructional space or critical deferred maintenance in this area.
- Modifies dual enrollment requirements and policies especially those related to home education and private school students. These changes include:
  - Clarifying that the provision of instructional materials and transportation for home education program and private school students will be addressed in the articulation agreement with the postsecondary institution.
  - Specifying dual enrollment articulation agreement provisions and requirements for agreements with private school students, similar to current law for home education program students.
  - Adding technology fees to the existing fees that public and private school students and home education program students are exempt from paying for dual enrollment courses.
- Authorizes Florida Keys Community College to construct dormitories for up to 400 beds, rather than the current limit of 100 beds.
- Removes National Merit Scholar sponsorship from preeminence requirement and adds sponsorship language to Benacquisto Scholarship Program statute.
- Clarifies SUS performance funding to:
  - Specify eligibility for state investment and institutional investment funds.
  - Limit the provision of an institutional improvement plan to one fiscal year only, with automatic forfeiture of the institutional investment in any future fiscal years in which an improvement plan would be required.
- Clarifies the missions of public postsecondary institutions (technical career centers, community colleges, and state universities).
- Renames the Florida College System to Florida Community College System
- Clarifies bachelor degree programs as a secondary mission of community colleges, with total bachelor degree (upper level enrollment) annually capped as a percentage of total enrollment per institution, and amends baccalaureate degree approval process.
- Aligns the St. Petersburg College baccalaureate degree approval process with that of all other community colleges.
- Strengthens Florida's 2+2 system of articulation and guaranteed credit transfer.
- Adds the Chancellor of Career and Adult Education to the Higher Education Coordinating Council.

CS by Higher Education on March 23, 2015:
The committee substitute makes the following substantial changes to the bill:

Apprenticeships
Maintains the substance of the provisions of the bill relating to apprenticeships, except that a nationally recognized industry certification is added to the criteria indicating a journeyworker's or apprentice's skills, abilities, and competencies required for an occupation.

Florida Education Finance Program Funding
Includes FEFP funding provisions that:
- Expand the requirement that an additional hour of intensive reading instruction be provided for the 300 lowest-performing elementary schools.
- Authorize performance funding for a career and professional education (CAPE) industry certification earned through a dual enrollment course.
- Add tiers for and raise the cap on CAPE bonus funding that teachers may earn for instructing students who attain industry certifications.
- Increase the discretionary millage compression supplement.
- Modify the formula for calculating the K-12 sparsity supplement.
- Modify the formula for calculating the virtual education contribution.
- Create supplemental funding for students connected with federally owned military installations, National Aeronautics and Space Administration property, and Indian lands.

Preeminent State Research University Designation
Adds provisions requiring participation in the National Merit Scholarship Program for designation as a preeminent state research university or as a preeminent state research university institute for online learning.

Postsecondary Performance-Based Funding
Adds undesignated sections of law that establish State University System and Florida College System Performance-Based Incentive funding models based on metrics adopted by the Board of Governors and the State Board of Education ("State Board"), respectively, which include, but are not limited to, metrics that measure:
- Graduation and retention rates;
- Degree production;
- Affordability;
- Postgraduation employment, salaries, or continued education;
- Student loan default rates; and
- Access.

Florida Best and Brightest Teacher Scholarship Program
Adds a new section creating the Florida Best and Brightest Teacher Scholarship Program ("Scholarship Program") to award teachers who demonstrate a high level of academic achievement; authorizing funding for the Scholarship Program; and requiring the State

Board to adopt rules relating to reports, eligibility criteria for scholarship recipients, and distribution of scholarship funds.

B. Amendments:

None.

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

By the Committee on Higher Education; and Senator Gaetz

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A bill to be entitled

An act relating to education; amending s. 446.021, F.S.; revising terms; amending s. 446.032, F.S.; conforming a provision to a change made by the act; amending s. 446.045, F.S.; clarifying State Apprenticeship Advisory Council membership; amending s. 446.081, F.S.; clarifying the limitations of certain provisions; amending s. 446.091, F.S.; conforming a provision to a change made by the act; amending s. 446.092, F.S.; revising characteristics of an apprenticeable occupation; amending s. 1011.62, F.S.; requiring a low-performing elementary school to administer the required additional hours of instruction in a summer program during specified fiscal years; requiring a school to continue to provide the additional instruction to certain students in the subsequent year if the school is no longer classified as one of the 300 lowest-performing elementary schools; revising the types and amounts of bonuses that a teacher may receive in any given school year; revising the discretionary millage compression supplement; revising a district sparsity index calculation; deleting obsolete language; revising the virtual education contribution calculation; creating the federally connected student supplement; providing eligibility requirements for and components of the supplement; amending s. 1011.71, F.S.; conforming a cross-reference; amending s. 1004.92, F.S.; requiring the State Board of Education to adopt rules for

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administration; amending s. 1006.735, F.S.; establishing the Rapid Response Education and Training Program within the Complete Florida Plus Program; requiring the Complete Florida Plus Program to work with Enterprise Florida, Inc., to offer education and training programs to businesses' employees; specifying the duties of the Rapid Response Education and Training Program; requiring reports to the Legislature; requiring the Division of Career and Adult Education within the Department of Education to conduct an analysis and assessment of the effectiveness of the education and training programs; amending s. 1001.7065, F.S.; requiring a state research university to enter into and maintain a formal agreement with a specified organization to offer college-sponsored merit scholarship awards as a condition of designation as a preeminent state research university; specifying that continuation of a state research university's institute for online learning is contingent on the university entering into and maintaining such an agreement; requiring the Board of Governors and the State Board of Education to base state performance funds for the State University System and the Florida College System on specified metrics adopted by each board; specifying allocation of the funds; requiring the Chancellor of the State University System and the Commissioner of Education to withhold disbursement of certain funds; requiring the boards to submit reports by a specified time to the

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Governor and the Legislature; requiring the boards to adopt rules; creating s. 1012.731, F.S.; providing legislative intent; establishing the Florida Best and Brightest Teacher Scholarship Program; authorizing funding; requiring that the State Board of Education adopt rules; providing an effective date.

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

Section 1. Subsections (2), (4), and (9) of section 446.021, Florida Statutes, are amended to read:

446.021 Definitions of terms used in ss. 446.011-446.092.—As used in ss. 446.011-446.092, the term:

(2) "Apprentice" means a person at least 16 years of age who is engaged in learning a recognized skilled trade through actual work experience under the supervision of journeyworker ~~journeymen~~ craftsmen, which training should be combined with properly coordinated studies of related technical and supplementary subjects, and who has entered into a written agreement, which may be cited as an apprentice agreement, with a registered apprenticeship sponsor who may be either an employer, an association of employers, or a local joint apprenticeship committee.

(4) "Journeyworker" ~~"Journeyman"~~ means a worker who has attained certain skills, abilities, and competencies and who is recognized within an industry as having mastered the skills and competencies required for the occupation, including, but not limited to, attainment of a nationally recognized industry certification. The term includes a mentor, technician,

specialist, or other skilled worker who has documented sufficient skills and knowledge of an occupation, through formal apprenticeship, attainment of a nationally recognized industry certification, or through practical, on-the-job experience or formal training ~~a person working in an apprenticeable occupation who has successfully completed a registered apprenticeship program or who has worked the number of years required by established industry practices for the particular trade or occupation~~.

(9) "Related instruction" means an organized and systematic form of instruction designed to provide the apprentice with knowledge of the theoretical and technical subjects related to a specific trade or occupation. Such instruction may be given in a classroom, through occupational or industrial courses, or by correspondence courses of equivalent value, including electronic media or other forms of self-study instruction approved by the department.

Section 2. Subsection (1) of section 446.032, Florida Statutes, is amended to read:

446.032 General duties of the department for apprenticeship training.—The department shall:

(1) Establish uniform minimum standards and policies governing apprentice programs and agreements. The standards and policies shall govern the terms and conditions of the apprentice's employment and training, including the quality training of the apprentice for, but not limited to, such matters as ratios of apprentices to journeyworkers ~~journeymen~~, safety, related instruction, and on-the-job training; but these standards and policies may not include rules, standards, or

117 guidelines that require the use of apprentices and job trainees
118 on state, county, or municipal contracts. The department may
119 adopt rules necessary to administer the standards and policies.
120 Section 3. Paragraph (b) of subsection (2) of section
121 446.045, Florida Statutes, is amended to read:
122 446.045 State Apprenticeship Advisory Council.—
123 (2)
124 (b) The Commissioner of Education or the commissioner's
125 designee shall serve ex officio as chair of the State
126 Apprenticeship Advisory Council, but may not vote. The state
127 director of the Office of Apprenticeship of the United States
128 Department of Labor shall serve ex officio as a nonvoting member
129 of the council. The Governor shall appoint to the council four
130 members representing employee organizations and four members
131 representing employer organizations. Each of these eight members
132 shall represent industries that have registered apprenticeship
133 programs. The Governor shall also appoint two public members who
134 are knowledgeable about registered apprenticeship and
135 apprenticeable occupations, who are independent of any joint or
136 nonjoint organization ~~one of whom shall be recommended by joint~~
137 ~~organizations, and one of whom shall be recommended by nonjoint~~
138 ~~organizations~~. Members shall be appointed for 4-year staggered
139 terms. A vacancy shall be filled for the remainder of the
140 unexpired term.
141 Section 4. Subsection (4) is added to section 446.081,
142 Florida Statutes, to read:
143 446.081 Limitation.—
144 (4) Nothing in ss. 446.011-446.092 or the implementing
145 rules in these sections shall operate to invalidate any special

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146 provision for veterans, minority persons, or women in the
147 standards, qualifications, or operation of the apprenticeship
148 program or in the apprenticeship agreement which is not
149 otherwise prohibited by law, executive order, or authorized
150 regulation.
151 Section 5. Section 446.091, Florida Statutes, is amended to
152 read:
153 446.091 On-the-job training program.—All provisions of ss.
154 446.011-446.092 relating to apprenticeship and
155 preapprenticeship, including, but not limited to, programs,
156 agreements, standards, administration, procedures, definitions,
157 expenditures, local committees, powers and duties, limitations,
158 grievances, and ratios of apprentices and job trainees to
159 journeyworkers ~~journeymen~~ on state, county, and municipal
160 contracts, shall be appropriately adapted and made applicable to
161 a program of on-the-job training authorized under those
162 provisions for persons other than apprentices.
163 Section 6. Section 446.092, Florida Statutes, is amended to
164 read:
165 446.092 Criteria for apprenticeship occupations.—An
166 apprenticeable occupation is a skilled trade which possesses all
167 of the following characteristics:
168 (1) It is customarily learned in a practical way through a
169 structured, systematic program of on-the-job, supervised
170 training.
171 (2) It is clearly identified and commonly recognized
172 throughout an ~~the~~ industry, and may be associated with a
173 nationally recognized industry certification ~~or recognized with~~
174 ~~a positive view towards changing technology~~.

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175 (3) It involves manual, mechanical, or technical skills and
176 knowledge which, in accordance with the industry standard for
177 the occupation, requires ~~require~~ a minimum of 2,000 hours of on-
178 the-job ~~work and~~ training, which hours are excluded from the
179 time spent at related instruction.
180 (4) It requires related instruction to supplement on-the-
181 job training. Such instruction may be given in a classroom,
182 through occupational or industrial courses, or through
183 correspondence courses of equivalent value, including electronic
184 media or other forms of self-study instruction approved by the
185 department.
186 ~~(5) It involves the development of skill sufficiently broad~~
187 ~~to be applicable in like occupations throughout an industry,~~
188 ~~rather than of restricted application to the products or~~
189 ~~services of any one company.~~
190 ~~(6) It does not fall into any of the following categories:~~
191 ~~(a) Selling, retailing, or similar occupations in the~~
192 ~~distributive field.~~
193 ~~(b) Managerial occupations.~~
194 ~~(c) Professional and scientific vocations for which~~
195 ~~entrance requirements customarily require an academic degree.~~
196 Section 7. Paragraphs (f) and (o) of subsection (1),
197 paragraph (a) of subsection (4), subsection (5), paragraph (b)
198 of subsection (7), paragraph (a) of subsection (9), subsection
199 (11), and subsection (13) of section 1011.62, Florida Statutes,
200 are amended, present subsections (13), (14), and (15) of that
201 section are redesignated as subsections (14), (15), and (16),
202 respectively, and a new subsection (13) is added to that
203 section, to read:

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204 1011.62 Funds for operation of schools.—If the annual
205 allocation from the Florida Education Finance Program to each
206 district for operation of schools is not determined in the
207 annual appropriations act or the substantive bill implementing
208 the annual appropriations act, it shall be determined as
209 follows:
210 (1) COMPUTATION OF THE BASIC AMOUNT TO BE INCLUDED FOR
211 OPERATION.—The following procedure shall be followed in
212 determining the annual allocation to each district for
213 operation:
214 (f) *Supplemental academic instruction; categorical fund.*—
215 1. There is created a categorical fund to provide
216 supplemental academic instruction to students in kindergarten
217 through grade 12. This paragraph may be cited as the
218 "Supplemental Academic Instruction Categorical Fund."
219 2. Categorical funds for supplemental academic instruction
220 shall be allocated annually to each school district in the
221 amount provided in the General Appropriations Act. These funds
222 shall be in addition to the funds appropriated on the basis of
223 FTE student membership in the Florida Education Finance Program
224 and shall be included in the total potential funds of each
225 district. These funds shall be used to provide supplemental
226 academic instruction to students enrolled in the K-12 program.
227 For the 2014-2015, 2015-2016, 2016-2017, and 2017-2018 fiscal
228 years ~~year~~, each school district that has one or more of the 300
229 lowest-performing elementary schools based on the state reading
230 assessment shall use these funds, together with the funds
231 provided in the district's research-based reading instruction
232 allocation and other available funds, to provide an additional

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233 hour of instruction beyond the normal school day for each day of
234 the entire school year, and provide the equivalent hours of
235 instruction in a summer program, for intensive reading
236 instruction for the students in each of these schools. In the
237 subsequent year, if a participating school is no longer
238 classified as one of the 300 lowest-performing elementary
239 schools, the school must continue to provide the additional hour
240 of instruction to all students who have Level 1 or Level 2
241 reading assessment scores. This additional hour of instruction
242 must be provided by teachers or reading specialists who are
243 effective in teaching reading or by a K-5 mentoring reading
244 program that is supervised by a teacher who is effective at
245 teaching reading. Students enrolled in these schools who have
246 level 5 assessment scores may participate in the additional hour
247 of instruction on an optional basis. Exceptional student
248 education centers may ~~shall~~ not be included in the 300 schools.
249 After this requirement has been met, supplemental instruction
250 strategies may include, but are not limited to: modified
251 curriculum, reading instruction, after-school instruction,
252 tutoring, mentoring, class size reduction, extended school year,
253 intensive skills development in summer school, and other methods
254 for improving student achievement. Supplemental instruction may
255 be provided to a student in any manner and at any time during or
256 beyond the regular 180-day term identified by the school as
257 being the most effective and efficient way to best help that
258 student progress from grade to grade and to graduate.
259 3. Effective with the 1999-2000 fiscal year, funding on the
260 basis of FTE membership beyond the 180-day regular term shall be
261 provided in the FEFP only for students enrolled in juvenile

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262 justice education programs or in education programs for
263 juveniles placed in secure facilities or programs under s.
264 985.19. Funding for instruction beyond the regular 180-day
265 school year for all other K-12 students shall be provided
266 through the supplemental academic instruction categorical fund
267 and other state, federal, and local fund sources with ample
268 flexibility for schools to provide supplemental instruction to
269 assist students in progressing from grade to grade and
270 graduating.
271 4. The Florida State University School, as a lab school, is
272 authorized to expend from its FEFP or Lottery Enhancement Trust
273 Fund allocation the cost to the student of remediation in
274 reading, writing, or mathematics for any graduate who requires
275 remediation at a postsecondary educational institution.
276 5. Beginning in the 1999-2000 school year, dropout
277 prevention programs as defined in ss. 1003.52, 1003.53(1)(a),
278 (b), and (c), and 1003.54 shall be included in group 1 programs
279 under subparagraph (d)3.
280 (o) *Calculation of additional full-time equivalent*
281 *membership based on successful completion of a career-themed*
282 *course pursuant to ss. 1003.491, 1003.492, and 1003.493, or*
283 *courses with embedded CAPE industry certifications or CAPE*
284 *Digital Tool certificates, and issuance of industry*
285 *certification identified on the CAPE Industry Certification*
286 *Funding List pursuant to rules adopted by the State Board of*
287 *Education or CAPE Digital Tool certificates pursuant to s.*
288 *1003.4203.*—
289 1.a. A value of 0.025 full-time equivalent student
290 membership shall be calculated for CAPE Digital Tool

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291 certificates earned by students in elementary and middle school
292 grades.
293 b. A value of 0.1 or 0.2 full-time equivalent student
294 membership shall be calculated for each student who completes a
295 course as defined in s. 1003.493(1)(b) or courses with embedded
296 CAPE industry certifications and who is issued an industry
297 certification identified annually on the CAPE Industry
298 Certification Funding List approved under rules adopted by the
299 State Board of Education. A value of 0.2 full-time equivalent
300 membership shall be calculated for each student who is issued a
301 CAPE industry certification that has a statewide articulation
302 agreement for college credit approved by the State Board of
303 Education. For CAPE industry certifications that do not
304 articulate for college credit, the Department of Education shall
305 assign a full-time equivalent value of 0.1 for each
306 certification. Middle grades students who earn additional FTE
307 membership for a CAPE Digital Tool certificate pursuant to sub-
308 subparagraph a. may not use the previously funded examination to
309 satisfy the requirements for earning an industry certification
310 under this sub-subparagraph. Additional FTE membership for an
311 elementary or middle grades student may ~~shall~~ not exceed 0.1 for
312 certificates or certifications earned within the same fiscal
313 year. The State Board of Education shall include the assigned
314 values on the CAPE Industry Certification Funding List under
315 rules adopted by the state board. Such value shall be added to
316 the total full-time equivalent student membership for grades 6
317 through 12 in the subsequent year ~~for courses that were not~~
318 ~~provided through dual enrollment~~. CAPE industry certifications
319 earned through dual enrollment must be reported and funded

320 pursuant to s. 1011.80. However, if a student earns a
321 certification through a dual enrollment course and the
322 certification is not a fundable certification on the
323 postsecondary certification funding list, or the dual enrollment
324 certification is earned as a result of an agreement between a
325 school district and a nonpublic postsecondary institution, the
326 bonus value shall be funded in the same manner as for other
327 nondual enrollment course industry certifications. In such
328 cases, the school district may provide for an agreement between
329 the high school and the technical center, or the school district
330 and the postsecondary institution may enter into an agreement
331 for equitable distribution of the bonus funds.
332 c. A value of 0.3 full-time equivalent student membership
333 shall be calculated for student completion of the courses and
334 the embedded certifications identified on the CAPE Industry
335 Certification Funding List and approved by the commissioner
336 pursuant to ss. 1003.4203(5)(a) and 1008.44.
337 d. A value of 0.5 full-time equivalent student membership
338 shall be calculated for CAPE Acceleration Industry
339 Certifications that articulate for 15 to 29 college credit
340 hours, and 1.0 full-time equivalent student membership shall be
341 calculated for CAPE Acceleration Industry Certifications that
342 articulate for 30 or more college credit hours pursuant to CAPE
343 Acceleration Industry Certifications approved by the
344 commissioner pursuant to ss. 1003.4203(5)(b) and 1008.44.
345 2. Each district must allocate at least 80 percent of the
346 funds provided for CAPE industry certification, in accordance
347 with this paragraph, to the program that generated the funds.
348 This allocation may not be used to supplant funds provided for

349 basic operation of the program.
350 3. For CAPE industry certifications earned in the 2013-2014
351 school year and in subsequent years, the school district shall
352 distribute to each classroom teacher who provided direct
353 instruction toward the attainment of a CAPE industry
354 certification that qualified for additional full-time equivalent
355 membership under subparagraph 1.:
356 a. A bonus in the amount of $25 for each student taught by
357 a teacher who provided instruction in a course that led to the
358 attainment of a CAPE industry certification on the CAPE Industry
359 Certification Funding List with a weight of 0.1.
360 b. A bonus in the amount of $50 for each student taught by
361 a teacher who provided instruction in a course that led to the
362 attainment of a CAPE industry certification on the CAPE Industry
363 Certification Funding List with a weight of 0.2~~, 0.3, 0.5, and~~
364 ~~1.0~~.
365 c. A bonus in the amount of $75 for each student taught by
366 a teacher who provided instruction in a course that led to the
367 attainment of a CAPE industry certification on the CAPE Industry
368 Certification Funding List with a weight of 0.3.
369 d. A bonus in the amount of $100 for each student taught by
370 a teacher who provided instruction in a course that led to the
371 attainment of a CAPE industry certification on the CAPE Industry
372 Certification Funding List with a weight of 0.5 or 1.0.
373
374 Bonuses awarded pursuant to this paragraph shall be provided to
375 teachers who are employed by the district in the year in which
376 the additional FTE membership calculation is included in the
377 calculation. Bonuses shall be calculated based upon the

378 associated weight of a CAPE industry certification on the CAPE
379 Industry Certification Funding List for the year in which the
380 certification is earned by the student. Any bonus awarded to a
381 teacher under sub-subparagraph 3.a. or sub-subparagraph 3.b.
382 ~~this paragraph~~ may not exceed $2,000 in any given school year,
383 and a bonus awarded to a teacher under sub-subparagraph 3.c. or
384 sub-subparagraph 3.d. may not exceed $4,000 in a given school
385 year. The maximum bonus that may be awarded to a teacher under
386 this paragraph is $4,000. This bonus ~~and~~ is in addition to any
387 regular wage or other bonus the teacher received or is scheduled
388 to receive.
389 (4) COMPUTATION OF DISTRICT REQUIRED LOCAL EFFORT.—The
390 Legislature shall prescribe the aggregate required local effort
391 for all school districts collectively as an item in the General
392 Appropriations Act for each fiscal year. The amount that each
393 district shall provide annually toward the cost of the Florida
394 Education Finance Program for kindergarten through grade 12
395 programs shall be calculated as follows:
396 (a) *Estimated taxable value calculations.*—
397 1.a. Not later than 2 working days prior to July 19, the
398 Department of Revenue shall certify to the Commissioner of
399 Education its most recent estimate of the taxable value for
400 school purposes in each school district and the total for all
401 school districts in the state for the current calendar year
402 based on the latest available data obtained from the local
403 property appraisers. The value certified shall be the taxable
404 value for school purposes for that year, and no further
405 adjustments shall be made, except those made pursuant to
406 paragraphs (c) and (d), or an assessment roll change required by

407 final judicial decisions as specified in paragraph (15)(b)
408 ~~(14)(b)~~. Not later than July 19, the Commissioner of Education
409 shall compute a millage rate, rounded to the next highest one
410 one-thousandth of a mill, which, when applied to 96 percent of
411 the estimated state total taxable value for school purposes,
412 would generate the prescribed aggregate required local effort
413 for that year for all districts. The Commissioner of Education
414 shall certify to each district school board the millage rate,
415 computed as prescribed in this subparagraph, as the minimum
416 millage rate necessary to provide the district required local
417 effort for that year.
418 b. The General Appropriations Act shall direct the
419 computation of the statewide adjusted aggregate amount for
420 required local effort for all school districts collectively from
421 ad valorem taxes to ensure that no school district's revenue
422 from required local effort millage will produce more than 90
423 percent of the district's total Florida Education Finance
424 Program calculation as calculated and adopted by the
425 Legislature, and the adjustment of the required local effort
426 millage rate of each district that produces more than 90 percent
427 of its total Florida Education Finance Program entitlement to a
428 level that will produce only 90 percent of its total Florida
429 Education Finance Program entitlement in the July calculation.
430 2. On the same date as the certification in sub-
431 subparagraph 1.a., the Department of Revenue shall certify to
432 the Commissioner of Education for each district:
433 a. Each year for which the property appraiser has certified
434 the taxable value pursuant to s. 193.122(2) or (3), if
435 applicable, since the prior certification under sub-subparagraph

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436 1.a.
437 b. For each year identified in sub-subparagraph a., the
438 taxable value certified by the appraiser pursuant to s.
439 193.122(2) or (3), if applicable, since the prior certification
440 under sub-subparagraph 1.a. This is the certification that
441 reflects all final administrative actions of the value
442 adjustment board.
443 (5) DISCRETIONARY MILLAGE COMPRESSION SUPPLEMENT.—The
444 Legislature shall prescribe in the General Appropriations Act,
445 pursuant to s. 1011.71(1), the rate of nonvoted current
446 operating discretionary millage that shall be used to calculate
447 a discretionary millage compression supplement. If the
448 prescribed millage generates an amount of funds per unweighted
449 FTE for the district that is less than 105 percent of the state
450 average, the district shall receive an amount per FTE that, when
451 added to the funds per FTE generated by the designated levy,
452 shall equal 105 percent of the state average.
453 (7) DETERMINATION OF SPARSITY SUPPLEMENT.—
454 (b) The district sparsity index shall be computed by
455 dividing the total number of full-time equivalent students in
456 all programs in the district by the number of senior high school
457 centers in the district, not in excess of three, which centers
458 are approved as permanent centers by a survey made by the
459 Department of Education. In districts with a full-time
460 equivalent student membership of at least 20,000, but no more
461 than 24,000, the index shall be computed by dividing the total
462 number of full-time equivalent students in all programs by the
463 number of permanent senior high school centers in the district,
464 not to exceed four.

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465 (9) RESEARCH-BASED READING INSTRUCTION ALLOCATION.—
466 (a) The research-based reading instruction allocation is
467 created to provide comprehensive reading instruction to students
468 in kindergarten through grade 12. For the 2014-2015, 2015-2016,
469 2016-2017, and 2017-2018 fiscal years ~~year~~, in each school
470 district that has one or more of the 300 lowest-performing
471 elementary schools based on the state reading assessment,
472 priority shall be given to providing an additional hour per day
473 of intensive reading instruction beyond the normal school day
474 for each day of the entire school year, and provide the
475 equivalent hours of instruction in a summer program, for the
476 students in each school. In the subsequent year, if a
477 participating school is no longer classified as one of the 300
478 lowest-performing elementary schools, the school must continue
479 to provide the additional hour of instruction to all students
480 who have Level 1 or Level 2 reading assessment scores. Students
481 enrolled in these schools who have level 5 assessment scores may
482 participate in the additional hour of instruction on an optional
483 basis. Exceptional student education centers may ~~shall~~ not be
484 included in the 300 schools. The intensive reading instruction
485 delivered in this additional hour and for other students shall
486 include: research-based reading instruction that has been proven
487 to accelerate progress of students exhibiting a reading
488 deficiency; differentiated instruction based on student
489 assessment data to meet students' specific reading needs;
490 explicit and systematic reading development in phonemic
491 awareness, phonics, fluency, vocabulary, and comprehension, with
492 more extensive opportunities for guided practice, error
493 correction, and feedback; and the integration of social studies,

494 science, and mathematics-text reading, text discussion, and
495 writing in response to reading. ~~For the 2012-2013 and 2013-2014~~
496 ~~fiscal years, a school district may not hire more reading~~
497 ~~coaches than were hired during the 2011-2012 fiscal year unless~~
498 ~~all students in kindergarten through grade 5 who demonstrate a~~
499 ~~reading deficiency, as determined by district and state~~
500 ~~assessments, including students scoring Level 1 or Level 2 on~~
501 ~~the statewide, standardized reading assessment or, upon~~
502 ~~implementation, the English Language Arts assessment, are~~
503 ~~provided an additional hour per day of intensive reading~~
504 ~~instruction beyond the normal school day for each day of the~~
505 ~~entire school year.~~
506 (11) VIRTUAL EDUCATION CONTRIBUTION.—The Legislature may
507 annually provide in the Florida Education Finance Program a
508 virtual education contribution. The amount of the virtual
509 education contribution shall be the difference between the
510 amount per FTE established in the General Appropriations Act for
511 virtual education and the amount per FTE for each district and
512 the Florida Virtual School, which may be calculated by taking
513 the sum of the base FEFP allocation, the declining enrollment
514 supplement, the discretionary local effort, the state-funded
515 discretionary contribution, the discretionary millage
516 compression supplement, the research-based reading instruction
517 allocation, the ESE guaranteed allocation, and the instructional
518 materials allocation, and then dividing by the total unweighted
519 FTE. This difference shall be multiplied by the virtual
520 education unweighted FTE for programs and options identified in
521 s. 1002.455(3) and the Florida Virtual School and its franchises
522 to equal the virtual education contribution and shall be

523 included as a separate allocation in the funding formula.
524 (13) FEDERALLY CONNECTED STUDENT SUPPLEMENT.—The federally
525 connected student supplement is created to provide supplemental
526 funding for school districts to support the education of
527 students connected with federally owned military installations,
528 National Aeronautics and Space Administration (NASA) property,
529 and Indian lands. To be eligible for this supplement, the
530 district must also be eligible for federal Impact Aid program
531 funds pursuant to Title VIII of the Elementary and Secondary
532 Education Act of 1965. The supplement shall be the sum of the
533 student allocation and an exempt property allocation.
534 (a) The student allocation shall be calculated based on the
535 number of students reported for federal Impact Aid program
536 funds, including students with disabilities, who meet one of the
537 following criteria:
538 1. Resides with a parent who is on active duty in the
539 uniformed services or is an accredited foreign government
540 official and military officer. Students with disabilities shall
541 also be reported separately for this condition.
542 2. Resides on eligible federally owned Indian lands.
543 Students with disabilities shall also be reported separately for
544 this condition.
545 3. Resides with a civilian parent who lives or works on
546 eligible federal property connected with a military installation
547 or NASA. The number of these students shall be multiplied by a
548 factor of 0.5.
549 (b) The total number of federally connected students
550 calculated under paragraph (a) shall be multiplied by a
551 percentage of the base student allocation as provided in the

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552 General Appropriations Act. The total of the number of students
553 with disabilities as reported separately under subparagraphs
554 (a)1. and (a)2. shall be multiplied by an additional percentage
555 of the base student allocation as provided in the General
556 Appropriations Act. The base amount and the students-with-
557 disabilities amount shall be summed to provide the student
558 allocation.
559 (c) The exempt-property allocation shall be equal to the
560 tax-exempt value of federal Impact Aid lands reserved as
561 military installations, real property owned by NASA, or eligible
562 federally owned Indian lands located in the district, as of
563 January 1 of the previous year, multiplied by the millage
564 authorized and levied under s. 1011.71(2).
565 (14) ~~(13)~~ QUALITY ASSURANCE GUARANTEE.—The Legislature may
566 annually in the General Appropriations Act determine a
567 percentage increase in funds per K-12 unweighted FTE as a
568 minimum guarantee to each school district. The guarantee shall
569 be calculated from prior year base funding per unweighted FTE
570 student which shall include the adjusted FTE dollars as provided
571 in subsection (15) ~~(14)~~, quality guarantee funds, and actual
572 nonvoted discretionary local effort from taxes. From the base
573 funding per unweighted FTE, the increase shall be calculated for
574 the current year. The current year funds from which the
575 guarantee shall be determined shall include the adjusted FTE
576 dollars as provided in subsection (15) ~~(14)~~ and potential
577 nonvoted discretionary local effort from taxes. A comparison of
578 current year funds per unweighted FTE to prior year funds per
579 unweighted FTE shall be computed. For those school districts
580 which have less than the legislatively assigned percentage

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581 increase, funds shall be provided to guarantee the assigned
582 percentage increase in funds per unweighted FTE student. Should
583 appropriated funds be less than the sum of this calculated
584 amount for all districts, the commissioner shall prorate each
585 district's allocation. This provision shall be implemented to
586 the extent specifically funded.
587 Section 8. Subsection (1) of section 1011.71, Florida
588 Statutes, is amended to read:
589 1011.71 District school tax.—
590 (1) If the district school tax is not provided in the
591 General Appropriations Act or the substantive bill implementing
592 the General Appropriations Act, each district school board
593 desiring to participate in the state allocation of funds for
594 current operation as prescribed by s. 1011.62(15) ~~s. 1011.62(14)~~
595 shall levy on the taxable value for school purposes of the
596 district, exclusive of millage voted under the provisions of s.
597 9(b) or s. 12, Art. VII of the State Constitution, a millage
598 rate not to exceed the amount certified by the commissioner as
599 the minimum millage rate necessary to provide the district
600 required local effort for the current year, pursuant to s.
601 1011.62(4)(a)1. In addition to the required local effort millage
602 levy, each district school board may levy a nonvoted current
603 operating discretionary millage. The Legislature shall prescribe
604 annually in the appropriations act the maximum amount of millage
605 a district may levy.
606 Section 9. Paragraph (b) of subsection (2) of section
607 1004.92, Florida Statutes, is amended to read:
608 1004.92 Purpose and responsibilities for career education.—
609 (2)

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610 (b) Department of Education accountability for career
611 education includes, but is not limited to:
612 1. The provision of timely, accurate technical assistance
613 to school districts and Florida College System institutions.
614 2. The provision of timely, accurate information to the
615 State Board of Education, the Legislature, and the public.
616 3. The development of policies, rules, and procedures that
617 facilitate institutional attainment of the accountability
618 standards and coordinate the efforts of all divisions within the
619 department.
620 4. The development of program standards and industry-driven
621 benchmarks for career, adult, and community education programs,
622 which must be updated every 3 years. The standards must include
623 career, academic, and workplace skills; viability of distance
624 learning for instruction; ~~and~~ work/learn cycles that are
625 responsive to business and industry; and reflect the quality
626 components of a career and technical education program. The
627 State Board of Education shall adopt rules to administer this
628 section.
629 5. Overseeing school district and Florida College System
630 institution compliance with the provisions of this chapter.
631 6. Ensuring that the educational outcomes for the technical
632 component of career programs are uniform and designed to provide
633 a graduate who is capable of entering the workforce on an
634 equally competitive basis regardless of the institution of
635 choice.
636 Section 10. Present subsections (5) and (6) of section
637 1006.735, Florida Statutes, are redesignated as subsections (6)
638 and (7), respectively, and a new subsection (5) is added to that

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639 section, to read:
640 1006.735 Complete Florida Plus Program.—The Complete
641 Florida Plus Program is created at the University of West
642 Florida.
643 (5) RAPID RESPONSE EDUCATION AND TRAINING PROGRAM.—The
644 Rapid Response Education and Training Program is established
645 within the Complete Florida Plus Program. Under the Rapid
646 Response Education and Training Program, the Complete Florida
647 Plus Program shall work directly with Enterprise Florida, Inc.,
648 in project-specific industry recruitment and retention efforts
649 to offer education and training programs to businesses'
650 employees.
651 (a) The Rapid Response Education and Training Program must:
652 1. Issue challenge grants through requests for proposals
653 that are open to all education and training providers, public or
654 private. These grants match state funding with education and
655 training provider funds to implement particular education and
656 training programs.
657 2. Generate periodic reports from an independent forensic
658 accounting or auditing entity to ensure transparency of the
659 program. These periodic reports must be submitted to the
660 President of the Senate and the Speaker of the House of
661 Representatives.
662 3. Keep administrative costs to a minimum through the use
663 of existing organizational structures.
664 4. Work directly with businesses to recruit individuals for
665 education and training.
666 5. Be able to terminate an education and training program
667 by giving 30 days' notice.

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668 6. Survey employers after completion of an education and
669 training program to ascertain the effectiveness of the program.
670 (b) The Division of Career and Adult Education within the
671 Department of Education shall conduct an analysis and assessment
672 of the effectiveness of the education and training programs
673 under this section in meeting labor market and occupational
674 trends and gaps.
675 Section 11. Subsections (3) and (4) of section 1001.7065,
676 Florida Statutes, are amended to read:
677 1001.7065 Preeminent state research universities program.—
678 (3) PREEMINENT STATE RESEARCH UNIVERSITY DESIGNATION.—The
679 Board of Governors shall designate each state research
680 university that meets at least 11 of the 12 academic and
681 research excellence standards identified in subsection (2) and
682 that enters into and maintains a formal agreement with the
683 National Merit Scholarship Corporation to offer college-
684 sponsored merit scholarship awards a preeminent state research
685 university.
686 (4) PREEMINENT STATE RESEARCH UNIVERSITY INSTITUTE FOR
687 ONLINE LEARNING.—A state research university that, as of July 1,
688 2013, met ~~meets~~ all 12 of the academic and research excellence
689 standards identified in subsection (2), as verified by the Board
690 of Governors, shall establish an institute for online learning.
691 Continuation of the institute for online learning is contingent
692 upon a state research university entering into and maintaining a
693 formal agreement with the National Merit Scholarship Corporation
694 to offer college-sponsored merit scholarship awards. The
695 institute shall establish a robust offering of high-quality,
696 fully online baccalaureate degree programs at an affordable cost

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697 in accordance with this subsection.
698 (a) By August 1, 2013, the Board of Governors shall convene
699 an advisory board to support the development of high-quality,
700 fully online baccalaureate degree programs at the university.
701 (b) The advisory board shall:
702 1. Offer expert advice, as requested by the university, in
703 the development and implementation of a business plan to expand
704 the offering of high-quality, fully online baccalaureate degree
705 programs.
706 2. Advise the Board of Governors on the release of funding
707 to the university upon approval by the Board of Governors of the
708 plan developed by the university.
709 3. Monitor, evaluate, and report on the implementation of
710 the plan to the Board of Governors, the Governor, the President
711 of the Senate, and the Speaker of the House of Representatives.
712 (c) The advisory board shall be composed of the following
713 five members:
714 1. The chair of the Board of Governors or the chair's
715 permanent designee.
716 2. A member with expertise in online learning, appointed by
717 the Board of Governors.
718 3. A member with expertise in global marketing, appointed
719 by the Governor.
720 4. A member with expertise in cloud virtualization,
721 appointed by the President of the Senate.
722 5. A member with expertise in disruptive innovation,
723 appointed by the Speaker of the House of Representatives.
724 (d) The president of the university shall be consulted on
725 the advisory board member appointments.

726 (e) A majority of the advisory board shall constitute a
727 quorum, elect the chair, and appoint an executive director.
728 (f) By September 1, 2013, the university shall submit to
729 the advisory board a comprehensive plan to expand high-quality,
730 fully online baccalaureate degree program offerings. The plan
731 shall include:
732 1. Existing on-campus general education courses and
733 baccalaureate degree programs that will be offered online.
734 2. New courses that will be developed and offered online.
735 3. Support services that will be offered to students
736 enrolled in online baccalaureate degree programs.
737 4. A tuition and fee structure that meets the requirements
738 in paragraph (k) for online courses, baccalaureate degree
739 programs, and student support services.
740 5. A timeline for offering, marketing, and enrolling
741 students in the online baccalaureate degree programs.
742 6. A budget for developing and marketing the online
743 baccalaureate degree programs.
744 7. Detailed strategies for ensuring the success of students
745 and the sustainability of the online baccalaureate degree
746 programs.
747
748 Upon recommendation of the plan by the advisory board and
749 approval by the Board of Governors, the Board of Governors shall
750 award the university $10 million in nonrecurring funds and $5
751 million in recurring funds for fiscal year 2013-2014 and $5
752 million annually thereafter, subject to appropriation in the
753 General Appropriations Act.
754 (g) Beginning in January 2014, the university shall offer

755 high-quality, fully online baccalaureate degree programs that:
756 1. Accept full-time, first-time-in-college students.
757 2. Have the same rigorous admissions criteria as equivalent
758 on-campus degree programs.
759 3. Offer curriculum of equivalent rigor to on-campus degree
760 programs.
761 4. Offer rolling enrollment or multiple opportunities for
762 enrollment throughout the year.
763 5. Do not require any on-campus courses. However, for
764 courses or programs that require clinical training or
765 laboratories that cannot be delivered online, the university
766 shall offer convenient locational options to the student, which
767 may include, but are not limited to, the option to complete such
768 requirements at a summer-in-residence on the university campus.
769 The university may provide a network of sites at convenient
770 locations and contract with commercial testing centers or
771 identify other secure testing services for the purpose of
772 proctoring assessments or testing.
773 6. Apply the university's existing policy for accepting
774 credits for both freshman applicants and transfer applicants.
775 (h) The university may offer a fully online Master's in
776 Business Administration degree program and other master's degree
777 programs.
778 (i) The university may develop and offer degree programs
779 and courses that are competency based as appropriate for the
780 quality and success of the program.
781 (j) The university shall periodically expand its offering
782 of online baccalaureate degree programs to meet student and
783 market demands.

784 (k) The university shall establish a tuition structure for
785 its online institute in accordance with this paragraph,
786 notwithstanding any other provision of law.
787 1. For students classified as residents for tuition
788 purposes, tuition for an online baccalaureate degree program
789 shall be set at no more than 75 percent of the tuition rate as
790 specified in the General Appropriations Act pursuant to s.
791 1009.24(4) and 75 percent of the tuition differential pursuant
792 to s. 1009.24(16). No distance learning fee, fee for campus
793 facilities, or fee for on-campus services may be assessed,
794 except that online students shall pay the university's
795 technology fee, financial aid fee, and Capital Improvement Trust
796 Fund fee. The revenues generated from the Capital Improvement
797 Trust Fund fee shall be dedicated to the university's institute
798 for online learning.
799 2. For students classified as nonresidents for tuition
800 purposes, tuition may be set at market rates in accordance with
801 the business plan.
802 3. Tuition for an online degree program shall include all
803 costs associated with instruction, materials, and enrollment,
804 excluding costs associated with the provision of textbooks
805 pursuant to s. 1004.085 and physical laboratory supplies.
806 4. Subject to the limitations in subparagraph 1., tuition
807 may be differentiated by degree program as appropriate to the
808 instructional and other costs of the program in accordance with
809 the business plan. Pricing must incorporate innovative
810 approaches that incentivize persistence and completion,
811 including, but not limited to, a fee for assessment, a bundled
812 or all-inclusive rate, and sliding scale features.

813 5. The university must accept advance payment contracts and
814 student financial aid.
815 6. Fifty percent of the net revenues generated from the
816 online institute of the university shall be used to enhance and
817 enrich the online institute offerings, and 50 percent of the net
818 revenues generated from the online institute shall be used to
819 enhance and enrich the university's campus state-of-the-art
820 research programs and facilities.
821 7. The institute may charge additional local user fees
822 pursuant to s. 1009.24(14) upon the approval of the Board of
823 Governors.
824 8. The institute shall submit a proposal to the president
825 of the university authorizing additional user fees for the
826 provision of voluntary student participation in activities and
827 additional student services.
828 Section 12. (1) The State University System Performance-
829 Based Incentive shall be based on indicators of institutional
830 attainment of performance metrics adopted by the Board of
831 Governors. The performance-based funding metrics shall include,
832 but are not limited to, metrics that measure graduation and
833 retention rates; degree production; affordability;
834 postgraduation employment, salaries, or further education;
835 student loan default rates; access; and any other metrics
836 approved by the board.
837 (2) The Board of Governors shall evaluate the institutions'
838 performance on the metrics based on benchmarks adopted by the
839 board which measure the achievement of institutional excellence
840 or improvement. Each fiscal year, the amount of funds available
841 for allocation to the institutions based on the performance

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842 funding model shall consist of the state's investment in
843 performance funding, plus an institutional investment consisting
844 of funds to be redistributed from the base funding of the State
845 University System, as determined in the General Appropriations
846 Act. The institutional investment shall be restored for all
847 institutions eligible for the state's investment under the
848 performance funding model. Any institution that fails to meet
849 the board's minimum performance funding threshold will not be
850 eligible for the state's investment, will have a portion of its
851 institutional investment withheld, and must submit an
852 improvement plan to the board that specifies the activities and
853 strategies for improving the institution's performance.
854 (3) The Board of Governors must review the improvement
855 plan, and if approved, must monitor the institution's progress
856 on implementing the specified activities and strategies. The
857 institutions shall submit monitoring reports to the board no
858 later than December 31 and May 31 of each year.
859 (4) The Chancellor of the State University System shall
860 withhold disbursement of the institutional investment until such
861 time as the monitoring report for the institution is approved by
862 the Board of Governors. Any institution that fails to make
863 satisfactory progress will not have its full institutional
864 investment restored. If all institutional investment funds are
865 not restored, any remaining funds shall be redistributed in
866 accordance with the board's performance funding model.
867 (5) By October 1 of each year, the Board of Governors shall
868 submit to the Governor, the President of the Senate, and the
869 Speaker of the House of Representatives a report on the previous
870 year's performance funding allocation which reflects the

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871 rankings and award distributions.
872 (6) The Board of Governors shall adopt a regulation to
873 implement this section.
874 Section 13. (1) The Florida College System Performance-
875 Based Incentive shall be based on indicators of institutional
876 attainment of performance metrics adopted by the State Board of
877 Education. The performance-based funding metrics shall include,
878 but are not limited to, metrics that measure retention; program
879 completion and graduation rates; student loan default rates; job
880 placement; and postgraduation employment, salaries, or further
881 education.
882 (2) The State Board of Education shall evaluate the
883 institutions' performance on the metrics based on benchmarks
884 adopted by the board which measure the achievement of
885 institutional excellence or improvement. Each fiscal year, the
886 amount of funds available for allocation to the institutions
887 based on the performance funding model shall consist of the
888 state's investment in performance funding plus an institutional
889 investment consisting of funds to be redistributed from the base
890 funding of the Florida College System Program Fund, as
891 determined in the General Appropriations Act. The institutional
892 investment shall be restored for all institutions eligible for
893 the state's investment under the performance funding model. Any
894 institution that fails to meet the board's minimum performance
895 funding threshold will not be eligible for the state's
896 investment, will have a portion of its institutional investment
897 withheld, and must submit an improvement plan to the board that
898 specifies the activities and strategies for improving the
899 institution's performance.

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

900 (3) The State Board of Education must review the
901 improvement plan, and if approved, must monitor the
902 institution's progress on implementing the specified activities
903 and strategies. The institutions shall submit monitoring reports
904 to the board no later than December 31 and May 31 of each year.
905 (4) The Commissioner of Education shall withhold
906 disbursement of the institutional investment until such time as
907 the monitoring report for the institution is approved by the
908 State Board of Education. Any institution that fails to make
909 satisfactory progress will not have its full institutional
910 investment restored. If all institutional investment funds are
911 not restored, any remaining funds shall be redistributed in
912 accordance with the board's performance funding model.
913 (5) By October 1 of each year, the State Board of Education
914 shall submit to the Governor, the President of the Senate, and
915 the Speaker of the House of Representatives a report on the
916 previous year's performance funding allocation which reflects
917 the rankings and award distributions.
918 (6) The State Board of Education shall adopt rules to
919 implement this section.
920 Section 14. Section 1012.731, Florida Statutes, is created
921 to read:
922 1012.731 The Florida Best and Brightest Teacher Scholarship
923 Program.—
924 (1) The Legislature recognizes that, second only to
925 parents, teachers play the most critical role in preparing
926 students to achieve a high level of academic performance. The
927 Legislature further recognizes that research has linked student
928 outcomes to a teacher's own academic achievement. Therefore, it

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

929 is the intent of the Legislature to designate teachers who have
930 achieved high academic standards during their own education as
931 Florida's best and brightest teacher scholars.
932 (2) There is created the Florida Best and Brightest Teacher
933 Scholarship Program to be administered by the Department of
934 Education. Beginning in the 2015-2016 school year, categorical
935 funds may be appropriated, as provided in the General
936 Appropriations Act, to award scholarships to teachers who have
937 demonstrated a high level of academic achievement.
938 (3) The State Board of Education shall adopt rules to
939 implement the program, which must include, but are not limited
940 to:
941 (a) Timeframes and requirements for submitting reports.
942 (b) Eligibility criteria for receiving the scholarship.
943 (c) Requirements for distributing scholarship funds.
944 Section 15. This act shall take effect July 1, 2015.

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THE FLORIDA SENATE

APPEARANCE RECORD

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

4/21/2015
Meeting Date

Topic _____ Bill Number 948 *(if applicable)*

Name BRIAN PITTS Amendment Barcode _____ *(if applicable)*

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH
Street

SAINT PETERSBURG FLORIDA 33705
City *State* *Zip*

Phone 727-897-9291

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.

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/21/15
Meeting Date

CS/SB 948
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic: HIGHER EDUCATION

Name: DR. JIM HENNINGSEN

Job Title: PRESIDENT, COLLEGE OF CENTRAL FLORIDA

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Street

OCALA, FL 34474
City, State, Zip

Phone: 321-377-6044

Email:

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☑ In Support ☐ Against
(The Chair will read this information into the record.)

Representing: FLORIDA COLLEGE SYSTEM COUNCIL of PRESIDENTS

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/21/15
Meeting Date

948
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic SB 948

Name Sara Clements

Job Title Legislative Director

Address 215 S. Monroe St.
Street

Tlh FL 32301
City State Zip

Phone 850-391-0329

Email sara@floridapromise.org

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Foundation for Florida's Future

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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4/21/15
Meeting Date

948
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic: Education

Name: Jim Horne

Job Title:

Address: 200 W College Ave
Street

Tallahassee, FL 32301
City, State, Zip

Phone: 904-759-4596

Email:

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☑ In Support ☐ Against
(The Chair will read this information into the record.)

Representing: AIF

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/21/15
Meeting Date

948 (PCB)
Bill Number (if applicable)

911584
Amendment Barcode (if applicable)

Topic

Name Ron LaFace

Job Title

Address 101 E College Ave
Street

Tall FL 32301
City State Zip

Phone

Email

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

Waive Speaking: [✓] In Support [ ] Against
(The Chair will read this information into the record.)

Representing Florida Keys Community College

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 (10/14/14)

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 Appropriations

BILL: CS/CS/SB 1102

INTRODUCER: Appropriations Committee; Communications, Energy, and Public Utilities Committee; and Senator Legg

SUBJECT: Utility Projects

DATE: April 23, 2015 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wiehle	Caldwell	CU	**Fav/CS**
2.	Babin	Diez-Arguelles	FT	**Favorable**
3.	Babin	Kynoch	AP	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1102 establishes a new finance mechanism – utility cost containment bonds – available to an intergovernmental authority to finance or refinance projects related to water or wastewater service on behalf of a municipality, county, special district, public corporation, regional water authority, or other governmental entity. Utility cost containment bonds are secured by a utility project charge levied on utility customers. The separate charge is designed to satisfy rating agency criteria to achieve a higher bond rating and, therefore, a lower interest rate and more favorable terms for bonds issued to fund eligible projects.

Briefly, the financing mechanism created by the bill operates as follows:

- A local agency applies to the intergovernmental utility authority to finance the costs of an eligible project using utility cost containment bonds.
- The intergovernmental utility authority adopts a financing resolution, setting forth certain requirements for issuance of the bonds.
- The bonds are secured by the revenues from a separate utility project charge stated on the bill of each present and future customer of the services specified in the financing resolution.

The revenues from the charge are transferred to the intergovernmental utility authority and held in trust for the benefit of the bondholders.

The Florida Governmental Utility Authority (FGUA) is the only intergovernmental authority that currently meets the criteria to provide financing under the bill. Thus, the bill expands the FGUA's original purpose of owning and operating a public utility system.

The bill may reduce local government expenditures by reducing financing costs for water and waste water utility projects for utilities owned and operated by a regional water authority or other governmental entity.

The bill provides an effective date of July 1, 2015.

II. Present Situation:

Financing Authority of Local Government Entities for Public Works Projects

Local governments are authorized under current law to issue bonds, revenue certificates, and other forms of indebtedness related to the provision of public works projects.

County Bonding

A county may issue water revenue bonds, sewer revenue bonds, or general obligation bonds to pay all or part of the cost to purchase, construct, improve, extend, enlarge, or reconstruct water supply systems or sewage disposal systems.[1] Water revenue bonds are payable solely from water service charges.[2] Sewer revenue bonds are payable solely from sewer service charges.[3] Neither type of revenue bond pledges the property, credit, or general tax revenue of the county. General obligation bonds are payable from ad valorem taxes alone or from ad valorem taxes with an additional secured pledge of water service charges, sewer service charges, special assessments, or a combination of these sources.[4] Issuance of general obligation bonds requires approval by referendum, and a county is required to levy annually a special tax upon all taxable property within the county to pay the principle and interest as it becomes due.[5] Counties may also create special water and sewer districts to serve unincorporated areas, and the district's board may issue revenue bonds to finance all or part of the cost of a water system, sewer system, or both. Such bonds are payable from the revenues derived from operation of the utility system as provided by law and the authorizing resolution of the district's board.[6]

Municipal Bonding

A municipality may issue revenue bonds, general obligation bonds, ad valorem bonds, or improvement bonds to finance capital expenditures made for a public purpose. Revenue bonds are payable from sources other than ad valorem taxes and are not secured by a pledge of the property, credit, or general tax revenue of the municipality.[7] General obligation bonds are payable from any special taxes levied for the purpose of repayment and any other sources as

[1] Section 153.03(1) and (2), F.S.
[2] Section 153.02(9), F.S.
[3] Section 153.02(10), F.S.
[4] Section 153.02(11), F.S.
[5] FLA. CONST. art. VII, s. 12; section 153.07, F.S.
[6] Section 153.63(1), F.S. Such bonds may also be secured by the pledge of special assessments or the full faith and credit of the district.
[7] Section 166.101(4), F.S.

provided by the authorizing ordinance or resolution.[8] Such bonds are secured by the full faith and credit and taxing power of the municipality and may require approval by referendum. Ad valorem bonds are payable from the proceeds of ad valorem taxes and require approval by referendum.[9] Improvement bonds are special obligations payable solely from the proceeds of special assessments levied for a project.[10]

Further, a municipality may issue mortgage revenue certificates or debentures to acquire, construct, or extend public works, including, among other things, water and alternative water supply facilities, sewage collection and disposal facilities, gas plants and distribution systems, and stormwater projects.[11] These instruments constitute a lien only against the property and revenue of the utility. These instruments may not impose any tax liability upon any real or personal property in the municipality and may not constitute a debt against the issuing municipality.[12]

The Division of Bond Finance (DBF) of the State Board of Administration provides information to, and collects information from, units of local government[13] concerning the issuance of bonds by such entities.[14] Each unit of local government must provide the DBF a complete description of its new general obligation bonds and revenue bonds and must provide advanced notice of the impending sale of a new issue of bonds.[15] According to the DBF, a public utility generally finances projects with revenue bonds, securing the debt with a pledge of net revenues of the utility system. These net revenues consist of the income of the public utility remaining after paying expenses necessary to operate and maintain the utility. The DBF notes that this current practice requires the efficient operation of the utility system to assure that sufficient net revenues are available to pay debt service.

Creation and Financing Authority of Intergovernmental Utility Authorities

The Florida Interlocal Cooperation Act of 1969 (Act) is intended to allow local governmental units to make the most efficient use of their powers by enabling them to cooperate with other localities on a basis of mutual advantage.[16] The Act provides that local governmental entities may jointly exercise their powers by entering into a contract in the form of an interlocal agreement.[17] Under such an agreement, the local governmental units may create a separate legal or administrative entity "to provide services and facilities in a manner and pursuant to forms of governmental organization that will accord best with geographic, economic, population, and

[8] Section 166.101(2), F.S.
[9] FLA. CONST. art. VII, s. 12; section 166.101(3), F.S.
[10] Section 166.101, F.S., et seq.
[11] Section 180.08, F.S.
[12] *Id*.
[13] "Unit of local government" is defined in s. 218.369, F.S., as "a county, municipality, special district, district school board, local agency, authority, or consolidated city-county government or any other local governmental body or public body corporate and politic authorized or created by general or special law and granted the power to issue general obligation or revenue bonds."
[14] Section 218.37, F.S.
[15] *Id*. The DBF is authorized only to collect information concerning these bonds; it does not exercise any substantive authority to review or approve these transactions.
[16] Section 163.01(2), F.S.
[17] Section 163.01(5), F.S.

other factors influencing the needs and development of local communities."[18] A separate entity created by an interlocal agreement possesses the authority specified in the agreement.[19] Among the authority granted such an entity is the power to authorize, issue, and sell bonds.[20]

The Act specifically addresses the establishment of such entities to provide water service or sewer service (hereinafter referred to as "intergovernmental utility authorities" or "IGUAs"). The Act authorizes the creation of IGUAs to acquire, own, construct, improve, operate, and manage public facilities relating to a governmental function or purpose, including water and alternative water supply facilities, wastewater facilities, and water reuse facilities.[21] An IGUA created under this provision may also finance such facilities on behalf of any person. The membership of an IGUA created under this provision is limited to two or more special districts, municipalities, or counties of the state. The IGUA's facilities may serve populations "within or outside of the members of the entity" but not within the service area of an existing utility system. An IGUA is not subject to regulation by the Public Service Commission.[22]

An IGUA created under section 163.07(g), F.S., may finance or refinance the acquisition, construction, expansion, and improvement of facilities through the issuance of bonds, notes, or other obligations. Except as may be limited by the interlocal agreement under which the entity is created, all of the privileges, benefits, powers, and terms of the statutes relating to counties[23] and municipalities[24] are fully applicable to the IGUA. Bonds, notes, and other obligations issued by the IGUA are issued on behalf of the public agencies that are members of the IGUA.[25]

The Florida Governmental Utility Authority (FGUA) was formed in 1999 pursuant to s. 163.01(7)(g), F.S. As noted on its website, the FGUA is a separate legal entity created by interlocal agreement with the limited purpose of owning and operating a public utility system. It provides retail water and wastewater utility services in several portions of the state. The FGUA consists of 14 counties: Alachua, Citrus, Collier, Hardee, Hillsborough, Lake, Lee, Marion, Orange, Pasco, Polk, Putnam, Seminole, and Volusia counties have systems in the FGUA.[26] The FGUA's governing board is comprised of seven members representing Citrus, DeSoto, Hendry, Lee, Marion, Pasco, and Polk counties.[27] Each board member is a county employee appointed by their local government.[28]

Utility Securitization Financing in Florida

Following the severe tropical storm seasons that Florida faced in 2004 and 2005, the Legislature created a new financing mechanism, referred to as securitization, by which investor-owned electric utilities could petition the Public Service Commission for issuance of a financing order

[18] Section 163.01(2), F.S.
[19] Section 163.01(7)(b), F.S.
[20] Section 163.01(7)(d), F.S.
[21] Section 163.01(7)(g), F.S.
[22] Section 367.022(2), F.S.
[23] Section 125.01, F.S.
[24] Section 166.021, F.S.
[25] Section 163.01(7)(g)7., F.S.
[26] http://www.fgua.com/fgua-history (last visited Apr. 17, 2015).
[27] http://www.fgua.com/the-board (last visited Apr. 17, 2015).
[28] *Id*.

authorizing the utility to issue bonds through a separate legal entity.[29] If granted, the financing order was required to establish a nonbypassable charge to the utility's customers in order to provide a secure stream of revenues to the separate legal entity from which the bonds would be paid. The purpose of this mechanism was to allow the utilities access to low-cost financing to cover storm recovery costs and replenishment of depleted storm reserve funds. This mechanism has been implemented in only one instance.[30]

III. Effect of Proposed Changes:

Summary

The bill establishes a new financing mechanism – utility cost containment bonds – available to an intergovernmental authority to finance or refinance projects related to water or wastewater service on behalf of a municipality, county, special district, public corporation, regional water authority, or other governmental entity. Utility cost containment bonds are secured by a utility project charge levied on utility customers. The separate charge is designed to satisfy rating agency criteria to achieve a higher bond rating and, therefore, a lower interest rate and more favorable terms for bonds issued to fund eligible projects.

The Florida Governmental Utility Authority (FGUA) is the only intergovernmental authority that currently meets the criteria to provide financing under the bill. Thus, the bill expands the FGUA's original purpose of owning and operating a public utility system.

Definitions

The bill creates a number of new definitions related to the new financing mechanism.

"Authority" means an entity, including a successor to the powers and functions of such entity, created pursuant to s. 163.01(7)(g), F.S., that provides public utility services and whose membership consists of at least three counties.[31] The term includes any successor to the powers and functions of such an entity.

"Cost," as applied to a utility project or portion of a utility project financed under this section, means any of the following:

- Any part of the expense of constructing, renovating, or acquiring lands, structures, real or personal property, rights, rights-of-way, franchises, easements, and interests acquired or used for a utility project;
- The expense of demolishing or removing any buildings or structures on acquired land, including the expense of acquiring any lands to which the buildings or structures may be moved, and the cost of all machinery and equipment used for the demolition or removal;
- Finance charges;
- Interest, as determined by the authority;
- Provisions for working capital and debt service reserves;

[29] Section 366.8260, F.S.
[30] Docket No. 060038-EI, Florida Public Service Commission.
[31] Only the Florida Governmental Utility Authority currently meets this definition.

- Expenses for extensions, enlargements, additions, replacements, renovations, and improvements;
- Expenses for architectural, engineering, financial, accounting, and legal services, and for plans, specifications, estimates, and administration; and
- Any other expenses necessary or incidental to determining the feasibility of constructing a utility project or incidental to the construction, acquisition, or financing of a utility project.

"Customer" means a person receiving water or wastewater service from a publicly owned utility.

"Financing cost" means any of the following:
- Interest and redemption premiums that are payable on utility cost containment bonds.
- The cost of retiring the principal of utility cost containment bonds, whether at maturity, including acceleration of maturity upon an event of default, or upon redemption, including sinking fund redemption.
- The cost related to issuing or servicing utility cost containment bonds, including payment under an interest rate swap agreement, and any types of fee.
- A payment or expense associated with a bond insurance policy; financial guaranty; contract, agreement, or other credit or liquidity enhancement for bonds; or contract, agreement, or other financial agreement entered into in connection with utility cost containment bonds;
- Any coverage charges.
- The funding of one or more reserve accounts related to utility cost containment bonds.

"Finance" or "financing" includes refinancing.

"Financing resolution" means a resolution adopted by the governing body of an authority that finances or refinances a utility project with utility cost containment bonds and that imposes a utility project charge in connection with the utility cost containment bonds. A financing resolution may be separate from a resolution authorizing the issuance of the bonds.

"Governing body" means the body that governs a local agency.

"Local agency" means a member of the authority, or an agency or subdivision of that member, that is sponsoring or refinancing a utility project, or any municipality, county, authority, special district, public corporation, regional water authority, or other governmental entity of the state that is sponsoring or refinancing a utility project.[32]

"Public utility services" means water or wastewater services provided by a publicly owned utility. The term does not include communications services as defined in s. 202.11, F.S., Internet, or cable services.

"Publicly owned utility" means a utility furnishing retail or wholesale water or wastewater services that is owned and operated by a local agency. The term includes any successor to the powers and functions of such a utility.

[32] Because the FGUA provides "public utility services" (water and wastewater services) that may be supported by a financeable "utility project," it appears to qualify as an authority or other governmental entity of the state and would meet the definition of a "local agency." Thus, the FGUA could be both an "authority" and a "local agency" under the bill.

"Revenue" means income and receipts of the authority related to the financing of utility projects and issuance of utility cost containment bonds, including any of the following:

- Bond purchase agreements.
- Bonds acquired by the authority.
- Installment sale agreements and other revenue-producing agreements entered into by the authority.
- Utility projects financed or refinanced by the authority.
- Grants and other sources of income.
- Moneys paid by a local agency.
- Interlocal agreements with a local agency, including all service agreements.
- Interest or other income from any investment of money in any fund or account established for the payment of principal, interest, or premiums on utility cost containment bonds, or the deposit of proceeds of utility cost containment bonds.

"Utility cost containment bonds" means bonds, notes, commercial paper, variable rate securities, and any other evidences of indebtedness issued by an authority, the proceeds of which are used directly or indirectly to pay or reimburse a local agency or its publicly owned utility for the costs of a utility project and which are secured by a pledge of, and are payable from, utility project property.

"Utility project" means the acquisition, construction, installation, retrofitting, rebuilding, or other addition to or improvement of any equipment, device, structure, process, facility, technology, rights, or property located in or out of the state that is used in connection with the operations of a publicly owned utility.

"Utility project charge" means a charge levied on customers of a publicly owned utility to pay the financing costs of utility cost containment bonds issued pursuant to the bill. The term includes any authorized adjustment to the utility project charge.

"Utility project property" means the property right created by the bill. The term does not include any interest in a customer's real or personal property, but does include the right, title, and interest of an authority in any of the following:

- The financing resolution, the utility project charge, and any adjustment to the utility project charge.
- The financing costs of the utility cost containment bonds and all revenues, and all collections, claims, payments, moneys, or proceeds for, or arising from, the utility project charge.
- All rights to obtain adjustments to the utility project charge pursuant to the bill.

Local Agency Authority

The process to issue utility cost containment bonds is initiated by the governing body of the local agency holding a public meeting and determining:

- The project to be financed is a utility project.[33]

[33] Under the bill, this determination is deemed "final and conclusive."

- The local agency will finance costs of the utility project and the associated financing costs will be paid from utility project property (i.e., the charge to utility customers);
- Based on the best information available, the rates charged to the local agency's retail customers by the publicly owned utility, including the utility project charge resulting from the financing of the utility project with utility cost containment bonds, are expected to be lower than the rates that would be charged if the project was financed with bonds payable from revenues of the publicly owned utility.

After such meeting and determinations, the local agency may apply to the intergovernmental utility authority to finance the costs of a utility project using the proceeds of utility cost containment bonds. In its application, the local agency must specify the utility project to be financed, the maximum principal amount, the maximum interest rate, and the maximum stated terms of the utility cost containment bonds.

The Intergovernmental Utility Authority

The bill authorizes an intergovernmental utility authority to issue utility cost containment bonds to finance or refinance utility projects; to refinance debt of a local agency previously issued to finance or refinance such projects, if the refinancing results in present value savings; or, upon approval of a local agency, to refinance previously issued utility cost containment bonds.

To finance a utility project, the authority may form a single-purpose limited liability company and authorize the company to adopt the financing resolution. Alternatively the authority and two or more of its members or other public agencies may create a new single-purpose entity by interlocal agreement. Either type of entity may be created by the authority solely for the purposes of performing the duties and responsibilities of the authority and is treated as an authority for purposes of the bill.

With respect to regional water projects, the authority must work with local agencies that request assistance to determine the most cost-effective manner of financing. If these entities determine that issuance of utility cost containment bonds will result in lower financing costs for a project, the authority must issue the bonds at the request of the local agencies.

The governing body of an authority that is financing the costs of an eligible utility project must adopt a financing resolution and impose a utility project charge. All provisions of the financing resolution are binding on the authority. The financing resolution must include the following:

- A description of the financial calculation method the authority will use to determine the utility project charge. The calculation method must include a periodic adjustment methodology to be applied at least annually to the utility project charge. The adjustment methodology may not be changed. The authority must establish the allocation of the utility project charge among classes of customers of the publicly owned utility. The decisions of the authority are final and conclusive.
- A requirement that each customer in the class or classes of customers specified in the financing resolution who receives water or wastewater service through the publicly owned utility must pay the utility project charge, regardless of whether the customer has an agreement to receive water or wastewater service from a person other than the publicly owned utility.

- A requirement that the utility project charge be charged separately from other charges on the bill of each customer of the utility that is in the class or classes of customers specified in the financing resolution.
- A requirement that the authority enter into a servicing agreement with the local agency or its publicly owned utility to collect the utility project charge.

The authority may require in the financing resolution that, in the event of default by the local agency or its publicly owned utility, the authority must order the sequestration and payment to the beneficiaries of the revenues arising from the utility project property (discussed in detail, below) if the beneficiaries apply for payment of the revenues under a lien. This may apply to a successor entity as well. If a local agency that has outstanding utility cost containment bonds ceases to operate a water or wastewater utility, directly or through its publicly owned utility, any successor entity must assume and perform all obligations of the local agency and its publicly owned utility and assume the servicing agreement with the authority while the utility cost containment bonds remain outstanding.

Utility Project Charges

In the financing resolution, the authority must impose a utility project charge sufficient to ensure timely payment of all financing costs with respect to utility cost containment bonds. The charge must be based on estimates of water or wastewater service usage. The authority may require information from the local agency or its publicly owned utility to establish the charge.

The utility project charge is a nonbypassable charge on all present and future customers of the publicly owned utility in the class or classes of customers specified in the financing resolution at the time of its adoption. If the regulatory structure for the water or wastewater industry changes in a manner that authorizes a customer to choose to take service from an alternative supplier and the customer chooses an alternative supplier, the customer remains liable for paying the utility project charge if the customer continues to receive any service from the publicly owned utility for the transmission, distribution, processing, delivery or metering of the underlying water or wastewater service (for example, if a competitor were allowed to also provide water service to the area, but the publicly owned utility still provided delivery).

At least annually, and at any other interval specified in the financing resolution and related documents, the authority must determine whether adjustments to the utility project charge are required and, if so, make the necessary adjustments to correct for any overcollection or undercollection of financing costs from the charge or to otherwise ensure timely payment of the financing costs of the bonds, including payment of any required debt service coverage. The authority may require information from the local agency or its publicly owned utility to adjust the charge. If an adjustment is deemed necessary, it must be made using the methodology specified in the financing resolution. An adjustment may not impose the charge upon a class of customers not previously subject to the charge under the financing resolution.

Revenues from a utility project charge are deemed special revenues of the authority and do not constitute revenue of the local agency or its publicly owned utility for any purpose. The local agency or its publicly owned utility must act as a servicing agent for collecting the charge pursuant to a servicing agreement to be required by the financing resolution. The local agency or

its publicly owned utility is authorized to use its established collection policies and remedies under law to enforce collection of the charge. The money collected must be held in trust for the exclusive benefit of the persons entitled to have the financing costs paid from the utility project charge.

The timely and complete payment of all utility project charges by the customer is a condition of receiving water or wastewater service from the publicly owned utility. A customer liable for a utility project charge is not permitted to withhold payment of any portion of the charge.

The pledge of a utility project charge to secure payment of utility cost containment bonds is irrevocable, and the state or any other entity is not permitted to reduce, impair, or otherwise adjust the utility project charge, except for the periodic adjustments that the authority is required to make pursuant to the financing resolution.

Utility Project Property

The utility project charge constitutes utility project property when a financing resolution authorizing the charge becomes effective. Utility project property constitutes property, including contracts that secure utility cost containment bonds, whether or not the revenues and proceeds arising with respect to the utility project property have accrued. The utility project property continuously exists as property for all purposes for the period provided in the financing resolution or until all financing costs with respect to the related utility cost containment bonds are paid in full, whichever occurs first.

Upon the effective date of the financing resolution, the utility project property is subject to a first priority statutory lien to secure the payment of the utility cost containment bonds. The lien secures the payment of all financing costs that exist at that time or that subsequently arise to the holders of the bonds, the trustee or representative for the holders of the bonds, and any other entity specified in the financing resolution or the documents relating to the bonds. The lien attaches to the utility project property regardless of the current ownership of the utility project property, including any local agency or its publicly owned utility, the authority, or other person.

Upon the effective date of the financing resolution, the lien is valid and enforceable against the owner of the utility project property and all third parties, and additional public notice is not required. The lien is a continuously perfected lien on all revenues and proceeds generated from the utility project property, regardless of whether the revenues or proceeds have accrued.

All revenues with respect to utility project property related to utility cost containment bonds, including payments of the utility project charge, must first be applied to the payment of the financing costs of the bonds then due, including the funding of reserves for the bonds. Any excess revenues will be applied as determined by the authority for the benefit of the utility for which the bonds were issued.

Utility Cost Containment Bonds

The proceeds of utility cost containment bonds made available to the local agency or its publicly owned utility must be used for the utility project identified in the application for financing of the

project or used to refinance indebtedness of the local agency that financed or refinanced the project. The bonds must be issued pursuant to the provisions of the bill and the procedures specified for intergovernmental utility authorities under s. 163.01(7)(g)8., F.S., and may be validated pursuant to existing procedures for such entities under s. 163.01(7)(g)9., F.S.

The authority must pledge all utility project property as security for payment of the bonds. All rights of the authority with respect to the pledged property are for the benefit of and enforceable by the beneficiaries of the pledge as provided in the related financing documents.

If utility project property is pledged as security for the payment of utility cost containment bonds, the local agency or its publicly owned utility must enter into a contract with the authority which requires that the local agency or its utility:

- Continue to operate the utility, including the utility project that is being financed or refinanced;
- Collect the utility project charge from customers for the benefit and account of the authority and the beneficiaries of the pledge of the charge, and
- Separately account for and remit revenue from the utility project charge to, or for the account of, the authority.

The utility cost containment bonds are nonrecourse to the credit or any assets of the local agency or the publicly owned utility, but are payable from, and secured by a pledge of, the utility project property relating to the bonds and any additional security or credit enhancement specified in the documents relating to the bonds. If the authority is financing the project through a single-purpose limited liability company, the bonds are payable from, and secured by, a pledge of amounts paid by the company to the authority from the applicable utility project property. This represents the exclusive method of perfecting a pledge of utility project property by the company.

The issuance of utility cost containment bonds does not obligate the state or any political subdivision of the state to levy or to pledge any form of taxation to pay the bonds or to make any appropriation for their payment. Each bond must contain on its face the following statement or a similar statement: “Neither the full faith and credit nor the taxing power of the State of Florida or any political subdivision thereof is pledged to the payment of the principal of, or interest on, this bond.”

The authority may not rescind, alter, or amend any resolution or document that pledges utility cost charges for payment of utility cost containment bonds.

Subject to the terms of the pledge document, the validity and relative priority of a pledge is not defeated or adversely affected by the commingling of revenues generated by the utility project property with other funds of the local agency or the publicly owned utility collecting a utility project charge on behalf of an authority.

Financing costs in connection with utility cost containment bonds are a special obligation of the authority and do not constitute a liability of the state or any political subdivision of the state. Financing costs are not a pledge of the full faith and credit of the state or any political subdivision, including the authority, but are payable solely from the funds identified in the

documents relating to the bonds. This does not preclude guarantees or credit enhancements in connection with the bonds.

Except as provided in the bill with respect to adjustments to a utility project charge, recovery of the financing costs for utility cost containment bonds from the utility project charge is irrevocable. Further, the authority is prohibited from: rescinding, altering, or amending the applicable financing resolution to revalue or revise the financing costs of the bonds for ratemaking purposes; determining that the financing costs for the related bonds or the utility project charge is unjust or unreasonable; or in any way reducing or impairing the value of utility project property that includes the charge. The amount of revenues arising with respect to the financing costs for the related bonds or the charge are not subject to reduction, impairment, postponement, or termination for any reason until all financing costs to be paid from the charge are fully met and discharged.

Further, except as provided in the bill with respect to adjustments to a utility project charge, the bill establishes a pledge that the state may not limit or alter the financing costs or the utility project property, including the utility project charge associated with the bonds, or any rights related to the utility project property until all financing costs with respect to the bonds are fully discharged. This provision does not preclude limitation or alteration if adequate provision is made by law to protect the owners of the bonds. The state's pledge may be included by the authority in the governing documents for the bonds.

Bankruptcy Prohibition

Notwithstanding any other law, an authority that has issued utility cost containment bonds may not become a debtor under the United States Bankruptcy Code or become the subject of any similar case or proceeding under any other state or federal law if any payment obligation from utility project property remains with respect to the bonds. Further, a governmental officer or organization may not authorize the authority to become such a debtor or become subject to such a case or proceeding in this circumstance.

Construction

The bill provides for its liberal construction to effectively carry out its intent and purposes. Further, the bill expressly grants and confers upon public entities all incidental powers necessary to carry the bill into effect.

The bill provides an effective date of July 1, 2015.

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:

Customers may benefit from lower financing costs for local agency utility projects, if the resulting savings are passed through to customers. CS/CS/SB 1102 does not require that savings be passed through to customers.

C. Government Sector Impact:

The bill may reduce local government expenditures by reducing financing costs for water or wastewater utility projects for utilities owned and operated by a local agency, including any municipality, county, special district, public corporation, regional water authority, or other governmental entity sponsoring or refinancing a utility project.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates an undesignated section of Florida law.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS/CS by Appropriations on April 21, 2015:
The committee substitute:

- Provides that if a customer that is subject to a utility project charge imposed by its current water or wastewater provider switches to an alternative provider, the customer remains liable for the utility project charge if the customer continues to receive any service from the original provider, such as transmission, distribution, processing, delivery or metering of the underlying water or wastewater service.

CS by Communications, Energy, and Public Utilities on March 24, 2015:
The CS:

- Removes all reference to stormwater projects.
- Inserts a cross-reference to clarify what communications services are referred to in defining "public utility services.
- Provides that the definition of the term "utility project property" does not include any interest in a customer's real or personal property.

B. Amendments:

None.

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

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11021LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/22/2015	.	
	.	
	.	
	.	

The Committee on Appropriations (Montford) recommended the following:

1 **Senate Amendment**
2
3 Delete lines 320 - 327
4 and insert:
5 resolution upon its adoption. If the regulatory structure for
6 the water or wastewater industry changes in a manner that
7 authorizes a customer to choose to take service from an
8 alternative supplier and the customer chooses an alternative
9 supplier, the customer remains liable for paying the utility
10 project charge if the customer continues to receive any service

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11 from the publicly owned utility for the transmission,
12 distribution, processing, delivery, or metering of the
13 underlying water or wastewater service.

By the Committee on Communications, Energy, and Public Utilities; and Senator Legg

579-02832-15 20151102c1

A bill to be entitled

An act relating to utility projects; providing a short title; providing definitions; authorizing certain local government entities to finance the costs of a utility project by issuing utility cost containment bonds upon application by a local agency; specifying application requirements; requiring a successor entity of a local agency to assume and perform the obligations of the local agency with respect to the financing of a utility project; providing procedures for local agencies to use when applying to finance a utility project using utility cost containment bonds; authorizing an authority to issue utility cost containment bonds for specified purposes related to utility projects; authorizing an authority to form alternate entities to finance utility projects; requiring the governing body of the authority to adopt a financing resolution and impose a utility project charge on customers of a publicly owned utility as a condition of utility project financing; specifying required and optional provisions of the financing resolution; specifying powers of the authority; requiring the local agency or its publicly owned utility to assist the authority in the establishment or adjustment of the utility project charge; requiring that customers of the public utility specified in the financing resolution pay the utility project charge; providing for adjustment of the utility project charge; establishing ownership of the revenues of the

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utility project charge; requiring the local agency or its publicly owned utility to collect the utility project charge; conditioning a customer's receipt of public utility services on payment of the utility project charge; authorizing a local agency or its publicly owned utility to use available remedies to enforce collection of the utility project charge; providing that the pledge of the utility project charge to secure payment of bonds issued to finance the utility project is irrevocable and cannot be reduced or impaired except under certain conditions; providing that a utility project charge constitutes utility project property; providing that utility project property is subject to a lien to secure payment of costs relating to utility cost containment bonds; establishing payment priorities for the use of revenues of the utility project property; providing for the issuance and validation of utility cost containment bonds; securing the payment of utility cost containment bonds and related costs; providing that utility cost containment bonds do not obligate the state or any political subdivision and are not backed by their full faith and credit and taxing power; requiring that certain disclosures be printed on utility cost containment bonds; providing that financing costs related to utility cost containment bonds are an obligation of the authority only; providing limitations on the state's ability to alter financing costs or utility project property under

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59 certain circumstances; prohibiting an authority with
60 outstanding payment obligations on utility cost
61 containment bonds from becoming a debtor under certain
62 federal or state laws; providing for construction;
63 endowing public entities with certain powers;
64 providing an effective date.
65
66 Be It Enacted by the Legislature of the State of Florida:
67
68 Section 1. Utility Cost Containment Bond Act.—
69 (1) SHORT TITLE.—This section may be cited as the "Utility
70 Cost Containment Bond Act."
71 (2) DEFINITIONS.—As used in this section, the term:
72 (a) "Authority" means an entity created under s.
73 163.01(7)(g), Florida Statutes, that provides public utility
74 services and whose membership consists of at least three
75 counties. The term includes any successor to the powers and
76 functions of such an entity.
77 (b) "Cost," as applied to a utility project or a portion of
78 a utility project financed under this section, means:
79 1. Any part of the expense of constructing, renovating, or
80 acquiring lands, structures, real or personal property, rights,
81 rights-of-way, franchises, easements, and interests acquired or
82 used for a utility project;
83 2. The expense of demolishing or removing any buildings or
84 structures on acquired land, including the expense of acquiring
85 any lands to which the buildings or structures may be moved, and
86 the cost of all machinery and equipment used for the demolition
87 or removal;

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88 3. Finance charges;
89 4. Interest, as determined by the authority;
90 5. Provisions for working capital and debt service
91 reserves;
92 6. Expenses for extensions, enlargements, additions,
93 replacements, renovations, and improvements;
94 7. Expenses for architectural, engineering, financial,
95 accounting, and legal services, plans, specifications,
96 estimates, and administration; or
97 8. Any other expenses necessary or incidental to
98 determining the feasibility of constructing a utility project or
99 incidental to the construction, acquisition, or financing of a
100 utility project.
101 (c) "Customer" means a person receiving water or wastewater
102 service from a publicly owned utility.
103 (d) "Finance" or "financing" includes refinancing.
104 (e) "Financing cost" means:
105 1. Interest and redemption premiums that are payable on
106 utility cost containment bonds;
107 2. The cost of retiring the principal of utility cost
108 containment bonds, whether at maturity, including acceleration
109 of maturity upon an event of default, or upon redemption,
110 including sinking fund redemption;
111 3. The cost related to issuing or servicing utility cost
112 containment bonds, including any payment under an interest rate
113 swap agreement and any type of fee;
114 4. A payment or expense associated with a bond insurance
115 policy; financial guaranty; contract, agreement, or other credit
116 or liquidity enhancement for bonds; or contract, agreement, or

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117 other financial agreement entered into in connection with
118 utility cost containment bonds;
119 5. Any coverage charges; or
120 6. The funding of one or more reserve accounts relating to
121 utility cost containment bonds.
122 (f) "Financing resolution" means a resolution adopted by
123 the governing body of an authority that provides for the
124 financing or refinancing of a utility project with utility cost
125 containment bonds and that imposes a utility project charge in
126 connection with the utility cost containment bonds in accordance
127 with subsection (4). A financing resolution may be separate from
128 a resolution authorizing the issuance of the bonds.
129 (g) "Governing body" means the body that governs a local
130 agency.
131 (h) "Local agency" means a member of the authority, or an
132 agency or subdivision of that member, that is sponsoring or
133 refinancing a utility project, or any municipality, county,
134 authority, special district, public corporation, regional water
135 authority, or other governmental entity of the state that is
136 sponsoring or refinancing a utility project.
137 (i) "Public utility services" means water or wastewater
138 services provided by a publicly owned utility. The term does not
139 include communications services, as defined in s. 202.11,
140 Florida Statutes, Internet access services, or information
141 services.
142 (j) "Publicly owned utility" means a utility providing
143 retail or wholesale water or wastewater services that is owned
144 and operated by a local agency. The term includes any successor
145 to the powers and functions of such a utility.

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146 (k) "Revenue" means income and receipts of the authority
147 related to the financing of utility projects and issuance of
148 utility cost containment bonds, including any of the following:
149 1. Bond purchase agreements;
150 2. Bonds acquired by the authority;
151 3. Installment sales agreements and other revenue-producing
152 agreements entered into by the authority;
153 4. Utility projects financed or refinanced by the
154 authority;
155 5. Grants and other sources of income;
156 6. Moneys paid by a local agency;
157 7. Interlocal agreements with a local agency, including all
158 service agreements; or
159 8. Interest or other income from any investment of money in
160 any fund or account established for the payment of principal,
161 interest, or premiums on utility cost containment bonds, or the
162 deposit of proceeds of utility cost containment bonds.
163 (l) "Utility cost containment bonds" means bonds, notes,
164 commercial paper, variable rate securities, and any other
165 evidence of indebtedness issued by an authority the proceeds of
166 which are used directly or indirectly to pay or reimburse a
167 local agency or its publicly owned utility for the costs of a
168 utility project and which are secured by a pledge of, and are
169 payable from, utility project property.
170 (m) "Utility project" means the acquisition, construction,
171 installation, retrofitting, rebuilding, or other addition to or
172 improvement of any equipment, device, structure, process,
173 facility, technology, rights, or property located within or
174 outside this state which is used in connection with the

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175 operations of a publicly owned utility.
176 (n) "Utility project charge" means a charge levied on
177 customers of a publicly owned utility to pay the financing costs
178 of utility cost containment bonds issued under subsection (4).
179 The term includes any adjustments to the utility project charge
180 under subsection (5).
181 (o) "Utility project property" means the property right
182 created pursuant to subsection (6). The term does not include
183 any interest in a customer's real or personal property but
184 includes the right, title, and interest of an authority in any
185 of the following:
186 1. The financing resolution, the utility project charge,
187 and any adjustment to the utility project charge established in
188 accordance with subsection (5);
189 2. The financing costs of the utility cost containment
190 bonds and all revenues, and all collections, claims, payments,
191 moneys, or proceeds for, or arising from, the utility project
192 charge; or
193 3. All rights to obtain adjustments to the utility project
194 charge pursuant to subsection (5).
195 (3) UTILITY PROJECTS.—
196 (a) A local agency that owns and operates a publicly owned
197 utility may apply to an authority to finance the costs of a
198 utility project using the proceeds of utility cost containment
199 bonds. In its application to the authority, the local agency
200 shall specify the utility project to be financed by the utility
201 cost containment bonds and the maximum principal amount, the
202 maximum interest rate, and the maximum stated terms of the
203 utility cost containment bonds.

204 (b) A local agency may not apply to an authority for the
205 financing of a utility project under this section unless the
206 governing body has determined, in a duly noticed public meeting,
207 all of the following:
208 1. The project to be financed is a utility project.
209 2. The local agency will finance costs of the utility
210 project, and the costs associated with the financing will be
211 paid from utility project property, including the utility
212 project charge for the utility cost containment bonds.
213 3. Based on the best information available to the governing
214 body, the rates charged to the local agency's retail customers
215 by the publicly owned utility, including the utility project
216 charge resulting from the financing of the utility project with
217 utility cost containment bonds, are expected to be lower than
218 the rates that would be charged if the project were financed
219 with bonds payable from revenues of the publicly owned utility.
220 (c) A determination by the governing body that a project to
221 be financed with utility cost containment bonds is a utility
222 project is final and conclusive, and the utility cost
223 containment bonds issued to finance the utility project and the
224 utility project charge shall be valid and enforceable as set
225 forth in the financing resolution and the documents relating to
226 the utility cost containment bonds.
227 (d) If a local agency that has outstanding utility cost
228 containment bonds ceases to operate a water or wastewater
229 utility, directly or through its publicly owned utility,
230 references in this section to the local agency or to its
231 publicly owned utility shall be to the successor entity. The
232 successor entity shall assume and perform all obligations of the

233 local agency and its publicly owned utility required by this
234 section and shall assume the servicing agreement required under
235 subsection (4) while the utility cost containment bonds remain
236 outstanding.
237 (4) FINANCING UTILITY PROJECTS.—
238 (a) An authority may issue utility cost containment bonds
239 to finance or refinance utility projects; refinance debt of a
240 local agency incurred in financing or refinancing utility
241 projects, provided such refinancing results in present value
242 savings to the local agency; or, with the approval of the local
243 agency, refinance previously issued utility cost containment
244 bonds.
245 1. To finance a utility project, the authority may:
246 a. Form a single-purpose limited liability company and
247 authorize the company to adopt the financing resolution of such
248 utility project; or
249 b. Create a new single-purpose entity by interlocal
250 agreement under s. 163.01, Florida Statutes, the membership of
251 which shall consist of the authority and two or more of its
252 members or other public agencies.
253 2. A single-purpose limited liability company or a single-
254 purpose entity may be created by the authority solely for the
255 purpose of performing the duties and responsibilities of the
256 authority specified in this section and shall constitute an
257 authority for all purposes of this section. Reference to the
258 authority includes a company or entity created under this
259 paragraph.
260 (b) The governing body of an authority that is financing
261 the costs of a utility project shall adopt a financing

262 resolution and shall impose a utility project charge as
263 described in subsection (5). All provisions of a financing
264 resolution adopted pursuant to this section are binding on the
265 authority.
266 1. The financing resolution must:
267 a. Provide a brief description of the financial calculation
268 method the authority will use in determining the utility project
269 charge. The calculation method shall include a periodic
270 adjustment methodology to be applied at least annually to the
271 utility project charge. The authority shall establish the
272 allocation of the utility project charge among classes of
273 customers of the publicly owned utility. The decision of the
274 authority shall be final and conclusive, and the method of
275 calculating the utility project charge and the periodic
276 adjustment may not be changed;
277 b. Require each customer in the class or classes of
278 customers specified in the financing resolution who receives
279 water or wastewater service through the publicly owned utility
280 to pay the utility project charge regardless of whether the
281 customer has an agreement to receive water or wastewater service
282 from a person other than the publicly owned utility;
283 c. Require that the utility project charge be charged
284 separately from other charges on the bill of customers of the
285 publicly owned utility in the class or classes of customers
286 specified in the financing resolution; and
287 d. Require that the authority enter into a servicing
288 agreement with the local agency or its publicly owned utility to
289 collect the utility project charge.
290 2. The authority may require in the financing resolution

291 that, in the event of a default by the local agency or its
292 publicly owned utility with respect to revenues from the utility
293 project property, the authority, upon application by the
294 beneficiaries of the statutory lien as set forth in subsection
295 (6), shall order the sequestration and payment to the
296 beneficiaries of revenues arising from utility project property.
297 This subparagraph does not limit any other remedies available to
298 the beneficiaries by reason of default.
299 (c) An authority has all the powers provided in this
300 section and s. 163.01(7)(g), Florida Statutes.
301 (d) Each authority shall work with local agencies that
302 request assistance to determine the most cost-effective manner
303 of financing regional water projects. If the entities determine
304 that the issuance of utility cost containment bonds will result
305 in lower financing costs for a project, the authority shall
306 cooperate with such local agencies and, if requested by the
307 local agencies, issue utility cost containment bonds as provided
308 in this section.
309 (5) UTILITY PROJECT CHARGE.—
310 (a) The authority shall impose a sufficient utility project
311 charge, based on estimates of water or wastewater service usage,
312 to ensure timely payment of all financing costs with respect to
313 utility cost containment bonds. The local agency or its publicly
314 owned utility shall provide the authority with information
315 concerning the publicly owned utility which may be required by
316 the authority in establishing the utility project charge.
317 (b) The utility project charge is a nonbypassable charge to
318 all present and future customers of the publicly owned utility
319 in the class or classes of customers specified in the financing

320 resolution upon its adoption. If a customer of a publicly owned
321 utility that is subject to a utility project charge enters into
322 an agreement to purchase water or wastewater service from a
323 supplier other than the publicly owned utility, the customer
324 remains liable for the payment of the utility project charge if
325 the customer has received any service or benefit from the
326 publicly owned utility after the date the utility project charge
327 was imposed.
328 (c) The authority shall determine at least annually and at
329 such additional intervals as provided in the financing
330 resolution and documents related to the applicable utility cost
331 containment bonds whether adjustments to the utility project
332 charge are required. The authority shall use the adjustment to
333 correct for any overcollection or undercollection of financing
334 costs from the utility project charge or to make any other
335 adjustment necessary to ensure the timely payment of the
336 financing costs of the utility cost containment bonds, including
337 adjustment of the utility project charge to pay any debt service
338 coverage requirement for the utility cost containment bonds. The
339 local agency or its publicly owned utility shall provide the
340 authority with information concerning the publicly owned utility
341 which may be required by the authority in adjusting the utility
342 project charge.
343 1. If the authority determines that an adjustment to the
344 utility project charge is required, the adjustment shall be made
345 using the methodology specified in the financing resolution.
346 2. The adjustment may not impose the utility project charge
347 on a class of customers that was not subject to the utility
348 project charge pursuant to the financing resolution imposing the

349 utility project charge.
350 (d) Revenues from a utility project charge are special
351 revenues of the authority and do not constitute revenue of the
352 local agency or its publicly owned utility for any purpose,
353 including any dedication, commitment, or pledge of revenue,
354 receipts, or other income that the local agency or its publicly
355 owned utility has made or will make for the security of any of
356 its obligations.
357 (e) The local agency or its publicly owned utility shall
358 act as a servicing agent for collecting the utility project
359 charge throughout the duration of the servicing agreement
360 required by the financing resolution. The local agency or its
361 publicly owned utility shall hold the money collected in trust
362 for the exclusive benefit of the persons entitled to have the
363 financing costs paid from the utility project charge, and the
364 money does not lose its designation as revenues of the authority
365 by virtue of possession by the local agency or its publicly
366 owned utility.
367 (f) The customer must make timely and complete payment of
368 all utility project charges as a condition of receiving water or
369 wastewater service from the publicly owned utility. The local
370 agency or its publicly owned utility may use its established
371 collection policies and remedies provided under law to enforce
372 collection of the utility project charge. A customer liable for
373 a utility project charge may not withhold payment, in whole or
374 in part, thereof.
375 (g) The pledge of a utility project charge to secure
376 payment of utility cost containment bonds is irrevocable, and
377 the state, or any other entity, may not reduce, impair, or

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378 otherwise adjust the utility project charge, except that the
379 authority shall implement the periodic adjustments to the
380 utility project charge as provided under this subsection.
381 (6) UTILITY PROJECT PROPERTY.—
382 (a) A utility project charge constitutes utility project
383 property on the effective date of the financing resolution
384 authorizing such utility project charge. Utility project
385 property constitutes property, including for contracts securing
386 utility cost containment bonds, regardless of whether the
387 revenues and proceeds arising with respect to the utility
388 project property have accrued. Utility project property shall
389 continuously exist as property for all purposes with all of the
390 rights and privileges of this section through the end of the
391 period provided in the financing resolution or until all
392 financing costs with respect to the related utility cost
393 containment bonds are paid in full, whichever occurs first.
394 (b) Upon the effective date of the financing resolution,
395 the utility project property is subject to a first-priority
396 statutory lien to secure the payment of the utility cost
397 containment bonds.
398 1. The lien secures the payment of all financing costs then
399 existing or subsequently arising to the holders of the utility
400 cost containment bonds, the trustees or representatives of the
401 holders of the utility cost containment bonds, and any other
402 entity specified in the financing resolution or the documents
403 relating to the utility cost containment bonds.
404 2. The lien attaches to the utility project property
405 regardless of the current ownership of the utility project
406 property, including any local agency or its publicly owned

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407 utility, the authority, or any other person.
408 3. Upon the effective date of the financing resolution, the
409 lien is valid and enforceable against the owner of the utility
410 project property and all third parties, and additional public
411 notice is not required.
412 4. The lien is a continuously perfected lien on all
413 revenues and proceeds generated from the utility project
414 property regardless of whether the revenues or proceeds have
415 accrued.
416 (c) All revenues with respect to utility project property
417 related to utility cost containment bonds, including payments of
418 the utility project charge, shall be applied first to the
419 payment of the financing costs of the utility cost containment
420 bonds then due, including the funding of reserves for the
421 utility cost containment bonds. Any excess revenues shall be
422 applied as determined by the authority for the benefit of the
423 utility for which the utility cost containment bonds were
424 issued.
425 (7) UTILITY COST CONTAINMENT BONDS.—
426 (a) Utility cost containment bonds shall be issued within
427 the parameters of the financing provided by the authority
428 pursuant to this section. The proceeds of the utility cost
429 containment bonds made available to the local agency or its
430 publicly owned utility shall be used for the utility project
431 identified in the application for financing of the utility
432 project or used to refinance indebtedness of the local agency
433 which financed or refinanced utility projects.
434 (b) Utility cost containment bonds shall be issued as set
435 forth in this section and s. 163.01(7)(g)8., Florida Statutes,

436 and may be validated pursuant to s. 163.01(7)(g)9., Florida
437 Statutes.
438 (c) The authority shall pledge the utility project property
439 as security for the payment of the utility cost containment
440 bonds. All rights of an authority with respect to utility
441 project property pledged as security for the payment of utility
442 cost containment bonds shall be for the benefit of, and
443 enforceable by, the beneficiaries of the pledge to the extent
444 provided in the financing documents relating to the utility cost
445 containment bonds.
446 1. If utility project property is pledged as security for
447 the payment of utility cost containment bonds, the local agency
448 or its publicly owned utility shall enter into a contract with
449 the authority which requires, at a minimum, that the publicly
450 owned utility:
451 a. Continue to operate its publicly owned utility,
452 including the utility project that is being financed or
453 refinanced;
454 b. Collect the utility project charge from customers for
455 the benefit and account of the authority and the beneficiaries
456 of the pledge of the utility project charge; and
457 c. Separately account for and remit revenue from the
458 utility project charge to, or for the account of, the authority.
459 2. The pledge of a utility project charge to secure payment
460 of utility cost containment bonds is irrevocable, and the state
461 or any other entity may not reduce, impair, or otherwise adjust
462 the utility project charge, except that the authority shall
463 implement periodic adjustments to the utility project charge as
464 provided under subsection (5).

465 (d) Utility cost containment bonds shall be nonrecourse to
466 the credit or any assets of the local agency or the publicly
467 owned utility but shall be payable from, and secured by a pledge
468 of the utility project property relating to the utility cost
469 containment bonds and any additional security or credit
470 enhancement specified in the documents relating to the utility
471 cost containment bonds. If, pursuant to subsection (4), the
472 authority is financing the project through a single-purpose
473 limited liability company, the utility cost containment bonds
474 shall be payable from, and secured by, a pledge of amounts paid
475 by the company to the authority from the applicable utility
476 project property. This paragraph shall be the exclusive method
477 of perfecting a pledge of utility project property by the
478 company securing the payment of financing costs under any
479 agreement of the company in connection with the issuance of
480 utility cost containment bonds.
481 (e) The issuance of utility cost containment bonds does not
482 obligate the state or any political subdivision thereof to levy
483 or to pledge any form of taxation to pay the utility cost
484 containment bonds or to make any appropriation for their
485 payment. Each utility cost containment bond must contain on its
486 face a statement in substantially the following form:
487
488 "Neither the full faith and credit nor the taxing power of the
489 State of Florida or any political subdivision thereof is pledged
490 to the payment of the principal of, or interest on, this bond."
491
492 (f) Notwithstanding any other law or this section, a
493 financing resolution or other resolution of the authority, or

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

494 documents relating to utility cost containment bonds, the
495 authority may not rescind, alter, or amend any resolution or
496 document that pledges utility cost charges for payment of
497 utility cost containment bonds.
498 (g) Subject to the terms of any pledge document created
499 under this section, the validity and relative priority of a
500 pledge is not defeated or adversely affected by the commingling
501 of revenues generated by the utility project property with other
502 funds of the local agency or the publicly owned utility
503 collecting a utility project charge on behalf of an authority.
504 (h) Financing costs in connection with utility cost
505 containment bonds are a special obligation of the authority and
506 do not constitute a liability of the state or any political
507 subdivision thereof. Financing costs are not a pledge of the
508 full faith and credit of the state or any political subdivision
509 thereof, including the authority, but are payable solely from
510 the funds identified in the documents relating to the utility
511 cost containment bonds. This paragraph does not preclude
512 guarantees or credit enhancements in connection with utility
513 cost containment bonds.
514 (i) Except as otherwise provided in this section with
515 respect to adjustments to a utility project charge, the recovery
516 of the financing costs for the utility cost containment bonds
517 from the utility project charge shall be irrevocable, and the
518 authority does not have the power, by rescinding, altering, or
519 amending the applicable financing resolution, to revalue or
520 revise for ratemaking purposes the financing costs of utility
521 cost containment bonds; to determine that the financing costs
522 for the related utility cost containment bonds or the utility

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523 project charge is unjust or unreasonable; or to in any way
524 reduce or impair the value of utility project property that
525 includes the utility project charge, either directly or
526 indirectly. The amount of revenues arising with respect to the
527 financing costs for the related utility cost containment bonds
528 or the utility project charge are not subject to reduction,
529 impairment, postponement, or termination for any reason until
530 all financing costs to be paid from the utility project charge
531 are fully met and discharged.
532 (j) Except as provided in subsection (5) with respect to
533 adjustments to a utility project charge, the state pledges and
534 agrees with the owners of utility cost containment bonds that
535 the state may not limit or alter the financing costs or the
536 utility project property, including the utility project charge,
537 relating to the utility cost containment bonds, or any rights
538 related to the utility project property, until all financing
539 costs with respect to the utility cost containment bonds are
540 fully met and discharged. This paragraph does not preclude
541 limitation or alteration if adequate provision is made by law to
542 protect the owners. The authority may include the state's pledge
543 in the governing documents for utility cost containment bonds.
544 (8) LIMITATION ON DEBT RELIEF.—Notwithstanding any other
545 law, an authority that issued utility cost containment bonds may
546 not, and a governmental officer or organization may not
547 authorize the authority to, become a debtor under the United
548 States Bankruptcy Code or become the subject of any similar case
549 or proceeding under any other state or federal law if any
550 payment obligation from utility project property remains with
551 respect to the utility cost containment bonds.

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

552 (9) CONSTRUCTION.—This section and all grants of power and
553 authority in this section shall be liberally construed to
554 effectuate their purposes. All incidental powers necessary to
555 carry this section into effect are expressly granted to, and
556 conferred upon, public entities.
557 Section 2. This act shall take effect July 1, 2015.

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

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Education Pre-K - 12, Chair
Ethics and Elections, Vice Chair
Appropriations Subcommittee on Education
Fiscal Policy
Government Oversight and Accountability
Higher Education

SENATOR JOHN LEGG
17th District

Legg.John.web@FLSenate.gov

April 13th, 2015

The Honorable Tom Lee
Committee on Appropriations Chair
201 The Capitol
404 S. Monroe Street
Tallahassee, FL 32399

RE: SB 1102- Utility Bonds

Dear Chair Lee

SB 1102- Utility Bonds has been referred to your committee. I respectfully request that it be placed on the Committee on Appropriations Agenda, at your convenience. Your leadership and consideration are appreciated.

Sincerely,

John Legg
State Senator, District 17

cc: Cindy Kynoch, Staff Director

REPLY TO:
☐ 262 Crystal Grove Boulevard, Lutz, Florida 33548 (813) 909-9919
☐ 316 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5017

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

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

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

4-21-15
Meeting Date

SB 1102
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic: Utility Cost Containment Bonds

Name: Kevin Dempsey

Job Title: Vice President

Address: 100 North Tampa St
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Tampa, FL 33602
City, State, Zip

Phone: 813.765.1680

Email: Kevin.Dempsey@citi.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing: Citigroup

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 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/21/15
Meeting Date

1102
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic: Utility Bond

Name: J.W. Howard

Job Title: Executive Director

Address: 1560 Sawgrass Corp. Pkwy
Street

Sunrise, FL 33323
City, State, Zip

Phone: 954-331-1595

Email: James.Howard@ms.com

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

Waive Speaking: [ ] In Support [ ] Against
(The Chair will read this information into the record.)

Representing: Morgan Stanley

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 (10/14/14)

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 Appropriations

BILL: CS/SB 1116

INTRODUCER: Appropriations Committee and Senator Abruzzo

SUBJECT: Literacy Jump Start Pilot Project

DATE: April 23, 2015 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Bailey	Klebacha	ED	**Favorable**
2.	Sikes	Elwell	AED	**Favorable**
3.	Sikes	Kynoch	AP	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1116 requires the Office of Early Learning (OEL) to establish a 5-year Literacy Jump Start Pilot Project in St. Lucie County to provide emergent literacy instruction to low-income, at-risk children. OEL must select an organization to administer the pilot project and one or more municipalities to participate in the project. Both the organization and the municipalities must be located in St. Lucie County.

The Department of Education estimates an annual minimum cost of $54,560 per facility for the Literacy Jump Start Pilot Project. Senate Bill 2500, the Senate's Fiscal Year 2015-2016 proposed General Appropriations Bill, does not include an appropriation for the Literacy Jump Start Pilot Project.

The bill provides an effective date of July 1, 2015.

II. Present Situation:

The Office of Early Learning (OEL), which is within the Office of Independent Education and Parental Choice and accountable to the Commissioner of Education, administers the Voluntary Prekindergarten Education (VPK) Program and the School Readiness program at the state level.[1] The Florida Department of Children and Families (DCF) Office of Child Care Regulation

[1] Section 1001.213, F.S.

regulates child care providers who have early learning programs because DCF is the agency responsible for the state's child care provider licensing program.[2] Both programs are administered at the county or regional level by early learning coalitions (ELC).[3]

Voluntary Prekindergarten Education Program

The VPK program is available to each child residing in the state who is four years old on or before September 1 of the school year, and the program remains available to the child until the child is eligible for admission to public school kindergarten or is admitted to kindergarten, whichever occurs sooner.[4] Parents may choose either a school-year or summer program offered by a public school or private prekindergarten provider, or a specialized instructional service program for a child with disabilities who is eligible for such a program.[5] A parent enrolling a child in the VPK program must complete and submit an application to the early learning coalition (ELC),[6] not the individual program provider, which oversees the program.[7]

The VPK program may be offered by either a private prekindergarten provider or a public school. Local oversight of individual VPK program providers is split with ELCs providing administration over programs delivered by private prekindergarten providers and school districts administering public school VPK programs.[8]

Children enrolled in the VPK Program receive instruction in emergent literacy and mathematics skills necessary for kindergarten readiness.[9] Among other things, Florida law requires OEL to adopt child performance standards and minimum standards for emergent literacy training courses for prekindergarten instructors. The performance standards and emergent literacy training courses must encompass oral communication, knowledge of print and letters, phonemic and phonological awareness, and vocabulary and comprehension development.[10]

School Readiness Program

The School Readiness program provides subsidized child care services and early childhood education for children of low-income families, children in protective services who are at risk of abuse, neglect, or abandonment, and children with disabilities.[11] The School Readiness program is a state-federal partnership between the OEL and the Office of Child Care of the United States

---

[2] *See* ss. 402.301-402.319, F.S.; Parts V and VI, ch. 1002, F.S.
[3] Sections 1002.83-1002.85, F.S. There are currently 31 ELCs, which is the maximums permitted by law. Section 1002.83(1), F.S.; see Florida's Office of Early Learning, *Coalitions*, http://www.floridaearlylearning.com/coalitions.aspx (last visited March 9, 2015).
[4] Section 1002.53, F.S.
[5] Section 1002.53(3), F.S. To be eligible for a specialized instructional services program, a child must be evaluated and determined to be eligible, have a current individual educational plan developed by the local school board, and be eligible under s. 1002.66, F.S., for the program. Section 1002.53(3)(d), F.S.
[6] An "early learning coalition" or "coalition" is described in s. 1002.83, F.S. Section 1002.51(4), F.S. Throughout the 67 counties, there are to be 31 or fewer early learning coalitions to provide access to enhancement services at the local level. Each coalition must consist of 15-30 members and have members who meet specific requirements described in statute. *See* s. 1002.83, F.S.
[7] Section 1002.53(4), F.S.
[8] *See* ss. 1002.53(6), 1002.55(1), 1002.61(1), and 1002.63(1), F.S.
[9] Section 1002.67(1)(a), F.S.
[10] Sections 1002.59(1) and 1002.67(1), F.S.
[11] Section 1002.87, F.S.; *see* s. 1002.81(1), F.S. (defining what it means to be an "at-risk child").

Department of Health and Human Services.[12] The School Readiness program receives funding from a mixture of state and federal sources, including the federal Child Care and Development Fund (CCDF) block grant, the federal Temporary Assistance for Needy Families block grant, and general revenue and other state funds.[13] The program is administered by ELCs.[14]

Additional publicly funded early learning programs for low-income, at-risk children offered in Florida include Head Start,[15]Early Head Start[16], Migrant and Seasonal Head Start[17], and Home Instruction for Parents of Preschool Youngers[18].

III. Effect of Proposed Changes:

The bill requires the Office of Early Learning (OEL) to establish a 5-year Literacy Jump Start Pilot Project in St. Lucie County to provide emergent literacy instruction to low-income, at-risk children. OEL must select an organization to administer the pilot project and one or more municipalities to participate in the project. Both the organization and the municipalities must be located in St. Lucie County.

The local organization selected by the OEL must be a not-for-profit corporation, qualified as charitable under s. 501(c) (3) of the Internal Revenue Code, which provides training to parents to assist their children with success in school.[19] The bill identifies the Parent Academy of St. Lucie County as an example of a qualifying organization to implement the project.[20]

Emergent literacy instruction must be delivered in a subsidized housing unit located within an eligible municipality to facilitate parent and child access to services. The organization may coordinate with the St. Lucie County Health Department to provide basic health screening and immunization in conjunction with emergent literacy instruction. This collaboration is likely to provide a means of community outreach for the purpose of improving the availability and effective delivery of emergent literacy[21] instruction.

The OEL requires all child care personnel serving children in the pilot project to meet a minimum standard of having good moral character as determined by the requirement of level 2 employment screening.[22] These requirements apply to owners, operators, employees, and

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[12] 42 U.S.C ss. 618, 9858-9858q; 45 C.F.R. ss. 98, 99; Part VI, ch. 1002, F.S.; U.S. Department of Health and Human Services, *Office of Child Care Fact Sheet*, *available at* http://www.acf.hhs.gov/sites/default/files/assets/FS_OCC_0.pdf.
[13] Specific Appropriations 78A and 79, s. 2, ch. 2013-40, L.O.F.; *see also* U.S. Department of Health and Human Services, *Office of Child Care Fact Sheet*, *available at* http://www.acf.hhs.gov/sites/default/files/assets/FS_OCC_0.pdf.
[14] *Sections 1002.83-1002.85, F.S.* There are currently 31 ELCs, which is the maximum permitted by law. Section 1002.83(1), F.S.; *see* Florida's Office of Early Learning, *Early Learning Coalition Directory* (March 9, 2015), *available at* http://www.floridaearlylearning.com/coalitions.aspx.
[15] 42 U.S.C. s. 9831 et. seq.
[16] 42 U.SC. s. 9840a.
[17] *See e.g*., 42 U.S.C. s. 9832(17).
[18] Specific Appropriations 87, s. 2, ch. 2014-51, L.O.F.
[19] Section 501(c)(3) of the Internal Revenue Code.
[20] Parent Academy of St. Lucie County, http://www.parentacademyslc.org/ (last visited March 9, 2015).
[21] The term "emergent literacy" means a variety of early behaviors and skills associated with successful reading and writing development.
[22] Section 402.305(2), F.S.

volunteers working in a child care facility.[23] The organization must certify in writing to OEL its compliance with screening requirements before OEL issues state funds for the pilot project. Additionally, state funds may not be spent on screening and instructors must complete an OEL-approved emergent literacy training course.

In order to participate in the pilot project a child must meet the following criteria:

- Two or three years of age;
- Eligible for a federally subsidized child care program; and
- Be a member of a family that is economically disadvantaged[24] and reside in locally or federally subsidized housing.

The Literacy Jump Start Pilot Project differs from traditional VPK programs in that it allows low-income, at-risk 2-3 year old children to participate in the pilot project. The eligibility criteria for the Literacy Jump Start Pilot Project varies from the School Readiness Program and may likely allow for the participation of additional children.

The organization must submit an annual accountability report to the Office of Early Learning, the Early Learning Coalition of St. Lucie County, the Governor, the President of the Senate, and the Speaker of the House of Representatives. Among other things, the report must document:

- Expenditures of state funds and other sources of funding received for emergent literacy instruction;
- Municipalities selected and names of officers identified for participation;
- The number of children receiving emergent literacy instruction in each municipality;
- Data regarding health screening and immunization services provided to children; and

The bill requires the OEL to allocate funds for the implementation of the pilot project.

The bill provides an effective date of July 1, 2015.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

[23] *See* s. 402.302(3), F.S. (definition of child care personnel).
[24] For purposes of SB 1116, "economically disadvantaged" means having a family income that does not exceed 150 percent of the federal poverty level.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Under CS/SB 1116, the Department of Education estimates an annual minimum cost of $54,560 per facility for the Literacy Jump Start Pilot Project.[25] Senate Bill 2500, the Senate's Fiscal Year 2015-2016 proposed General Appropriations Bill, does not include an appropriation for the Literacy Jump Start Pilot Project. The Legislature appropriated $110,000 to fund the pilot project for the 2013-2014 fiscal year and $200,000 for the pilot project for the 2014-2015 fiscal year. Both appropriations were vetoed by the Governor.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates an undesignated section of Florida law.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS by Appropriations on April 21, 2015:
The committee substitute clarifies language requiring funds provided for implementing the pilot project may only be used for purposes expressly provided in the bill, without specifically referencing religious indoctrination.

B. Amendments:

None.

[25] Florida Department of Education, *2015 Agency Legislative Bill Analysis* for SB 1116 (February 24, 2015).

277288

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/22/2015	.	
	.	
	.	
	.	

The Committee on Appropriations (Hays) recommended the following:

1 **Senate Amendment**
2
3 Delete lines 44 - 45
4 and insert:
5 purposes expressly provided in this section.

By Senator Abruzzo

25-01141A-15 20151116__

A bill to be entitled

An act relating to the Literacy Jump Start Pilot Project; requiring the Office of Early Learning to establish the pilot project in St. Lucie County to assist low-income, at-risk children in developing emergent literacy skills; requiring the office to select an organization to implement the pilot project; requiring the office to oversee implementation of the pilot project; defining the term "emergent literacy"; providing eligibility requirements for participation; requiring background screening for child care personnel; requiring emergent literacy training for instructors; encouraging the coordination of basic health screening and immunization services in conjunction with emergent literacy instruction; requiring annual submission of an accountability report; requiring the office to allocate funds for the pilot project; providing an effective date.

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

Section 1. (1) The Office of Early Learning shall establish the 5-year Literacy Jump Start Pilot Project in St. Lucie County to assist low-income, at-risk children in developing emergent literacy skills.

(a) The Office of Early Learning shall consult with local organizations within St. Lucie County and identify an organization to implement the pilot project. The office shall also consult with the Early Learning Coalition of St. Lucie

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25-01141A-15 20151116__

County to select municipalities within St. Lucie County eligible for participation in the pilot project. A municipality is eligible for participation if locally or federally subsidized housing is located within the municipality. The office shall oversee the implementation of the pilot project.

(b) The Office of Early Learning shall select a local organization that is a not-for-profit corporation, qualified as charitable under s. 501(c)(3) of the Internal Revenue Code, that provides training to parents to assist their children with success in school, such as the Parent Academy of St. Lucie County or another similarly qualified local organization, to implement the pilot project. The office may select a faith-based organization; however, funds provided for the purpose of implementing the pilot project may be used for only those purposes expressly provided in this section and may not be used for the purpose of religious indoctrination.

(2) The organization selected by the Office of Early Learning must use funds provided for the pilot project only to provide emergent literacy instruction to children. In order to provide easy access for participating children and families, the instruction must be provided in a subsidized housing unit located within an eligible municipality selected by the office.

(3) As used in this section, the term "emergent literacy" means a variety of early behaviors and skills associated with successful reading and writing development.

(4) A child is eligible to receive emergent literacy instruction provided through the pilot project only if the child is:

(a) Two or three years of age;

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59 (b) Eligible for a federally subsidized child care program;
60 and
61 (c) A member of a family that is economically disadvantaged
62 and resides in locally or federally subsidized housing. For
63 purposes of this paragraph, the term "economically
64 disadvantaged" means having a family income that does not exceed
65 150 percent of the federal poverty level.
66 (5) The organization selected by the Office of Early
67 Learning must require all child care personnel, as defined in s.
68 402.302(3), Florida Statutes, to meet the background screening
69 requirements of s. 402.305, Florida Statutes, before
70 participating in the pilot project. The organization may not use
71 state funds to implement the pilot project to pay for background
72 screening. The organization must certify in writing to the
73 office that individuals required to be screened under this
74 subsection have complied with the background screening
75 requirements of this subsection before the office may issue the
76 organization any state funds to implement the pilot project.
77 (6) An instructor in the pilot project must successfully
78 complete an emergent literacy training course, approved by the
79 Office of Early Learning, before providing emergent literacy
80 instruction under this section.
81 (7) The organization is encouraged to coordinate with the
82 St. Lucie County Health Department in providing basic health
83 screening and immunization services for children participating
84 in the pilot project in conjunction with emergent literacy
85 instruction. The organization is further encouraged to engage in
86 community outreach efforts to local community service
87 organizations for the purpose of improving the availability and

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88 effective delivery of emergent literacy instruction.
89 (8) By December 31 of each year that the organization
90 provides emergent literacy instruction, the organization shall
91 submit an accountability report to the Office of Early Learning,
92 the Early Learning Coalition of St. Lucie County, the Governor,
93 the President of the Senate, and the Speaker of the House of
94 Representatives. The accountability report must include, at a
95 minimum, the following information:
96 (a) The manner in which all state funds received by the
97 organization are used to implement the pilot project, separated
98 by type of expenditure and measured in exact dollar amounts.
99 (b) Other sources of funding received by the organization
100 for purposes of providing emergent literacy instruction.
101 (c) The municipalities selected by the Office of Early
102 Learning for participation in the pilot project.
103 (d) The identities of the organization's officers.
104 (e) The number of children receiving emergent literacy
105 instruction in each municipality.
106 (f) Information and data relating to coordinated health
107 screening and immunization services provided in conjunction with
108 the emergent literacy instruction, if any.
109 (9) The Office of Early Learning shall allocate funds for
110 implementation of the pilot project pursuant to this section.
111 Expenditures of state funds pursuant to this section must be
112 verified by affidavit and submitted to the office in a procedure
113 and format determined by the office.
114 Section 2. This act shall take effect July 1, 2015.

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

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Finance and Tax, *Vice Chair*
Appropriations Subcommittee on Health and Human Services
Communications, Energy, and Public Utilities
Community Affairs
Fiscal Policy
Regulated Industries

JOINT COMMITTEE:
Joint Legislative Auditing Committee, *Chair*

SENATOR JOSEPH ABRUZZO
Minority Whip
25th District

April 2nd, 2015

The Honorable Tom Lee
418 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chairman Lee:

I respectfully request that Senate Bill 1116, Literacy Jump Start Pilot Project, be considered for placement on the Appropriations committee agenda. This piece of legislation will require the Office of Early Learning to establish a pilot project in St. Lucie County to assist low-income, at-risk children in developing emergent literacy skills.

Thank you in advance for your consideration. Please feel free to notify me if I can provide you with any additional information.

Sincerely,

Joseph Abruzzo

Cc: Cindy Kynoch, Staff Director

REPLY TO:
❒ 12300 Forest Hill Boulevard, Suite 200, Wellington, Florida 33414-5785 (561) 791-4774 FAX: (888) 284-6495
❒ 110 Dr. Martin Luther King, Jr. Boulevard, Belle Glade, Florida 33430-3900 (561) 829-1410
❒ 222 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5025

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

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/21/15
Meeting Date

1116
Bill Number (if applicable)

277288
Amendment Barcode (if applicable)

Topic: Literacy Jump Start Pilot Project

Name: James Herzog

Job Title: Associate Director for Education

Address: 201 W Park Ave
Street

Tallahassee FL 32301
City State Zip

Phone: 850-205-6823

Email: jherzog@flacathconf.org

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

Waive Speaking: [ ] In Support [ ] Against
(The Chair will read this information into the record.)

Representing: Florida Conference of Catholic Bishops

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 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/21/2015
Meeting Date

Topic _____ Bill Number 1116 *(if applicable)*

Name BRIAN PITTS Amendment Barcode _____ *(if applicable)*

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH
Street

SAINT PETERSBURG FLORIDA 33705
City *State* *Zip*

Phone 727-897-9291

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)

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 Appropriations

BILL:	PCS/SB 1214 (123970)
INTRODUCER:	Appropriations Committee (Recommended by Subcommittee on Transportation, Tourism, and Economic Development); and Senators Latvala and Detert
SUBJECT:	Economic Development
DATE:	April 20, 2015 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Askey	McKay	CM	**Favorable**
2.	Gusky	Miller	ATD	**Recommend: Fav/CS**
3.	Gusky	Kynoch	AP	**Pre-meeting**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/SB 1214 makes a number of changes to the state's economic development programs to provide more flexibility in some programs, and to increase transparency and accountability across those programs. Specifically, the bill:

- Standardizes the economic development application and evaluation processes.
- Specifies incentive project approval based upon the amount of required funding. Projects requiring:
  - Less than $2 million may be approved by the Governor without legislative consultation.
  - $2 million up to $7.5 million require 10-day notice to the Legislative Budget Commission (LBC) before the Governor can give approval.
  - $7.5 million or more, and projects requiring $5 million or more with a waiver of program requirements, must receive approval from the LBC before the Governor can give approval.
  - This application approval process applies to the:
    - Quick Action Closing (QAC) Fund;
    - Qualified Target Industry Business (QTI) Tax Refund;
    - High-Impact Business Performance Grants;
    - Qualified Defense Contractor and Space Flight Business Tax Refund Program (QDSC);
    - Innovation Incentive Program;
    - Brownfield Redevelopment Bonus Refund; and
    - Local Government Distressed Area Matching Grant Program.

- Creates the following requirements for contracts for economic development incentives:
  - Capital investment must remain in the state for the duration of the contract.
  - Contract terms cannot be longer than 10 years, except for projects receiving $20 million or more in total state incentives.
  - The business must use the Employ Florida Marketplace to post new jobs.
  - The average private sector wage must reflect the wages in the local area where the business is located.
- Requires a 3-day advanced notice to the Legislature of any proposed amendment to an economic development contract and a 10-day legislative consultation period for a proposed amendment that reduces the projected economic benefits by 0.50 or more. Amendments that reduce the project's economic benefits must include a proportionate reduction in the award amount.
- Extends the date applicants can be certified under the QDSC Program until June 30, 2020.
- Makes the following changes to the criteria for projects eligible for funding from the QAC Fund:
  - The required economic benefit ratio is lowered from 5 to 1, to 4 to 1, and cannot be waived below 2:1;
  - The contract may not waive the annual wage requirement below 100 percent of the wages in the local area;
  - The contract may only waive two of the five program criteria;
  - The contract may not waive the criteria that the incentive is an inducement to the project's location or expansion in this state; and
  - No payments may be made to a project until contracted performance goals have been achieved.
- Makes the following changes to the QTI Program:
  - Permits businesses in brownfield or rural areas to receive 100 percent of the total tax refunds allowed, if the option to exempt local financial support is exercised; and
  - Permits businesses to receive a prorated award if at least 90 percent of agreed-to higher wage requirements are met.
- Prohibits any state or local funds from being counted toward a business' required capital investment, and clarifies that the state's investment for purposes of determining the project's economic benefits includes all state funds spent or forgone to benefit the business.

The bill requires the president of Enterprise Florida, Inc., (EFI) to be subject to Senate confirmation, and prohibits him or her from engaging in lobbying efforts before the Legislature and Executive branch for two years after vacating the position, similar to the prohibition that applies to other state agency heads. These changes apply to presidents of EFI appointed or reappointed after July 1, 2015.

The bill creates a cap on the amount of funds that can be obligated for payments each fiscal year under economic development incentive contracts for the same programs to which the application approval process applies as discussed above. The total amount of actual or projected payments in any fiscal year cannot exceed $50 million. This limitation may be waived in the General Appropriations Act (GAA). Annually, the Department of Economic Opportunity (DEO) must provide the Legislature with the amount of estimated payments, and the Legislature must annually appropriate in the GAA the amount estimated to be sufficient to satisfy scheduled payments.

As to the funds presently held in escrow by EFI for current Quick Action Closing Fund contracts, the bill directs EFI to return any funds held on June 30, 2015, to the state treasury by July 10, 2015. Such funds will be held in a newly created "Quick Action Closing Fund Escrow Account" in the Economic Development Trust Fund within the DEO.

The provisions of the bill that eliminate the DEO practice of disbursing funds to Enterprise Florida, Inc. (EFI), upon execution of a Quick Action Closing Fund (QAC) contract or agreement will have a positive impact on state revenues and the state's economy as a whole. Using a "pay-as-you-go" approach for QAC projects will enable the state to use funds that would be otherwise transferred outside the state treasury for other priorities each fiscal year.

The extension of the Qualified Defense Contractor and Space Flight tax refund program to allow the DEO to certify applications through June 30, 2020, will have a negative impact to state revenues. The Revenue Estimating Impact Conference has not yet reviewed the bill. The DEO has indicated that it has sufficient resources to administratively implement the bill.

The bill provides an effective date of July 1, 2015.

II. Present Situation:

Florida Economic Development Incentives

Florida has a number of incentive programs intended to promote economic development in the state. These programs are collectively referred to as the economic development "toolkit" and come in a variety of forms including tax credits, tax refunds, tax exemptions, and cash grants. The toolkit is used to incentivize highly competitive projects to remain, locate, or expand in the state. Enterprise Florida, Inc. (EFI), a public-private partnership between businesses and the state, acts as the principal economic development organization for Florida. The state is responsible for oversight and administration of tax refund claims and performance reviews, and processing incentive and local financial support payments. After EFI has made the initial steps in the economic development incentive process, the Department of Economic Opportunity (DEO) begins its own processes. The DEO is responsible for evaluating project applications and has a role in the approval process. Following final approval by the DEO, the Governor, and in some cases the Legislative Budget Commission, the business enters into an agreement or contract with the DEO concerning the incentives. Most contracts require certain performance measures to be met before any incentive funds are paid out. Two notable exceptions are the Quick Action Closing Fund and the Innovation Incentive Program. Incentive programs that pay out before performance requirements are met have contractual provisions to recapture funds and impose sanctions if performance measures are not met as scheduled. The Office of Economic Development and Research (EDR) and the Office of Public Policy Analysis and Government Accountability (OPPAGA) are required to review and report on the economic development toolkit programs as well as some other programs related to economic development in ch. 288, F.S.

Economic Development Programs with Tax Refunds

Qualified Target Industry Business Tax Refund

The Qualified Target Industry Business Tax Refund (QTI) was established in 1995, in s. 288.106, F.S., with the purpose of attracting high wage jobs to the state. The tax refunds are made to qualified, pre-approved businesses creating jobs in target industries. The target industries are identified by the DEO for criteria including future growth, stability, high wages, market and resource independence, industrial base diversification, and positive economic impact. Approved QTI projects have contractual performance measures with specific milestones to be verified prior to payment of any tax refunds. This incentive requires 20 percent of the award to come from the local government. The program is funded through a specific annual appropriation.[1] The program shares a $35 million cap, per fiscal year, with the Qualified Defense and Space Contractor Tax Refund. The DEO reported that $55.3 million in maximum awards was approved in Fiscal Year 2013-14.[2] Additionally the department reported that of the 1,110 contracts executed from the beginning of the program to June 30, 2014, 322 contracts are active and 122 contracts were successfully completed.[3]

Qualified Defense Contractor and Space Flight Business Tax Refund

Also known as the Qualified Defense and Space Contractor (QDSC) Tax Refund, the program was established in 1996, in s. 288.1045, F.S., and is designed to attract high wage jobs in the space and defense industries. The QDSC tax refunds are made to qualified and approved businesses bidding on new or securing existing defense or space contracts. As with the QTI refund, 20 percent of the award comes from the local government. As with other programs, the QDSC tax refunds are awarded after contractual performance-based milestones are met and verified by the state. Since June 30, 2014, no new applicants may be certified as eligible under statute. The program is funded through a specific annual appropriation. The program shares a $35 million cap, per fiscal year with the QTI Tax Refund. The DEO reported that $3.2 million in maximum rewards was approved in Fiscal Year 2013-2014. Additionally, the DEO reported that of the 28 contracts executed from the beginning of the program to June 30, 2014, five contracts are active and five contracts were successfully completed.[4]

Brownfield Redevelopment Bonus Refund

The Brownfield Redevelopment Bonus Refund was established in 1997, in s. 288.107, F.S., to improve economic activity in designated Brownfield areas. These areas are designated by the respective community for the presence or perceived presence of economic blight or environmental contamination. As with the QTI and QDSC programs, the Brownfield program requires 20 percent of the award to come from the local government. As with other programs, the Brownfield program requires performance-based contracts and specific milestones to be met in order for a project to receive awards. The Brownfield program offers a bonus for any tax refund

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[1] Section. 288.095, F.S.
[2] The amount approved in any fiscal year may exceed the statutory cap, but payments in any fiscal year will not exceed the cap.
[3] Florida Department of Economic Opportunity, *2014 Annual Incentives Report*, 11, 15 (Dec. 30, 2014) available at http://sitefinity.floridajobs.org/docs/default-source/sbd-sports/2014-annual-incentives-report.pdf?status=Temp&sfvrsn=0.028032216409722532 (last visited March 3, 2015).
[4] *Id.*

awarded to a QTI qualified business for job creation, if that job creation occurred in a Brownfield area. The program is funded through a specific annual appropriation. The DEO reported that $2.6 million in maximum rewards was approved in Fiscal Year 2013-2014, with an additional $875,000 in maximum awards for the Brownfield Bonus with QTI. Additionally, the department reported that of the 59 contracts executed from the beginning of the program to June 30, 2014, 33 contracts are active and 9 contracts were successfully completed. For the Brownfield Bonus with QTI, there are 103 contracts executed in the same timeframe with 40 active contracts and 6 completed.[5]

Economic Development Programs with Tax Credits

Capital Investment Tax Credit

The Capital Investment Tax Credit (CITC) became effective in 1998, in s. 220.191, F.S., and its purpose is to attract and grow capital-intensive industries in Florida. Eligible projects must be in designated high-impact portions of certain sectors, determined by the DEO, including clean energy, biomedical technology, financial services, information or silicon technology, or transportation equipment manufacturing. The project could also be a corporate headquarters facility. The DEO reports that the value of credits claimed is often lower than the value of credits approved because the company's tax liability may be lower than the value of the credits, and most often, because the credits can only be used to offset a portion of the incremental new tax liability attributable to a project. There is no cap for this program. The DEO reported that $7.2 million in tax credits were claimed in 2013. The DEO also reported that there have been 37 approvals or certifications for CITC projects through June 30, 2013 (numbers from 2014 were not reported), with 32 being active and five having been terminated.[6]

Entertainment Industry Financial Incentive Program

The Entertainment Industry Financial Incentive Program was established in 2003, in s. 288.1245, F.S., to develop and sustain the workforce and infrastructure for film, digital media, and entertainment productions. This program offers transferable tax credits for expenditures related to qualified productions on a first-come, first-served basis. Currently the Office of Film and Entertainment has committed all of the state's tax credits (under this program), certifying 351 projects to receive $296 million.[7] The Entertainment Industry Sales Tax Exemption Program, in s. 288.1258, F.S., is a related program.

Economic Development Programs with Cash Grants

High-Impact Business Performance Grants

Also known as the High-Impact Performance Incentive (HIPI), the program was established in 1997, in s. 288.108, F.S. HIPI is a grant reserved for projects operating in the same high-impact sectors as in the CITC program. The cash grant is performance based and paid in two installments. First, upon operational commencement, and the second upon full operational

[5] *See supra* note 3.
[6] *See supra* note 3, at 12-13, 22.
[7] Office of Program Policy Analysis and Government Accountability, Florida Legislature, *Florida Economic Development Program Evaluations – Year 2*, Report No. 15-01, 10 (Jan. 1, 2015), http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/1501rpt.pdf (last visited Feb. 26, 2015).

commencement as determined in contract. The program has an annual cap of $30 million. The DEO reports that $10.6 million in grant incentives was approved in Fiscal Year 2013-14. The DEO also reports that of the 14 contracts executed from the beginning of the program to June 30, 2014, seven contracts are active and three contracts were successfully completed.[8] This program authorizes the recapture of funds if a business fails to meet its performance measures.

Quick Action Closing Fund

The Quick Action Closing (QAC) Fund was established in 1999, in s. 288.1088, F.S. The program is designed to be a competitive "deal closing" tool for negotiations where the state's other incentives are not enough to incentivize a business to remain, locate, or expand in the state. All QAC Fund projects have a performance based contract requiring specific scheduled milestones and annual compliance requirements. The program authorizes sanctions and penalties for failure to perform. The program is funded by a specific annual appropriation, and has no cap. The DEO reports that $44.7 million in grant incentives was approved in Fiscal Year 2013-14. Additionally, the report stated that 144 contracts have been executed through June 30, 2014, with 106 active contracts and ten successfully completed contracts.[9]

Innovation Incentive Program

The Innovation Incentive Program (IIP) was created in 2006, in s. 288.1089, F.S. The program is designed to empower the state to compete effectively for research and development, innovation business, or alternative and renewable energy projects. The program creates long-term investments, made by the state, in industry clusters critical to the state's future economic diversification. The projects have contractual performance measures and milestones that must be achieved before grant payment. The contracts also include a reinvestment portion, requiring recipients to reinvest a portion of royalty revenues earned back to the state for investment in existing state trust funds. The DEO reports that as of 2013, nine companies have been awarded funds of $455.7 million, not including the Scripps Florida Grant ($310 million).[10]

Local Government Distressed Area Matching Grant Program

The Local Government Distressed Area Matching Grant (LGDAMG) Program was established in 2010, in s. 288.0659, F.S. The program goal is to improve economic activity and enhance job creation in distressed communities. The grant is administered as a contract between the state and the local government. The state's funds, a $50,000 maximum, are passed through to the business.[11]

Other Economic Development Programs

Professional Sports Facilities

Florida offers state funding to pay for a facility for a professional sports franchise, under certain circumstances. Local governments, non-profit and for-profit entities may apply to the program. The program is reviewed by the EDR and the OPPAGA on a schedule required by s. 288.001,

[8] *See supra* note 3, at 12 and 17.
[9] *See supra* note 3, at 12 and 17.
[10] *See supra* note 3, at 19.
[11] *See supra* note 3, at 12.

F.S. The state extends the program for the retention of Major League Baseball spring training baseball franchises in s. 288.11631, F.S.

Microfinance Programs

The state has two separate microfinance programs, the Microfinance Loan Program[12] and the Microfinance Guarantee Program.[13] The loan program is designed to make short-term, fixed-rate microloans for business management training, business development training, and technical assistance to entrepreneurs and newly established or growing small businesses for startup costs, working capital, and the acquisition of materials, supplies, furniture, fixtures, and equipment. The intent of the program is to enable entrepreneurs and small businesses to access private financing after completing the program. The guarantee program is intended to stimulate access to credit for entrepreneurs and small businesses by providing targeted guarantees to their loans.

The President of Enterprise Florida, Inc.

The president of Enterprise Florida, Inc. (EFI), is appointed by the Board of Directors, serves at the pleasure of the Governor, and is the "chief administrative and operational officer" of the board and EFI. Additionally, the president may be known as the 'secretary of commerce' and serves as the Governor's chief negotiator for business recruitment and business expansion."[14]

III. Effect of Proposed Changes:

The bill makes a number of changes to the state's economic development programs to provide more flexibility in some programs, and to increase transparency and accountability across those programs.

Economic Development Incentive Application and Evaluation

In section 4, the bill amends s. 288.061, F.S., to create uniform methods for the application, evaluation, and approval of economic development incentives projects.

The bill directs the Department of Economic Opportunity (DEO or department) to create a uniform application form for incentive applications beginning January 1, 2016, which must include, at minimum:

- The applicant's federal employee identification number, reemployment assistance account number, and state sales tax registration number (if these are unavailable at the time of application, they must be submitted before DEO disburses any incentive payments or grants any tax credits or refunds);
- The applicant's signature;
- The location in the state where the project will be located;
- The anticipated commencement date of the project;

[12] Section 288.9934, F.S.
[13] Section 288.9935, F.S.
[14] Section 288.905, F.S.

- A description of the business activity, product, or research and development undertaken by the applicant, and the 6-digit North American Industry Classification System (NAICS) code for all activities included in the project; and
- An attestation verifying that the information in the application is true and accurate.

The bill creates a uniform evaluation process for the DEO to review and evaluate each incentive application. The department's evaluation of an application must include the following:

- A financial analysis of the company including information on liens, pending or ongoing litigation, credit ratings, and regulatory filings;
- A review of any independent evaluations of the company;
- A review of the historical market performance of the company;
- A review of the latest audit of the company's financial statement and related auditor management letter;
- A review of any other audits related to the internal controls or management of the company;
- A review of performance in connection with past incentives; and
- Any other review deemed necessary by the department.

The bill creates a uniform approval process for economic development incentive applications for the following programs:

- The Local Government Distressed Area Matching Grant Program;
- The Qualified Defense Contractor and Space Flight Business Tax Refund Program;
- The Qualified Target Industry Business Tax Refund;
- The Brownfield Redevelopment Bonus Refund;
- The High-Impact Business Performance Grants;
- The Quick Action Closing Fund; and
- The Innovation Incentive Program.

Within 10 days of receiving a complete application, the DEO must recommend a project for approval or disapproval to the Governor. Recommendations must include a justification for the recommendation and the proposed performance conditions the project must meet to receive incentive funds. The approval process for a project is dependent upon the total amount of funds that the project is awarded. Projects requiring:

- Less than $2 million may be approved by the Governor without Legislative consultation.
- $2 million and up to $7.5 million require the Governor to provide a written description and evaluation to the Legislative Budget Commission (LBC) at least 10 days before final approval of the project. If the chair or vice chair of the LBC, the President of the Senate, or the Speaker of the House of Representatives advises the Governor in writing that the action exceeds executive authority or is contrary to legislative intent, the Governor and the DEO shall suspend all actions until the LBC or the Legislature makes a determination on the project.
- $7.5 million or more must be approved by the LBC before final approval by the Governor.
- $5 million or more that also waive program requirements also must be approved by the LBC before final approval by the Governor.

Current law provides that the executive director of the DEO may approve applications under these programs, except for the Innovation Incentive Program (IIP) and the Quick Action Closing

Fund (QAC). The IIP requires that projects must be approved by the LBC. The QAC Fund allows projects receiving under $2 million in funding to be approved by the Governor; projects receiving between $2 million and $5 million require legislative consultation; and projects exceeding $5 million in funding are subject to approval by the LBC. Sections 11 and 12 of the bill amend ss. 288.1088 and 288.1089, F.S., respectively, to conform to the changes in the approval process for incentives.

Economic Benefits

The DEO is required to calculate the economic benefits of the potential award of state incentives proposed for each project. Under current law, the Office of Economic and Demographic Research (EDR) establishes the methodology and model used to calculate the economic benefits. Section 4 of the bill directs the EDR to include guidelines for the appropriate application of the DEO's internal model.

Current law also allows the EDR to use an amended version of the term "economic benefits" for the DEO's internal model. The bill requires that, for the amended definition of "economic benefits," the state's investment must include all state funds spent or forgone to benefit the business, including state funds appropriated to public and private entities, to the extent that such funds are "reasonably known to the department at the time of approval."

Section 3 amends s. 288.005, F.S., and revises the definition of "economic benefits" to specify that the state's investment includes "all state funds spent or forgone to benefit the business, including state funds appropriated to public and private entities." The current definition includes state grants, tax exemptions, tax refunds, tax grants, and other state incentives.
The term "economic benefits" means "the direct, indirect, and induced gains in state revenue as a percentage of the state's investment."

The economic benefits calculation takes into account capital investment associated with a project. When evaluating an application for economic development incentives, the DEO is prohibited from attributing to a business any investment by the business made using state funds. The bill makes similar amendments to the definition of "cumulative capital investment" in s. 288.191, F.S., related to the Capital Investment Tax Credit (section 1); the term "fixed capital investment" in s. 288.107, F.S., related to the Brownfield Redevelopment Bonus Refund (section 9); and requires Quick Action Closing Fund contracts to specify capital investment to be made "by the business" (section 11).

Economic Development Incentives Contracts

Approved projects must be certified by the DEO as qualified for award of funds under the programs. The bill amends s, 288.061, F.S., in section 4 and clarifies that, upon certification, an applicant and the DEO will enter into contract. The duration of a contract may not exceed 10 years. The bill provides that the DEO may enter into successive agreements for a project to extend the first 10-year term, providing that each successive contract is contingent upon the successful completion of the previous contract. Contracts that have a total of $20 million or more of combined state incentives are not subject to the restriction on the duration.

The bill also requires that:

- Any contract that requires capital investment to be made by the applicant must also require that capital investment remain in this state for the duration of the contract.
- If the contract has any performance conditions related to job creation, the contract must require the applicant to use the Employ Florida Marketplace.[15]

Most economic development incentive programs also require the contract to specify a required average annual wage that the applicant agrees to meet. The bill requires that the average annual wage must reflect the wages in the local area where the business is or will be located (county or standard metropolitan area). The bill makes conforming changes in sections 7, 8, 11, and 12, which amend ss. 288.107, 288.106, 288.1088, and 288.1089, F.S., respectively, and does not permit contracts to be based on the statewide average wage.

The DEO must provide the Legislature with notice, including an updated description and evaluation, of each executed and finalized contract.

The bill requires a 3-day advanced notice to the Legislature of any proposed changes to the contract by the DEO. Amendments that result in a reduction of the projected economic benefits require a 10-day Legislative consultation. This requirement applies when the projected economic benefit ratio is reduced by:

- 0.50 or more, or
- Below any statutorily required level for receipt of funds.

An amendment that reduces the economic benefits as described above must also include a proportionate reduction in the award amount. As with the original contract approval process, the chair or vice-chair of the LBC, the Senate President, or the Speaker of the House of Representatives may object to the changes in writing. If there is an objection, the Governor and the DEO must suspend all action until the LBC or the Legislature makes a determination on the project.

Cap on Contract Obligations

Section 4 of the bill amends s. 288.061, F.S., to create a cap on the amount of funds that can be obligated each fiscal year under contracts for the economic development programs to which the new application approval process applies. The total amount of actual or projected payments in any fiscal year cannot exceed $50 million. This limitation may be waived in the General Appropriations Act (GAA).

Annually, the DEO must provide the Legislature with the amount of estimated payments for the upcoming fiscal year (due January 2) and then the list of claims filed for payment in the upcoming fiscal year (due March 1). Using this information, the Legislature must annually appropriate in the GAA an amount estimated to be sufficient to satisfy scheduled payments in the upcoming fiscal year. If the amount appropriated is insufficient to make all payments, the DEO must pay the unfunded claims from the next year's appropriation. The DEO is required to notify

[15] The DEO and CareerSource Florida, Inc., (formerly Workforce Florida, Inc.) implement the workforce information systems required under s. 445.011, F.S.

the Legislature of any anticipated shortfalls by March 1 of each year. However, if any funds remain unexpended by June 30, those funds will revert and may not be transferred to an escrow account.

The DEO may not make payments under an economic development incentive contract until it has validated that the contractual performance conditions have been met by the business. The DEO may only make payments to the business under the contract and not to any third party.

As to the funds presently held in escrow by EFI for current Quick Action Closing Fund contracts, the bill (section 6) directs EFI to return any funds held on June 30, 2015, to the state treasury by July 10, 2015. Such funds will be held in a newly created "Quick Action Closing Fund Escrow Account" in the Economic Development Trust Fund within the DEO (see section 5, amending s. 288.095, F.S.). The bill creates a continuing appropriation for this account. Funds may be paid out of the account upon validation that the contractual performance conditions for each project have been satisfied. If a project with funds in the account is terminated, the funds revert to the State Economic Enhancement and Development (SEED) Trust Fund. Any interest earned in this account also reverts to the SEED Trust Fund. This account in the Economic Development Trust Fund expires on June 30, 2029, the estimated time by which all current contracts will have been completed. Section 13 of the bill amends s. 288.1208, F.S., to provide for the reversions into the SEED Trust Fund.

The bill clarifies that the Economic Development Incentives Account in the Economic Development Trust Fund also consists of local financial support required under the QTI, QDSC, and Brownfield Redevelopment Bonus programs. The bill makes conforming changes in sections 7, 8, 9, 10, and 11, amending ss. 288.107, 288.106, 288.107, 288.108, and 288.1088, F.S., respectively, to implement this provision.

The Qualified Defense Contractor and Space Flight Business Tax Refund

The bill, in section 7 amends the Qualified Defense Contractor and Space Flight Business Tax Refund Program[16] to allow the DEO to certify applicants for this program until June 30, 2020 (Section 7). Under current law, the DEO may not certify any applicants after June 30, 2014, but tax refund agreements in existence on that date are continued in accordance with their terms.

Additionally, the bill also increases the period of time that the DEO may grant extensions to applicants applying for a tax refund. The bill authorizes the DEO to allow an extension for submission of refund claims and information for a refund for up to 60 days, rather than the 30 days allowed by current law.

The Qualified Target Industry Tax Refund

The bill in section 8 amends the Tax Refund Program for Qualified Target Industry Businesses (QTI)[17] to allow an applicant exercising the local financial support exemption option to be eligible for 100 percent of the total funds allowed under the program. Under current law, an

[16] Section 288.1045, F.S.
[17] Section 288.106, F.S.

applicant exercising the local financial support exemption option is not eligible for more than 80 percent of the total tax refunds allowed under the program. An applicant that is locating in a brownfield area, a rural city, or a rural community can exercise an option to be exempt from the 20 percent local financial support requirements of the program.

Under current law, additional per-job tax refund payments are available to applicants for each job created if the applicant commits to paying an annual average wage greater than the minimum requirement of 115 percent of the average wage in the area. These "bonuses" are awarded at 150 percent of the average private sector wage (an additional $1,000 tax refund per job) and at 200 percent of the average private sector wage (an additional $2,000 tax refund per job), in the area. A prorated tax refund, with a 5 percent penalty, can be awarded if the business paid at least 90 percent of the wage specified in the contract. The bill clarifies when a business that commits to the higher wage it can receive the prorated tax refund:

- A business that commits to pay 150 percent of the average wage must pay an annual average wage of no less than 135 percent of the annual private sector wage.
- A business that commits to pay 200 percent of the average wage must pay an annual average wage of no less than 180 percent of the average private sector wage.

The bill also increases the period of time that the DEO may grant extensions to applicants applying for a tax refund. The bill authorizes the DEO to allow an extension for submission of refund claims and information for a refund for up to 60 days, rather than the 30 days allowed by current law.

The Quick Action Closing Fund

The bill, in section 11, amends the criteria for the Quick Action Closing (QAC) Fund.[18] Under current law, in order to be eligible for QAC funds a project must meet 5 criteria:

- Be in a qualified target industry;
- Have a positive economic benefit ratio of at least 5 to 1;
- Be an inducement to the project's location or expansion in the state;
- Pay an average annual wage of at least 125 percent of the area-wide or statewide private sector average wage; and
- Be supported by the local community in which the project is to be located.

The DEO is permitted to waive these criteria under certain conditions.

The bill requires that a request for a waiver and the granting of a waiver must be in writing and provide the specific justification for the waiver. Similar to the requirements of other economic development programs, the DEO may not grant a waiver for more than 2 of the 5 criteria. The bill also:

- Lowers the required economic benefit ratio to 4 to 1, and prohibits the ratio from being waived below 2 to 1.
- Requires the average annual wage for a project to reflect the wages in the local area where the business is or will be located (county or standard metropolitan area) and prohibits the

[18] Section 288.1088, F.S.

average annual wage from being waived below 100 percent of the average private sector wage in the area.
- Prohibits waiver of the criteria that the incentive be an inducement to the project's location or expansion in this state.

If a contract contains an option to award additional funds if additional jobs are created above the minimum commitment, the bill clarifies that when the DEO is evaluating QAC proposals, the minimum and maximum number of full-time equivalent jobs created by the facility should be used for evaluation purposes. The bill specifies that the contract should include the minimum and maximum amount of funds that may be awarded and the minimum and maximum number of jobs that will be created.

The bill requires that payment may not be made to a business until the business has satisfied all contracted performance requirements.

The President of Enterprise Florida, Inc.

Section 14 of the bill amends s. 288.905, F.S., to require the EFI president to be subject to Senate confirmation (Section 14). Former presidents of EFI, who are appointed or reappointed on or after July 1, 2015, are prohibited from receiving compensation for representing certain entities before the Legislative or Executive branch of the state's government for a period of 2 years after vacating the office. This prohibition applies if an entity applied for, received, or negotiated with EFI for the receipt of state funds, regardless of whether or not any state funds were received.

Reporting and Miscellaneous Changes

The bill, in section 2, requires the Economic Development Programs Evaluation required in s. 288.0001, F.S., include an analysis of the state's retention of Major League Baseball spring training franchises program in s. 288.11631, F.S. This evaluation must be completed by January 1, 2018, and every 3 years thereafter.

Section 16 of the bill requires OPPAGA, in addition to EDR, to evaluate the Microfinance Loan Program and Microfinance Guarantee Program. Because multiple reports are due January 1, 2018, (e.g., reports in s. 288.0001, F.S.) these additional reports must be submitted by January 15, 2018.

Section 17 provides an effective date of July 1, 2015.

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:

Under PCS/SB 1214, the extension of the Qualified Defense Contractor and Space Flight tax refund program to allow the Department of Economic Opportunity (DEO) to certify applications through June 30, 2020, will have a negative impact to state revenues. The Revenue Estimating Impact Conference has not yet reviewed the bill.

B. Private Sector Impact:

The fiscal impact to the private sector is indeterminate.

C. Government Sector Impact:

The provisions of the bill that eliminate the practice of the DEO disbursing funds to Enterprise Florida, Inc. (EFI), upon execution of a Quick Action Closing Fund (QAC) contract or agreement will have a positive impact on state revenues and the state's economy as a whole. Currently, the return on investment (ROI) for a QAC project is calculated from the time that the DEO disburses an award to EFI for deposit into an escrow account. Because the ROI Model accounts for the time value of money, the return on investment will increase for projects when funds are no longer held in escrow. Additionally, using a "pay-as-you-go" approach for QAC projects will enable the state to use funds that would otherwise reside in an escrow account for other priorities each fiscal year.

The provisions of the bill that revise the Qualified Targeted Industry Business Tax Refund Program may increase state tax refunds awarded to businesses. Specifically these provisions permit businesses in brownfield or rural areas to receive 100 percent of the total tax refunds allowed if the local financial support is waived; and permit businesses to receive a prorated award if certain wage requirements are met. The impact is dependent on the use of these incentives and is indeterminate.

The DEO has indicated that it has sufficient resources to administratively implement the bill.[19]

VI. Technical Deficiencies:

None.

[19] Conversation with Bill Wilson, Legislative and Cabinet Affairs, Department of Economic Opportunity (DEO) (Mar. 2, 2015).

VII. Related Issues:

The DEO is authorized to adopt rules to prescribe a form for applications for economic development and other changes made in s. 288.061, F.S.; and for the administration of the Quick Action Closing Fund Escrow Account.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 220.191, 288.0001, 288.005, 288.061, 288.095, 288.1045, 288.106, 288.107, 288.108, 288.1088, 288.1089, 288.1201, 288.905, and 288.9937.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

Recommended CS by Appropriations Subcommittee on Transportation, Tourism, and Economic Development on March 19, 2015:

The committee substitute:

- Creates a cap ($50 million) on the amount of funds that can be obligated for payment each fiscal year for specified economic development incentive programs, which may be waived in the General Appropriations Act (GAA).
- Requires the Department of Economic Opportunity (DEO) to annually provide the Legislature with the amount of estimated and scheduled payments for the upcoming fiscal year. The Legislature will use this information to appropriate in the GAA the amount estimated to be sufficient to satisfy scheduled payments in the upcoming fiscal year.
- Provides for action in the case of shortfall or excess in the appropriation.
- Prohibits the DEO from making payments to a business until the DEO has validated that applicable contractual performance requirements have been satisfied by the business, and prohibits payments to third parties.
- Directs Enterprise Florida, Inc. (EFI) to return any funds held in escrow on June 30, 2015, to the state treasury by July 10, 2015, to be held the "Quick Action Closing Fund Escrow Account" within the Economic Development Trust Fund.
- Creates a continuing appropriation category to make payments from the "Quick Action Closing Escrow Account" and provides an expiration date of June 30, 2029 for both the account and the continuing appropriation category.
- Clarifies that the Economic Development Incentives Account within the Economic Development Trust Fund within the DEO consists of local financial support required under the Qualified Target Industry Business Tax Refund, Qualified Defense and Space Contractor Tax Refund, and Brownfield Redevelopment Bonus programs.
- Makes conforming and clarifying changes.

B. Amendments:

None.

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

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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/22/2015	.	
	.	
	.	
	.	

The Committee on Appropriations (Latvala) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Subsection (8) of section 163.340, Florida Statutes, is amended to read:

163.340 Definitions.—The following terms, wherever used or referred to in this part, have the following meanings:

(8) “Blighted area” means an area in which there are a substantial number of deteriorated~~,~~ or deteriorating

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structures;~~,~~ in which conditions, as indicated by government-maintained statistics or other studies, endanger life or property or are leading to economic distress; ~~or endanger life or property,~~ and in which two or more of the following factors are present:

(a) Predominance of defective or inadequate street layout, parking facilities, roadways, bridges, or public transportation facilities.~~;~~

(b) Aggregate assessed values of real property in the area for ad valorem tax purposes have failed to show any appreciable increase over the 5 years prior to the finding of such conditions.~~;~~

(c) Faulty lot layout in relation to size, adequacy, accessibility, or usefulness.~~;~~

(d) Unsanitary or unsafe conditions.~~;~~

(e) Deterioration of site or other improvements.~~;~~

(f) Inadequate and outdated building density patterns.~~;~~

(g) Falling lease rates per square foot of office, commercial, or industrial space compared to the remainder of the county or municipality.~~;~~

(h) Tax or special assessment delinquency exceeding the fair value of the land.~~;~~

(i) Residential and commercial vacancy rates higher in the area than in the remainder of the county or municipality.~~;~~

(j) Incidence of crime in the area higher than in the remainder of the county or municipality.~~;~~

(k) Fire and emergency medical service calls to the area proportionately higher than in the remainder of the county or municipality.~~;~~

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40 (l) A greater number of violations of the Florida Building
41 Code in the area than the number of violations recorded in the
42 remainder of the county or municipality.~~;~~
43 (m) Diversity of ownership or defective or unusual
44 conditions of title which prevent the free alienability of land
45 within the deteriorated or hazardous area.~~; or~~
46 (n) Governmentally owned property with adverse
47 environmental conditions caused by a public or private entity.
48 (o) A substantial number or percentage of properties
49 damaged by sinkhole activity which have not been adequately
50 repaired or stabilized.
51
52 However, the term "blighted area" also means any area in which
53 at least one of the factors identified in paragraphs (a) through
54 (o) is ~~(n) are~~ present and all taxing authorities subject to s.
55 163.387(2)(a) agree, either by interlocal agreement ~~or~~
56 ~~agreements~~ with the agency or by resolution, that the area is
57 blighted. Such agreement or resolution must be limited to a
58 determination ~~shall only determine~~ that the area is blighted.
59 For purposes of qualifying for the tax credits authorized in
60 chapter 220, "blighted area" means an area as defined in this
61 subsection.
62 Section 2. Subsection (3) of section 163.524, Florida
63 Statutes, is amended to read:
64 163.524 Neighborhood Preservation and Enhancement Program;
65 participation; creation of Neighborhood Preservation and
66 Enhancement Districts; creation of Neighborhood Councils and
67 Neighborhood Enhancement Plans.—
68 (3) After the boundaries and size of the Neighborhood

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69 Preservation and Enhancement District have been defined, the
70 local government shall pass an ordinance authorizing the
71 creation of the Neighborhood Preservation and Enhancement
72 District. The ordinance shall contain a finding that the
73 boundaries of the Neighborhood Preservation and Enhancement
74 District comply with ~~meet the provisions of~~ s. 163.340(7) or s.
75 163.340(8)(a)-(o) ~~(8)(a)-(n)~~ or do not contain properties that
76 are protected by deed restrictions. Such ordinance may be
77 amended or repealed in the same manner as other local
78 ordinances.
79 Section 3. Effective October 1, 2015, paragraph (q) of
80 subsection (5) of section 212.08, Florida Statutes, is amended
81 to read:
82 212.08 Sales, rental, use, consumption, distribution, and
83 storage tax; specified exemptions.—The sale at retail, the
84 rental, the use, the consumption, the distribution, and the
85 storage to be used or consumed in this state of the following
86 are hereby specifically exempt from the tax imposed by this
87 chapter.
88 (5) EXEMPTIONS; ACCOUNT OF USE.—
89 (q) *Entertainment industry tax credit; authorization;*
90 *eligibility for credits.*—The credits against the state sales tax
91 authorized pursuant to s. 288.1254 shall be deducted from any
92 sales and use tax remitted by the dealer to the department by
93 electronic funds transfer and may only be deducted on a sales
94 and use tax return initiated through electronic data
95 interchange. The dealer shall separately state the credit on the
96 electronic return. The net amount of tax due and payable must be
97 remitted by electronic funds transfer. If the credit for the

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98 qualified expenditures is larger than the amount owed on the
99 sales and use tax return that is eligible for the credit, the
100 unused amount of the credit may be carried forward to a
101 succeeding reporting period as provided in s. 288.1254(4)(d) ~~s.~~
102 ~~288.1254(4)(c)~~. A dealer may only obtain a credit using the
103 method described in this paragraph ~~subparagraph~~. A dealer is not
104 authorized to obtain a credit by applying for a refund.
105 Section 4. Paragraph (d) of subsection (6) of section
106 212.20, Florida Statutes, is amended to read:
107 212.20 Funds collected, disposition; additional powers of
108 department; operational expense; refund of taxes adjudicated
109 unconstitutionally collected.—
110 (6) Distribution of all proceeds under this chapter and ss.
111 202.18(1)(b) and (2)(b) and 203.01(1)(a)3. is as follows:
112 (d) The proceeds of all other taxes and fees imposed
113 pursuant to this chapter or remitted pursuant to s. 202.18(1)(b)
114 and (2)(b) shall be distributed as follows:
115 1. In any fiscal year, the greater of $500 million, minus
116 an amount equal to 4.6 percent of the proceeds of the taxes
117 collected pursuant to chapter 201, or 5.2 percent of all other
118 taxes and fees imposed pursuant to this chapter or remitted
119 pursuant to s. 202.18(1)(b) and (2)(b) shall be deposited in
120 monthly installments into the General Revenue Fund.
121 2. After the distribution under subparagraph 1., 8.8854
122 percent of the amount remitted by a sales tax dealer located
123 within a participating county pursuant to s. 218.61 shall be
124 transferred into the Local Government Half-cent Sales Tax
125 Clearing Trust Fund. Beginning July 1, 2003, the amount to be
126 transferred shall be reduced by 0.1 percent, and the department

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127 shall distribute this amount to the Public Employees Relations
128 Commission Trust Fund less $5,000 each month, which shall be
129 added to the amount calculated in subparagraph 3. and
130 distributed accordingly.
131 3. After the distribution under subparagraphs 1. and 2.,
132 0.0956 percent shall be transferred to the Local Government
133 Half-cent Sales Tax Clearing Trust Fund and distributed pursuant
134 to s. 218.65.
135 4. After the distributions under subparagraphs 1., 2., and
136 3., 2.0603 percent of the available proceeds shall be
137 transferred monthly to the Revenue Sharing Trust Fund for
138 Counties pursuant to s. 218.215.
139 5. After the distributions under subparagraphs 1., 2., and
140 3., 1.3517 percent of the available proceeds shall be
141 transferred monthly to the Revenue Sharing Trust Fund for
142 Municipalities pursuant to s. 218.215. If the total revenue to
143 be distributed pursuant to this subparagraph is at least as
144 great as the amount due from the Revenue Sharing Trust Fund for
145 Municipalities and the former Municipal Financial Assistance
146 Trust Fund in state fiscal year 1999-2000, no municipality shall
147 receive less than the amount due from the Revenue Sharing Trust
148 Fund for Municipalities and the former Municipal Financial
149 Assistance Trust Fund in state fiscal year 1999-2000. If the
150 total proceeds to be distributed are less than the amount
151 received in combination from the Revenue Sharing Trust Fund for
152 Municipalities and the former Municipal Financial Assistance
153 Trust Fund in state fiscal year 1999-2000, each municipality
154 shall receive an amount proportionate to the amount it was due
155 in state fiscal year 1999-2000.

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156 6. Of the remaining proceeds:
157 a. In each fiscal year, the sum of $29,915,500 shall be
158 divided into as many equal parts as there are counties in the
159 state, and one part shall be distributed to each county. The
160 distribution among the several counties must begin each fiscal
161 year on or before January 5th and continue monthly for a total
162 of 4 months. If a local or special law required that any moneys
163 accruing to a county in fiscal year 1999-2000 under the then-
164 existing provisions of s. 550.135 be paid directly to the
165 district school board, special district, or a municipal
166 government, such payment must continue until the local or
167 special law is amended or repealed. The state covenants with
168 holders of bonds or other instruments of indebtedness issued by
169 local governments, special districts, or district school boards
170 before July 1, 2000, that it is not the intent of this
171 subparagraph to adversely affect the rights of those holders or
172 relieve local governments, special districts, or district school
173 boards of the duty to meet their obligations as a result of
174 previous pledges or assignments or trusts entered into which
175 obligated funds received from the distribution to county
176 governments under then-existing s. 550.135. This distribution
177 specifically is in lieu of funds distributed under s. 550.135
178 before July 1, 2000.
179 b. The department shall distribute $166,667 monthly to each
180 applicant certified as a facility for a new or retained
181 professional sports franchise pursuant to s. 288.1162. Up to
182 $41,667 shall be distributed monthly by the department to each
183 certified applicant as defined in s. 288.11621 for a facility
184 for a spring training franchise. However, not more than $416,670

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185 may be distributed monthly in the aggregate to all certified
186 applicants for facilities for spring training franchises.
187 Distributions begin 60 days after such certification and
188 continue for not more than 30 years, except as otherwise
189 provided in s. 288.11621. A certified applicant identified in
190 this sub-subparagraph may not receive more in distributions than
191 expended by the applicant for the public purposes provided in s.
192 288.1162(5) or s. 288.11621(3).
193 c. Beginning 30 days after notice by the Department of
194 Economic Opportunity to the Department of Revenue that an
195 applicant has been certified as the professional golf hall of
196 fame pursuant to s. 288.1168 and is open to the public, $166,667
197 shall be distributed monthly, for up to 300 months, to the
198 applicant.
199 d. Beginning 30 days after notice by the Department of
200 Economic Opportunity to the Department of Revenue that the
201 applicant has been certified as the International Game Fish
202 Association World Center facility ~~pursuant to s. 288.1169~~, and
203 the facility is open to the public, $83,333 shall be distributed
204 monthly, for up to 168 months, to the applicant. This
205 distribution is subject to reduction ~~pursuant to s. 288.1169~~. A
206 lump sum payment of $999,996 shall be made after certification
207 and before July 1, 2000.
208 e. The department shall distribute up to $83,333 monthly to
209 each certified applicant as defined in s. 288.11631 for a
210 facility used by a single spring training franchise, or up to
211 $166,667 monthly to each certified applicant as defined in s.
212 288.11631 for a facility used by more than one spring training
213 franchise. Monthly distributions begin 60 days after such

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214 certification or July 1, 2016, whichever is later, and continue
215 for not more than 20 years to each certified applicant as
216 defined in s. 288.11631 for a facility used by a single spring
217 training franchise or not more than 25 years to each certified
218 applicant as defined in s. 288.11631 for a facility used by more
219 than one spring training franchise. A certified applicant
220 identified in this sub-subparagraph may not receive more in
221 distributions than expended by the applicant for the public
222 purposes provided in s. 288.11631(3).
223 f. Beginning 45 days after notice by the Department of
224 Economic Opportunity to the Department of Revenue that an
225 applicant has been approved by the Legislature and certified by
226 the Department of Economic Opportunity under s. 288.11625 or
227 upon a date specified by the Department of Economic Opportunity
228 as provided under s. 288.11625(6)(d), the department shall
229 distribute each month an amount equal to one-twelfth of the
230 annual distribution amount certified by the Department of
231 Economic Opportunity for the applicant. The department may not
232 distribute more than $7 million in the 2014-2015 fiscal year or
233 more than $13 million annually thereafter under this sub-
234 subparagraph.
235 7. All other proceeds must remain in the General Revenue
236 Fund.
237 Section 5. Effective October 1, 2015, subsection (3) of
238 section 220.1899, Florida Statutes, is amended to read:
239 220.1899 Entertainment industry tax credit.—
240 (3) To the extent that the amount of a tax credit exceeds
241 the amount due on a return, the balance of the credit may be
242 carried forward to a succeeding taxable year pursuant to s.

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243 288.1254(4)(d) ~~s. 288.1254(4)(e)~~.
244 Section 6. Paragraph (b) of subsection (1) of section
245 220.191, Florida Statutes, is amended to read:
246 220.191 Capital investment tax credit.—
247 (1) DEFINITIONS.—For purposes of this section:
248 (b) "Cumulative capital investment" means the total capital
249 investment in land, buildings, and equipment made in connection
250 with a qualifying project during the period from the beginning
251 of construction of the project to the commencement of
252 operations. The term does not include any state or local funds,
253 including funds appropriated to public or private entities, used
254 for capital investment.
255 Section 7. Paragraphs (b) and (e) of subsection (2) of
256 section 288.0001, Florida Statutes, is amended to read:
257 288.0001 Economic Development Programs Evaluation.—The
258 Office of Economic and Demographic Research and the Office of
259 Program Policy Analysis and Government Accountability (OPPAGA)
260 shall develop and present to the Governor, the President of the
261 Senate, the Speaker of the House of Representatives, and the
262 chairs of the legislative appropriations committees the Economic
263 Development Programs Evaluation.
264 (2) The Office of Economic and Demographic Research and
265 OPPAGA shall provide a detailed analysis of economic development
266 programs as provided in the following schedule:
267 (b) By January 1, 2015, and every 3 years thereafter, an
268 analysis of the following:
269 1. The entertainment industry financial incentive program
270 established under s. 288.1254.
271 2. The entertainment industry sales tax exemption program

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272 established under s. 288.1258.
273 3. VISIT Florida and its programs established or funded
274 under ss. 288.122, 288.1226, 288.12265, and 288.124.
275 4. The Florida Sports Foundation and related programs
276 established under ss. 288.1162, 288.11621, 288.1166, 288.1167,
277 288.1168, ~~288.1169,~~ and 288.1171.
278 (e) Beginning January 1, 2018, and every 3 years
279 thereafter, an analysis of the Sports Development Program
280 established under s. 288.11625 and the retention of Major League
281 Baseball spring training baseball franchises under s. 288.11631.
282 Section 8. Subsection (1) of section 288.005, Florida
283 Statutes, is amended to read:
284 288.005 Definitions.—As used in this chapter, the term:
285 (1) "Economic benefits" means the direct, indirect, and
286 induced gains in state revenues as a percentage of the state's
287 investment. The state's investment includes all state funds
288 spent or forgone to benefit the business, including state funds
289 appropriated to public and private entities, state grants, tax
290 exemptions, tax refunds, tax credits, and other state
291 incentives.
292 Section 9. Section 288.061, Florida Statutes, is amended to
293 read:
294 288.061 Economic development incentive application
295 process.—
296 (1) Beginning January 1, 2016, the department shall
297 prescribe a form upon which an application for an incentive must
298 be made. At a minimum, the incentive application must include
299 all of the following:
300 (a) The applicant's federal employer identification number,

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301 reemployment assistance account number, and state sales tax
302 registration number. If such numbers are not available at the
303 time of application, they must be submitted to the department in
304 writing before the disbursement of any economic incentive
305 payments or the grant of any tax credits or refunds.
306 (b) The applicant's signature.
307 (c) The location in this state at which the project is or
308 will be located.
309 (d) The anticipated commencement date of the project.
310 (e) A description of the type of business activity,
311 product, or research and development undertaken by the
312 applicant, including the six-digit North American Industry
313 Classification System code for all activities included in the
314 project.
315 (f) An attestation verifying that the information provided
316 on the application is true and accurate.
317 (2) ~~(1)~~ Upon receiving a submitted economic development
318 incentive application, the Division of Strategic Business
319 Development of the department ~~of Economic Opportunity~~ and
320 designated staff of Enterprise Florida, Inc., shall review the
321 application to ensure that the application is complete, whether
322 and what type of state and local permits may be necessary for
323 the applicant's project, whether it is possible to waive such
324 permits, and what state incentives and amounts of such
325 incentives may be available to the applicant. The department
326 shall recommend to the executive director to approve or
327 disapprove an applicant business. If review of the application
328 demonstrates that the application is incomplete, the executive
329 director shall notify the applicant business within the first 5

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330 business days after receiving the application.
331 (3) ~~(2) Beginning July 1, 2013,~~ The department shall review
332 and evaluate each economic development incentive application for
333 the economic benefits of the proposed award of state incentives
334 proposed for the project. The term "economic benefits" has the
335 same meaning as in s. 288.005. The Office of Economic and
336 Demographic Research shall establish the methodology and model
337 used to calculate the economic benefits, including guidelines
338 for the appropriate application of the department's internal
339 model. For purposes of this requirement, an amended definition
340 of the term "economic benefits" may be developed by the Office
341 of Economic and Demographic Research. However, the amended
342 definition must reflect the requirement of s. 288.005 that the
343 state's investment include all state funds spent or forgone to
344 benefit the business, including state funds appropriated to
345 public and private entities but excluding state funds spent for
346 economic development transportation projects under s. 339.2821,
347 to the extent that those funds should reasonably be known to the
348 department at the time of approval. In the department's
349 evaluation of an economic development incentive application, the
350 department may not attribute to the business any capital
351 investment made by the business using state funds. However, the
352 evaluation must account for all capital investment related to
353 the project.
354 (4) The department's evaluation of the application must
355 also include all of the following:
356 (a) A financial analysis of the company, including
357 information regarding liens and pending or ongoing litigation,
358 credit ratings, and regulatory filings.

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359 (b) A review of any independent evaluations of the company.
360 (c) A review of the historical market performance of the
361 company.
362 (d) A review of the latest audit of the company's financial
363 statement and the related auditor management letter.
364 (e) A review of any other audits that are related to the
365 internal controls or management of the company.
366 (f) A review of performance in connection with past
367 incentives.
368 (g) Any other review deemed necessary by the department.
369 (5)(a)~~(3)~~ Except as provided in paragraph (b), within 10
370 business days after the department receives a complete ~~the~~
371 ~~submitted~~ economic development incentive application, the
372 executive director shall approve or disapprove the application
373 and issue a letter of certification to the applicant which
374 includes a justification of that decision, unless the business
375 requests an extension of ~~that~~ time. For purposes of this
376 paragraph, the term "project" means a project that will receive
377 funds under any one of the following programs:
378 1. The Local Government Distressed Area Matching Grant
379 Program established by s. 288.0659.
380 2. The qualified defense contractor and space flight
381 business tax refund program established under s. 288.1045.
382 3. The qualified target industry business tax refund
383 authorized under s. 288.106.
384 4. The brownfield redevelopment bonus refund established
385 under s. 288.107.
386 (b) Within 10 business days after the department receives a
387 complete economic development incentive application for a

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388 project identified in paragraph (d), the executive director
389 shall recommend to the Governor approval or disproval of the
390 application. The recommendation must include a justification for
391 the recommendation and the proposed performance conditions that
392 the project must meet to obtain incentive funds.
393 1. The Governor may approve a project without consulting
394 the Legislature for a project that requires less than $2 million
395 in funding.
396 2. Except as provided in subparagraph 4., for any project
397 that requires funding in the amount of at least $2 million and
398 up to $7.5 million, the Governor shall provide a written
399 description and evaluation of the project to the chair and vice
400 chair of the Legislative Budget Commission at least 10 days
401 before giving final approval for the project. The recommendation
402 must include proposed payment and performance conditions that
403 the project must meet in order to obtain incentive funds and to
404 avoid sanctions. If the chair or vice chair of the Legislative
405 Budget Commission, the President of the Senate, or the Speaker
406 of the House of Representatives advises the Governor, in
407 writing, that his or her planned or proposed action exceeds the
408 delegated authority of the Governor or is contrary to
409 legislative policy or intent, the Governor shall instruct the
410 department to immediately suspend any action planned or proposed
411 until the Legislative Budget Commission or the Legislature makes
412 a determination on the project.
413 3. Any project that requires funding in the amount of $7.5
414 million or greater must be approved by the Legislative Budget
415 Commission before final approval by the Governor.
416 4. Any project that requires funding in the amount of $5

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417 million or greater and that provides a waiver of program
418 requirements must be approved by the Legislative Budget
419 Commission prior to final approval by the Governor.
420 5. Under subparagraphs 3. and 4., the project is deemed
421 approved by the Legislative Budget Commission if a meeting of
422 the Legislative Budget Commission is not held or if the project
423 is not objected to as provided for in this subsection within 30
424 calendar days after the date the Office of Policy and Budget in
425 the Executive Office of the Governor submits the written
426 description and evaluation of the project and the department's
427 recommendation, including proposed payment and performance
428 conditions, to the chair and vice chair of the Legislative
429 Budget Commission.
430 6. For purposes of this paragraph, the term "project" means
431 a project that will receive funds under any one of the following
432 programs:
433 1. High-impact business performance grants established
434 under s. 288.108.
435 2. The Quick Action Closing Fund established under s.
436 288.1088.
437 3. The Innovation Incentive Program created by s. 288.1089.
438 (c) Upon approval of a project under paragraph (a) or (b),
439 the department shall issue a letter certifying the applicant as
440 qualified for an award.
441 (6)(a) Upon certification, the department and the applicant
442 shall enter into an agreement or contract. The ~~contract or~~
443 agreement or contract with the applicant must specify the total
444 amount of the award, the performance conditions that must be met
445 to obtain the award, the schedule for payment, and sanctions

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446 that would apply for failure to meet performance conditions. Any
447 agreement or contract with the applicant must require that the
448 applicant use the workforce information systems implemented
449 under s. 445.011 to advertise job openings created as a result
450 of the state incentive agreement or contract. Any agreement or
451 contract that requires capital investment to be made by the
452 business must also require that such investment remain in this
453 state for the duration of the agreement or contract. The
454 department may enter into one agreement or contract covering all
455 of the state incentives that are being provided to the
456 applicant. The agreement or contract must provide that release
457 of funds is contingent upon sufficient appropriation of funds by
458 the Legislature.
459 (b) The duration of an agreement or contract may not exceed
460 10 years. However, the department may enter into a successive
461 agreement or contract for a specific project to extend the
462 initial 10-year term, provided that each successive agreement or
463 contract is contingent upon the successful completion of the
464 previous agreement or contract. This paragraph does not apply to
465 a project under s. 220.191 or s. 288.1089.
466 (c) The release of funds for the incentive or incentives
467 awarded to the applicant depends upon the statutory requirements
468 of the particular incentive program.
469 (7) ~~(4)~~ The department shall validate contractor performance
470 and report such validation in the annual incentives report
471 required under s. 288.907.
472 (8) ~~(5)~~ (a) The executive director may not approve an
473 economic development incentive application unless the
474 application includes a signed written declaration by the

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475 applicant which states that the applicant has read the
476 information in the application and that the information is true,
477 correct, and complete to the best of the applicant's knowledge
478 and belief.
479 (b) After an economic development incentive application is
480 approved, the awardee shall provide, in each year that the
481 department is required to validate contractor performance, a
482 signed written declaration. The written declaration must state
483 that the awardee has reviewed the information and that the
484 information is true, correct, and complete to the best of the
485 awardee's knowledge and belief.
486 (9) The department shall provide notice, including a
487 written description and evaluation, to the Legislature of any
488 proposed amendment to an agreement or contract that reduces the
489 projected economic benefits calculated at the time the agreement
490 or contract was executed by 0.50 or more or changes any
491 performance conditions or other statutorily required criteria.
492 In order to provide an opportunity for review, at least 3
493 business days before signing an amendment to an agreement or
494 contract, the department shall provide notice of the proposed
495 change to the chair and vice chair of the Legislative Budget
496 Commission, the President of the Senate, and the Speaker of the
497 House of Representatives. However, a proposed amendment to an
498 agreement or contract is subject to the 10-day notice and
499 objection procedures specified in this section if the proposed
500 amendment reduces the projected economic benefits calculated at
501 the time the agreement or contract was executed to result in an
502 economic benefit ratio below a statutorily required level for
503 receipt of funds or, if already below the statutorily required

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504 level, by 0.50 or more. Any such amended agreement or contract
505 must also provide for a proportionate reduction in the award
506 amount. If the chair or vice chair of the Legislative Budget
507 Commission, the President of the Senate, or the Speaker of the
508 House of Representatives timely advises the Governor, in
509 writing, that such action or proposed action exceeds the
510 delegated authority of the Governor or is contrary to
511 legislative policy or intent, the Governor shall instruct the
512 department to immediately suspend any action proposed or taken
513 until the Legislative Budget Commission or the Legislature makes
514 a determination on the project.
515 (10)(a) The department is authorized to execute contracts
516 and agreements that obligate the state to make payments from
517 appropriations in the current or a future fiscal year for
518 incentive programs specified in this paragraph. The total amount
519 of actual or projected funds approved for payment by the
520 department based on actual project performance and the schedule
521 of payments for each incentive contract or agreement may not
522 exceed a combined total of $50 million in any fiscal year for
523 all of the following:
524 1. The Local Government Distressed Area Matching Grant
525 Program established under s. 288.0659.
526 2. The qualified defense contractor and space flight
527 business tax refund program established under s. 288.1045.
528 3. The qualified target industry businesses tax refund
529 program established under s. 288.106.
530 4. The brownfield redevelopment bonus refund program
531 established under s. 288.107.
532 5. The high-impact business performance grant program

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533 established under s. 288.108.
534 6. The Quick Action Closing Fund projects established under
535 s. 288.1088, with the exception of those projects with funds
536 held in escrow as of June 30, 2015, which are being paid out of
537 the Quick Action Closing Fund Escrow Account under s. 288.10881.
538 7. The Innovation Incentive Program established under s.
539 288.1089.
540 (b) The funding limitation under paragraph (a) may only be
541 waived by the Legislature in the General Appropriations Act or
542 other legislation.
543 (c) The department shall provide notice, including an
544 updated description and evaluation, to the Legislature upon the
545 final execution of each contract or agreement.
546 (d) By January 2 of each year, the department shall provide
547 to the Legislature a list of projected payments for the
548 following fiscal year and, by March 1 of each year, the
549 department shall provide to the Legislature a list of claims
550 actually filed for payment in the following fiscal year. The
551 department may not make a scheduled payment under a contract or
552 agreement for a given fiscal year until the department has
553 validated that the applicant has met the performance
554 requirements of the contract or agreement. Any funds
555 appropriated for scheduled payments in a fiscal year which are
556 unexpended by June 30 of that year shall revert in accordance
557 with s. 216.301 and may not be transferred to an escrow account.
558 (e) The Legislature shall annually appropriate in the
559 General Appropriations Act an amount estimated to be sufficient
560 to satisfy scheduled payments in the coming fiscal year. If the
561 amount appropriated by the Legislature proves insufficient to

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562 satisfy the scheduled payments, the department shall pay the
563 unfunded claims from the appropriation for the next fiscal year.
564 By March 1 of each year, the department shall notify the
565 legislative appropriations committees of any such anticipated
566 shortfall for the current fiscal year and of the amount it
567 estimates will be needed to pay claims during the next fiscal
568 year.
569 (11) ~~(6)~~ The department is authorized to adopt rules to
570 implement this section.
571 Section 10. Section 288.095, Florida Statutes, is amended
572 to read:
573 288.095 Economic Development Trust Fund.—
574 (1) The Economic Development Trust Fund is created within
575 the Department of Economic Opportunity. Moneys deposited into
576 the fund must be used only to support the authorized activities
577 and operations of the department. Moneys credited to the trust
578 fund consist of local financial support funds.
579 (2) There is created, within the Economic Development Trust
580 Fund, the Economic Development Incentives Account. The Economic
581 Development Incentives Account consists of moneys transferred
582 from local governments as local financial support ~~appropriated~~
583 ~~to the account~~ for purposes of the tax incentives programs
584 authorized under ss. 288.1045, ~~and~~ 288.106, and 288.107 ~~local~~
585 ~~financial support provided under ss. 288.1045 and 288.106~~.
586 Moneys in the Economic Development Incentives Account may be
587 used only to pay tax refunds and make other payments authorized
588 under s. 288.1045, s. 288.106, or s. 288.107, and may only be
589 expended pursuant to legislative appropriation or an approved
590 amendment to the department's operating budget pursuant to

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591 chapter 216. Notwithstanding s. 216.301, and pursuant to s.
592 216.351, any balance in the account at the end of a fiscal year
593 remains in the account and is available for carrying out the
594 purposes of the account ~~shall be subject to the provisions of s.~~
595 ~~216.301(1)(a)~~.
596 (3)~~(a) The department may approve applications for~~
597 ~~certification pursuant to ss. 288.1045(3) and 288.106. However,~~
598 ~~the total state share of tax refund payments may not exceed $35~~
599 ~~million.~~
600 ~~(b) The total amount of tax refund claims approved for~~
601 ~~payment by the department based on actual project performance~~
602 ~~may not exceed the amount appropriated to the Economic~~
603 ~~Development Incentives Account for such purposes for the fiscal~~
604 ~~year. Claims for tax refunds under ss. 288.1045 and 288.106~~
605 ~~shall be paid in the order the claims are approved by the~~
606 ~~department. In the event the Legislature does not appropriate an~~
607 ~~amount sufficient to satisfy the tax refunds under ss. 288.1045~~
608 ~~and 288.106 in a fiscal year, the department shall pay the tax~~
609 ~~refunds from the appropriation for the following fiscal year. By~~
610 ~~March 1 of each year, the department shall notify the~~
611 ~~legislative appropriations committees of the Senate and House of~~
612 ~~Representatives of any anticipated shortfall in the amount of~~
613 ~~funds needed to satisfy claims for tax refunds from the~~
614 ~~appropriation for the current fiscal year.~~
615 ~~(c) Moneys in the Economic Development Incentives Account~~
616 ~~may be used only to pay tax refunds and make other payments~~
617 ~~authorized under s. 288.1045, s. 288.106, or s. 288.107.~~
618 ~~(d)~~ The department may adopt rules necessary to carry out
619 the provisions of this subsection, including rules providing for

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620 the use of moneys in the Economic Development Incentives Account
621 and for the administration of the Economic Development
622 Incentives Account.
623 Section 11. Paragraph (b) of subsection (1), paragraphs
624 (a), (c), (e), and (f) of subsection (2), paragraphs (e) and (h)
625 of subsection (3), paragraphs (a), (b), (d), and (e) of
626 subsection (5), and subsection (7) of section 288.1045, Florida
627 Statutes, are amended to read:
628 288.1045 Qualified defense contractor and space flight
629 business tax refund program.—
630 (1) DEFINITIONS.—As used in this section:
631 (b) "Average private sector wage in the area" means the
632 average of all private sector wages and salaries in the state,
633 the county, or in the standard metropolitan area in which the
634 business unit is located.
635 (2) GRANTING OF A TAX REFUND; ELIGIBLE AMOUNTS.—
636 (a) There shall be allowed~~, from the Economic Development~~
637 ~~Trust Fund,~~ a refund to a qualified applicant for the amount of
638 eligible taxes certified by the department which were paid by
639 such qualified applicant. The total amount of refunds for all
640 fiscal years for each qualified applicant shall be determined
641 pursuant to subsection (3). The annual amount of a refund to a
642 qualified applicant shall be determined pursuant to subsection
643 (5).
644 (c) ~~Contingent upon an annual appropriation by the~~
645 ~~Legislature,~~ The department may not approve ~~not~~ more in tax
646 refunds ~~than the amount appropriated to the Economic Development~~
647 ~~Trust Fund for tax refunds,~~ for a fiscal year than the amount
648 specified in s. 288.061 ~~pursuant to subsection (5) and s.~~

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649 ~~288.095~~.
650 (e) After entering into a tax refund agreement pursuant to
651 subsection (4), a qualified applicant may:
652 1. Receive refunds ~~from the account~~ for corporate income
653 taxes due and paid pursuant to chapter 220 by that business
654 beginning with the first taxable year of the business which
655 begins after entering into the agreement.
656 2. Receive refunds ~~from the account~~ for the following taxes
657 due and paid by that business after entering into the agreement:
658 a. Taxes on sales, use, and other transactions paid
659 pursuant to chapter 212.
660 b. Intangible personal property taxes paid pursuant to
661 chapter 199.
662 c. Excise taxes paid on documents pursuant to chapter 201.
663 d. Ad valorem taxes paid, as defined in s. 220.03(1)(a) on
664 June 1, 1996.
665 e. State communications services taxes administered under
666 chapter 202. This provision does not apply to the gross receipts
667 tax imposed under chapter 203 and administered under chapter 202
668 or the local communications services tax authorized under s.
669 202.19.
670
671 However, a qualified applicant may not receive a tax refund
672 pursuant to this section for any amount of credit, refund, or
673 exemption granted such contractor for any of such taxes. If a
674 refund for such taxes is provided by the department, which taxes
675 are subsequently adjusted by the application of any credit,
676 refund, or exemption granted to the qualified applicant other
677 than that provided in this section, the qualified applicant

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678 shall reimburse the department ~~Economic Development Trust Fund~~
679 for the amount of such credit, refund, or exemption. A qualified
680 applicant must notify and tender payment to the department
681 within 20 days after receiving a credit, refund, or exemption,
682 other than that provided in this section.
683 (f) Any qualified applicant who fraudulently claims this
684 refund is liable for repayment of the refund to the department
685 ~~Economic Development Trust Fund~~ plus a mandatory penalty of 200
686 percent of the tax refund which shall be deposited into the
687 General Revenue Fund. Any qualified applicant who fraudulently
688 claims this refund commits a felony of the third degree,
689 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
690 (3) APPLICATION PROCESS; REQUIREMENTS; AGENCY
691 DETERMINATION.—
692 (e) To qualify for review by the department, the
693 application of an applicant must, at a minimum, establish the
694 following to the satisfaction of the department:
695 1. The jobs proposed to be provided under the application,
696 pursuant to subparagraph (b)6., subparagraph (c)6., or
697 subparagraph (j)6., must pay an estimated annual average wage
698 equaling at least 115 percent of the average private sector wage
699 in the area where the project is to be located.
700 2. The consolidation of a Department of Defense contract
701 must result in a net increase of at least 25 percent in the
702 number of jobs at the applicant's facilities in this state or
703 the addition of at least 80 jobs at the applicant's facilities
704 in this state.
705 3. The conversion of defense production jobs to nondefense
706 production jobs must result in net increases in nondefense

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707 employment at the applicant’s facilities in this state.
708 4. The Department of Defense contract or the space flight
709 business contract cannot allow the business to include the costs
710 of relocation or retooling in its base as allowable costs under
711 a cost-plus, or similar, contract.
712 5. A business unit of the applicant must have derived not
713 less than 60 percent of its gross receipts in this state from
714 Department of Defense contracts or space flight business
715 contracts over the applicant’s last fiscal year, and must have
716 derived not less than an average of 60 percent of its gross
717 receipts in this state from Department of Defense contracts or
718 space flight business contracts over the 5 years preceding the
719 date an application is submitted pursuant to this section. This
720 subparagraph does not apply to any application for certification
721 based on a contract for reuse of a defense-related facility.
722 6. The reuse of a defense-related facility must result in
723 the creation of at least 100 jobs at such facility.
724 7. A new space flight business contract or the
725 consolidation of a space flight business contract must result in
726 net increases in space flight business employment at the
727 applicant’s facilities in this state.
728 (h) The department may not certify any applicant as a
729 qualified applicant when the value of tax refunds to be included
730 in that letter of certification exceeds the available amount of
731 authority to certify a new business in any fiscal year
732 ~~businesses~~ as determined pursuant to s. 288.061(10) ~~in s.~~
733 ~~288.095(3)~~. A letter of certification that approves an
734 application must specify the maximum amount of a tax refund that
735 is to be available to the contractor for each fiscal year and

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736 the total amount of tax refunds for all fiscal years.
737 (5) ANNUAL CLAIM FOR REFUND.—
738 (a) To be eligible to claim any scheduled tax refund,
739 qualified applicants who have entered into a written agreement
740 with the department pursuant to subsection (4) and who have
741 entered into a valid new Department of Defense contract, entered
742 into a valid new space flight business contract, commenced the
743 consolidation of a space flight business contract, commenced the
744 consolidation of a Department of Defense contract, commenced the
745 conversion of defense production jobs to nondefense production
746 jobs, or entered into a valid contract for reuse of a defense-
747 related facility must apply by January 31 of each fiscal year to
748 the department for tax refunds scheduled to be paid from the
749 appropriation for the fiscal year that begins on July 1
750 following the January 31 claims-submission date. The department
751 may, upon written request, grant up to a 60-day ~~30-day~~ extension
752 of the filing date. The application must include a notarized
753 signature of an officer of the applicant.
754 (b) The department shall verify ~~claim for refund by the~~
755 ~~qualified applicant must include a copy of all receipts~~
756 ~~pertaining to~~ the payment of taxes for which a claim for refund
757 is sought, and data related to achieving each performance item
758 contained in the tax refund agreement pursuant to subsection
759 (4). The amount requested as a tax refund may not exceed the
760 amount for the relevant fiscal year in the written agreement
761 entered pursuant to subsection (4).
762 (d) The department, with assistance from the Department of
763 Revenue, shall, by June 30 following the scheduled date for
764 submitting the tax refund claim, specify by written order the

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765 approval or disapproval of the tax refund claim and, if
766 approved, the amount of the tax refund that is authorized to be
767 paid to the qualified applicant for the annual tax refund. The
768 department may grant up to a 60-day ~~an~~ extension of this date
769 upon the request of the qualified applicant for the purpose of
770 filing additional information in support of the claim.
771 (e) The total amount of tax refunds approved by the
772 department under this section in any fiscal year may not exceed
773 the amount authorized under s. 288.061(10) ~~s. 288.095(3)~~.
774 (7) EXPIRATION.—An applicant may not be certified as
775 qualified under this section after June 30, 2020 ~~2014~~. A tax
776 refund agreement existing on that date shall continue in effect
777 in accordance with its terms.
778 Section 12. Paragraphs (c), (k), and (q) of subsection (2),
779 paragraphs (a), (d), (e), and (g) of subsection (3), paragraphs
780 (b) and (e) of subsection (4), and paragraphs (a) and (d)
781 through (g) of subsection (6) of section 288.106, Florida
782 Statutes, are amended to read:
783 288.106 Tax refund program for qualified target industry
784 businesses.—
785 (2) DEFINITIONS.—As used in this section:
786 (c) “Average private sector wage in the area” means the
787 statewide private sector average wage or the average of all
788 private sector wages and salaries in the county or in the
789 standard metropolitan area in which the business is located.
790 (k) “Local financial support exemption option” means the
791 option to exercise an exemption from the local financial support
792 requirement available to an ~~any~~ applicant whose project is
793 located in a brownfield area, a rural city, or a rural

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794 community. ~~Any applicant that exercises this option is not~~
795 ~~eligible for more than 80 percent of the total tax refunds~~
796 ~~allowed such applicant under this section.~~
797 (q) "Target industry business" means a corporate
798 headquarters business or any business that is engaged in one of
799 the target industries identified pursuant to the following
800 criteria developed by the department in consultation with
801 Enterprise Florida, Inc.:
802 1. Future growth.—Industry forecasts should indicate strong
803 expectation for future growth in both employment and output,
804 according to the most recent available data. Special
805 consideration should be given to businesses that export goods
806 to, or provide services in, international markets and businesses
807 that replace domestic and international imports of goods or
808 services.
809 2. Stability.—The industry should not be subject to
810 periodic layoffs, whether due to seasonality or sensitivity to
811 volatile economic variables such as weather. The industry should
812 also be relatively resistant to recession, so that the demand
813 for products of this industry is not typically subject to
814 decline during an economic downturn.
815 3. High wage.—The industry should pay relatively high wages
816 compared to statewide or area averages.
817 4. Market and resource independent.—The location of
818 industry businesses should not be dependent on Florida markets
819 or resources as indicated by industry analysis, except for
820 businesses in the renewable energy industry.
821 5. Industrial base diversification and strengthening.—The
822 industry should contribute toward expanding or diversifying the

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823 state's or area's economic base, as indicated by analysis of
824 employment and output shares compared to national and regional
825 trends. Special consideration should be given to industries that
826 strengthen regional economies by adding value to basic products
827 or building regional industrial clusters as indicated by
828 industry analysis. Special consideration should also be given to
829 the development of strong industrial clusters that include
830 defense and homeland security businesses.
831 6. Positive economic impact.—The industry is expected to
832 have strong positive economic impacts on or benefits to the
833 state or regional economies. Special consideration should be
834 given to industries that facilitate the development of the state
835 as a hub for domestic and global trade and logistics.
836
837 The term does not include any business engaged in retail
838 industry activities; any electrical utility company as defined
839 in s. 366.02(2); any phosphate or other solid minerals
840 severance, mining, or processing operation; any oil or gas
841 exploration or production operation; or any business subject to
842 regulation by the Division of Hotels and Restaurants of the
843 Department of Business and Professional Regulation. Any business
844 within NAICS code 5611 or 5614, office administrative services
845 and business support services, respectively, <u>or any business</u>
846 <u>within NAICS code 611310 which offers only baccalaureate or</u>
847 <u>higher degree programs that address health care workforce demand</u>
848 may be considered a target industry business only after the
849 local governing body and Enterprise Florida, Inc., make a
850 determination that the community where the business may locate
851 has conditions affecting the fiscal and economic viability of

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852 the local community or area, including but not limited to,
853 factors such as low per capita income, high unemployment, high
854 underemployment, and a lack of year-round stable employment
855 opportunities, and such conditions may be improved by the
856 location of such a business to the community. By January 1 of
857 every 3rd year, beginning January 1, 2011, the department, in
858 consultation with Enterprise Florida, Inc., economic development
859 organizations, the State University System, local governments,
860 employee and employer organizations, market analysts, and
861 economists, shall review and, as appropriate, revise the list of
862 such target industries and submit the list to the Governor, the
863 President of the Senate, and the Speaker of the House of
864 Representatives.
865 (3) TAX REFUND; ELIGIBLE AMOUNTS.—
866 (a) There shall be allowed~~, from the account,~~ a refund to a
867 qualified target industry business for the amount of eligible
868 taxes certified by the department that were paid by the
869 business. The total amount of refunds for all fiscal years for
870 each qualified target industry business must be determined
871 pursuant to subsection (4). The annual amount of a refund to a
872 qualified target industry business must be determined pursuant
873 to subsection (6).
874 (d) After entering into a tax refund agreement under
875 subsection (5), a qualified target industry business may:
876 1. Receive refunds ~~from the account~~ for the following taxes
877 due and paid by that business beginning with the first taxable
878 year of the business that begins after entering into the
879 agreement:
880 a. Corporate income taxes under chapter 220.

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881 b. Insurance premium tax under s. 624.509.
882 2. Receive refunds from ~~the account for~~ the following taxes
883 due and paid by that business after entering into the agreement:
884 a. Taxes on sales, use, and other transactions under
885 chapter 212.
886 b. Intangible personal property taxes under chapter 199.
887 c. Excise taxes on documents under chapter 201.
888 d. Ad valorem taxes paid, as defined in s. 220.03(1).
889 e. State communications services taxes administered under
890 chapter 202. This provision does not apply to the gross receipts
891 tax imposed under chapter 203 and administered under chapter 202
892 or the local communications services tax authorized under s.
893 202.19.
894 (e) However, a qualified target industry business may not
895 receive a refund under this section for any amount of credit,
896 refund, or exemption previously granted to that business for any
897 of the taxes listed in paragraph (d). If a refund for such taxes
898 is provided by the department, which taxes are subsequently
899 adjusted by the application of any credit, refund, or exemption
900 granted to the qualified target industry business other than as
901 provided in this section, the business shall reimburse the
902 department ~~account~~ for the amount of that credit, refund, or
903 exemption. A qualified target industry business shall notify and
904 tender payment to the department within 20 days after receiving
905 any credit, refund, or exemption other than one provided in this
906 section.
907 (g) A qualified target industry business that fraudulently
908 claims a refund under this section:
909 1. Is liable for repayment of the amount of the refund to

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910 the department ~~account~~, plus a mandatory penalty in the amount
911 of 200 percent of the tax refund which shall be deposited into
912 the General Revenue Fund.
913 2. Commits a felony of the third degree, punishable as
914 provided in s. 775.082, s. 775.083, or s. 775.084.
915 (4) APPLICATION AND APPROVAL PROCESS.—
916 (b) To qualify for review by the department, the
917 application of a target industry business must, at a minimum,
918 establish the following to the satisfaction of the department:
919 1.a. The jobs proposed to be created under the application,
920 pursuant to subparagraph (a)4., must pay an estimated annual
921 average wage equaling at least 115 percent of the average
922 private sector wage in the area where the business is to be
923 located ~~or the statewide private sector average wage~~. The
924 governing board of the local governmental entity providing the
925 local financial support of the jurisdiction where the qualified
926 target industry business is to be located shall notify the
927 department and Enterprise Florida, Inc., which calculation of
928 the average private sector wage in the area must be used as the
929 basis for the business's wage commitment. In determining the
930 average annual wage, the department shall include only new
931 proposed jobs, and wages for existing jobs shall be excluded
932 from this calculation.
933 b. The department may waive the average wage requirement at
934 the request of the local governing body recommending the project
935 and Enterprise Florida, Inc. The department may waive the wage
936 requirement for a project located in a brownfield area
937 designated under s. 376.80, in a rural city, in a rural
938 community, in an enterprise zone, or for a manufacturing project

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939 at any location in the state if the jobs proposed to be created
940 pay an estimated annual average wage equaling at least 100
941 percent of the average private sector wage in the area where the
942 business is to be located, only if the merits of the individual
943 project or the specific circumstances in the community in
944 relationship to the project warrant such action. If the local
945 governing body and Enterprise Florida, Inc., make such a
946 recommendation, it must be transmitted in writing with~~, and~~ the
947 specific justification for the waiver recommendation ~~must be~~
948 explained. If the department elects to waive the wage
949 requirement, the waiver must be stated in writing with~~, and~~ the
950 reasons for granting the waiver ~~must be~~ explained.
951 2. The target industry business's project must result in
952 the creation of at least 10 jobs at the project and, in the case
953 of an expansion of an existing business, must result in a net
954 increase in employment of at least 10 percent at the business.
955 At the request of the local governing body recommending the
956 project and Enterprise Florida, Inc., the department may waive
957 this requirement for a business in a rural community or
958 enterprise zone if the merits of the individual project or the
959 specific circumstances in the community in relationship to the
960 project warrant such action. If the local governing body and
961 Enterprise Florida, Inc., make such a request, the request must
962 be transmitted in writing with an explanation of~~, and~~ the
963 specific justification for the request ~~must be explained~~. If the
964 department elects to grant the request, the grant must be stated
965 in writing and explain~~, and~~ the reason for granting the request
966 ~~must be explained~~.
967 3. The business activity or product for the applicant's

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968 project must be within an industry identified by the department
969 as a target industry business that contributes to the economic
970 growth of the state and the area in which the business is
971 located, that produces a higher standard of living for residents
972 of this state in the new global economy, or that can be shown to
973 make an equivalent contribution to the area's and state's
974 economic progress.
975 (e) The department may not certify any target industry
976 business as a qualified target industry business if the value of
977 tax refunds to be included in that letter of certification
978 exceeds the available amount of authority to certify a new
979 business in any fiscal year ~~businesses~~ as determined pursuant to
980 s. 288.061(10) ~~in s. 288.095(3)~~. ~~However,~~ Except as provided in
981 paragraph (2)(k), if the commitments of local financial support
982 represent less than 20 percent of the eligible tax refund
983 payments, or to otherwise preserve the viability and fiscal
984 integrity of the program, the department may certify a qualified
985 target industry business to receive tax refund payments of less
986 than the allowable amounts specified in paragraph (3)(b). A
987 letter of certification that approves an application must
988 specify the maximum amount of tax refund that will be available
989 to the qualified industry business in each fiscal year and the
990 total amount of tax refunds that will be available to the
991 business for all fiscal years.
992 (6) ANNUAL CLAIM FOR REFUND.—
993 (a) To be eligible to claim any scheduled tax refund, a
994 qualified target industry business that has entered into a tax
995 refund agreement with the department under subsection (5) must
996 apply by January 31 of each fiscal year to the department for

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997 the tax refund scheduled to be paid from the appropriation for
998 the fiscal year that begins on July 1 following the January 31
999 claims-submission date. The department may, upon written
1000 request, grant up to a 60-day ~~30-day~~ extension of the filing
1001 date.
1002 (d) A tax refund may not be approved for a qualified target
1003 industry business unless the required local financial support
1004 has been paid into the account for that refund. Except as
1005 provided in paragraph (2)(k), if the local financial support
1006 provided is less than 20 percent of the approved tax refund, the
1007 tax refund must be reduced. In no event may the tax refund
1008 exceed an amount that is equal to 5 times the amount of the
1009 local financial support received. Further, funding from local
1010 sources includes any tax abatement granted to that business
1011 under s. 196.1995 or the appraised market value of municipal or
1012 county land conveyed or provided at a discount to that business.
1013 The amount of any tax refund for such business approved under
1014 this section must be reduced by the amount of any such tax
1015 abatement granted or the value of the land granted, and the
1016 limitations in subsection (3) and paragraph (4)(e) must be
1017 reduced by the amount of any such tax abatement or the value of
1018 the land granted. A report listing all sources of the local
1019 financial support shall be provided to the department when such
1020 support is paid to the account.
1021 (e) A prorated tax refund, less a 5 percent penalty, shall
1022 be approved for a qualified target industry business if all
1023 other applicable requirements have been satisfied and the
1024 business proves to the satisfaction of the department that:
1025 1. It has achieved at least 80 percent of its projected

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1026 employment; and
1027 2. The average wage paid by the business is at least 90
1028 percent of that ~~the average wage~~ specified in the tax refund
1029 agreement. However, the average wage may not be~~, but in no case~~
1030 less than 115 percent of the average private sector wage in the
1031 area available at the time of certification; or, if the business
1032 requested the additional per-job tax refund authorized in
1033 paragraph (3)(b) for wages of at least 150 percent of the
1034 average private sector wage in the area available at the time of
1035 certification, less than 135 percent of the average private
1036 sector wage in the area available at the time of certification;~~,~~
1037 or if the business requested the additional per-job tax refund
1038 authorized in paragraph (3)(b) for wages of at least ~~150 percent~~
1039 ~~or~~ 200 percent of the average private sector wage in the area
1040 available at the time of certification, less than 180 percent of
1041 the average private sector wage in the area available at the
1042 time of certification ~~if the business requested the additional~~
1043 ~~per-job tax refund authorized in paragraph (3)(b) for wages~~
1044 ~~above those levels~~. The prorated tax refund shall be calculated
1045 by multiplying the tax refund amount for which the qualified
1046 target industry business would have been eligible, if all
1047 applicable requirements had been satisfied, by the percentage of
1048 the average employment specified in the tax refund agreement
1049 which was achieved, and by the percentage of the average wages
1050 specified in the tax refund agreement which was achieved.
1051 (f) The department, with such assistance as may be required
1052 from the Department of Revenue, shall, by June 30 following the
1053 scheduled date for submission of the tax refund claim, specify
1054 by written order the approval or disapproval of the tax refund

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1055 claim and, if approved, the amount of the tax refund that is
1056 authorized to be paid to the qualified target industry business
1057 for the annual tax refund. The department may grant up to a 60-
1058 day ~~an~~ extension of this date on the request of the qualified
1059 target industry business for the purpose of filing additional
1060 information in support of the claim.
1061 (g) The total amount of tax refund claims approved by the
1062 department under this section in any fiscal year may ~~must~~ not
1063 exceed the amount authorized under s. 288.061(10) ~~s. 288.095(3)~~.
1064 Section 13. Paragraph (d) of subsection (1), subsection
1065 (2), paragraph (b) of subsection (3), and paragraphs (d), (e),
1066 and (i) of subsection (4) of section 288.107, Florida Statutes,
1067 are amended to read:
1068 288.107 Brownfield redevelopment bonus refunds.—
1069 (1) DEFINITIONS.—As used in this section:
1070 (d) "Eligible business" means:
1071 1. A qualified target industry business as defined in s.
1072 288.106(2); or
1073 2. A business that can demonstrate that it has made a fixed
1074 capital investment of at least $2 million in mixed-use business
1075 activities, including multiunit housing, commercial, retail, and
1076 industrial in brownfield areas eligible for bonus refunds, and
1077 that provides benefits to its employees.
1078 (2) BROWNFIELD REDEVELOPMENT BONUS REFUND.—Bonus refunds
1079 shall be approved by the department as specified in the final
1080 order and allowed ~~from the account~~ as follows:
1081 (a) A bonus refund of $2,500 shall be allowed to any
1082 qualified target industry business as defined in s. 288.106 for
1083 each new Florida job created in a brownfield area eligible for

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1084 bonus refunds which is claimed on the qualified target industry
1085 business's annual refund claim authorized in s. 288.106(6).
1086 (b) A bonus refund of up to $2,500 shall be allowed to any
1087 other eligible business as defined in subparagraph (1)(d)2. for
1088 each new Florida job created in a brownfield area eligible for
1089 bonus refunds which is claimed under an annual claim procedure
1090 similar to the annual refund claim authorized in s. 288.106(6).
1091 The amount of the refund shall be equal to 20 percent of the
1092 average annual wage for the jobs created.
1093 (3) CRITERIA.—The minimum criteria for participation in the
1094 brownfield redevelopment bonus refund are:
1095 (b) The completion of a fixed capital investment of at
1096 least $2 million in mixed-use business activities, including
1097 multiunit housing, commercial, retail, and industrial in
1098 brownfield areas eligible for bonus refunds, by an eligible
1099 business applying for a refund under paragraph (2)(b) which
1100 provides benefits to its employees. As used in this paragraph,
1101 the term "fixed capital investment" does not include state funds
1102 used for the capital investment, including state funds
1103 appropriated to public and private entities.
1104 (4) PAYMENT OF BROWNFIELD REDEVELOPMENT BONUS REFUNDS.—
1105 (d) After entering into a tax refund agreement as provided
1106 in s. 288.106 or other similar agreement for other eligible
1107 businesses as defined in paragraph (1)(e), an eligible business
1108 may receive brownfield redevelopment bonus refunds ~~from the~~
1109 ~~account~~ pursuant to s. 288.106(3)(d).
1110 (e) An eligible business that fraudulently claims a refund
1111 under this section:
1112 1. Is liable for repayment of the amount of the refund to

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1113 the department ~~account~~, plus a mandatory penalty in the amount
1114 of 200 percent of the tax refund, which shall be deposited into
1115 the General Revenue Fund.
1116 2. Commits a felony of the third degree, punishable as
1117 provided in s. 775.082, s. 775.083, or s. 775.084.
1118 (i) The total amount of the bonus refunds approved by the
1119 department under this section in any fiscal year may ~~must~~ not
1120 exceed the ~~total~~ amount specified in s. 288.061(10) ~~appropriated~~
1121 ~~to the Economic Development Incentives Account for this purpose~~
1122 ~~for the fiscal year~~. ~~In the event that the Legislature does not~~
1123 ~~appropriate an amount sufficient to satisfy projections by the~~
1124 ~~department for brownfield redevelopment bonus refunds under this~~
1125 ~~section in a fiscal year, the department shall, not later than~~
1126 ~~July 15 of such year, determine the proportion of each~~
1127 ~~brownfield redevelopment bonus refund claim which shall be paid~~
1128 ~~by dividing the amount appropriated for tax refunds for the~~
1129 ~~fiscal year by the projected total of brownfield redevelopment~~
1130 ~~bonus refund claims for the fiscal year. The amount of each~~
1131 ~~claim for a brownfield redevelopment bonus tax refund shall be~~
1132 ~~multiplied by the resulting quotient. If, after the payment of~~
1133 ~~all such refund claims, funds remain in the Economic Development~~
1134 ~~Incentives Account for brownfield redevelopment tax refunds, the~~
1135 ~~department shall recalculate the proportion for each refund~~
1136 ~~claim and adjust the amount of each claim accordingly.~~
1137 Section 14. Subsection (4) of section 288.108, Florida
1138 Statutes, is amended to read:
1139 288.108 High-impact business.—
1140 (4) AUTHORITY TO APPROVE QUALIFIED HIGH-IMPACT BUSINESS
1141 PERFORMANCE GRANTS.—

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1142 ~~(a)~~ The total amount of active performance grants scheduled
1143 for payment by the department in any single fiscal year may not
1144 exceed the amount specified in s. 288.061(10) ~~lesser of $30~~
1145 ~~million or the amount appropriated by the Legislature for that~~
1146 ~~fiscal year for qualified high-impact business performance~~
1147 ~~grants~~. ~~If the scheduled grant payments are not made in the year~~
1148 ~~for which they were scheduled in the qualified high-impact~~
1149 ~~business agreement and are rescheduled as authorized in~~
1150 ~~paragraph (3)(c), they are, for purposes of this paragraph,~~
1151 ~~deemed to have been paid in the year in which they were~~
1152 ~~originally scheduled in the qualified high-impact business~~
1153 ~~agreement.~~
1154 ~~(b) If the Legislature does not appropriate an amount~~
1155 ~~sufficient to satisfy the qualified high-impact business~~
1156 ~~performance grant payments scheduled for any fiscal year, the~~
1157 ~~department shall, not later than July 15 of that year, determine~~
1158 ~~the proportion of each grant payment which may be paid by~~
1159 ~~dividing the amount appropriated for qualified high-impact~~
1160 ~~business performance grant payments for the fiscal year by the~~
1161 ~~total performance grant payments scheduled in all performance~~
1162 ~~grant agreements for the fiscal year. The amount of each grant~~
1163 ~~scheduled for payment in that fiscal year must be multiplied by~~
1164 ~~the resulting quotient. All businesses affected by this~~
1165 ~~calculation must be notified by August 1 of each fiscal year.~~
1166 ~~If, after the payment of all the refund claims, funds remain in~~
1167 ~~the appropriation for payment of qualified high-impact business~~
1168 ~~performance grants, the department shall recalculate the~~
1169 ~~proportion for each performance grant payment and adjust the~~
1170 ~~amount of each claim accordingly.~~

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1171 Section 15. Subsections (2), (3), and (4) of section
1172 288.1088, Florida Statutes, are amended to read:
1173 288.1088 Quick Action Closing Fund.—
1174 (2) There is created within the department the Quick Action
1175 Closing Fund. Except as provided in subsection (3), projects
1176 eligible for receipt of funds from the Quick Action Closing Fund
1177 must ~~shall~~:
1178 (a) Be in an industry as referenced in s. 288.106.
1179 (b) Have a positive economic benefit ratio of at least 4 to
1180 1 ~~5 to 1~~.
1181 (c) Be an inducement to the project's location or expansion
1182 in the state.
1183 (d) Pay an average annual wage of at least 125 percent of
1184 the average ~~areawide or statewide~~ private sector ~~average~~ wage in
1185 the area. As used in this section, the term "average private
1186 sector wage in the area" means statewide private sector average
1187 wage or the average of all private sector wages in the county or
1188 in the standard metropolitan area in which the project is
1189 located as determined by the department.
1190 (e) Be supported by the local community in which the
1191 project is to be located.
1192 (3)(a) The department and Enterprise Florida, Inc., shall
1193 jointly review applications pursuant to s. 288.061 and determine
1194 the eligibility of each project consistent with the criteria in
1195 subsection (2).
1196 (b) If the local governing body and Enterprise Florida,
1197 Inc., decide to request a waiver of the criteria in subsection
1198 (2), the request must be transmitted in writing to the
1199 department with an explanation of the specific justification for

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1200 the request. If the department approves the request, the
1201 decision must be stated in writing with an explanation of the
1202 reason for approving the request.
1203 (c) The department may not waive more than two of the
1204 criteria in subsection (2), and a waiver ~~of these criteria~~ may
1205 be considered only ~~under the following criteria~~:
1206 1. If the department determines the existence of ~~Based on~~
1207 extraordinary circumstances;
1208 2. In order to mitigate the impact of the conclusion of the
1209 space shuttle program; or
1210 3. In rural areas of opportunity if the project would
1211 significantly benefit the local or regional economy.
1212 (d) The criteria in subsection (2) may not be waived if:
1213 1. The economic benefit ratio would be below 2 to 1, or for
1214 a corporate headquarters business as defined in s. 288.106,
1215 would be below 1.5 to 1; or
1216 2. The average annual wage would be below 100 percent of
1217 the average private sector wage in the area.
1218 (e) The criteria that the incentive be an inducement to the
1219 project's location or expansion in this state may not be waived.
1220 (4)~~(b)~~ The department shall evaluate individual proposals
1221 for high-impact business facilities. Such evaluation must
1222 include, but need not be limited to:
1223 (a)~~1.~~ A description of the type of facility or
1224 infrastructure, its operations, and the associated product or
1225 service associated with the facility.
1226 (b)~~2.~~ The minimum and maximum number of full-time-
1227 equivalent jobs that will be created by the facility and the
1228 total estimated average annual wages of those jobs or, in the

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1229 case of privately developed rural infrastructure, the types of
1230 business activities and jobs stimulated by the investment.
1231 (c)~~3.~~ The cumulative amount of investment to be dedicated
1232 to the facility within a specified period.
1233 (d)~~4.~~ A statement of any special impacts the facility is
1234 expected to stimulate in a particular business sector in the
1235 state or regional economy or in the state's universities and
1236 community colleges.
1237 (e)~~5.~~ A statement of the role the incentive is expected to
1238 play in the decision of the applicant business to locate or
1239 expand in this state or for the private investor to provide
1240 critical rural infrastructure.
1241 (f)~~6.~~ A report evaluating the quality and value of the
1242 company submitting a proposal. The report must include:
1243 1.~~a.~~ A financial analysis of the company, including an
1244 evaluation of the company's short-term liquidity ratio as
1245 measured by its assets to liability, the company's profitability
1246 ratio, and the company's long-term solvency as measured by its
1247 debt-to-equity ratio;
1248 2.~~b.~~ The historical market performance of the company;
1249 3.~~c.~~ A review of any independent evaluations of the
1250 company;
1251 4.~~d.~~ A review of the latest audit of the company's
1252 financial statement and the related auditor's management letter;
1253 and
1254 5.~~e.~~ A review of any other types of audits that are related
1255 to the internal and management controls of the company.
1256 ~~(c)1. Within 7 business days after evaluating a project,~~
1257 ~~the department shall recommend to the Governor approval or~~

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1258 ~~disapproval of a project for receipt of funds from the Quick~~
1259 ~~Action Closing Fund. In recommending a project, the department~~
1260 ~~shall include proposed performance conditions that the project~~
1261 ~~must meet to obtain incentive funds.~~
1262 ~~2. The Governor may approve projects without consulting the~~
1263 ~~Legislature for projects requiring less than $2 million in~~
1264 ~~funding.~~
1265 ~~3. For projects requiring funding in the amount of $2~~
1266 ~~million to $5 million, the Governor shall provide a written~~
1267 ~~description and evaluation of a project recommended for approval~~
1268 ~~to the chair and vice chair of the Legislative Budget Commission~~
1269 ~~at least 10 days prior to giving final approval for a project.~~
1270 ~~The recommendation must include proposed performance conditions~~
1271 ~~that the project must meet in order to obtain funds.~~
1272 ~~4. If the chair or vice chair of the Legislative Budget~~
1273 ~~Commission or the President of the Senate or the Speaker of the~~
1274 ~~House of Representatives timely advises the Executive Office of~~
1275 ~~the Governor, in writing, that such action or proposed action~~
1276 ~~exceeds the delegated authority of the Executive Office of the~~
1277 ~~Governor or is contrary to legislative policy or intent, the~~
1278 ~~Executive Office of the Governor shall void the release of funds~~
1279 ~~and instruct the department to immediately change such action or~~
1280 ~~proposed action until the Legislative Budget Commission or the~~
1281 ~~Legislature addresses the issue. Notwithstanding such~~
1282 ~~requirement, any project exceeding $5 million must be approved~~
1283 ~~by the Legislative Budget Commission prior to the funds being~~
1284 ~~released.~~
1285 (5) ~~(d)~~ Upon the approval of the Governor, the department
1286 and the business shall enter into a contract that sets forth the

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1287 conditions for payment of moneys from the fund. Such payment may
1288 not be made to the business until the scheduled goals have been
1289 achieved. The contract must include the total amount of funds
1290 awarded; the minimum and maximum amount of funds that may be
1291 awarded, if applicable; the performance conditions that must be
1292 met to obtain the award, including, but not limited to, net new
1293 employment in the state, average salary, ~~and~~ total capital
1294 investment incurred by the business, and the minimum and maximum
1295 number of jobs that will be created, if applicable; demonstrate
1296 a baseline of current service and a measure of enhanced
1297 capability; the methodology for validating performance; the
1298 schedule of payments from the fund; and sanctions for failure to
1299 meet performance conditions. The contract must provide that
1300 payment of moneys from the fund is contingent upon sufficient
1301 appropriation of funds by the Legislature.
1302 (6) ~~(c)~~ The department shall validate contractor performance
1303 and report such validation in the annual incentives report
1304 required under s. 288.907.
1305 ~~(4) Funds appropriated by the Legislature for purposes of~~
1306 ~~implementing this section shall be placed in reserve and may~~
1307 ~~only be released pursuant to the legislative consultation and~~
1308 ~~review requirements set forth in this section.~~
1309 Section 16. Section 288.10881, Florida Statutes, is created
1310 to read:
1311 288.10881 Quick Action Closing Fund Escrow Account.—
1312 (1) There is created within the State Board of
1313 Administration the Quick Action Closing Fund Escrow Account. The
1314 Quick Action Closing Fund Escrow Account shall consist of moneys
1315 transferred from Enterprise Florida, Inc., which were held in an

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1316 escrow account on June 30, 2015, for approved Quick Action
1317 Closing Fund contracts or agreements.
1318 (2) Moneys in the Quick Action Closing Fund Escrow Account
1319 may be used only for making payments pursuant to contracts or
1320 agreements for specified projects authorized under s. 288.1088.
1321 (3) After an independent third party has verified that an
1322 applicant has satisfied all of the requirements of the agreement
1323 or contract, and the department has determined that an applicant
1324 meets the required project performance criteria and that a
1325 payment is due, the State Board of Administration shall transfer
1326 the funds for the payment to the department for deposit in the
1327 State Economic Enhancement and Development Trust Fund. A
1328 continuing appropriation category shall be established to make
1329 payments from the Quick Action Closing Fund Escrow Account.
1330 (4) Any funds in the Quick Action Closing Fund Escrow
1331 Account which are encumbered by a contract or agreement that
1332 does not meet the requirements or that is terminated must be
1333 returned to the department for deposit in the State Economic
1334 Enhancement and Development Trust Fund within 10 calendar days
1335 after the date the department notifies the State Board of
1336 Administration of the encumbrance.
1337 (5) Funds in the Quick Action Closing Fund Escrow Account
1338 shall be managed in accordance with the best investment
1339 practices and invested in a manner designed to generate the
1340 maximum amount of interest earnings. The funds must be available
1341 to make payments pursuant to Quick Action Closing Fund contracts
1342 or agreements. The State Board of Administration shall transfer
1343 interest earnings on a quarterly basis to the department for
1344 deposit in the State Economic Enhancement and Development Trust

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1345 Fund.
1346 (6) Subject to a specific appropriation, funds transferred
1347 from the State Board of Administration under subsections (4) and
1348 (5) may be used to fund the marketing activities of Enterprise
1349 Florida, Inc.
1350 Section 17. By July 10, 2015, Enterprise Florida, Inc.,
1351 shall transfer any funds held in an escrow account on June 30,
1352 2015, for approved Quick Action Closing Fund contracts or
1353 agreements to the State Board of Administration for deposit in
1354 the Quick Action Closing Fund Escrow Account.
1355 Section 18. Paragraph (b) of subsection (2), paragraphs (a)
1356 and (d) of subsection (4), subsection (7), and paragraph (b) of
1357 subsection (8) of section 288.1089, Florida Statutes, are
1358 amended to read:
1359 288.1089 Innovation Incentive Program.—
1360 (2) As used in this section, the term:
1361 (b) "Average private sector wage in the area" means the
1362 statewide average wage in the private sector or the average of
1363 all private sector wages in the county or in the standard
1364 metropolitan area in which the project is located as determined
1365 by the department.
1366 (4) To qualify for review by the department, the applicant
1367 must, at a minimum, establish the following to the satisfaction
1368 of the department:
1369 (a) The jobs created by the project must pay an estimated
1370 annual average wage equaling at least 130 percent of the average
1371 private sector wage in the area. The department may waive this
1372 average wage requirement at the request of Enterprise Florida,
1373 Inc., for a project located in a rural area, a brownfield area,

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1374 or an enterprise zone, when the merits of the individual project
1375 or the specific circumstances in the community in relationship
1376 to the project warrant such action. A recommendation for waiver
1377 by Enterprise Florida, Inc., must include a specific
1378 justification for the waiver and be transmitted to the
1379 department in writing. If the department elects to waive the
1380 wage requirement, the waiver must be stated in writing and
1381 explain ~~and~~ the reasons for granting the waiver ~~must be~~
1382 ~~explained~~.
1383 (d) For an alternative and renewable energy project in this
1384 state, the project must:
1385 1. Demonstrate a plan for significant collaboration with an
1386 institution of higher education;
1387 2. Provide the state, at a minimum, a cumulative break-even
1388 economic benefit within a 20-year period;
1389 3. Include matching funds provided by the applicant or
1390 other available sources. The match requirement may be reduced or
1391 waived in rural areas of opportunity or reduced in rural areas,
1392 brownfield areas, and enterprise zones;
1393 4. Be located in this state; and
1394 5. Provide at least 35 direct, new jobs that pay an
1395 estimated annual average wage that equals at least 130 percent
1396 of the average private sector wage in the area.
1397 (7) Upon receipt of the evaluation and recommendation from
1398 the department, the Governor shall approve or deny an award
1399 pursuant to s. 288.061. In recommending approval of an award,
1400 the department shall include proposed performance conditions
1401 that the applicant must meet in order to obtain incentive funds
1402 and any other conditions that must be met before the receipt of

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1403 any incentive funds. ~~The Governor shall consult with the~~
1404 ~~President of the Senate and the Speaker of the House of~~
1405 ~~Representatives before giving approval for an award. Upon review~~
1406 ~~and approval of an award by the Legislative Budget Commission,~~
1407 ~~the Executive Office of the Governor shall release the funds.~~
1408 (8)
1409 (b) Additionally, agreements ~~signed on or after July 1,~~
1410 ~~2009,~~ must include the following provisions:
1411 1. Notwithstanding subsection (4), a requirement that the
1412 jobs created by the recipient of the incentive funds pay an
1413 annual average wage at least equal to the relevant industry's
1414 annual average wage or at least 130 percent of the average
1415 private sector wage in the area, whichever is greater.
1416 2. A reinvestment requirement. Each recipient of an award
1417 shall reinvest up to 15 percent of net royalty revenues,
1418 including revenues from spin-off companies and the revenues from
1419 the sale of stock it receives from the licensing or transfer of
1420 inventions, methods, processes, and other patentable discoveries
1421 conceived or reduced to practice using its facilities in Florida
1422 or its Florida-based employees, in whole or in part, and to
1423 which the recipient of the grant becomes entitled during the 20
1424 years following the effective date of its agreement with the
1425 department. Each recipient of an award also shall reinvest up to
1426 15 percent of the gross revenues it receives from naming
1427 opportunities associated with any facility it builds in this
1428 state. Reinvestment payments shall commence no later than 6
1429 months after the recipient of the grant has received the final
1430 disbursement under the contract and shall continue until the
1431 maximum reinvestment, as specified in the contract, has been

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1432 paid. Reinvestment payments shall be remitted to the department
1433 for deposit in the Biomedical Research Trust Fund for companies
1434 specializing in biomedicine or life sciences, or in the Economic
1435 Development Trust Fund for companies specializing in fields
1436 other than biomedicine or the life sciences. If these trust
1437 funds no longer exist at the time of the reinvestment, the
1438 state’s share of reinvestment shall be deposited in their
1439 successor trust funds as determined by law. Each recipient of an
1440 award shall annually submit a schedule of the shares of stock
1441 held by it as payment of the royalty required by this paragraph
1442 and report on any trades or activity concerning such stock. Each
1443 recipient’s reinvestment obligations survive the expiration or
1444 termination of its agreement with the state.
1445 3. Requirements for the establishment of internship
1446 programs or other learning opportunities for educators and
1447 secondary, postsecondary, graduate, and doctoral students.
1448 4. A requirement that the recipient submit quarterly
1449 reports and annual reports related to activities and performance
1450 to the department, according to standardized reporting periods.
1451 5. A requirement for an annual accounting to the department
1452 of the expenditure of funds disbursed under this section.
1453 6. A process for amending the agreement.
1454 Section 19. Subsection (5) is added to section 288.1097,
1455 Florida Statutes, to read:
1456 288.1097 Qualified job training organizations;
1457 certification; duties.—
1458 (5) Notwithstanding s. 624.4625(1)(b), a qualified job
1459 training organization that has been certified is eligible to
1460 participate in a self-insurance fund authorized by s. 624.4625

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1461 and is not subject to the requirements of s. 624.4621.
1462 Section 20. Subsection (6) of section 288.1168, Florida
1463 Statutes, is amended to read:
1464 288.1168 Professional golf hall of fame facility.—
1465 (6) Beginning in 2016, the department must annually
1466 recertify ~~every 10 years~~ that the facility is open, continues to
1467 be the only professional golf hall of fame in the United States
1468 recognized by the PGA Tour, Inc., and is meeting the minimum
1469 projections for attendance or sales tax revenue as required at
1470 the time of original certification.
1471 (a) For each year ~~If~~ the facility is not certified as
1472 meeting the minimum projections, the PGA Tour, Inc., shall
1473 increase its required advertising contribution of $2 million
1474 annually to $3 ~~$2.5~~ million annually in lieu of reduction of any
1475 funds as provided by s. 212.20. The additional $1 million
1476 ~~$500,000~~ must be allocated in its entirety for the use and
1477 promotion of generic Florida advertising as determined by the
1478 department in consultation with the Florida Tourism Industry
1479 Marketing Corporation. The facility must be prominently featured
1480 in at least 10 percent, but no more than 25 percent, of such
1481 advertising.
1482 (b) If the facility is not open to the public or is no
1483 longer in use as the only professional golf hall of fame in the
1484 United States recognized by the PGA Tour, Inc., the facility
1485 shall be decertified ~~the entire $2.5 million for advertising~~
1486 ~~must be used for generic Florida advertising as determined~~ by
1487 the department.
1488 Section 21. Section 288.1169, Florida Statutes, is
1489 repealed.

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1490 Section 22. Subsection (2) of section 288.1201, Florida
1491 Statutes, is amended to read:
1492 288.1201 State Economic Enhancement and Development Trust
1493 Fund.—
1494 (2) The trust fund is established for use as a depository
1495 for funds to be used for the purposes specified in subsection
1496 (1). Moneys to be credited to the trust fund shall consist of
1497 documentary stamp tax proceeds as specified in law, local
1498 financial support funds, interest earnings, reversions specified
1499 in law, and cash advances from other trust funds. Funds shall be
1500 expended only pursuant to legislative appropriation or an
1501 approved amendment to the department's operating budget pursuant
1502 to the provisions of chapter 216.
1503 Section 23. Effective October 1, 2015, section 288.125,
1504 Florida Statutes, is amended to read:
1505 288.125 Definition of term "entertainment industry."—For
1506 the purposes of ss. 288.1254, 288.1256, 288.1258, 288.913,
1507 288.914, and 288.915 ~~ss. 288.1251-288.1258~~, the term
1508 "entertainment industry" means those persons or entities engaged
1509 in the operation of motion picture or television studios or
1510 recording studios; those persons or entities engaged in the
1511 preproduction, production, or postproduction of motion pictures,
1512 made-for-television movies, television programming, digital
1513 media projects, commercial advertising, music videos, or sound
1514 recordings; and those persons or entities providing products or
1515 services directly related to the preproduction, production, or
1516 postproduction of motion pictures, made-for-television movies,
1517 television programming, digital media projects, commercial
1518 advertising, music videos, or sound recordings, including, but

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1519 not limited to, the broadcast industry.
1520 Section 24. Effective October 1, 2015, section 288.1251,
1521 Florida Statutes, is transferred, renumbered as section 288.913,
1522 Florida Statutes, and amended to read:
1523 288.913 ~~288.1251~~ Promotion and development of entertainment
1524 industry; Division ~~Office~~ of Film and Entertainment; creation;
1525 purpose; powers and duties.—
1526 (1) CREATION.—
1527 ~~(a)~~ The Division of Film and Entertainment is ~~There is~~
1528 ~~hereby~~ created within Enterprise Florida, Inc., ~~the department~~
1529 ~~the Office of Film and Entertainment~~ for the purpose of
1530 developing, recruiting, marketing, promoting, and providing
1531 services to the state's entertainment industry. The division
1532 shall serve as a liaison between the entertainment industry and
1533 other state and local governmental agencies, local film
1534 commissions, and labor organizations.
1535 (2)~~(b)~~ COMMISSIONER.—The Governor shall appoint the film
1536 and entertainment commissioner, who shall serve at the pleasure
1537 of the Governor ~~department shall conduct a national search for a~~
1538 ~~qualified person to fill the position of Commissioner of Film~~
1539 ~~and Entertainment when the position is vacant. The executive~~
1540 ~~director of the department has the responsibility to hire the~~
1541 ~~film commissioner~~. The commissioner is subject to the
1542 requirements of s. 288.901(1)(c). Qualifications for the film
1543 commissioner include, but are not limited to, the following:
1544 (a)~~1.~~ A working knowledge of and experience with the
1545 equipment, personnel, financial, and day-to-day production
1546 operations of the industries to be served by the division ~~Office~~
1547 ~~of Film and Entertainment~~;

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1548 (b)~~2.~~ Marketing and promotion experience related to the
1549 film and entertainment industries to be served;
1550 (c)~~3.~~ Experience working with a variety of individuals
1551 representing large and small entertainment-related businesses,
1552 industry associations, local community entertainment industry
1553 liaisons, and labor organizations; and
1554 (d)~~4.~~ Experience working with a variety of state and local
1555 governmental agencies.
1556 (3)~~(2)~~ POWERS AND DUTIES.—
1557 (a) The Division ~~Office~~ of Film and Entertainment, in
1558 performance of its duties, shall develop and~~:~~
1559 ~~1. In consultation with the Florida Film and Entertainment~~
1560 ~~Advisory Council,~~ update a 5-year ~~the~~ strategic plan ~~every 5~~
1561 ~~years~~ to guide the activities of the division ~~Office of Film and~~
1562 ~~Entertainment~~ in the areas of entertainment industry
1563 development, marketing, promotion, liaison services, field
1564 office administration, and information. The plan shall~~:~~
1565 ~~a.~~ be annual in construction and ongoing in nature.
1566 1. At a minimum, the plan must address the following:
1567 a.~~b. Include recommendations relating to~~ The organizational
1568 structure of the division, including any field offices outside
1569 the state ~~office~~.
1570 b. The coordination of the division with local or regional
1571 offices maintained by counties and regions of the state, local
1572 film commissions, and labor organizations, and the coordination
1573 of such entities with each other to facilitate a working
1574 relationship.
1575 c. Strategies to identify, solicit, and recruit
1576 entertainment production opportunities for the state, including

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1577 implementation of programs for rural and urban areas designed to
1578 develop and promote the state's entertainment industry.
1579 d.~~c.~~ ~~Include~~ An annual budget projection for the division
1580 ~~office~~ for each year of the plan.
1581 ~~d. Include an operational model for the office to use in~~
1582 ~~implementing programs for rural and urban areas designed to:~~
1583 ~~(I) develop and promote the state's entertainment industry.~~
1584 ~~(II) Have the office serve as a liaison between the~~
1585 ~~entertainment industry and other state and local governmental~~
1586 ~~agencies, local film commissions, and labor organizations.~~
1587 ~~(III) Gather statistical information related to the state's~~
1588 ~~entertainment industry.~~
1589 e.~~(IV)~~ Provision of ~~Provide~~ information and service to
1590 businesses, communities, organizations, and individuals engaged
1591 in entertainment industry activities.
1592 ~~(V) Administer field offices outside the state and~~
1593 ~~coordinate with regional offices maintained by counties and~~
1594 ~~regions of the state, as described in sub-sub-subparagraph (II),~~
1595 ~~as necessary.~~
1596 f.~~e.~~ ~~Include~~ Performance standards and measurable outcomes
1597 for the programs to be implemented by the division ~~office~~.
1598 2. The plan shall be annually reviewed and approved by the
1599 board of directors of Enterprise Florida, Inc.
1600 ~~f. Include an assessment of, and make recommendations on,~~
1601 ~~the feasibility of creating an alternative public-private~~
1602 ~~partnership for the purpose of contracting with such a~~
1603 ~~partnership for the administration of the state's entertainment~~
1604 ~~industry promotion, development, marketing, and service~~
1605 ~~programs.~~

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1606 ~~2. Develop, market, and facilitate a working relationship~~
1607 ~~between state agencies and local governments in cooperation with~~
1608 ~~local film commission offices for out-of-state and indigenous~~
1609 ~~entertainment industry production entities.~~
1610 ~~3. Implement a structured methodology prescribed for~~
1611 ~~coordinating activities of local offices with each other and the~~
1612 ~~commissioner's office.~~
1613 (b) The division shall also:
1614 1.~~4.~~ Represent the state's indigenous entertainment
1615 industry to key decisionmakers within the national and
1616 international entertainment industry, and to state and local
1617 officials.
1618 2.~~5.~~ Prepare an inventory and analysis of the state's
1619 entertainment industry, including, but not limited to,
1620 information on crew, related businesses, support services, job
1621 creation, talent, and economic impact and coordinate with local
1622 offices to develop an information tool for common use.
1623 3.~~6.~~ Identify, solicit, and recruit entertainment
1624 production opportunities for the state.
1625 4.~~7.~~ Assist rural communities and other small communities
1626 in the state in developing the expertise and capacity necessary
1627 for such communities to develop, market, promote, and provide
1628 services to the state's entertainment industry.
1629 (c)~~(b)~~ The division ~~Office of Film and Entertainment~~, in
1630 the performance of its duties, may:
1631 1. Conduct or contract for specific promotion and marketing
1632 functions, including, but not limited to, production of a
1633 statewide directory, production and maintenance of an Internet
1634 website, establishment and maintenance of a toll-free telephone

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1635 number, organization of trade show participation, and
1636 appropriate cooperative marketing opportunities.
1637 2. Conduct its affairs, carry on its operations, establish
1638 offices, and exercise the powers granted by this act in any
1639 state, territory, district, or possession of the United States.
1640 3. Carry out any program of information, special events, or
1641 publicity designed to attract entertainment industry to Florida.
1642 4. Develop relationships and leverage resources with other
1643 public and private organizations or groups in their efforts to
1644 publicize to the entertainment industry in this state, other
1645 states, and other countries the depth of Florida's entertainment
1646 industry talent, crew, production companies, production
1647 equipment resources, related businesses, and support services,
1648 including the establishment of and expenditure for a program of
1649 cooperative advertising with these public and private
1650 organizations and groups in accordance with the provisions of
1651 chapter 120.
1652 5. Provide and arrange for reasonable and necessary
1653 promotional items and services for such persons as the division
1654 ~~office~~ deems proper in connection with the performance of the
1655 promotional and other duties of the division ~~office~~.
1656 6. Prepare an ~~annual~~ economic impact analysis on
1657 entertainment industry-related activities in the state.
1658 7. Request or accept any grant, payment, or gift of funds
1659 or property made by this state, the United States, or any
1660 department or agency thereof, or by any individual, firm,
1661 corporation, municipality, county, or organization, for ~~any or~~
1662 ~~all of~~ the purposes of the ~~Office of Film and Entertainment's~~ 5-
1663 year strategic plan or those permitted activities enumerated in

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1664 this paragraph. Such funds shall be deposited in a separate
1665 account ~~the Grants and Donations Trust Fund of the Executive~~
1666 ~~Office of the Governor~~ for use by the division ~~Office of Film~~
1667 ~~and Entertainment~~ in carrying out its responsibilities and
1668 duties ~~as delineated in law~~. The division ~~office~~ may expend such
1669 funds in accordance with the terms and conditions of any such
1670 grant, payment, or gift in the pursuit of its administration or
1671 in support of fulfilling its duties and responsibilities. The
1672 division ~~office~~ shall separately account for the public funds
1673 and the private funds deposited into the account ~~trust fund~~.
1674 Section 25. Effective October 1, 2015, section 288.1252,
1675 Florida Statutes, is transferred, renumbered as section 288.914,
1676 Florida Statutes, and amended to read:
1677 288.914 ~~288.1252~~ Florida Film and Entertainment Advisory
1678 Council; ~~creation;~~ purpose; membership; powers and duties.—
1679 ~~(1) CREATION.—There is created within the department, for~~
1680 ~~administrative purposes only, the Florida Film and Entertainment~~
1681 ~~Advisory Council.~~
1682 (1)~~(2)~~ CREATION AND PURPOSE.—The Florida Film and
1683 Entertainment Advisory Council is created ~~purpose of the Council~~
1684 ~~is~~ to serve as an advisory body to the Division of Film and
1685 Entertainment within Enterprise Florida, Inc., and ~~department~~
1686 ~~and to the Office of Film and Entertainment~~ to provide ~~these~~
1687 ~~offices with~~ industry insight and expertise related to
1688 developing, marketing, and promoting~~, and providing service to~~
1689 the state's entertainment industry.
1690 (2)~~(3)~~ MEMBERSHIP.—
1691 (a) The council shall consist of 11 ~~17~~ members, 5 ~~7~~ to be
1692 appointed by the Governor, 3 ~~5~~ to be appointed by the President

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1693 of the Senate, and 3 ~~5~~ to be appointed by the Speaker of the
1694 House of Representatives.
1695 (b) When making appointments to the council, the Governor,
1696 the President of the Senate, and the Speaker of the House of
1697 Representatives shall appoint persons who are residents of the
1698 state and who are highly knowledgeable of, active in, and
1699 recognized leaders in Florida's motion picture, television,
1700 video, sound recording, or other entertainment industries. These
1701 persons shall include, but not be limited to, representatives of
1702 local film commissions, representatives of entertainment
1703 associations, a representative of the broadcast industry,
1704 representatives of labor organizations in the entertainment
1705 industry, and board chairs, presidents, chief executive
1706 officers, chief operating officers, or persons of comparable
1707 executive position or stature of leading or otherwise important
1708 entertainment industry businesses and offices. Council members
1709 shall be appointed in such a manner as to equitably represent
1710 the broadest spectrum of the entertainment industry and
1711 geographic areas of the state.
1712 (c) Council members shall serve for 4-year terms. A member
1713 of the council serving as of July 1, 2015, may serve the
1714 remainder of his or her term, but upon the conclusion of the
1715 term or upon vacancy, such appointment may not be filled except
1716 to meet the requirements of this section.
1717 (d) Subsequent appointments shall be made by the official
1718 who appointed the council member whose expired term is to be
1719 filled.
1720 (e) A representative of Enterprise Florida, Inc., a
1721 representative of Workforce Florida, Inc., and a representative

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1722 of VISIT Florida shall serve as ex officio, nonvoting members of
1723 the council, ~~and shall be~~ in addition to the 11 ~~17~~ appointed
1724 members ~~of the council~~.
1725 (f) Absence from three consecutive meetings shall result in
1726 automatic removal from the council.
1727 (g) A vacancy on the council shall be filled for the
1728 remainder of the unexpired term by the official who appointed
1729 the vacating member.
1730 (h) No more than one member of the council may be an
1731 employee of any one company, organization, or association.
1732 (i) Any member shall be eligible for reappointment but may
1733 not serve more than two consecutive terms.
1734 (3) ~~(4)~~ MEETINGS; ORGANIZATION.—
1735 (a) The council shall meet at least ~~no less frequently than~~
1736 once each quarter of the calendar year, and ~~but~~ may meet more
1737 often as determined necessary ~~set~~ by the council.
1738 (b) The council shall annually elect from its appointed
1739 membership one member to serve as chair ~~of the council~~ and one
1740 member to serve as vice chair. The Division ~~Office~~ of Film and
1741 Entertainment shall provide staff assistance to the council,
1742 which must ~~shall~~ include, but need not be limited to, keeping
1743 records of the proceedings of the council~~,~~ and serving as
1744 custodian of all books, documents, and papers filed with the
1745 council.
1746 (c) A majority of the members of the council constitutes
1747 ~~shall constitute~~ a quorum.
1748 (d) Members of the council shall serve without
1749 compensation, but are ~~shall be~~ entitled to reimbursement for per
1750 diem and travel expenses in accordance with s. 112.061 while in

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1751 performance of their duties.
1752 (4) ~~(5)~~ POWERS AND DUTIES.—The Florida Film and
1753 Entertainment Advisory Council shall have ~~all~~ the power ~~powers~~
1754 ~~necessary or convenient~~ to carry out ~~and effectuate the purposes~~
1755 ~~and provisions of~~ this act, including, but not limited to, the
1756 power to:
1757 (a) Adopt bylaws for the governance of its affairs and the
1758 conduct of its business.
1759 (b) Advise the Division of Film and Entertainment ~~and~~
1760 ~~consult with the Office of Film and Entertainment~~ on the
1761 content, development, and implementation of the division's 5-
1762 year strategic plan ~~to guide the activities of the office~~.
1763 (c) ~~Review the Commissioner of Film and Entertainment's~~
1764 ~~administration of the programs related to the strategic plan,~~
1765 ~~and~~ Advise the Division of Film and Entertainment ~~commissioner~~
1766 on the division's programs and any changes that might be made to
1767 better meet the strategic plan.
1768 (d) Consider and study the needs of the entertainment
1769 industry for the purpose of advising the Division of Film and
1770 Entertainment ~~film commissioner and the department~~.
1771 (e) Identify ~~and make recommendations on~~ state ~~agency~~ and
1772 local government actions that may have an impact on the
1773 entertainment industry or that may appear to industry
1774 representatives as ~~an~~ official state or local actions ~~action~~
1775 affecting production in the state, and advise the Division of
1776 Film and Entertainment of such actions.
1777 (f) Consider all matters submitted to it by the Division of
1778 Film and Entertainment ~~film commissioner and the department~~.
1779 ~~(g) Advise and consult with the film commissioner and the~~

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1780 ~~department, at their request or upon its own initiative,~~
1781 ~~regarding the promulgation, administration, and enforcement of~~
1782 ~~all laws and rules relating to the entertainment industry.~~
1783 (g) ~~(h)~~ Suggest policies and practices ~~for the conduct of~~
1784 ~~business by the Office of Film and Entertainment or by the~~
1785 ~~department~~ that will improve interaction with ~~internal~~
1786 ~~operations affecting~~ the entertainment industry and will enhance
1787 related state ~~the~~ economic development initiatives ~~of the state~~
1788 ~~for the industry~~.
1789 ~~(i) Appear on its own behalf before boards, commissions,~~
1790 ~~departments, or other agencies of municipal, county, or state~~
1791 ~~government, or the Federal Government.~~
1792 Section 26. Effective October 1, 2015, section 288.1253,
1793 Florida Statutes, is transferred, renumbered as section 288.915,
1794 Florida Statutes, and amended to read:
1795 288.915 ~~288.1253~~ Travel and entertainment expenses.—
1796 (1) As used in this section, the term "travel expenses"
1797 means the actual, necessary, and reasonable costs of
1798 transportation, meals, lodging, and incidental expenses normally
1799 incurred by an employee of the Division ~~Office~~ of Film and
1800 Entertainment within Enterprise Florida, Inc., as ~~which costs~~
1801 ~~are~~ defined and prescribed by ~~rules adopted by the~~ department
1802 rule, subject to approval by the Chief Financial Officer.
1803 (2) Notwithstanding ~~the provisions of~~ s. 112.061, the
1804 department shall adopt rules by which the Division of Film and
1805 Entertainment ~~it~~ may make expenditures by reimbursement to~~:~~ the
1806 Governor, the Lieutenant Governor, security staff of the
1807 Governor or Lieutenant Governor, the Commissioner of Film and
1808 Entertainment, or staff of the Division ~~Office~~ of Film and

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1809 Entertainment for travel expenses or entertainment expenses
1810 incurred by such individuals solely and exclusively in
1811 connection with the performance of the statutory duties of the
1812 division ~~Office of Film and Entertainment~~. The rules are subject
1813 to approval by the Chief Financial Officer before adoption. The
1814 rules shall require the submission of paid receipts, or other
1815 proof of expenditure prescribed by the Chief Financial Officer,
1816 with any claim for reimbursement.
1817 (3) The Division ~~Office~~ of Film and Entertainment shall
1818 include in the annual report for the entertainment industry
1819 ~~financial incentive~~ program required under s. 288.1254~~(10)~~ a
1820 report of the division's ~~office's~~ expenditures for the previous
1821 fiscal year. The report must consist of a summary of all travel,
1822 entertainment, and incidental expenses incurred within the
1823 United States and all travel, entertainment, and incidental
1824 expenses incurred outside the United States, as well as a
1825 summary of all successful projects that developed from such
1826 travel.
1827 (4) The Division ~~Office~~ of Film and Entertainment and its
1828 employees and representatives, when authorized, may accept and
1829 use complimentary travel, accommodations, meeting space, meals,
1830 equipment, transportation, and any other goods or services
1831 necessary for or beneficial to the performance of the division's
1832 ~~office's~~ duties and purposes, so long as such acceptance or use
1833 is not in conflict with part III of chapter 112. The department
1834 shall, by rule, develop internal controls to ensure that such
1835 goods or services accepted or used pursuant to this subsection
1836 are limited to those that will assist solely and exclusively in
1837 the furtherance of the division's ~~office's~~ goals and are in

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1838 compliance with part III of chapter 112. Notwithstanding this
1839 subsection, the division and its employees and representatives
1840 may not accept any complimentary travel, accommodations, meeting
1841 space, meals, equipment, transportation, or any other goods or
1842 services from an entity or party, including an employee,
1843 designee, or representative of such entity or party, which has
1844 received, has applied to receive, or anticipates that it will
1845 receive through an application, funds under s. 288.1256. If the
1846 division or its employee or representative accepts such goods or
1847 services, the division or its employee or representative is
1848 subject to the penalties provided in s. 112.317.
1849 (5) Any claim submitted under this section is not required
1850 to be sworn to before a notary public or other officer
1851 authorized to administer oaths, but any claim authorized or
1852 required to be made under any provision of this section shall
1853 contain a statement that the expenses were actually incurred as
1854 necessary travel or entertainment expenses in the performance of
1855 official duties of the Division ~~Office~~ of Film and Entertainment
1856 and shall be verified by written declaration that it is true and
1857 correct as to every material matter. Any person who willfully
1858 makes and subscribes to any claim that ~~which~~ he or she does not
1859 believe to be true and correct as to every material matter or
1860 who willfully aids or assists in, procures, or counsels or
1861 advises with respect to, the preparation or presentation of a
1862 claim pursuant to this section which ~~that~~ is fraudulent or false
1863 as to any material matter, whether such falsity or fraud is with
1864 the knowledge or consent of the person authorized or required to
1865 present the claim, commits a misdemeanor of the second degree,
1866 punishable as provided in s. 775.082 or s. 775.083. Whoever

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1867 receives a reimbursement by means of a false claim is civilly
1868 liable, in the amount of the overpayment, for the reimbursement
1869 of the public fund from which the claim was paid.
1870 Section 27. Effective October 1, 2015, section 288.1254,
1871 Florida Statutes, is amended to read:
1872 288.1254 Entertainment industry ~~financial incentive~~
1873 program.—
1874 (1) DEFINITIONS.—As used in this section, the term:
1875 (a) “Certified production” means a qualified production
1876 that has tax credits allocated to it by the department based on
1877 the production’s estimated qualified expenditures, up to the
1878 production’s maximum certified amount of tax credits, by the
1879 department. The term does not include a production if its first
1880 day of principal photography or project start date in this state
1881 occurs before the production is certified by the department,
1882 unless the production spans more than 1 fiscal year, was a
1883 certified production on its first day of principal photography
1884 or project start date in this state, and submits an application
1885 for continuing the same production for the subsequent fiscal
1886 year.
1887 (b) “Digital media project” means a production of
1888 interactive entertainment that is produced for distribution in
1889 commercial or educational markets. The term includes a video
1890 game or production intended for Internet or wireless
1891 distribution, an interactive website, digital animation, and
1892 visual effects, including, but not limited to, three-dimensional
1893 movie productions and movie conversions. The term does not
1894 include a production that contains content that is obscene as
1895 defined in s. 847.001.

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1896 (c) "Family-friendly production" means a production that
1897 has cross-generational appeal; is considered suitable for
1898 viewing by children age 5 or older; is appropriate in theme,
1899 content, and language for a broad family audience; embodies a
1900 responsible resolution of issues; and does not exhibit or imply
1901 any act of smoking, sex, nudity, or vulgar or profane language
1902 ~~"High-impact digital media project" means a digital media~~
1903 ~~project that has qualified expenditures greater than $4.5~~
1904 ~~million~~.
1905 (d) "High-impact television production ~~series~~" means:
1906 1. A production created to run multiple production seasons
1907 which has ~~and having~~ an estimated order of at least seven
1908 episodes per season and qualified expenditures of at least $1
1909 million ~~$625,000~~ per episode; or
1910 2. A telenovela that has qualified expenditures of more
1911 than $6 million; a minimum of 45 principal photography days
1912 filmed in this state; a production cast, including background
1913 actors, and a crew of which at least 90 percent are legal
1914 residents of this state; and at least 90 percent of its
1915 production occurring in this state.
1916 (e) ~~"Off-season certified production" means a feature film,~~
1917 ~~independent film, or television series or pilot that films 75~~
1918 ~~percent or more of its principal photography days from June 1~~
1919 ~~through November 30.~~
1920 ~~(f)~~ "Principal photography" means the filming of major or
1921 significant components of the qualified production which involve
1922 lead actors.
1923 (f)~~(g)~~ "Production" means a theatrical, ~~or~~ direct-to-video,
1924 or direct-to-Internet motion picture; a made-for-television

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1925 motion picture; visual effects or digital animation sequences
1926 produced in conjunction with a motion picture; a commercial; a
1927 music video; an industrial or educational film; an infomercial;
1928 a documentary film; a television pilot program; a presentation
1929 for a television pilot program; a television series, including,
1930 but not limited to, a drama, a reality show, a comedy, a soap
1931 opera, a telenovela, a game show, an awards show, or a
1932 miniseries production; a direct-to-Internet television series;
1933 or a digital media project by the entertainment industry. One
1934 season of a television series is considered one production. The
1935 term does not include a weather or market program; a sporting
1936 event or a sporting event broadcast; a gala; a production that
1937 solicits funds; a home shopping program; a political program; a
1938 political documentary; political advertising; a gambling-related
1939 project or production; a concert production; a local, regional,
1940 or Internet-distributed-only news show or current-events show; a
1941 sports news or sports recap show; a pornographic production; or
1942 any production deemed obscene under chapter 847. A production
1943 may be produced on or by film, tape, or otherwise by means of a
1944 motion picture camera; electronic camera or device; tape device;
1945 computer; any combination of the foregoing; or any other means,
1946 method, or device.
1947 (g) ~~(h)~~ "Production expenditures" means the costs of
1948 tangible and intangible property used for, and services
1949 performed primarily and customarily in, production, including
1950 preproduction and postproduction, but excluding costs for
1951 development, marketing, and distribution. The term includes, but
1952 is not limited to:
1953 1. Wages, salaries, or other compensation paid to legal

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1954 residents of this state, including amounts paid through payroll
1955 service companies, for technical and production crews,
1956 directors, producers, and performers.
1957 2. Net expenditures for sound stages, backlots, production
1958 editing, digital effects, sound recordings, sets, and set
1959 construction.
1960 3. Net expenditures for rental equipment, including, but
1961 not limited to, cameras and grip or electrical equipment.
1962 4. Up to $300,000 of the costs of newly purchased computer
1963 software and hardware unique to the project, including servers,
1964 data processing, and visualization technologies, which are
1965 located in and used exclusively in this ~~the~~ state for the
1966 production of digital media.
1967 5. Expenditures for meals, travel, and accommodations. For
1968 purposes of this paragraph, the term “net expenditures” means
1969 the actual amount of money a qualified production spent for
1970 equipment or other tangible personal property, after subtracting
1971 any consideration received for reselling or transferring the
1972 item after the qualified production ends, if applicable.
1973 (h) ~~(i)~~ “Qualified expenditures” means production
1974 expenditures incurred in this state by a qualified production
1975 for:
1976 1. Goods purchased or leased from, or services, including,
1977 but not limited to, insurance costs and bonding, payroll
1978 services, and legal fees, which are provided by, a vendor or
1979 supplier in this state that is registered with the Department of
1980 State or the Department of Revenue, has a physical location in
1981 this state, and employs one or more legal residents of this
1982 state. This does not include rebilled goods or services provided

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1983 by an in-state company from out-of-state vendors or suppliers.
1984 When services provided by the vendor or supplier include
1985 personal services or labor, only personal services or labor
1986 provided by residents of this state, evidenced by the required
1987 documentation of residency in this state, qualify.
1988 2. Payments to legal residents of this state in the form of
1989 salary, wages, or other compensation up to a maximum of $400,000
1990 per resident unless otherwise specified in subsection (4). A
1991 completed declaration of residency in this state must accompany
1992 the documentation submitted to the department ~~office~~ for
1993 reimbursement.
1994
1995 For a qualified production involving an event, such as an awards
1996 show, the term does not include expenditures solely associated
1997 with the event itself and not directly required by the
1998 production. The term does not include expenditures incurred
1999 before certification, with the exception of those incurred for a
2000 commercial, a music video, or the pickup of additional episodes
2001 of a high-impact television production ~~series~~ within a single
2002 season. ~~Under no circumstances may~~ The qualified production may
2003 not include in the calculation for qualified expenditures the
2004 original purchase price for equipment or other tangible property
2005 that is later sold or transferred by the qualified production
2006 for consideration. In such cases, the qualified expenditure is
2007 the net of the original purchase price minus the consideration
2008 received upon sale or transfer.
2009 (i) ~~(j)~~ "Qualified production" means a production in this
2010 state meeting the requirements of this section. The term does
2011 not include a production:

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2012 1. In which~~, for the first 2 years of the incentive~~
2013 ~~program, less than 50 percent, and thereafter,~~ less than 60
2014 percent~~,~~ of the positions that make up its production cast and
2015 below-the-line production crew, or, in the case of digital media
2016 projects, less than 75 percent of such positions, are filled by
2017 legal residents of this state, whose residency is demonstrated
2018 by a valid Florida driver license or other state-issued
2019 identification confirming residency, or students enrolled full-
2020 time in an entertainment-related ~~a film-and-entertainment-~~
2021 ~~related~~ course of study at an institution of higher education in
2022 this state; or
2023 2. That contains obscene content as defined in s.
2024 847.001(10).
2025 (j) ~~(k)~~ "Qualified production company" means a corporation,
2026 limited liability company, partnership, or other legal entity
2027 engaged in one or more productions in this state.
2028 ~~(l) "Qualified digital media production facility" means a~~
2029 ~~building or series of buildings and their improvements in which~~
2030 ~~data processing, visualization, and sound synchronization~~
2031 ~~technologies are regularly applied for the production of~~
2032 ~~qualified digital media projects or the digital animation~~
2033 ~~components of qualified productions.~~
2034 ~~(m) "Qualified production facility" means a building or~~
2035 ~~complex of buildings and their improvements and associated~~
2036 ~~backlot facilities in which regular filming activity for film or~~
2037 ~~television has occurred for a period of no less than 1 year and~~
2038 ~~which contain at least one sound stage of at least 7,800 square~~
2039 ~~feet.~~
2040 ~~(n) "Regional population ratio" means the ratio of the~~

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2041 ~~population of a region to the population of this state. The~~
2042 ~~regional population ratio applicable to a given fiscal year is~~
2043 ~~the regional population ratio calculated by the Office of Film~~
2044 ~~and Entertainment using the latest official estimates of~~
2045 ~~population certified under s. 186.901, available on the first~~
2046 ~~day of that fiscal year.~~
2047 ~~(o) "Regional tax credit ratio" means a ratio the numerator~~
2048 ~~of which is the sum of tax credits awarded to productions in a~~
2049 ~~region to date plus the tax credits certified, but not yet~~
2050 ~~awarded, to productions currently in that region and the~~
2051 ~~denominator of which is the sum of all tax credits awarded in~~
2052 ~~the state to date plus all tax credits certified, but not yet~~
2053 ~~awarded, to productions currently in the state. The regional tax~~
2054 ~~credit ratio applicable to a given year is the regional tax~~
2055 ~~credit ratio calculated by the Office of Film and Entertainment~~
2056 ~~using credit award and certification information available on~~
2057 ~~the first day of that fiscal year.~~
2058 ~~(p) "Underutilized region" for a given state fiscal year~~
2059 ~~means a region with a regional tax credit ratio applicable to~~
2060 ~~that fiscal year that is lower than its regional population~~
2061 ~~ratio applicable to that fiscal year. The following regions are~~
2062 ~~established for purposes of making this determination:~~
2063 ~~1. North Region, consisting of Alachua, Baker, Bay,~~
2064 ~~Bradford, Calhoun, Clay, Columbia, Dixie, Duval, Escambia,~~
2065 ~~Franklin, Gadsden, Gilchrist, Gulf, Hamilton, Holmes, Jackson,~~
2066 ~~Jefferson, Lafayette, Leon, Levy, Liberty, Madison, Nassau,~~
2067 ~~Okaloosa, Putnam, Santa Rosa, St. Johns, Suwannee, Taylor,~~
2068 ~~Union, Wakulla, Walton, and Washington Counties.~~
2069 ~~2. Central East Region, consisting of Brevard, Flagler,~~

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2070 ~~Indian River, Lake, Okeechobee, Orange, Osceola, Seminole, St.~~
2071 ~~Lucie, and Volusia Counties.~~
2072 ~~3. Central West Region, consisting of Citrus, Hernando,~~
2073 ~~Hillsborough, Manatee, Marion, Polk, Pasco, Pinellas, Sarasota,~~
2074 ~~and Sumter Counties.~~
2075 ~~4. Southwest Region, consisting of Charlotte, Collier,~~
2076 ~~DeSoto, Glades, Hardee, Hendry, Highlands, and Lee Counties.~~
2077 ~~5. Southeast Region, consisting of Broward, Martin, Miami-~~
2078 ~~Dade, Monroe, and Palm Beach Counties.~~
2079 (k) ~~(q)~~ "Interactive website" means a website or group of
2080 websites that includes interactive and downloadable content, and
2081 creates 25 new Florida full-time equivalent positions operating
2082 from a principal place of business located within Florida. An
2083 interactive website or group of websites must provide
2084 documentation that those jobs were created to the department
2085 before ~~Office of Film and Entertainment prior to~~ the award of
2086 tax credits. Each subsequent program application must provide
2087 proof that 25 Florida full-time equivalent positions are
2088 maintained.
2089 (l) "Underutilized county" means a county in which less
2090 than $500,000 in qualified expenditures were made in the last 2
2091 fiscal years.
2092 (2) CREATION AND PURPOSE OF PROGRAM.—The entertainment
2093 industry ~~financial incentive~~ program is created within the
2094 department ~~Office of Film and Entertainment. The purpose of this~~
2095 ~~program is~~ to encourage the use of this state as a site for
2096 entertainment production, for filming, and for the digital
2097 production of entertainment ~~films~~, and to develop and sustain
2098 the workforce and infrastructure for film, digital media, and

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2099 entertainment production.
2100 (3) APPLICATION PROCEDURE; APPROVAL PROCESS.—
2101 (a) *Program application.*—A qualified production company
2102 producing a qualified production in this state may submit a
2103 program application to the Division ~~Office~~ of Film and
2104 Entertainment for the purpose of determining qualification for
2105 an award of tax credits authorized by this section no earlier
2106 than 180 days before the first day of principal photography or
2107 project start date in this state. The applicant shall provide
2108 the division ~~Office of Film and Entertainment~~ with information
2109 required to determine whether the production is a qualified
2110 production and to determine the qualified expenditures and other
2111 information necessary for the division and the department ~~office~~
2112 to determine eligibility for the tax credit.
2113 (b) *Required documentation.*—The department, in consultation
2114 with the division, ~~Office of Film and Entertainment~~ shall
2115 develop an application form for qualifying an applicant as a
2116 qualified production. The form must include, but need not be
2117 limited to, production-related information concerning employment
2118 of residents in this state;~~,~~ a detailed budget of planned
2119 qualified expenditures and aggregate nonqualified expenditures,
2120 including capital investment, in this state; proof of financing
2121 for the production;~~,~~ and the applicant's signed affirmation that
2122 the information on the form has been verified and is correct.
2123 The division ~~Office of Film and Entertainment~~ and local film
2124 commissions shall distribute the form.
2125 (c) *Application process.*—The division ~~Office of Film and~~
2126 ~~Entertainment~~ shall establish a process by which an application
2127 is accepted and reviewed ~~and by which tax credit eligibility and~~

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2128 ~~award amount are determined~~.
2129 1. The division shall review, evaluate, and rank
2130 applications for each queue, as provided in subsection (4),
2131 using the following evaluation criteria, with priority given in
2132 descending order, with the highest priority given to sub-
2133 subparagraph a.:
2134 a. The number of state residents that will be employed in
2135 full-time equivalent and part-time positions related to the
2136 project, and the duration of such employment and the average
2137 wages paid to such residents. Preference shall be given to a
2138 project that expects to pay higher than the statewide average
2139 wage.
2140 b. The amount of qualified and nonqualified expenditures
2141 that will be made in this state.
2142 c. The duration of the project in this state, including
2143 whether production will occur in an underutilized county.
2144 d. The length of time for planned preproduction and
2145 postproduction scheduled to occur in this state.
2146 e. The amount of capital investment, especially fixed
2147 capital investment, to be made directly by the production
2148 company in this state related to the project and the amount of
2149 any other capital investment to be made in this state related to
2150 the project.
2151 f. The local support and amount of any financial commitment
2152 for the project.
2153 2. The Division of Film and Entertainment shall designate
2154 two application cycles per fiscal year for qualified production
2155 companies to submit applications pursuant to this section. Each
2156 application cycle must consist of an application submittal

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2157 deadline and a subsequent review period. The two application
2158 deadlines shall be separated in time by at least 4 months. The
2159 first application cycle must be "Application Cycle A," and the
2160 second application cycle must be "Application Cycle B." Each
2161 applicant must designate the cycle for which the applicant is
2162 applying.
2163 3. The Division of Film and Entertainment shall designate
2164 the length of the review period for each application cycle which
2165 must immediately follow its corresponding application deadline.
2166 The review cycle may not exceed 30 days. During each review
2167 period, the Division of Film and Entertainment shall:
2168 a. Review each timely received application to ensure that
2169 the application is complete and shall label each application
2170 according to its queue as specified in subsection (4).
2171 b. Recommend rankings for applications pursuant to the
2172 criteria in subparagraph 1.
2173 c. Submit each complete and timely received application
2174 along with the recommended application rankings to the
2175 department no later than 1 day after the end of the review
2176 cycle. Applications that do not meet the requirements of this
2177 section may not be ranked.
2178 4. Applications that are not timely received or complete
2179 may not be carried forward to a subsequent application cycle.
2180 5. A certified high-impact television production may submit
2181 an initial application for no more than two successive seasons,
2182 notwithstanding the fact that the second season has not been
2183 ordered. The qualified expenditure amounts for the second season
2184 shall be based on the current season's estimated qualified
2185 expenditures. Upon the completion of production of each season,

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2186 a high-impact television production may submit an application
2187 for only one additional season. To be certified for a tax
2188 credit, the applicant must agree to notify the department within
2189 10 days if the additional season is not ordered or is canceled.
2190 ~~The Office of Film and Entertainment may request assistance from~~
2191 ~~a duly appointed local film commission in determining compliance~~
2192 ~~with this section. A certified high-impact television series may~~
2193 ~~submit an initial application for no more than two successive~~
2194 ~~seasons, notwithstanding the fact that the successive seasons~~
2195 ~~have not been ordered. The successive season's qualified~~
2196 ~~expenditure amounts shall be based on the current season's~~
2197 ~~estimated qualified expenditures. Upon the completion of~~
2198 ~~production of each season, a high-impact television series may~~
2199 ~~submit an application for no more than one additional season.~~
2200 (d) *Certification.*—
2201 1. The department ~~Office of Film and Entertainment~~ shall
2202 review the applications and recommendations by the division
2203 ~~application~~ within 15 business days after receipt from the
2204 division. ~~Upon its determination that~~ The department shall
2205 determine if each application contains all the information
2206 required by this subsection and meets the criteria set out in
2207 this section. Going from the highest-ranked and recommended
2208 application to the lowest-ranked application, the department~~,~~
2209 ~~the Office of Film and Entertainment~~ shall determine, for each
2210 application, whether to certify ~~qualify the applicant and~~
2211 ~~recommend to the department that the applicant be certified for~~
2212 the ~~maximum~~ tax credit ~~award~~ amount~~. Within 5 business days~~
2213 ~~after receipt of the recommendation, the department shall reject~~
2214 ~~the recommendation or certify the maximum recommended tax credit~~

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2215 ~~award~~, if any funds are available, to the applicant and to the
2216 executive director of the Department of Revenue; or to reject
2217 the request for the tax credit pursuant to paragraph (f).
2218 2. The department may certify only up to 50 percent of the
2219 credits available in a fiscal year for "Application Cycle A" of
2220 the fiscal year. All remaining tax credits in the fiscal year
2221 may be certified in "Application Cycle B." The department may
2222 not certify tax credits in an amount greater than the allocation
2223 for a specified fiscal year, as determined under subsection (7).
2224 (e) *Employment*.—Upon certification by the department, the
2225 production must provide the department and the Division of Film
2226 and Entertainment with a single point of contact and information
2227 related to the production's needs for cast, crew, contractors,
2228 and vendors. The division shall publish this information online,
2229 including the type of production, the projected start date of
2230 the production, the locations in this state for such production,
2231 and the e-mail or other contact information for the production's
2232 point of contact. The department, in consultation with the
2233 division, may adopt procedures for a production to post such
2234 information itself within 7 days after certification.
2235 (f) ~~(e)~~ *Grounds for denial*.—The department ~~Office of Film~~
2236 ~~and Entertainment~~ shall deny an application if it determines
2237 that the application is not complete, ~~or~~ the production or
2238 application does not meet the requirements of this section, or
2239 the application is not ranked by the division. ~~Within 90 days~~
2240 ~~after submitting a program application, except with respect to~~
2241 ~~applications in the independent and emerging media queue, a~~
2242 ~~production must provide proof of project financing to the Office~~
2243 ~~of Film and Entertainment, otherwise the project is deemed~~

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2244 ~~denied and withdrawn.~~ A project that has been denied ~~withdrawn~~
2245 may submit a new application in a subsequent application cycle
2246 ~~upon providing the Office of Film and Entertainment proof of~~
2247 ~~financing~~.
2248 (g) ~~(f)~~ *Verification* ~~*of actual qualified expenditures.*~~
2249 1. The department, in consultation with the Division ~~Office~~
2250 of Film and Entertainment, shall develop a process to verify the
2251 actual qualified expenditures of a certified production. The
2252 process must require:
2253 a. A certified production to submit, within 180 days ~~in a~~
2254 ~~timely manner~~ after production ends in this state and after
2255 making all of its qualified expenditures in this state, data
2256 substantiating each qualified expenditure, including
2257 documentation of ~~on~~ the net expenditure on equipment and other
2258 tangible personal property by the qualified production and all
2259 production-related information on full- and part-time employment
2260 and wages paid to residents of this state, to an independent
2261 certified public accountant licensed in this state;
2262 b. Such accountant to conduct a compliance audit, at the
2263 certified production's expense, to substantiate each qualified
2264 expenditure and submit the results as a report, along with the
2265 required substantiating data, to the department ~~Office of Film~~
2266 ~~and Entertainment~~; and
2267 c. The department ~~Office of Film and Entertainment~~ to
2268 review the accountant's submittal and verify ~~report to the~~
2269 ~~department~~ the final ~~verified~~ amount of actual qualified
2270 expenditures made by the certified production.
2271 2. The department shall also require a certified production
2272 to submit data substantiating aggregate nonqualified

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2273 expenditures, including capital investment, in this state.
2274 3.~~2.~~ The department shall determine and approve the final
2275 tax credit award amount to each certified applicant based on the
2276 final verified amount of actual qualified expenditures and
2277 evidence that the qualified production met the requirements of
2278 this section. The department shall notify the executive director
2279 of the Department of Revenue in writing that the certified
2280 production has met the requirements of the ~~incentive~~ program and
2281 of the final amount of the tax credit award. The final tax
2282 credit award amount may not exceed the maximum tax credit award
2283 amount certified under paragraph (d).
2284 (h)~~(g)~~ *Promoting Florida.*—The department ~~Office of Film and~~
2285 ~~Entertainment~~ shall ensure that, as a condition of receiving a
2286 tax credit under this section, marketing materials promoting
2287 this state as a tourist destination or film and entertainment
2288 production destination are included, when appropriate, at no
2289 cost to the state, in the qualified production or as otherwise
2290 required by the department and the Division of Film and
2291 Entertainment. The Division of Film and Entertainment shall
2292 provide the Florida Tourism Industry Marketing Corporation with
2293 the contact information for each qualified production in order
2294 for the corporation to work with the qualified production to
2295 develop the marketing materials promoting this state. The
2296 marketing materials ~~which~~ must, at a minimum, include placement
2297 of the "Visit Florida" logo and a "Filmed in Florida" or
2298 "Produced in Florida" logo in the end credits. The placement of
2299 the "Visit Florida" logo and a "Filmed in Florida" or "Produced
2300 in Florida" logo on all packaging material and hard media is
2301 also required, unless such placement is prohibited by licensing

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2302 or other contractual obligations. The sizes ~~size~~ and placements
2303 ~~placement~~ of such logos ~~logo~~ shall be commensurate to other
2304 logos used. If no logos are used, the statement "Filmed in
2305 Florida using Florida's Entertainment Industry Program ~~Financial~~
2306 ~~Incentive~~," or a similar statement approved by the Division
2307 ~~Office~~ of Film and Entertainment, shall be used. The Division
2308 ~~Office~~ of Film and Entertainment shall provide a logo and supply
2309 it for the purposes specified in this paragraph. A 30-second
2310 "Visit Florida" promotional video must also be included on all
2311 optical disc formats of a film, unless such placement is
2312 prohibited by licensing or other contractual obligations. The
2313 30-second promotional video shall be approved and provided by
2314 the Florida Tourism Industry Marketing Corporation in
2315 consultation with the Division ~~Commissioner~~ of Film and
2316 Entertainment. The marketing materials must also include a link
2317 to the Florida Tourism Industry Marketing Corporation website or
2318 another website designated by the department on the certified
2319 applicant's website or the production's website for the entire
2320 term of the production. If the certified applicant cannot
2321 provide such link, it must provide a promotional opportunity of
2322 equal or greater value as approved by the department and the
2323 division.
2324 (4) TAX CREDIT ELIGIBILITY; TAX CREDIT AWARDS; QUEUES;
2325 ELECTION AND DISTRIBUTION; CARRYFORWARD; CONSOLIDATED RETURNS;
2326 PARTNERSHIP AND NONCORPORATE DISTRIBUTIONS; MERGERS AND
2327 ACQUISITIONS.—
2328 (a) ~~*Priority for tax credit award.*—The priority of a~~
2329 ~~qualified production for tax credit awards must be determined on~~
2330 ~~a first-come, first-served basis within its appropriate queue.~~

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2331 ~~Each qualified production must be placed into the appropriate~~
2332 ~~queue and is subject to the requirements of that queue.~~
2333 ~~(b)~~ *Tax credit eligibility.*—Each qualified production must
2334 be placed into the appropriate queue and is subject to the
2335 requirements of that queue.
2336 1. General production queue.—Ninety-four percent of tax
2337 credits authorized pursuant to subsection (7) ~~(6)~~ in any state
2338 fiscal year must be dedicated to the general production queue.
2339 The general production queue consists of all qualified
2340 productions other than those eligible for the commercial and
2341 music video queue or the independent and emerging media
2342 production queue. A qualified production that demonstrates a
2343 minimum of $625,000 in qualified expenditures is eligible for
2344 tax credits equal to 20 percent of its actual qualified
2345 expenditures, up to a maximum of $8 million. A qualified
2346 production that incurs qualified expenditures during multiple
2347 state fiscal years may combine those expenditures to satisfy the
2348 $625,000 minimum threshold.
2349 a. ~~An off-season certified production that is a feature~~
2350 ~~film, independent film, or television series or pilot is~~
2351 ~~eligible for an additional 5 percent tax credit on actual~~
2352 ~~qualified expenditures. An off-season certified production that~~
2353 ~~does not complete 75 percent of principal photography due to a~~
2354 ~~disruption caused by a hurricane or tropical storm may not be~~
2355 ~~disqualified from eligibility for the additional 5 percent~~
2356 ~~credit as a result of the disruption.~~
2357 ~~b. If more than 45 percent of the sum of total tax credits~~
2358 ~~initially certified and awarded after April 1, 2012, total tax~~
2359 ~~credits initially certified after April 1, 2012, but not yet~~

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2360 ~~awarded, and total tax credits available for certification after~~
2361 ~~April 1, 2012, but not yet certified has been awarded for high-~~
2362 ~~impact television series, then no high-impact television series~~
2363 ~~is eligible for tax credits under this subparagraph. Tax credits~~
2364 ~~initially certified for a high-impact television series after~~
2365 ~~April 1, 2012, may not be awarded if the award will cause the~~
2366 ~~percentage threshold in this sub-subparagraph to be exceeded.~~
2367 ~~This sub-subparagraph does not prohibit the award of tax credits~~
2368 ~~certified before April 1, 2012, for high-impact television~~
2369 ~~series.~~
2370 ~~c. Subject to sub-subparagraph b., First priority in the~~
2371 ~~queue for tax credit awards not yet certified shall be given to~~
2372 ~~high-impact television series and high-impact digital media~~
2373 ~~projects. For the purposes of determining priority between a~~
2374 ~~high-impact television series and a high-impact digital media~~
2375 ~~project, the first position must go to the first application~~
2376 ~~received. Thereafter, priority shall be determined by~~
2377 ~~alternating between a high-impact television series and a high-~~
2378 ~~impact digital media project on a first-come, first-served~~
2379 ~~basis. However, if the Office of Film and Entertainment receives~~
2380 ~~an application for a high-impact television series or high-~~
2381 ~~impact digital media project that would be certified but for the~~
2382 ~~alternating priority, the office may certify the project as~~
2383 ~~being in the priority position if an application that would~~
2384 ~~normally be the priority position is not received within 5~~
2385 ~~business days.~~
2386 ~~d.~~ A qualified production for which at least 70 ~~67~~ percent
2387 of its principal photography days occur within a county ~~region~~
2388 designated as an underutilized county ~~region~~ at the time that

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2389 the production is certified is eligible for an additional 5
2390 percent tax credit.
2391 b.~~e.~~ A qualified production that employs students enrolled
2392 full-time in a film and entertainment-related or digital media-
2393 related course of study at an institution of higher education in
2394 this state, individuals participating in the Road-to-
2395 Independence Program under s. 409.1451, individuals with
2396 developmental disabilities as defined in s. 393.063 residing in
2397 this state, and veterans residing in this state, is eligible for
2398 an additional 15 percent tax credit on qualified expenditures
2399 that are wages, salaries, or other compensation paid to such
2400 students. The additional 15 percent tax credit is also
2401 applicable to persons hired within 12 months after graduating
2402 from a film and entertainment-related or digital media-related
2403 course of study at an institution of higher education in this
2404 state. The additional 15 percent tax credit applies to qualified
2405 expenditures that are wages, salaries, or other compensation
2406 paid to such recent graduates for 1 year after the date of
2407 hiring.
2408 ~~f. A qualified production for which 50 percent or more of~~
2409 ~~its principal photography occurs at a qualified production~~
2410 ~~facility, or a qualified digital media project or the digital~~
2411 ~~animation component of a qualified production for which 50~~
2412 ~~percent or more of the project's or component's qualified~~
2413 ~~expenditures are related to a qualified digital media production~~
2414 ~~facility, is eligible for an additional 5 percent tax credit on~~
2415 ~~actual qualified expenditures for production activity at that~~
2416 ~~facility.~~
2417 c. A qualified production that completes a capital

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2418 investment in this state of at least $2 million for property
2419 improvements before the completion of the qualified production,
2420 is eligible for an additional 5 percent tax credit. The capital
2421 investment must be permanent and must be made after July 1,
2422 2015, and the property must remain in this state after the
2423 production ends. A capital investment may be the basis of an
2424 application only once, unless the qualified production makes an
2425 additional $2 million of substantial changes to the property.
2426 d. A qualified production determined by the department to
2427 be a family-friendly production, based on review of the script
2428 and review of the final release version, is eligible for an
2429 additional 5 percent tax credit. The department must consult
2430 with the Division of Film and Entertainment in making this
2431 determination.
2432 e.~~g.~~ A qualified production is not eligible for tax credits
2433 provided under this paragraph totaling more than 25 ~~30~~ percent
2434 of its actual qualified expenses.
2435 2. Commercial and music video queue.—Three percent of tax
2436 credits authorized pursuant to subsection (7) ~~(6)~~ in any state
2437 fiscal year must be dedicated to the commercial and music video
2438 queue. A qualified production company that produces national or
2439 regional commercials ~~or music videos~~ may be eligible for a tax
2440 credit award if it demonstrates a minimum of $100,000 in
2441 qualified expenditures per national or regional commercial ~~or~~
2442 ~~music video~~ and exceeds a combined threshold of $500,000 after
2443 combining actual qualified expenditures from qualified
2444 commercials ~~and music videos~~ during a single state fiscal year.
2445 After a qualified production company that produces commercials~~,~~
2446 ~~music videos, or both~~ reaches the threshold of $500,000, it is

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2447 eligible to apply for certification for a tax credit award. The
2448 maximum credit award for a qualified production company that
2449 produces commercials shall be equal to 20 percent of its actual
2450 qualified expenditures up to a maximum of $500,000. A qualified
2451 production company that produces music videos may be eligible
2452 for a tax credit if it demonstrates a minimum of $25,000 in
2453 qualified expenditures per music video and exceeds a combined
2454 threshold of $125,000 after combining actual qualified
2455 expenditures from qualified music videos during a single state
2456 fiscal year. After a qualified production company that produces
2457 music videos reaches the threshold of $125,000, it is eligible
2458 to apply for certification for a tax credit award. The maximum
2459 credit award for a qualified production company that produces
2460 music videos shall be equal to 20 percent of its actual
2461 qualified expenditures up to a maximum of $125,000. If there is
2462 a surplus at the end of a fiscal year after the department
2463 ~~Office of Film and Entertainment~~ certifies and determines the
2464 tax credits for all qualified commercial and video projects,
2465 such surplus tax credits shall be carried forward to the
2466 following fiscal year and are available to any eligible
2467 qualified productions under the general production queue.
2468 3. Independent and emerging media production queue.—Three
2469 percent of tax credits authorized pursuant to subsection (7) ~~(6)~~
2470 in any state fiscal year must be dedicated to the independent
2471 and emerging media production queue. This queue is intended to
2472 encourage independent film and emerging media production in this
2473 state. Any qualified production, excluding commercials,
2474 infomercials, or music videos, which demonstrates at least
2475 $100,000, but not more than $625,000, in total qualified

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2476 expenditures is eligible for tax credits equal to 20 percent of
2477 its actual qualified expenditures. If a surplus exists at the
2478 end of a fiscal year after the department ~~Office of Film and~~
2479 ~~Entertainment~~ certifies and determines the tax credits for all
2480 qualified independent and emerging media production projects,
2481 such surplus tax credits shall be carried forward to the
2482 following fiscal year and are available to any eligible
2483 qualified productions under the general production queue.
2484 ~~4. Family-friendly productions.—A certified theatrical or~~
2485 ~~direct-to-video motion picture production or video game~~
2486 ~~determined by the Commissioner of Film and Entertainment, with~~
2487 ~~the advice of the Florida Film and Entertainment Advisory~~
2488 ~~Council, to be family-friendly, based on review of the script~~
2489 ~~and review of the final release version, is eligible for an~~
2490 ~~additional tax credit equal to 5 percent of its actual qualified~~
2491 ~~expenditures. Family-friendly productions are those that have~~
2492 ~~cross-generational appeal; would be considered suitable for~~
2493 ~~viewing by children age 5 or older; are appropriate in theme,~~
2494 ~~content, and language for a broad family audience; embody a~~
2495 ~~responsible resolution of issues; and do not exhibit or imply~~
2496 ~~any act of smoking, sex, nudity, or vulgar or profane language.~~
2497 (b) ~~(c)~~ *Withdrawal of certification* ~~*tax credit eligibility*~~.—
2498 The department shall withdraw the certification of a ~~qualified~~
2499 ~~or~~ certified production if the ~~must continue on a~~ reasonable
2500 schedule or timely completion of the certified production is
2501 delayed, including a break in production, a change in the
2502 production schedule, or the loss of financing for the
2503 production. A certified production must notify the department
2504 within 5 days after any circumstance that delays the reasonable

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2505 schedule or timely completion. The certification of a certified
2506 production may not be withdrawn if the production provides the
2507 department with proof of replacement financing within 10 days
2508 after the loss of financing for the production. To keep a
2509 reasonable schedule, the certified production must begin ~~which~~
2510 ~~includes beginning~~ principal photography or the production
2511 project in this state within ~~no more than~~ 45 calendar days
2512 before or after the principal photography or project start date
2513 provided in the production's program application. ~~The department~~
2514 ~~shall withdraw the eligibility of a qualified or certified~~
2515 ~~production that does not continue on a reasonable schedule.~~
2516 (c) ~~(d)~~ *Election and distribution of tax credits.*—
2517 1. A certified production company receiving a tax credit
2518 award under this section shall, at the time the credit is
2519 awarded by the department after production is completed and all
2520 requirements to receive a credit award have been met, make an
2521 irrevocable election to apply the credit against taxes due under
2522 chapter 220, against state taxes collected or accrued under
2523 chapter 212, or against a stated combination of the two taxes.
2524 The election is binding upon any distributee, successor,
2525 transferee, or purchaser. The department shall notify the
2526 Department of Revenue of any election made pursuant to this
2527 paragraph.
2528 2. A qualified production company is eligible for tax
2529 credits against its sales and use tax liabilities and corporate
2530 income tax liabilities as provided in this section. However, tax
2531 credits awarded under this section may not be claimed against
2532 sales and use tax liabilities or corporate income tax
2533 liabilities for any tax period beginning before July 1, 2011,

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2534 regardless of when the credits are applied for or awarded.
2535 (d) ~~(e)~~ *Tax credit carryforward.*—If the certified production
2536 company cannot use the entire tax credit in the taxable year or
2537 reporting period in which the credit is awarded, any excess
2538 amount may be carried forward to a succeeding taxable year or
2539 reporting period. A tax credit applied against taxes imposed
2540 under chapter 212 may be carried forward for a maximum of 5
2541 years after the date the credit is awarded. A tax credit applied
2542 against taxes imposed under chapter 220 may be carried forward
2543 for a maximum of 5 taxable years after the taxable year in which
2544 ~~date~~ the credit is awarded. An unused remaining tax credit
2545 expires after this period~~, after which the credit expires~~ and
2546 may not be used.
2547 (e) ~~(f)~~ *Consolidated returns.*—A certified production company
2548 that files a Florida consolidated return as a member of an
2549 affiliated group under s. 220.131(1) may be allowed the credit
2550 on a consolidated return basis up to the amount of the tax
2551 imposed upon the consolidated group under chapter 220.
2552 (f) ~~(g)~~ *Partnership and noncorporate distributions.*—A
2553 qualified production company that is not a corporation as
2554 defined in s. 220.03 may elect to distribute tax credits awarded
2555 under this section to its partners or members in proportion to
2556 their respective distributive income or loss in the taxable year
2557 in which the tax credits were awarded.
2558 (g) ~~(h)~~ *Mergers or acquisitions.*—Tax credits available under
2559 this section to a certified production company may succeed to a
2560 surviving or acquiring entity subject to the same conditions and
2561 limitations as described in this section; however, they may not
2562 be transferred again by the surviving or acquiring entity.

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2563 (5) TRANSFER OF TAX CREDITS.—
2564 (a) *Authorization.*—Upon application to ~~the Office of Film~~
2565 ~~and Entertainment~~ and approval by the department, a certified
2566 production company, or a partner or member that has received a
2567 distribution under paragraph (4)(f) ~~(4)(g)~~, may elect to
2568 transfer, in whole or in part, any unused credit amount granted
2569 under this section. An election to transfer any unused tax
2570 credit amount under chapter 212 or chapter 220 must be made no
2571 later than 5 years after the date the credit is awarded, after
2572 which period the credit expires and may not be used. The
2573 department shall notify the Department of Revenue of the
2574 election and transfer.
2575 (b) *Number of transfers permitted.*—A certified production
2576 company that elects to apply a credit amount against taxes
2577 remitted under chapter 212 is permitted a one-time transfer of
2578 unused credits to one transferee. A certified production company
2579 that elects to apply a credit amount against taxes due under
2580 chapter 220 is permitted a one-time transfer of unused credits
2581 to no more than four transferees, and such transfers must occur
2582 in the same taxable year.
2583 (c) *Transferee rights and limitations.*—The transferee is
2584 subject to the same rights and limitations as the certified
2585 production company awarded the tax credit, except that the
2586 initial transferee shall be permitted a one-time transfer of
2587 unused credits to no more than two subsequent transferees, and
2588 such transfers must occur in the same taxable year as the
2589 credits were received by the initial transferee, after which the
2590 subsequent transferees may not sell or otherwise transfer the
2591 tax credit.

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2592 (6) RELINQUISHMENT OF TAX CREDITS.—
2593 (a) Beginning July 1, 2011, a certified production company,
2594 or any person who has acquired a tax credit from a certified
2595 production company pursuant to subsections (4) and (5), may
2596 elect to relinquish the tax credit to the Department of Revenue
2597 in exchange for 90 percent of the amount of the relinquished tax
2598 credit.
2599 (b) The Department of Revenue may approve payments to
2600 persons relinquishing tax credits pursuant to this subsection.
2601 (c) Subject to legislative appropriation, the Department of
2602 Revenue shall request the Chief Financial Officer to issue
2603 warrants to persons relinquishing tax credits. Payments under
2604 this subsection shall be made from the funds from which the
2605 proceeds from the taxes against which the tax credits could have
2606 been applied pursuant to the irrevocable election made by the
2607 certified production company under subsection (4) are deposited.
2608 (7) ANNUAL ALLOCATION OF TAX CREDITS.—
2609 (a) The aggregate amount of the tax credits that may be
2610 certified pursuant to paragraph (3)(d) may not exceed:
2611 1. For fiscal year 2010-2011, $53.5 million.
2612 2. For fiscal year 2011-2012, $74.5 million.
2613 3. For fiscal years 2012-2013, 2013-2014, 2014-2015, and
2614 2015-2016, $42 million per fiscal year.
2615 (b) Any portion of the maximum amount of tax credits
2616 established per fiscal year in paragraph (a) that is not
2617 certified as of the end of a fiscal year shall be carried
2618 forward and made available for certification during the
2619 following 2 fiscal years in addition to the amounts available
2620 for certification under paragraph (a) for those fiscal years.

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2621 (c) Upon approval of the final tax credit award amount
2622 pursuant to subparagraph (3)(g)3. ~~(3)(f)2.~~, an amount equal to
2623 the difference between the maximum tax credit award amount
2624 previously certified under paragraph (3)(d) and the approved
2625 final tax credit award amount shall immediately be available for
2626 recertification during the current and following fiscal years in
2627 addition to the amounts available for certification under
2628 paragraph (a) for those fiscal years.
2629 (d) Tax credit award amounts available for certification on
2630 and after July 1, 2015, may not be certified before the fiscal
2631 year in which they will become available as specified in
2632 paragraph (a). Additionally, for amounts available for
2633 certification on and after July 1, 2015, one-half of the amount
2634 available in the fiscal year shall be available for
2635 certification in "Application Cycle A", and the remaining amount
2636 available in the fiscal year shall be available for
2637 certification in "Application Cycle B." ~~If, during a fiscal~~
2638 ~~year, the total amount of credits applied for, pursuant to~~
2639 ~~paragraph (3)(a), exceeds the amount of credits available for~~
2640 ~~certification in that fiscal year, such excess shall be treated~~
2641 ~~as having been applied for on the first day of the next fiscal~~
2642 ~~year in which credits remain available for certification.~~
2643 (8) LIMITATION WITH OTHER PROGRAMS.—A qualified production
2644 that is certified for tax credits under this section may not
2645 simultaneously receive benefits under ss. 288.1256 and 288.1258
2646 for the same production.
2647 (9) ~~(8)~~ RULES, POLICIES, AND PROCEDURES.—
2648 (a) The department may adopt rules pursuant to ss.
2649 120.536(1) and 120.54 and develop policies and procedures to

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2650 implement and administer this section, including, but not
2651 limited to, rules specifying requirements for the application
2652 and approval process, records required for substantiation for
2653 tax credits, procedures for making the election in paragraph
2654 (4)(c) ~~(4)(d)~~, the manner and form of documentation required to
2655 claim tax credits awarded or transferred under this section, and
2656 marketing requirements for tax credit recipients.
2657 (b) The Department of Revenue may adopt rules pursuant to
2658 ss. 120.536(1) and 120.54 to administer this section, including
2659 rules governing the examination and audit procedures required to
2660 administer this section and the manner and form of documentation
2661 required to claim tax credits awarded, transferred, or
2662 relinquished under this section.
2663 (10) ~~(9)~~ AUDIT AUTHORITY; REVOCATION AND FORFEITURE OF TAX
2664 CREDITS; FRAUDULENT CLAIMS.—
2665 (a) *Audit authority.*—The Department of Revenue may conduct
2666 examinations and audits as provided in s. 213.34 to verify that
2667 tax credits under this section are received, transferred, and
2668 applied according to the requirements of this section. If the
2669 Department of Revenue determines that tax credits are not
2670 received, transferred, or applied as required by this section,
2671 it may, in addition to the remedies provided in this subsection,
2672 pursue recovery of such funds pursuant to the laws and rules
2673 governing the assessment of taxes.
2674 (b) *Revocation of tax credits.*—The department may revoke or
2675 modify any written decision qualifying, certifying, or otherwise
2676 granting eligibility for tax credits under this section if it is
2677 discovered that the tax credit applicant submitted any false
2678 statement, representation, or certification in any application,

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2679 record, report, plan, or other document filed in an attempt to
2680 receive tax credits under this section. The department shall
2681 immediately notify the Department of Revenue of any revoked or
2682 modified orders affecting previously granted tax credits.
2683 Additionally, the applicant must notify the Department of
2684 Revenue of any change in its tax credit claimed.
2685 (c) *Forfeiture of tax credits.*—A determination by the
2686 Department of Revenue, as a result of an audit pursuant to
2687 paragraph (a) or from information received from the department
2688 or the Division ~~Office~~ of Film and Entertainment, that an
2689 applicant received tax credits pursuant to this section to which
2690 the applicant was not entitled is grounds for forfeiture of
2691 previously claimed and received tax credits. The applicant is
2692 responsible for returning forfeited tax credits to the
2693 Department of Revenue, and such funds shall be paid into the
2694 General Revenue Fund of the state. Tax credits purchased in good
2695 faith are not subject to forfeiture unless the transferee
2696 submitted fraudulent information in the purchase or failed to
2697 meet the requirements in subsection (5).
2698 (d) *Fraudulent claims.*—Any applicant that submits
2699 fraudulent information under this section is liable for
2700 reimbursement of the reasonable costs and fees associated with
2701 the review, processing, investigation, and prosecution of the
2702 fraudulent claim. An applicant that obtains a credit payment
2703 under this section through a claim that is fraudulent is liable
2704 for reimbursement of the credit amount plus a penalty in an
2705 amount double the credit amount. The penalty is in addition to
2706 any criminal penalty to which the applicant is liable for the
2707 same acts. The applicant is also liable for costs and fees

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2708 incurred by the state in investigating and prosecuting the
2709 fraudulent claim.
2710 (11) ~~(10)~~ ANNUAL REPORT.—Each November 1, the department
2711 ~~Office of Film and Entertainment~~ shall submit an annual report
2712 for the previous fiscal year to the Governor, the President of
2713 the Senate, and the Speaker of the House of Representatives
2714 which outlines the ~~incentive~~ program's return on investment and
2715 economic benefits to the state. The report must also include an
2716 estimate of the full-time equivalent positions created by each
2717 production that received tax credits under this section and
2718 information relating to the distribution of productions
2719 receiving credits by geographic region and type of production.
2720 The report must also include the expenditures report required
2721 under s. 288.915, ~~s. 288.1253(3) and~~ the information describing
2722 the relationship between tax exemptions and incentives to
2723 industry growth required under s. 288.1258(5), and program
2724 performance information under s. 288.1256. The department may
2725 work with the Division of Film and Entertainment to develop the
2726 annual report.
2727 (12) ~~(11)~~ REPEAL.—This section is repealed July 1, 2021
2728 ~~2016~~, except that:
2729 (a) Tax credits certified under paragraph (3)(d) before
2730 July 1, 2021 ~~2016~~, may be awarded under paragraph (3)(g) ~~(3)(f)~~
2731 on or after July 1, 2021 ~~2016~~, if the other requirements of this
2732 section are met.
2733 (b) Tax credits carried forward under paragraph (4)(d)
2734 ~~(4)(c)~~ remain valid for the period specified.
2735 (c) Subsections (5), (9), ~~(8)~~ and (10) ~~(9)~~ shall remain in
2736 effect until July 1, 2026 ~~July 1, 2021~~.

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2737 Section 28. Beginning October 1, 2015, if an application is
2738 on file with the Department of Economic Opportunity to receive a
2739 tax credit through the entertainment industry program under s.
2740 288.1254, Florida Statutes, and the application has not been
2741 certified for a tax credit award under current s.
2742 288.1254(3)(d), Florida Statutes, by the department, the
2743 application is deemed denied.
2744 Section 29. Effective October 1, 2015, section 288.1256,
2745 Florida Statutes, is created to read:
2746 288.1256 Entertainment action fund.—
2747 (1) The entertainment action fund is created within the
2748 department in order to respond to extraordinary opportunities
2749 and to compete effectively with other states to attract and
2750 retain production companies and to provide favorable conditions
2751 for the growth of the entertainment industry in this state.
2752 (2) As used in this section, the term:
2753 (a) "Division" means the Division of Film and Entertainment
2754 within Enterprise Florida, Inc.
2755 (b) "Principal photography" means the filming of major or
2756 significant components of the project which involve lead actors.
2757 (c) "Production" means a theatrical, direct-to-video, or
2758 direct-to-Internet motion picture; a made-for-television motion
2759 picture; visual effects or digital animation sequences produced
2760 in conjunction with a motion picture; a commercial; a music
2761 video; an industrial or educational film; an infomercial; a
2762 documentary film; a television pilot program; a presentation for
2763 a television pilot program; a television series, including, but
2764 not limited to, a drama, a reality show, a comedy, a soap opera,
2765 a telenovela, a game show, an awards show, or a miniseries

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2766 production; a direct-to-Internet television series; or a digital
2767 media project by the entertainment industry. One season of a
2768 television series is considered one production. The term does
2769 not include a weather or market program; a sporting event or a
2770 sporting event broadcast; a gala; a production that solicits
2771 funds; a home shopping program; a political program; a political
2772 documentary; political advertising; a gambling-related project
2773 or production; a concert production; a local, regional, or
2774 Internet-distributed-only news show or current-events show; a
2775 sports news or sports recap show; a pornographic production; or
2776 any production deemed obscene under chapter 847. A production
2777 may be produced on or by film, tape, or otherwise by means of a
2778 motion picture camera; electronic camera or device; tape device;
2779 computer; any combination of the foregoing; or any other means,
2780 method, or device.
2781 (d) "Production company" means a corporation, limited
2782 liability company, partnership, or other legal entity engaged in
2783 one or more productions in this state.
2784 (e) "Production expenditures" means the costs of tangible
2785 and intangible property used for, and services performed
2786 primarily and customarily in, production, including
2787 preproduction and postproduction, but excluding costs for
2788 development, marketing, and distribution. The term includes, but
2789 is not limited to:
2790 1. Wages, salaries, or other compensation paid to legal
2791 residents of this state, including amounts paid through payroll
2792 service companies, for technical and production crews,
2793 directors, producers, and performers.
2794 2. Net expenditures for sound stages, backlots, production

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2795 editing, digital effects, sound recordings, sets, and set
2796 construction.
2797 3. Net expenditures for rental equipment, including, but
2798 not limited to, cameras and grip or electrical equipment.
2799 4. Up to $300,000 of the costs of newly purchased computer
2800 software and hardware unique to the project, including servers,
2801 data processing, and visualization technologies, which are
2802 located in and used exclusively in this state for the production
2803 of digital media.
2804 5. Expenditures for meals, travel, and accommodations. As
2805 used in this paragraph, the term "net expenditures" means the
2806 actual amount of money a project spent for equipment or other
2807 tangible personal property, after subtracting any consideration
2808 received for reselling or transferring the item after the
2809 production ends, if applicable.
2810 (f) "Project" means a production in this state meeting the
2811 requirements of this section. The term does not include a
2812 production:
2813 1. In which less than 70 percent of the positions that make
2814 up its production cast and below-the-line production crew are
2815 filled by legal residents of this state, whose residency is
2816 demonstrated by a valid Florida driver license or other state-
2817 issued identification confirming residency, or students enrolled
2818 full-time in an entertainment-related course of study at an
2819 institution of higher education in this state; or
2820 2. That contains obscene content as defined in s.
2821 847.001(10).
2822 (g) "Qualified expenditures" means production expenditures
2823 incurred in this state by a production company for:

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2824 1. Goods purchased or leased from, or services, including,
2825 but not limited to, insurance costs and bonding, payroll
2826 services, and legal fees, which are provided by a vendor or
2827 supplier in this state that is registered with the Department of
2828 State or the Department of Revenue, has a physical location in
2829 this state, and employs one or more legal residents of this
2830 state. This does not include rebilled goods or services provided
2831 by an in-state company from out-of-state vendors or suppliers.
2832 When services provided by the vendor or supplier include
2833 personal services or labor, only personal services or labor
2834 provided by residents of this state, evidenced by the required
2835 documentation of residency in this state, qualify.
2836 2. Payments to legal residents of this state in the form of
2837 salary, wages, or other compensation up to a maximum of $400,000
2838 per resident unless otherwise specified in subsection (4). A
2839 completed declaration of residency in this state must accompany
2840 the documentation submitted to the department for reimbursement.
2841
2842 For a project involving an event, such as an awards show, the
2843 term does not include expenditures solely associated with the
2844 event itself and not directly required by the production. The
2845 term does not include expenditures incurred before the agreement
2846 is signed. The production company may not include in the
2847 calculation for qualified expenditures the original purchase
2848 price for equipment or other tangible property that is later
2849 sold or transferred by the production company for consideration.
2850 In such cases, the qualified expenditure is the net of the
2851 original purchase price minus the consideration received upon
2852 sale or transfer.

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2853 (h) "Underutilized county" means a county in which less
2854 than $500,000 in qualified expenditures were made in the last 2
2855 fiscal years.
2856 (3) A production company may apply for funds from the
2857 entertainment action fund for a production or successive seasons
2858 of a production. The department and the division shall jointly
2859 review and evaluate applications to determine the eligibility of
2860 each project consistent with the requirements of this section.
2861 The department shall select projects that maximize the return to
2862 the state.
2863 (4) The department and the division, in their review and
2864 evaluation of applications, must consider the following
2865 criteria, with priority given in descending order, with the
2866 highest priority given to paragraph (a):
2867 (a) The number of state residents that will be employed in
2868 full-time equivalent and part-time positions related to the
2869 project and the duration of such employment and the average
2870 wages paid to such residents. Preference shall be given to a
2871 project that expects to pay higher than the statewide average
2872 wage.
2873 (b) The amount of qualified and nonqualified expenditures
2874 that will be made in this state.
2875 (c) Planned or executed contracts with production
2876 facilities or soundstages in this state and the percentage of
2877 principal photography or production activity that will occur at
2878 each location.
2879 (d) Planned preproduction and postproduction to occur in
2880 this state.
2881 (e) The amount of capital investment, especially fixed

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2882 capital investment, to be made directly by the production
2883 company in this state related to the project and the amount of
2884 any other capital investment to be made in this state related to
2885 the project.
2886 (f) The duration of the project in this state.
2887 (g) The amount and duration of principal photography or
2888 production activity that will occur in an underutilized county.
2889 (h) The amount of promotion of Florida that the production
2890 company will provide for the state. This includes marketing
2891 materials promoting this state as a tourist destination or a
2892 film and entertainment production destination; placement of
2893 state agency logos in the production and credits; permitted use
2894 of production assets, characters, and themes by this state;
2895 promotional videos for this state included on optical disc
2896 formats; and other marketing integration.
2897 (i) The employment of students enrolled full-time in an
2898 entertainment-related course of study at an institution of
2899 higher education in this state or of graduates from such an
2900 institution within 12 months after graduation.
2901 (j) Plans to work with entertainment industry-related
2902 courses of study at an institution of higher education in this
2903 state.
2904 (k) The local support and any financial commitment for the
2905 project.
2906 (l) The project is about this state or shows this state in
2907 a positive light.
2908 (m) A review of the production company's past activities in
2909 this state or other states.
2910 (n) The length of time the production company has made

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2911 productions in this state, the number of productions the
2912 production company has made in this state, and the production
2913 company's overall commitment to this state. This includes a
2914 production company that is based in this state.
2915 (o) Expected contributions to this state's economy,
2916 consistent with the state strategic economic development plan
2917 prepared by the department.
2918 (p) The expected effect of the award on the viability of
2919 the project and the probability that the project would be
2920 undertaken in this state if funds are granted to the production
2921 company.
2922 (5) A production company must have financing in place for a
2923 project before it applies for funds under this section.
2924 (6) The department shall prescribe a form upon which an
2925 application must be made. At a minimum, the application must
2926 include:
2927 (a) The applicant's federal employer identification number,
2928 reemployment assistance account number, and state sales tax
2929 registration number, as applicable. If such numbers are not
2930 available at the time of application, they must be submitted to
2931 the department in writing before the disbursement of any
2932 payments.
2933 (b) The signature of the applicant.
2934 (c) A detailed budget of planned qualified and nonqualified
2935 expenditures in this state.
2936 (d) The type and amount of capital investment that will be
2937 made in this state.
2938 (e) The locations in this state at which the project will
2939 occur.

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2940 (f) The anticipated commencement date and duration of the
2941 project.
2942 (g) The proposed number of state residents and nonstate
2943 residents that will be employed in full-time equivalent and
2944 part-time positions related to the project and wages paid to
2945 such persons.
2946 (h) The total number of full-time equivalent employees
2947 employed by the production company in this state, if applicable.
2948 (i) Proof of financing for the project.
2949 (j) The amount of promotion of Florida that the production
2950 company will provide for the state.
2951 (k) An attestation verifying that the information provided
2952 on the application is true and accurate.
2953 (l) Any additional information requested by the department
2954 or division.
2955 (7) The department must make a recommendation to the
2956 Governor to approve or deny an award within 7 days after
2957 completion of the review and evaluation. An award of funds may
2958 not constitute more than 30 percent of qualified expenditures in
2959 this state and may not fund wages paid to nonresidents. A
2960 production must start within 1 year after the date the project
2961 is approved by the Governor. The recommendation must include the
2962 performance conditions that the project must meet to obtain
2963 funds.
2964 (a) The Governor may approve projects without consulting
2965 the Legislature for projects requiring less than $2 million in
2966 funding.
2967 (b) For projects requiring funding in the amount of $2
2968 million to $5 million, the Governor shall provide a written

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2969 description and evaluation of a project recommended for approval
2970 to the chair and vice chair of the Legislative Budget Commission
2971 at least 10 days before giving final approval for the project.
2972 The recommendation must include the performance conditions that
2973 the project must meet in order to obtain funds.
2974 (c) If the chair or vice chair of the Legislative Budget
2975 Commission or the President of the Senate or the Speaker of the
2976 House of Representatives timely advises the Executive Office of
2977 the Governor, in writing, that such action or proposed action
2978 exceeds the delegated authority of the Executive Office of the
2979 Governor or is contrary to legislative policy or intent, the
2980 Executive Office of the Governor shall void the release of funds
2981 and instruct the department to immediately change such action or
2982 proposed action until the Legislative Budget Commission or the
2983 Legislature addresses the issue.
2984 (d) Any project exceeding $5 million must be approved by
2985 the Legislative Budget Commission before the funding is
2986 released.
2987 (8) Upon the approval of the Governor, the department and
2988 the production company shall enter into an agreement that
2989 specifies, at a minimum:
2990 (a) The total amount of funds awarded and the schedule of
2991 payment.
2992 (b) The performance conditions for payment of moneys from
2993 the fund, including full- and part-time employment in this
2994 state; wages paid in this state; capital investment in this
2995 state, including fixed capital investment; marketing and
2996 promotion in this state; the date by which production must start
2997 and the duration of production; and the amount of qualified

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2998 expenditures in this state.
2999 (c) The methodology for validating performance and the date
3000 by which the production company must submit proof of performance
3001 to the department.
3002 (d) That the department may review and verify any records
3003 of the production company to ascertain whether that company is
3004 in compliance with this section and the agreement.
3005 (e) Sanctions for failure to meet performance conditions.
3006 (f) That payment of moneys from the fund is contingent upon
3007 sufficient appropriation of funds by the Legislature.
3008 (9) The agreement must be finalized and signed by an
3009 authorized officer of the production company within 90 days
3010 after the Governor's approval. A production company that is
3011 approved under this section may not simultaneously receive
3012 benefits under ss. 288.1254 and 288.1258 for the same
3013 production.
3014 (10) The department shall validate contractor performance
3015 and report such validation in the annual report required under
3016 s. 288.1254.
3017 (11) Contingent upon an annual appropriation by the
3018 Legislature, the department may not approve awards in excess of
3019 the amount appropriated for a fiscal year. The department must
3020 maintain a schedule of funds to be paid from the appropriation
3021 for the fiscal year that begins on July 1. For the first 6
3022 months of each fiscal year, the department shall set aside 50
3023 percent of the amount appropriated for the fund by the
3024 Legislature. At the end of the 6-month period, these funds may
3025 be used to provide funding for any project that qualifies under
3026 this section.

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3027 (12) A production company that submits fraudulent
3028 information under this section is liable for reimbursement of
3029 the reasonable costs and fees associated with the review,
3030 processing, investigation, and prosecution of the fraudulent
3031 claim. A production company that receives a payment under this
3032 section through a claim that is fraudulent is liable for
3033 reimbursement of the payment amount, plus a penalty in an amount
3034 double the payment amount. The penalty is in addition to any
3035 criminal penalty for which the production company is liable for
3036 the same acts. The production company is also liable for costs
3037 and fees incurred by the state in investigating and prosecuting
3038 the fraudulent claim.
3039 (13) The department may not waive any provision or provide
3040 an extension of time to meet any requirement of this section.
3041 (14) This section expires on July 1, 2025. An agreement in
3042 existence on that date shall continue in effect in accordance
3043 with its terms.
3044 Section 30. Section 288.1258, Florida Statutes, is amended
3045 to read:
3046 288.1258 Entertainment industry qualified production
3047 companies; application procedure; categories; duties of the
3048 Department of Revenue; records and reports.—
3049 (1) PRODUCTION COMPANIES AUTHORIZED TO APPLY.—
3050 (a) Any production company engaged in this state in the
3051 production of motion pictures, made-for-TV motion pictures,
3052 television series, commercial advertising, music videos, or
3053 sound recordings may submit an application to the Department of
3054 Revenue to be approved by the Department of Economic Opportunity
3055 ~~Office of Film and Entertainment~~ as a qualified production

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3056 company for the purpose of receiving a sales and use tax
3057 certificate of exemption from the Department of Revenue to
3058 exempt purchases on or after the date a complete application is
3059 filed with the Department of Revenue for exemptions under ss.
3060 212.031, 212.06, and 212.08.
3061 (b) As used in ~~For the purposes of~~ this section, the term
3062 "qualified production company" means any production company that
3063 has submitted a properly completed application to the Department
3064 of Revenue and that is subsequently qualified by the Department
3065 of Economic Opportunity ~~Office of Film and Entertainment~~.
3066 (2) APPLICATION PROCEDURE.—
3067 (a) The Department of Revenue shall ~~will~~ review all
3068 submitted applications for the required information. Within 10
3069 working days after the receipt of a properly completed
3070 application, the Department of Revenue shall ~~will~~ forward the
3071 completed application to the Department of Economic Opportunity
3072 ~~Office of Film and Entertainment~~ for approval.
3073 (b)1. The Department of Economic Opportunity ~~Office of Film~~
3074 ~~and Entertainment~~ shall establish a process by which an
3075 entertainment industry production company may be approved by the
3076 department ~~office~~ as a qualified production company and may
3077 receive a certificate of exemption from the Department of
3078 Revenue for the sales and use tax exemptions under ss. 212.031,
3079 212.06, and 212.08. A production company that is approved under
3080 this section may not simultaneously receive benefits under ss.
3081 288.1254 and 288.1256 for the same production.
3082 2. Upon determination by the department ~~Office of Film and~~
3083 ~~Entertainment~~ that a production company meets the established
3084 approval criteria and qualifies for exemption, the department

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3085 ~~Office of Film and Entertainment~~ shall return the approved
3086 application or application renewal or extension to the
3087 Department of Revenue, which shall issue a certificate of
3088 exemption.
3089 3. The department ~~Office of Film and Entertainment~~ shall
3090 deny an application or application for renewal or extension from
3091 a production company if it determines that the production
3092 company does not meet the established approval criteria.
3093 (c) The department ~~Office of Film and Entertainment~~ shall
3094 develop, with the cooperation of the Department of Revenue, the
3095 Division of Film and Entertainment within Enterprise Florida,
3096 Inc., and local government entertainment industry promotion
3097 agencies, a standardized application form for use in approving
3098 qualified production companies.
3099 1. The application form shall include, but not be limited
3100 to, production-related information on employment, proposed
3101 budgets, planned purchases of items exempted from sales and use
3102 taxes under ss. 212.031, 212.06, and 212.08, a signed
3103 affirmation from the applicant that any items purchased for
3104 which the applicant is seeking a tax exemption are intended for
3105 use exclusively as an integral part of entertainment industry
3106 preproduction, production, or postproduction activities engaged
3107 in primarily in this state, and a signed affirmation from the
3108 department ~~Office of Film and Entertainment~~ that the information
3109 on the application form has been verified and is correct. In
3110 lieu of information on projected employment, proposed budgets,
3111 or planned purchases of exempted items, a production company
3112 seeking a 1-year certificate of exemption may submit summary
3113 historical data on employment, production budgets, and purchases

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3114 of exempted items related to production activities in this
3115 state. Any information gathered from production companies for
3116 the purposes of this section shall be considered confidential
3117 taxpayer information and shall be disclosed only as provided in
3118 s. 213.053.
3119 2. The application form may be distributed to applicants by
3120 the department, the Division ~~Office~~ of Film and Entertainment,
3121 or local film commissions.
3122 (d) All applications, renewals, and extensions for
3123 designation as a qualified production company shall be processed
3124 by the department ~~Office of Film and Entertainment~~.
3125 (e) If ~~In the event that~~ the Department of Revenue
3126 determines that a production company no longer qualifies for a
3127 certificate of exemption, or has used a certificate of exemption
3128 for purposes other than those authorized by this section and
3129 chapter 212, the Department of Revenue shall revoke the
3130 certificate of exemption of that production company, and any
3131 sales or use taxes exempted on items purchased or leased by the
3132 production company during the time such company did not qualify
3133 for a certificate of exemption or improperly used a certificate
3134 of exemption shall become immediately due to the Department of
3135 Revenue, along with interest and penalty as provided by s.
3136 212.12. In addition to the other penalties imposed by law, any
3137 person who knowingly and willfully falsifies an application, or
3138 uses a certificate of exemption for purposes other than those
3139 authorized by this section and chapter 212, commits a felony of
3140 the third degree, punishable as provided in ss. 775.082,
3141 775.083, and 775.084.
3142 (3) CATEGORIES.—

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3143 (a)1. A production company may be qualified for designation
3144 as a qualified production company for a period of 1 year if the
3145 company has operated a business in Florida at a permanent
3146 address for a period of 12 consecutive months. Such a qualified
3147 production company shall receive a single 1-year certificate of
3148 exemption from the Department of Revenue for the sales and use
3149 tax exemptions under ss. 212.031, 212.06, and 212.08, which
3150 certificate shall expire 1 year after issuance or upon the
3151 cessation of business operations in the state, at which time the
3152 certificate shall be surrendered to the Department of Revenue.
3153 2. ~~The Office of Film and Entertainment shall develop a~~
3154 ~~method by which~~ A qualified production company may submit a new
3155 application for ~~annually renew~~ a 1-year certificate of exemption
3156 upon the expiration of that company's certificate of exemption;
3157 however, upon approval of the department, such qualified
3158 production company may annually renew the 1-year certificate of
3159 exemption for a period of up to 5 years without submitting
3160 ~~requiring the production company to resubmit~~ a new application
3161 during that 5-year period.
3162 3. Each year, or upon surrender of the certificate of
3163 exemption to the Department of Revenue, the ~~Any~~ qualified
3164 production company shall ~~may~~ submit to the department aggregate
3165 data for production-related information on employment,
3166 expenditures in this state, capital investment, and purchases of
3167 items exempted from sales and use taxes under ss. 212.031,
3168 212.06, and 212.08 for inclusion in the annual report required
3169 under subsection (5) ~~a new application for a 1-year certificate~~
3170 ~~of exemption upon the expiration of that company's certificate~~
3171 ~~of exemption~~.

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3172 (b)1. A production company may be qualified for designation
3173 as a qualified production company for a period of 90 days. Such
3174 production company shall receive a single 90-day certificate of
3175 exemption from the Department of Revenue for the sales and use
3176 tax exemptions under ss. 212.031, 212.06, and 212.08, which
3177 certificate shall expire 90 days after issuance or upon the
3178 cessation of business operations in the state, at which time~~,~~
3179 ~~with extensions contingent upon approval of the Office of Film~~
3180 ~~and Entertainment.~~ the certificate shall be surrendered to the
3181 Department of Revenue ~~upon its expiration~~.
3182 2. A qualified production company may submit a new
3183 application for a 90-day certificate of exemption each quarter
3184 upon the expiration of that company's certificate of exemption;
3185 however, upon approval of the department, such qualified
3186 production company may renew the 90-day certificate of exemption
3187 for a period of up to 1 year without submitting a new
3188 application during that 1-year period.
3189 3.~~2.~~ Each 90 days, or upon surrender of the certificate of
3190 exemption to the Department of Revenue, the qualified ~~Any~~
3191 production company shall ~~may~~ submit to the department aggregate
3192 data for production-related information on employment,
3193 expenditures in this state, capital investment, and purchases of
3194 items exempted from sales and use taxes under ss. 212.031,
3195 212.06, and 212.08 for inclusion in the annual report required
3196 under subsection (5) ~~a new application for a 90-day certificate~~
3197 ~~of exemption upon the expiration of that company's certificate~~
3198 ~~of exemption~~.
3199 (4) DUTIES OF THE DEPARTMENT OF REVENUE.—
3200 (a) The Department of Revenue shall review the initial

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3201 application and notify the applicant of any omissions and
3202 request additional information if needed. An application shall
3203 be complete upon receipt of all requested information. The
3204 Department of Revenue shall forward all complete applications to
3205 the department ~~Office of Film and Entertainment~~ within 10
3206 working days.
3207 (b) The Department of Revenue shall issue a numbered
3208 certificate of exemption to a qualified production company
3209 within 5 working days of the receipt of an approved application,
3210 application renewal, or application extension from the
3211 department ~~Office of Film and Entertainment~~.
3212 (c) The Department of Revenue may adopt ~~promulgate~~ such
3213 rules and shall prescribe and publish such forms as may be
3214 necessary to effectuate the purposes of this section or any of
3215 the sales tax exemptions which are reasonably related to the
3216 provisions of this section.
3217 (d) The Department of Revenue is authorized to establish
3218 audit procedures in accordance with the provisions of ss.
3219 212.12, 212.13, and 213.34 which relate to the sales tax
3220 exemption provisions of this section.
3221 (5) RELATIONSHIP OF TAX EXEMPTIONS AND INCENTIVES TO
3222 INDUSTRY GROWTH; REPORT TO THE LEGISLATURE.—The department
3223 ~~Office of Film and Entertainment~~ shall keep annual records from
3224 the information provided on taxpayer applications for tax
3225 exemption certificates and regularly reported as required in
3226 this section ~~beginning January 1, 2001~~. These records also must
3227 reflect a ratio of the annual amount of sales and use tax
3228 exemptions under this section~~,~~ plus the tax credits ~~incentives~~
3229 awarded pursuant to s. 288.1254 to the estimated amount of funds

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3230 expended by certified productions. In addition, the department
3231 ~~office~~ shall maintain data showing annual growth in Florida-
3232 based entertainment industry companies and entertainment
3233 industry employment and wages. The employment information must
3234 include ~~an estimate of~~ the full-time equivalent positions
3235 created by each production that received tax credits pursuant to
3236 s. 288.1254. The department ~~Office of Film and Entertainment~~
3237 shall include this information in the annual report for the
3238 entertainment industry ~~financial incentive~~ program required
3239 under s. 288.1254~~(10)~~.
3240 Section 31. Paragraph (b) of subsection (5) of section
3241 288.901, Florida Statutes, is amended to read:
3242 288.901 Enterprise Florida, Inc.—
3243 (5) APPOINTED MEMBERS OF THE BOARD OF DIRECTORS.—
3244 (b) In making their appointments, the Governor, the
3245 President of the Senate, and the Speaker of the House of
3246 Representatives shall ensure that the composition of the board
3247 of directors reflects the diversity of Florida's business
3248 community and is representative of the economic development
3249 goals in subsection (2). The board must include at least one
3250 director for each of the following areas of expertise:
3251 international business, tourism marketing, the space or
3252 aerospace industry, managing or financing a minority-owned
3253 business, manufacturing, finance and accounting, rural economic
3254 development, and sports marketing.
3255 Section 32. Subsection (5) is added to section 288.905,
3256 Florida Statutes, to read:
3257 288.905 President and employees of Enterprise Florida,
3258 Inc.—

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3259 (5) For a period of 2 years following vacation of office, a
3260 former president may not receive compensation for personally
3261 representing before the legislative or executive branch of state
3262 government an entity that applied for funding, received state
3263 funds, or negotiated with Enterprise Florida, Inc., for the
3264 receipt of state funds, regardless of whether the entity
3265 actually received any state funds.
3266 Section 33. The changes made to s. 288.905, Florida
3267 Statutes, apply only to presidents who are appointed or
3268 reappointed on or after July 1, 2015.
3269 Section 34. Effective October 1, 2015, subsection (1) of
3270 section 288.92, Florida Statutes, is amended to read:
3271 288.92 Divisions of Enterprise Florida, Inc.—
3272 (1) Enterprise Florida, Inc., may create and dissolve
3273 divisions as necessary to carry out its mission. Each division
3274 shall have distinct responsibilities and complementary missions.
3275 At a minimum, Enterprise Florida, Inc., shall have divisions
3276 related to the following areas:
3277 (a) International Trade and Business Development;
3278 (b) Business Retention and Recruitment;
3279 (c) Tourism Marketing;
3280 (d) Minority Business Development; ~~and~~
3281 (e) Sports Industry Development; and
3282 (f) Film and Entertainment.
3283 Section 35. Subsection (1) of section 288.9622, Florida
3284 Statutes, is amended to read:
3285 288.9622 Findings and intent.—
3286 (1) The Legislature finds and declares that there is a need
3287 to increase the availability of seed capital and early stage

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3288 venture equity capital for emerging companies in the state,
3289 including, without limitation, enterprises in life sciences,
3290 information technology, advanced manufacturing processes,
3291 aviation and aerospace, ~~and~~ homeland security and defense,
3292 improvement of water quality and safety, and agricultural
3293 enhancements and protections, as well as other strategic
3294 technologies.
3295 Section 36. Paragraph (d) of subsection (4) of section
3296 288.9624, Florida Statutes, is amended to read:
3297 288.9624 Florida Opportunity Fund; creation; duties.—
3298 (4) For the purpose of mobilizing investment in a broad
3299 variety of Florida-based, new technology companies and
3300 generating a return sufficient to continue reinvestment, the
3301 fund shall:
3302 (d) Invest only in funds, businesses, and infrastructure
3303 projects that have raised capital from other sources so that the
3304 amount invested in such funds, businesses, or infrastructure
3305 projects is at least twice the amount invested by the fund.
3306 Direct investments must be made in Florida infrastructure
3307 projects or businesses that are Florida-based or have
3308 significant business activities in Florida and operate in
3309 technology sectors that are strategic to Florida, including, but
3310 not limited to, enterprises in life sciences, information
3311 technology, advanced manufacturing processes, aviation and
3312 aerospace, ~~and~~ homeland security and defense, improvement of
3313 water quality and safety, and agricultural enhancements and
3314 protections, as well as other strategic technologies.
3315
3316 The Opportunity Fund may not use its original legislative

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3317 appropriation of $29.5 million for direct investments, including
3318 loans, in businesses or infrastructure projects, or for any
3319 purpose not specified in chapter 2007-189, Laws of Florida.
3320 Section 37. Paragraph (c) of subsection (3) and subsection
3321 (4) of section 288.980, Florida Statutes, are amended to read:
3322 288.980 Military base retention; legislative intent; grants
3323 program.—
3324 (3)
3325 (c) The department shall require that an applicant:
3326 1. Represent a local government with a military
3327 installation or military installations that could be adversely
3328 affected by federal actions.
3329 2. ~~Agree to match at least 30 percent of any grant awarded.~~
3330 ~~3.~~ Prepare a coordinated program or plan of action
3331 delineating how the eligible project will be administered and
3332 accomplished.
3333 3.~~4.~~ Provide documentation describing the potential for
3334 changes to the mission of a military installation located in the
3335 applicant's community and the potential impacts such changes
3336 will have on the applicant's community.
3337 (4) The Florida Defense Reinvestment Grant Program is
3338 established to respond to the need for this state to work in
3339 conjunction with defense-dependent communities in developing and
3340 implementing strategies and approaches that will help
3341 communities support the missions of military installations, and
3342 in developing and implementing alternative economic
3343 diversification strategies to transition from a defense economy
3344 to a nondefense economy. The department shall administer the
3345 program.

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3346 (a) Eligible applicants include defense-dependent counties
3347 and cities, and local economic development councils located
3348 within such communities. ~~The program shall be administered by~~
3349 ~~the department and~~ Grant awards may be provided to support
3350 community-based activities that:
3351 1.~~(a)~~ Protect existing military installations;
3352 2.~~(b)~~ Diversify or grow the economy of a defense-dependent
3353 community; or
3354 3.~~(c)~~ Develop plans for the reuse of closed or realigned
3355 military installations, including any plans necessary for
3356 infrastructure improvements needed to facilitate reuse and
3357 related marketing activities.
3358 (b) Applications for grants under paragraph (a) ~~this~~
3359 ~~subsection~~ must include a coordinated program of work or plan of
3360 action delineating how the eligible project will be administered
3361 and accomplished, which must include a plan for ensuring close
3362 cooperation between civilian and military authorities in the
3363 conduct of the funded activities and a plan for public
3364 involvement. An applicant must agree to match at least 30
3365 percent of any grant awarded.
3366 (c) An eligible applicant may also be a business in the
3367 defense and space industry. Grant awards may be provided to
3368 support technological competitiveness activities. For purposes
3369 of this paragraph, the term “technological competitiveness
3370 activities” includes equipment purchases, upgrades, or
3371 replacement. Applications for grants under this paragraph must
3372 include a plan of action delineating how the eligible project
3373 will be administered and accomplished.
3374 Section 38. Section 288.9937, Florida Statutes, is amended

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3375 to read:
3376 288.9937 Evaluation of programs.—The Office of Economic and
3377 Demographic Research and the Office of Program Policy Analysis
3378 and Government Accountability shall analyze and ~~,~~ evaluate~~, and~~
3379 ~~determine the economic benefits, as defined in s. 288.005, of~~
3380 the first 3 years of the Microfinance Loan Program and the
3381 Microfinance Guarantee Program. The analysis by the Office of
3382 Economic and Demographic Research must ~~also~~ determine the
3383 economic benefits, as defined in s. 288.005, evaluate the number
3384 of jobs created, the increase or decrease in personal income,
3385 and the impact on state gross domestic product from the direct,
3386 indirect, and induced effects of the state's investment. The
3387 analysis by the Office of Program Policy Analysis and Government
3388 Accountability must ~~also~~ identify any inefficiencies in the
3389 programs and provide recommendations for changes to the
3390 programs. Each ~~The~~ office shall submit a report to the President
3391 of the Senate and the Speaker of the House of Representatives by
3392 January 15 ~~1~~, 2018. This section expires January 31, 2018.
3393 Section 39. Subsection (3) of section 420.5087, Florida
3394 Statutes, is amended to read:
3395 420.5087 State Apartment Incentive Loan Program.—There is
3396 hereby created the State Apartment Incentive Loan Program for
3397 the purpose of providing first, second, or other subordinated
3398 mortgage loans or loan guarantees to sponsors, including for-
3399 profit, nonprofit, and public entities, to provide housing
3400 affordable to very-low-income persons.
3401 (3) During the first 6 months of loan or loan guarantee
3402 availability, program funds shall be reserved for use by
3403 sponsors who provide the housing set-aside required in

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3404 subsection (2) for the tenant groups designated in this
3405 subsection. The reservation of funds to each of these groups
3406 shall be determined using the most recent statewide very-low-
3407 income rental housing market study available at the time of
3408 publication of each notice of fund availability required by
3409 paragraph (6)(b). The reservation of funds within each notice of
3410 fund availability to the tenant groups in paragraphs (b)-(e)
3411 ~~(a), (b), and (c)~~ may not be less than 10 percent of the funds
3412 available at that time. Any increase in funding required to
3413 reach the 10-percent minimum must be taken from the tenant group
3414 that has the largest reservation. The reservation of funds
3415 within each notice of fund availability to the tenant group in
3416 paragraph (a) ~~(c)~~ may not be less than 5 percent of the funds
3417 available at that time. ~~The reservation of funds within each~~
3418 ~~notice of fund availability to the tenant group in paragraph (d)~~
3419 ~~may not be more than 10 percent of the funds available at that~~
3420 ~~time.~~ The tenant groups are:
3421 (a) Commercial fishing workers and farmworkers;
3422 (b) Families;
3423 (c) Persons who are homeless;
3424 (d) Persons with special needs; and
3425 (e) Elderly persons. Ten percent of the amount reserved for
3426 the elderly shall be reserved to provide loans to sponsors of
3427 housing for the elderly for the purpose of making building
3428 preservation, health, or sanitation repairs or improvements
3429 which are required by federal, state, or local regulation or
3430 code, or lifesafety or security-related repairs or improvements
3431 to such housing. Such a loan may not exceed $750,000 per housing
3432 community for the elderly. In order to receive the loan, the

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3433 sponsor of the housing community must make a commitment to match
3434 at least 5 percent of the loan amount to pay the cost of such
3435 repair or improvement. The corporation shall establish the rate
3436 of interest on the loan, which may not exceed 3 percent, and the
3437 term of the loan, which may not exceed 15 years; however, if the
3438 lien of the corporation's encumbrance is subordinate to the lien
3439 of another mortgagee, then the term may be made coterminous with
3440 the longest term of the superior lien. The term of the loan
3441 shall be based on a credit analysis of the applicant. The
3442 corporation may forgive indebtedness for a share of the loan
3443 attributable to the units in a project reserved for extremely-
3444 low-income elderly by nonprofit organizations, as defined in s.
3445 420.0004(5), where the project has provided affordable housing
3446 to the elderly for 15 years or more. The corporation shall
3447 establish, by rule, the procedure and criteria for receiving,
3448 evaluating, and competitively ranking all applications for loans
3449 under this paragraph. A loan application must include evidence
3450 of the first mortgagee's having reviewed and approved the
3451 sponsor's intent to apply for a loan. A nonprofit organization
3452 or sponsor may not use the proceeds of the loan to pay for
3453 administrative costs, routine maintenance, or new construction.
3454 Section 40. Section 420.57, Florida Statutes, is created to
3455 read:
3456 420.57 Affordable and Workforce Housing for Essential
3457 Service Personnel in the Florida Keys Area of Critical State
3458 Concern.—
3459 (1) This section provides incentives and authorizes a
3460 process for providing affordable rental opportunities for
3461 essential services personnel in the Florida Keys Area of

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3462 Critical State Concern who are affected by the area's uniquely
3463 high housing costs.
3464 (2) For purposes of this section, the term:
3465 (a) "Corporation" means the Florida Housing Finance
3466 Corporation.
3467 (b) "Essential services personnel" means persons in need of
3468 affordable housing who are considered essential services
3469 personnel as defined by Monroe County in its local housing
3470 assistance plan pursuant to s. 420.9075(3)(a).
3471 (c) "Florida Keys" or "Keys" means the Florida Keys Area of
3472 Critical State Concern designated by the Florida Keys Area
3473 Protection Act in s. 380.0552.
3474 (d) "Project" means the construction or rehabilitation of
3475 workforce housing by a qualified developer at a single site or
3476 scattered sites and where the qualified developer demonstrates
3477 ownership or control of all of the parcels.
3478 (e) "Workforce housing" means multifamily rental housing
3479 affordable to persons or households whose income does not exceed
3480 140 percent of the area median income for Monroe County
3481 established by the United States Department of Housing and Urban
3482 Development.
3483 (3) The corporation may provide low-interest loans for
3484 construction or rehabilitation of workforce housing in the
3485 Florida Keys Area of Critical State Concern, provided that the
3486 loans:
3487 (a) Do not exceed the lesser of 50 percent of development
3488 costs as defined in s. 420.503(13) or the minimum amount
3489 required to make the project economically feasible.
3490 (b) Bear interest rates of 1 to 3 percent, where long-term

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3491 affordability is provided and guaranteed for units set aside for
3492 workforce housing for essential services personnel.
3493 (4) The corporation shall select projects for funding by
3494 competitive solicitation as provided in s. 420.507(48),
3495 including consideration of factors contained in s. 420.5087.
3496 (5) All eligible applications must demonstrate the
3497 following:
3498 (a) Rents for all workforce housing serving those with
3499 incomes at or below 140 percent of area median income at the
3500 appropriate income level using the restricted rents for the
3501 federal low-income housing tax credit program. Such residences
3502 may not be used for transient occupancy, tourist housing, or
3503 vacation rentals.
3504 (b) The applicant proves it has site control of the
3505 proposed project site or sites and provides evidence that
3506 infrastructure sufficient to support the project is in place at
3507 the time of application.
3508 (6) Priority consideration for funding will be provided for
3509 projects that:
3510 (a) Set aside the highest percent of units for workforce
3511 housing.
3512 (b) Require the least amount of program funding compared to
3513 the overall housing cost of the project.
3514 (c) Show evidence of feasibility.
3515 (d) Demonstrate the economic viability of the project.
3516 (e) Include a commitment of first mortgage financing.
3517 (f) Are proposed by a developer with prior experience.
3518 (g) Reflect the developer’s ability to proceed with
3519 construction.

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3520 (h) Have support from the local government, as defined in
3521 s. 420.503(22), through funding grants, fee waivers, donations
3522 of land, contributions, or other tangible assistance. Such
3523 grants, donations of land, or contributions must be evidenced by
3524 a letter of commitment, agreement, contract, deed, memorandum of
3525 understanding, or other written instrument at the time of
3526 application.
3527 (i) Are consistent with the workforce housing objectives
3528 and strategies in the local comprehensive plan and land
3529 development regulations.
3530 (j) Incorporate one or more of the following design
3531 features: green building principles, energy efficient and water
3532 saving features, storm-resistant construction, or other elements
3533 that reduce the long-term costs relating to maintenance,
3534 utilities, and insurance.
3535 (7) The corporation may adopt rules to implement this
3536 section.
3537 (8) The corporation may use a maximum of 2 percent of any
3538 funds appropriated for this program for costs of administration.
3539 Section 41. Paragraphs (a) and (b) of subsection (3) and
3540 subsections (4), (5), and (6) of section 420.622, Florida
3541 Statutes, are amended to read:
3542 420.622 State Office on Homelessness; Council on
3543 Homelessness.—
3544 (3) The State Office on Homelessness, pursuant to the
3545 policies set by the council and subject to the availability of
3546 funding, shall:
3547 (a) Coordinate among state, local, and private agencies and
3548 providers to produce a statewide consolidated inventory ~~program~~

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3549 ~~and financial plan~~ for the state's entire system of homeless
3550 programs which incorporates regionally developed plans. Such
3551 programs include, but are not limited to:
3552 1. Programs authorized under the Stewart B. McKinney
3553 Homeless Assistance Act of 1987, 42 U.S.C. ss. 11371 et seq.,
3554 and carried out under funds awarded to this state; and
3555 2. Programs, components thereof, or activities that assist
3556 persons who are homeless or at risk for homelessness.
3557 (b) Collect, maintain, and make available information
3558 concerning persons who are homeless or at risk for homelessness,
3559 including demographics information, current services and
3560 resources available, the cost and availability of services and
3561 programs, and the met and unmet needs of this population. All
3562 entities that receive state funding must provide access to all
3563 data they maintain in summary form, with no individual
3564 identifying information, to assist the council in providing this
3565 information. The State Office on Homelessness shall establish a
3566 task force to make recommendations regarding the implementation
3567 of a statewide Homeless Management Information System (HMIS).
3568 The task force shall define the conceptual framework of such a
3569 system; study existing statewide HMIS models; establish an
3570 inventory of local HMIS systems, including providers and license
3571 capacity; examine the aggregated reporting being provided by
3572 local continuums of care; complete an analysis of current
3573 continuum of care resources; and provide recommendations on the
3574 costs and benefits of implementing a statewide HMIS. The task
3575 force shall also make recommendations regarding the development
3576 of a statewide, centralized coordinated assessment system in
3577 conjunction with the implementation of a statewide HMIS. The

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3578 task force findings must be reported to the Council on
3579 Homelessness no later than December 31, 2015. ~~The council shall~~
3580 ~~explore the potential of creating a statewide Management~~
3581 ~~Information System (MIS), encouraging the future participation~~
3582 ~~of any bodies that are receiving awards or grants from the~~
3583 ~~state, if such a system were adopted, enacted, and accepted by~~
3584 ~~the state.~~
3585 (4) The State Office on Homelessness, with the concurrence
3586 of the Council on Homelessness, shall ~~may~~ accept and administer
3587 moneys appropriated to it to provide annual "Challenge Grants"
3588 to lead agencies of homeless assistance continuums of care
3589 designated by the State Office on Homelessness pursuant to s.
3590 420.624. The department shall establish varying levels of grant
3591 awards up to $500,000 per lead agency. ~~Award levels shall be~~
3592 ~~based upon the total population within the continuum of care~~
3593 ~~catchment area and reflect the differing degrees of homelessness~~
3594 ~~in the catchment planning areas.~~ The department, in consultation
3595 with the Council on Homelessness, shall specify a grant award
3596 level in the notice of the solicitation of grant applications.
3597 (a) To qualify for the grant, a lead agency must develop
3598 and implement a local homeless assistance continuum of care plan
3599 for its designated catchment area. The continuum of care plan
3600 must implement a coordinated assessment or central intake system
3601 to screen, assess, and refer persons seeking assistance to the
3602 appropriate service provider. The lead agency shall also
3603 document the commitment of local government and private
3604 organizations to provide matching funds or in-kind support in an
3605 amount equal to the grant requested. Expenditures of leveraged
3606 funds or resources, including third-party cash or in-kind

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3607 contributions, are permitted only for eligible activities
3608 committed on one project which have not been used as leverage or
3609 match for any other project or program and must be certified
3610 through a written commitment.
3611 (b) Preference must be given to those lead agencies that
3612 have demonstrated the ability of their continuum of care to
3613 provide quality services to homeless persons and the ability to
3614 leverage federal homeless-assistance funding under the Stewart
3615 B. McKinney Act and private funding for the provision of
3616 services to homeless persons.
3617 (c) Preference must be given to lead agencies in catchment
3618 areas with the greatest need for the provision of housing and
3619 services to the homeless, relative to the population of the
3620 catchment area.
3621 (d) The grant may be used to fund any of the housing,
3622 program, or service needs included in the local homeless
3623 assistance continuum of care plan. The lead agency may allocate
3624 the grant to programs, services, or housing providers that
3625 implement the local homeless assistance continuum care plan. The
3626 lead agency may provide subgrants to a local agency to implement
3627 programs or services or provide housing identified for funding
3628 in the lead agency’s application to the department. A lead
3629 agency may spend a maximum of 8 percent of its funding on
3630 administrative costs.
3631 (e) The lead agency shall submit a final report to the
3632 department documenting the outcomes achieved by the grant in
3633 enabling persons who are homeless to return to permanent housing
3634 thereby ending such person’s episode of homelessness.
3635 (5) The State Office on Homelessness, with the concurrence

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3636 of the Council on Homelessness, may administer moneys
3637 appropriated to it to provide homeless housing assistance grants
3638 annually to lead agencies for local homeless assistance
3639 continuum of care, as recognized by the State Office on
3640 Homelessness, to acquire, construct, or rehabilitate
3641 transitional or permanent housing units for homeless persons.
3642 These moneys shall consist of any sums that the state may
3643 appropriate, as well as money received from donations, gifts,
3644 bequests, or otherwise from any public or private source, which
3645 are intended to acquire, construct, or rehabilitate transitional
3646 or permanent housing units for homeless persons.
3647 (a) Grant applicants shall be ranked competitively.
3648 Preference must be given to applicants who leverage additional
3649 private funds and public funds, particularly federal funds
3650 designated for the acquisition, construction, or rehabilitation
3651 of transitional or permanent housing for homeless persons; who
3652 acquire, build, or rehabilitate the greatest number of units; or
3653 ~~and~~ who acquire, build, or rehabilitate in catchment areas
3654 having the greatest need for housing for the homeless relative
3655 to the population of the catchment area.
3656 (b) Funding for any particular project may not exceed
3657 $750,000.
3658 (c) Projects must reserve, for a minimum of 10 years, the
3659 number of units acquired, constructed, or rehabilitated through
3660 homeless housing assistance grant funding to serve persons who
3661 are homeless at the time they assume tenancy.
3662 (d) No more than two grants may be awarded annually in any
3663 given local homeless assistance continuum of care catchment
3664 area.

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3665 (e) A project may not be funded which is not included in
3666 the local homeless assistance continuum of care plan, as
3667 recognized by the State Office on Homelessness, for the
3668 catchment area in which the project is located.
3669 (f) The maximum percentage of funds that the State Office
3670 on Homelessness and each applicant may spend on administrative
3671 costs is 5 percent.
3672 (6) The State Office on Homelessness, in conjunction with
3673 the Council on Homelessness, shall establish performance
3674 measures and specific objectives by which it may ~~to~~ evaluate the
3675 ~~effective~~ performance and outcomes of lead agencies that receive
3676 grant funds. Any funding through the State Office on
3677 Homelessness shall be distributed to lead agencies based on
3678 their overall performance and their achievement of specified
3679 objectives. Each lead agency for which grants are made under
3680 this section shall provide the State Office on Homelessness a
3681 thorough evaluation of the effectiveness of the program in
3682 achieving its stated purpose. In evaluating the performance of
3683 the lead agencies, the State Office on Homelessness shall base
3684 its criteria upon the program objectives, goals, and priorities
3685 that were set forth by the lead agencies in their proposals for
3686 funding. Such criteria may include, but not be limited to, the
3687 number of persons or households that are no longer homeless, the
3688 rate of recidivism to homelessness, and the number of persons
3689 who obtain gainful employment ~~homeless individuals provided~~
3690 ~~shelter, food, counseling, and job training~~.
3691 Section 42. Subsections (3), (7), and (8) of section
3692 420.624, Florida Statutes, are amended to read:
3693 420.624 Local homeless assistance continuum of care.—

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3694 (3) Communities or regions seeking to implement a local
3695 homeless assistance continuum of care are encouraged to develop
3696 and annually update a written plan that includes a vision for
3697 the continuum of care, an assessment of the supply of and demand
3698 for housing and services for the homeless population, and
3699 specific strategies and processes for providing the components
3700 of the continuum of care. The State Office on Homelessness, in
3701 conjunction with the Council on Homelessness, shall include in
3702 the plan a methodology for assessing performance and outcomes.
3703 The State Office on Homelessness shall supply a standardized
3704 format for written plans, including the reporting of data.
3705 (7) The components of a continuum of care plan should
3706 include:
3707 (a) Outreach, intake, and assessment procedures in order to
3708 identify the service and housing needs of an individual or
3709 family and to link them with appropriate housing, services,
3710 resources, and opportunities;
3711 (b) Emergency shelter, in order to provide a safe, decent
3712 alternative to living in the streets;
3713 (c) Transitional housing;
3714 (d) Supportive services, designed to assist with the
3715 development of the skills necessary to secure and retain
3716 permanent housing;
3717 (e) Permanent supportive housing;
3718 (f) Rapid ReHousing, as specified in s. 420.6265;
3719 (g) ~~(f)~~ Permanent housing;
3720 (h) ~~(g)~~ Linkages and referral mechanisms among all
3721 components to facilitate the movement of individuals and
3722 families toward permanent housing and self-sufficiency;

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3723 (i) ~~(h)~~ Services and resources to prevent housed persons
3724 from becoming or returning to homelessness; and
3725 (j) ~~(i)~~ An ongoing planning mechanism to address the needs
3726 of all subgroups of the homeless population, including but not
3727 limited to:
3728 1. Single adult males;
3729 2. Single adult females;
3730 3. Families with children;
3731 4. Families with no children;
3732 5. Unaccompanied children and youth;
3733 6. Elderly persons;
3734 7. Persons with drug or alcohol addictions;
3735 8. Persons with mental illness;
3736 9. Persons with dual or multiple physical or mental
3737 disorders;
3738 10. Victims of domestic violence; and
3739 11. Persons living with HIV/AIDS.
3740 (8) Continuum of care plans must promote participation by
3741 all interested individuals and organizations and may not exclude
3742 individuals and organizations on the basis of race, color,
3743 national origin, sex, handicap, familial status, or religion.
3744 Faith-based organizations must be encouraged to participate. To
3745 the extent possible, these components shall ~~should~~ be
3746 coordinated and integrated with other mainstream health, social
3747 services, and employment programs for which homeless populations
3748 may be eligible, including Medicaid, State Children's Health
3749 Insurance Program, Temporary Assistance for Needy Families, Food
3750 Assistance Program, and services funded through the Mental
3751 Health and Substance Abuse Block Grant, the Workforce Investment

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3752 Act, and the welfare-to-work grant program.
3753 Section 43. Section 420.6265, Florida Statutes, is created
3754 to read:
3755 420.6265 Rapid ReHousing.—
3756 (1) LEGISLATIVE FINDINGS AND INTENT.—
3757 (a) The Legislature finds that Rapid ReHousing is a
3758 strategy of using temporary financial assistance and case
3759 management to quickly move an individual or family out of
3760 homelessness and into permanent housing.
3761 (b) The Legislature also finds that, for most of the past
3762 two decades, public and private solutions to homelessness have
3763 focused on providing individuals and families who are
3764 experiencing homelessness with emergency shelter, transitional
3765 housing, or a combination of both. While emergency shelter and
3766 transitional housing programs may provide critical access to
3767 services for individuals and families in crisis, they often fail
3768 to address their long-term needs.
3769 (c) The Legislature further finds that most households
3770 become homeless as a result of a financial crisis that prevents
3771 individuals and families from paying rent or a domestic conflict
3772 that results in one member being ejected or leaving without
3773 resources or a plan for housing.
3774 (d) The Legislature further finds that Rapid ReHousing is
3775 an alternative approach to the current system of emergency
3776 shelter or transitional housing which tends to reduce the length
3777 of time of homelessness and has proven to be cost effective.
3778 (e) It is therefore the intent of the Legislature to
3779 encourage homeless continuums of care to adopt the Rapid
3780 ReHousing approach to preventing homelessness for individuals

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3781 and families who do not require the intense level of supports
3782 provided in the Permanent Supportive Housing model.
3783 (2) RAPID REHOUSING METHODOLOGY.—
3784 (a) The Rapid ReHousing approach to homelessness differs
3785 from traditional approaches to addressing homelessness by
3786 focusing on each individual's or family's barriers to returning
3787 to housing. By using this approach, communities can
3788 significantly reduce the amount of time that individuals and
3789 families are homeless and prevent further episodes of
3790 homelessness.
3791 (b) In Rapid ReHousing, an individual or family is
3792 identified as being homeless, temporary assistance is provided
3793 to allow the individual or family to obtain permanent housing as
3794 quickly as possible, and, if needed, assistance is provided to
3795 allow the individual or family to retain housing.
3796 (c) The objective of Rapid ReHousing is to provide
3797 assistance for as short a term as possible so that the
3798 individual or family receiving assistance does not develop a
3799 dependency on the assistance.
3800 Section 44. Subsections (25) and (26) of section 420.9071,
3801 Florida Statutes, are amended to read:
3802 420.9071 Definitions.—As used in ss. 420.907-420.9079, the
3803 term:
3804 (25) "Recaptured funds" means funds that are recouped by a
3805 county or eligible municipality in accordance with the recapture
3806 provisions of its local housing assistance plan pursuant to s.
3807 420.9075(5)(i) ~~s. 420.9075(5)(h)~~ from eligible persons or
3808 eligible sponsors, which funds were not used for assistance to
3809 an eligible household for an eligible activity, when there is a

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3810 default on the terms of a grant award or loan award.
3811 (26) "Rent subsidies" means ongoing monthly rental
3812 assistance. ~~The term does not include initial assistance to~~
3813 ~~tenants, such as grants or loans for security and utility~~
3814 ~~deposits.~~
3815 Section 45. Subsection (7) of section 420.9072, Florida
3816 Statutes, is amended, present subsections (8) and (9) of that
3817 section are redesignated as subsections (9) and (10),
3818 respectively, and a new subsection (8) is added to that section,
3819 to read:
3820 420.9072 State Housing Initiatives Partnership Program.—The
3821 State Housing Initiatives Partnership Program is created for the
3822 purpose of providing funds to counties and eligible
3823 municipalities as an incentive for the creation of local housing
3824 partnerships, to expand production of and preserve affordable
3825 housing, to further the housing element of the local government
3826 comprehensive plan specific to affordable housing, and to
3827 increase housing-related employment.
3828 (7) A county or an eligible municipality must expend its
3829 portion of the local housing distribution only to implement a
3830 local housing assistance plan or as provided in this subsection.
3831 ~~A county or an eligible municipality may not expend its portion~~
3832 ~~of the local housing distribution to provide rent subsidies;~~
3833 ~~however, this does not prohibit the use of funds for security~~
3834 ~~and utility deposit assistance.~~
3835 (8) A county or an eligible municipality may not expend its
3836 portion of the local housing distribution to provide ongoing
3837 rent subsidies, except for:
3838 (a) Security and utility deposit assistance.

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3839 (b) Eviction prevention not to exceed 6 months' rent.
3840 (c) A rent subsidy program for very-low-income households
3841 with at least one adult who is a person with special needs as
3842 defined in s. 420.0004 or homeless as defined in s. 420.621. The
3843 period of rental assistance may not exceed 12 months for any
3844 eligible household.
3845 Section 46. Present subsections (5), (6), and (7) of
3846 section 420.9073, Florida Statutes, are redesignated as
3847 subsections (6), (7), and (8), respectively, and a new
3848 subsection (5) is added to that section, to read:
3849 420.9073 Local housing distributions.—
3850 (5) Notwithstanding subsections (1) through (4), the
3851 corporation shall first distribute 4 percent of the total amount
3852 to be distributed in a given fiscal year from the Local
3853 Government Housing Trust Fund to the Department of Children and
3854 Families and the Department of Economic Opportunity as follows:
3855 (a) The Department of Children and Families shall receive
3856 95 percent of such amount to provide operating funds and other
3857 support to the designated lead agency in each continuum of care
3858 for the benefit of the designated catchment area as described in
3859 s. 420.624.
3860 (b) The Department of Economic Opportunity shall receive 5
3861 percent of such amount to provide training and technical
3862 assistance to lead agencies receiving operating funds and other
3863 support under paragraph (a) in accordance with s. 420.606(3).
3864 Training and technical assistance funded by this distribution
3865 shall be provided by a nonprofit entity that meets the
3866 requirements of s. 420.531.
3867 Section 47. Paragraph (a) of subsection (2) of section

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3868 420.9075, Florida Statutes, is amended, paragraph (f) is added
3869 to subsection (3) of that section, subsection (5) of that
3870 section is amended, and paragraph (i) is added to subsection
3871 (10) of that section, to read:
3872 420.9075 Local housing assistance plans; partnerships.—
3873 (2)(a) Each county and each eligible municipality
3874 participating in the State Housing Initiatives Partnership
3875 Program shall encourage the involvement of appropriate public
3876 sector and private sector entities as partners in order to
3877 combine resources to reduce housing costs for the targeted
3878 population. This partnership process should involve:
3879 1. Lending institutions.
3880 2. Housing builders and developers.
3881 3. Nonprofit and other community-based housing and service
3882 organizations.
3883 4. Providers of professional services relating to
3884 affordable housing.
3885 5. Advocates for low-income persons, including, but not
3886 limited to, homeless people, the elderly, and migrant
3887 farmworkers.
3888 6. Real estate professionals.
3889 7. Other persons or entities who can assist in providing
3890 housing or related support services.
3891 8. Lead agencies of local homeless assistance continuums of
3892 care.
3893 (3)
3894 (f) Each county and each eligible municipality is
3895 encouraged to develop a strategy within its local housing
3896 assistance plan which provides program funds for reducing

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3897 homelessness.
3898 (5) The following criteria apply to awards made to eligible
3899 sponsors or eligible persons for the purpose of providing
3900 eligible housing:
3901 (a) At least 65 percent of the funds made available in each
3902 county and eligible municipality from the local housing
3903 distribution must be reserved for home ownership for eligible
3904 persons.
3905 (b) Up to 25 percent of the funds made available in each
3906 county and eligible municipality from the local housing
3907 distribution may be reserved for rental housing for eligible
3908 persons or for the purposes enumerated in s. 420.9072(8).
3909 (c) ~~(b)~~ At least 75 percent of the funds made available in
3910 each county and eligible municipality from the local housing
3911 distribution must be reserved for construction, rehabilitation,
3912 or emergency repair of affordable, eligible housing.
3913 (d) ~~(c)~~ Not more than 20 percent of the funds made available
3914 in each county and eligible municipality from the local housing
3915 distribution may be used for manufactured housing.
3916 (e) ~~(d)~~ The sales price or value of new or existing eligible
3917 housing may not exceed 90 percent of the average area purchase
3918 price in the statistical area in which the eligible housing is
3919 located. Such average area purchase price may be that calculated
3920 for any 12-month period beginning not earlier than the fourth
3921 calendar year prior to the year in which the award occurs or as
3922 otherwise established by the United States Department of the
3923 Treasury.
3924 (f) ~~(e)~~1. All units constructed, rehabilitated, or otherwise
3925 assisted with the funds provided from the local housing

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3926 assistance trust fund must be occupied by very-low-income
3927 persons, low-income persons, and moderate-income persons except
3928 as otherwise provided in this section.
3929 2. At least 30 percent of the funds deposited into the
3930 local housing assistance trust fund must be reserved for awards
3931 to very-low-income persons or eligible sponsors who will serve
3932 very-low-income persons and at least an additional 30 percent of
3933 the funds deposited into the local housing assistance trust fund
3934 must be reserved for awards to low-income persons or eligible
3935 sponsors who will serve low-income persons. This subparagraph
3936 does not apply to a county or an eligible municipality that
3937 includes, or has included within the previous 5 years, an area
3938 of critical state concern designated or ratified by the
3939 Legislature for which the Legislature has declared its intent to
3940 provide affordable housing. The exemption created by this act
3941 expires on July 1, 2013, and shall apply retroactively.
3942 (g) ~~(f)~~ Loans shall be provided for periods not exceeding 30
3943 years, except for deferred payment loans or loans that extend
3944 beyond 30 years which continue to serve eligible persons.
3945 (h) ~~(g)~~ Loans or grants for eligible rental housing
3946 constructed, rehabilitated, or otherwise assisted from the local
3947 housing assistance trust fund must be subject to recapture
3948 requirements as provided by the county or eligible municipality
3949 in its local housing assistance plan unless reserved for
3950 eligible persons for 15 years or the term of the assistance,
3951 whichever period is longer. Eligible sponsors that offer rental
3952 housing for sale before 15 years or that have remaining
3953 mortgages funded under this program must give a first right of
3954 refusal to eligible nonprofit organizations for purchase at the

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3955 current market value for continued occupancy by eligible
3956 persons.
3957 (i) ~~(h)~~ Loans or grants for eligible owner-occupied housing
3958 constructed, rehabilitated, or otherwise assisted from proceeds
3959 provided from the local housing assistance trust fund shall be
3960 subject to recapture requirements as provided by the county or
3961 eligible municipality in its local housing assistance plan.
3962 (j) ~~(i)~~ The total amount of monthly mortgage payments or the
3963 amount of monthly rent charged by the eligible sponsor or her or
3964 his designee must be made affordable.
3965 (k) ~~(j)~~ The maximum sales price or value per unit and the
3966 maximum award per unit for eligible housing benefiting from
3967 awards made pursuant to this section must be established in the
3968 local housing assistance plan.
3969 (l) ~~(k)~~ The benefit of assistance provided through the State
3970 Housing Initiatives Partnership Program must accrue to eligible
3971 persons occupying eligible housing. This provision shall not be
3972 construed to prohibit use of the local housing distribution
3973 funds for a mixed income rental development.
3974 (m) ~~(l)~~ Funds from the local housing distribution not used
3975 to meet the criteria established in paragraph (a) or paragraph
3976 (c) ~~(b)~~ or not used for the administration of a local housing
3977 assistance plan must be used for housing production and finance
3978 activities, including, but not limited to, financing
3979 preconstruction activities or the purchase of existing units,
3980 providing rental housing, and providing home ownership training
3981 to prospective home buyers and owners of homes assisted through
3982 the local housing assistance plan.
3983 1. Notwithstanding the provisions of paragraphs (a) and (c)

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3984 ~~(b)~~, program income as defined in s. 420.9071(24) may also be
3985 used to fund activities described in this paragraph.
3986 2. When preconstruction due-diligence activities conducted
3987 as part of a preservation strategy show that preservation of the
3988 units is not feasible and will not result in the production of
3989 an eligible unit, such costs shall be deemed a program expense
3990 rather than an administrative expense if such program expenses
3991 do not exceed 3 percent of the annual local housing
3992 distribution.
3993 3. If both an award under the local housing assistance plan
3994 and federal low-income housing tax credits are used to assist a
3995 project and there is a conflict between the criteria prescribed
3996 in this subsection and the requirements of s. 42 of the Internal
3997 Revenue Code of 1986, as amended, the county or eligible
3998 municipality may resolve the conflict by giving precedence to
3999 the requirements of s. 42 of the Internal Revenue Code of 1986,
4000 as amended, in lieu of following the criteria prescribed in this
4001 subsection with the exception of paragraphs (a) and (f) ~~(e)~~ of
4002 this subsection.
4003 4. Each county and each eligible municipality may award
4004 funds as a grant for construction, rehabilitation, or repair as
4005 part of disaster recovery or emergency repairs or to remedy
4006 accessibility or health and safety deficiencies. Any other
4007 grants must be approved as part of the local housing assistance
4008 plan.
4009 (10) Each county or eligible municipality shall submit to
4010 the corporation by September 15 of each year a report of its
4011 affordable housing programs and accomplishments through June 30
4012 immediately preceding submittal of the report. The report shall

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4013 be certified as accurate and complete by the local government's
4014 chief elected official or his or her designee. Transmittal of
4015 the annual report by a county's or eligible municipality's chief
4016 elected official, or his or her designee, certifies that the
4017 local housing incentive strategies, or, if applicable, the local
4018 housing incentive plan, have been implemented or are in the
4019 process of being implemented pursuant to the adopted schedule
4020 for implementation. The report must include, but is not limited
4021 to:
4022 (i) A description of efforts to reduce homelessness.
4023 Section 48. Section 420.9089, Florida Statutes, is created
4024 to read:
4025 420.9089 National Housing Trust Fund.—The Legislature finds
4026 that more funding for housing to assist the homeless is needed
4027 and encourages the state entity designated to administer funds
4028 made available to the state from the National Housing Trust Fund
4029 to propose an allocation plan that includes strategies to reduce
4030 homelessness in this state. These strategies to address
4031 homelessness shall be in addition to strategies under s.
4032 420.5087.
4033 Section 49. Effective October 1, 2015, subsection (5) of
4034 section 477.0135, Florida Statutes, is amended to read:
4035 477.0135 Exemptions.—
4036 (5) A license is not required of any individual providing
4037 makeup, special effects, or cosmetology services to an actor,
4038 stunt person, musician, extra, or other talent during a
4039 production recognized by the Department of Economic Opportunity
4040 ~~Office of Film and Entertainment~~ as a qualified production as
4041 defined in s. 288.1254(1). Such services are not required to be

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4042 performed in a licensed salon. Individuals exempt under this
4043 subsection may not provide such services to the general public.
4044 Section 50. Effective July 1, 2015, the four sports
4045 development project applications that the Department of Economic
4046 Opportunity reviewed and recommended to the Legislature for
4047 approval pursuant to s. 288.11625, Florida Statutes, on January
4048 23, 2015, are approved pursuant to s. 288.11625(4)(e), Florida
4049 Statutes. The Department of Economic Opportunity shall certify
4050 the applicants for sports development projects no later than
4051 August 15, 2015.
4052 Section 51. (1) For purposes of this section, the term
4053 "eligible business" means a business that entered into a
4054 contract with the Department of Economic Opportunity for an
4055 economic development program under chapter 288, Florida
4056 Statutes, between January 1, 2013, and December 31, 2015, for a
4057 project that is located in an enterprise zone designated
4058 pursuant to s. 290.0065, Florida Statutes, as of December 31,
4059 2015.
4060 (2) An eligible business may apply for the following
4061 programs, if the contract with the Department of Economic
4062 Opportunity is still deemed active by the department and has not
4063 expired or terminated:
4064 (a) The property tax exemption for licensed child care
4065 facility under s. 196.095, Florida Statutes.
4066 (b) The building materials sales tax refund under s.
4067 212.08(5)(g), Florida Statutes.
4068 (c) The business equipment sales tax refund under s.
4069 212.08(5)(h), Florida Statutes.
4070 (d) The electrical sales tax exemption under s. 212.08(15),

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4071 Florida Statutes.
4072 (e) The enterprise zone jobs tax credit under s. 212.096,
4073 Florida Statutes.
4074 (f) The enterprise zone jobs tax credit under s. 220.181,
4075 Florida Statutes.
4076 (g) The enterprise zone property tax credit under s.
4077 220.182, Florida Statutes.
4078 (3) The Department of Economic Opportunity must provide a
4079 list of eligible businesses annually to the Department of
4080 Revenue. The Department of Economic Opportunity must also
4081 provide notice to the Department of Revenue upon the expiration
4082 or termination of a contract.
4083 (4) This section is effective January 1, 2016, and expires
4084 on December 31, 2018.
4085 Section 52. For the 2014-2015 fiscal year, the sums of $20
4086 million in nonrecurring funds from the State Economic
4087 Enhancement and Development Trust Fund and $3.8 million in
4088 nonrecurring funds from the Economic Development Trust Fund are
4089 appropriated to the Department of Economic Opportunity to
4090 provide payments and tax refunds pursuant to s. 288.061, Florida
4091 Statutes, for programs under ss. 288.0659, 288.1045, 288.106,
4092 288.107, 288.108, 288.1088, and 288.1089, Florida Statutes.
4093 Payments may be made only for projects that meet statutory
4094 eligibility requirements. The projects must be verified by an
4095 independent third party that determines that an applicant has
4096 satisfied all of the requirements of the agreement or contract,
4097 and the Department of Economic Opportunity must determine that
4098 the applicant has met the required project performance criteria
4099 and that a payment is due. Funds may not be released for any

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4100 other purpose. Funds provided from the Economic Development
4101 Trust Fund represent local matching funds.
4102 Section 53. Except as otherwise expressly provided in this
4103 act, this act shall take effect July 1, 2015.
4104
4105 ========== T I T L E A M E N D M E N T ==========
4106 And the title is amended as follows:
4107 Delete everything before the enacting clause
4108 and insert:
4109 A bill to be entitled
4110 An act relating to economic development; amending s.
4111 163.340, F.S.; expanding the definition of the term
4112 "blighted area" to include a substantial number or
4113 percentage of properties damaged by sinkhole activity
4114 which are not adequately repaired or stabilized;
4115 conforming a cross-reference; amending ss. 163.524,
4116 212.08, 212.20 and 220.1899, F.S.; conforming cross-
4117 references; amending s. 220.191, F.S.; redefining the
4118 term "cumulative capital investment"; amending s.
4119 288.0001, F.S.; conforming a cross-reference;
4120 requiring the Office of Economic and Demographic
4121 Research and the Office of Program Policy Analysis and
4122 Government Accountability to provide a detailed
4123 analysis of the retention of Major League Baseball
4124 spring training baseball franchises; amending s.
4125 288.005, F.S.; redefining the term "economic
4126 benefits"; amending s. 288.061, F.S.; requiring the
4127 Department of Economic Opportunity to prescribe a
4128 specified application form; requiring the incentive

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4129 application to include specified information;
4130 requiring the Office of Economic and Demographic
4131 Research to include guidelines for the appropriate
4132 application of the department’s internal model in the
4133 establishment of the methodology and model it will use
4134 to calculate economic benefits; requiring that if the
4135 Office of Economic and Demographic Research develops
4136 an amended definition of the term “economic benefits,”
4137 it must reflect a specified requirement; prohibiting
4138 the department from attributing to the business any
4139 capital investment made by a business using state
4140 funds; requiring that the evaluation account for all
4141 capital investment relating to the project; requiring
4142 the department’s evaluation of the application to
4143 include specified information; requiring the
4144 department to recommend to the Governor approval or
4145 disapproval of a project that will receive funds from
4146 specified programs; requiring the department, in
4147 recommending a project, to include justification for
4148 the project and proposed performance conditions that
4149 the project must meet to obtain incentive funds;
4150 authorizing the Governor to approve a project without
4151 consulting the Legislature if the requested funding is
4152 less than a specified amount; requiring the Governor
4153 to provide a written description and evaluation of the
4154 project to specified persons during a specified
4155 timeframe; requiring the recommendation to include
4156 proposed payment and performance conditions that the
4157 project must meet in order to obtain incentive funds

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4158 and to avoid sanctions; requiring the Governor to
4159 instruct the department to immediately suspend an
4160 action or proposed action until the Legislative Budget
4161 Commission or the Legislature makes a determination on
4162 the project in certain circumstances; requiring a
4163 project that exceeds a specified amount of funding to
4164 be approved by the Legislative Budget Commission
4165 before final approval by the Governor; requiring a
4166 project that exceeds a specified amount of funding and
4167 that provides a waiver of program requirements to be
4168 approved by the Legislative Budget Commission before
4169 final approval by the Governor; providing that a
4170 project is deemed approved by the Legislative Budget
4171 Commission in certain circumstances; requiring the
4172 department to issue a letter certifying the applicant
4173 as qualified for an award upon approval; specifying
4174 the authorized funding sources related to the term
4175 “project”; requiring the department and the applicant
4176 to enter into an agreement or contract upon
4177 certification; requiring the agreement or contract to
4178 require that the applicant use the workforce
4179 information systems in certain circumstances;
4180 requiring any agreement or contract that requires
4181 capital investment to be made by the business to also
4182 require that such investment remain in the state for
4183 the duration of the agreement or contract; prohibiting
4184 an agreement or contract from having a term of longer
4185 than 10 years; authorizing the department to enter
4186 into a successive agreement or contract for a

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4187 specified project under certain circumstances;
4188 providing applicability; requiring the department to
4189 provide notice, with a written description and
4190 evaluation, to the Legislature of any proposed
4191 amendments to an agreement or contract; requiring the
4192 department to provide notice of the proposed change to
4193 specified persons in order to provide an opportunity
4194 for review; providing that a proposed amendment to an
4195 agreement or contract which reduces projected economic
4196 benefits calculated at the time the agreement or
4197 contract was executed by a specified amount or more or
4198 that results in an economic benefit ratio below a
4199 specified level, or if already below the specified
4200 level, by a specified amount, is subject to specified
4201 notice and objection procedures; requiring the
4202 Governor to instruct the department to immediately
4203 suspend an action or proposed action until the
4204 Legislative Budget Commission or Legislature makes a
4205 determination on the project in certain circumstances;
4206 authorizing the department to execute specified
4207 contracts and agreements from current or future fiscal
4208 year appropriations for specified incentive programs;
4209 prohibiting the total amount of actual or projected
4210 funds approved for a specified payment by the
4211 department from exceeding a specified amount in any
4212 fiscal year for certain programs; providing that the
4213 specified funding limitation may only be waived by the
4214 Legislature in the General Appropriations Act or other
4215 legislation; requiring the department to provide

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4216 specified notice to the Legislature upon the final
4217 execution of each contract or agreement; requiring the
4218 department to provide to the Legislature a list of
4219 projected payments for the following fiscal year and a
4220 list of claims actually filed for payment in the
4221 following fiscal year by specified dates; prohibiting
4222 the department from making a scheduled payment under a
4223 contract or agreement for a given fiscal year until
4224 the department has validated that the applicant has
4225 met the performance requirements of the contract or
4226 agreement; providing for reversion of specified funds
4227 that are unexpended by a specified date in a fiscal
4228 year; prohibiting the transfer of such reverted funds
4229 to an escrow account; requiring the Legislature to
4230 annually appropriate in the General Appropriations Act
4231 an amount estimated to sufficiently satisfy scheduled
4232 payments in a fiscal year; requiring the department to
4233 pay unfunded claims if the amount appropriated by the
4234 Legislature proves insufficient to satisfy the
4235 scheduled payments in a fiscal year; requiring the
4236 department to notify the legislative appropriations
4237 committees of any anticipated shortfall for the
4238 current fiscal year and of the amount it estimates
4239 will be needed to pay claims during the next fiscal
4240 year; amending s. 288.095, F.S.; providing that moneys
4241 credited to the Economic Development Trust Fund
4242 consist of specified funds; restricting the use of
4243 moneys in the Economic Development Incentives Account;
4244 providing that any balance in the account at the end

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4245 of the fiscal year remains in the account and is
4246 available for carrying out the purposes of the
4247 account; amending s. 288.1045, F.S.; revising the term
4248 “average wage in the area” to “average private sector
4249 wage in the area”; conforming provisions to changes
4250 made by the act; prohibiting the department from
4251 certifying any applicant as a qualified applicant in
4252 certain circumstances; increasing the number of days
4253 the department may extend the filing date; extending
4254 the future expiration of an applicant for a tax
4255 refund; requiring the department to verify taxes paid;
4256 amending s. 288.106, F.S.; conforming provisions to
4257 changes made by the act; revising terms; increasing
4258 the number of days the department may extend the
4259 filing date; revising the limitations on the average
4260 private sector wage paid by the business; amending s.
4261 288.107, F.S.; revising the term “eligible business”;
4262 defining the term “fixed capital investment”;
4263 conforming provisions to changes made by the act;
4264 amending s. 288.108, F.S.; conforming provisions to
4265 changes made by the act; amending s. 288.1088, F.S.;
4266 revising the requirements for projects eligible for
4267 receipt of funds from the Quick Action Closing Fund;
4268 conforming provisions to changes made by the act;
4269 defining the term “average private sector wage in the
4270 area”; requiring a specified request to be transmitted
4271 in writing to the department with an explanation of
4272 the specific justification for the request; requiring
4273 a decision to be stated in writing with an explanation

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4274 of the reason for approving the request if the
4275 department approves the request; prohibiting the
4276 department from waiving more than a specified amount
4277 of criteria; revising the information that the
4278 department must include in an evaluation of an
4279 individual proposal for high-impact business
4280 facilities; prohibiting the payment of moneys from the
4281 fund to a business until the scheduled goals have been
4282 achieved; revising the information that must be
4283 included in a contract that sets forth the conditions
4284 for payments of moneys from the fund; creating s.
4285 288.10881, F.S.; creating the Quick Action Closing
4286 Fund Escrow Account within the State Board of
4287 Administration; providing the composition of the
4288 escrow account; restricting the usage of moneys in the
4289 escrow account to specified payments; requiring the
4290 State Board of Administration to transfer specified
4291 funds to the department for deposit in the State
4292 Economic Enhancement and Development Trust Fund in
4293 certain circumstances; requiring the establishment of
4294 a continuing appropriation category; requiring
4295 specified funds to be returned to the department for
4296 deposit in the State Economic Enhancement and
4297 Development Trust Funds within a specified period;
4298 requiring funds in the escrow account to be managed
4299 under specified investment practices; requiring that
4300 the funds be made available to make specified
4301 payments; requiring the State Board of Administration
4302 to transfer interest earnings on a quarterly basis to

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4303 the department for deposit in the State Economic
4304 Enhancement and Development Trust Fund; authorizing
4305 specified funds to be used to fund specified marketing
4306 activities of Enterprise Florida, Inc.; amending s.
4307 288.1089, F.S.; conforming provisions to changes made
4308 by the act; amending s. 288.1097, F.S.; authorizing a
4309 qualified job training organization to participate in
4310 a self-insurance fund; providing that a qualified job
4311 training organization is not subject to specified
4312 requirements; amending s. 288.1168, F.S.; requiring
4313 the Department of Economic Opportunity to recertify
4314 the professional golf hall of fame facility annually;
4315 requiring the PGA Tour, Inc., to increase funding if
4316 the facility does not meet minimum projections;
4317 requiring advertising to be done in consultation with
4318 the Florida Tourism Industry Marketing Corporation;
4319 providing for decertification of the facility under
4320 certain circumstances; repealing s. 288.1169, F.S.,
4321 relating to state agency funding of the International
4322 Game Fish Association World Center facility; amending
4323 s. 288.1201, F.S.; conforming provisions to changes
4324 made by the act; amending s. 288.125, F.S.; revising
4325 the applicability of the term “entertainment
4326 industry”; transferring, renumbering, and amending s.
4327 288.1251, F.S.; renaming the Office of Film and
4328 Entertainment within the Department of Economic
4329 Opportunity as the Division of Film and Entertainment
4330 within Enterprise Florida, Inc.; requiring the
4331 division to serve as a liaison between the

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4332 entertainment industry and other agencies,
4333 commissions, and organizations; requiring the Governor
4334 to appoint the film and entertainment commissioner;
4335 revising the requirements of the division’s strategic
4336 plan; transferring, renumbering, and amending s.
4337 288.1252, F.S.; revising the powers and duties of the
4338 Florida Film and Entertainment Advisory Council;
4339 revising council membership; conforming provisions to
4340 changes made by the act; transferring, renumbering,
4341 and amending s. 288.1253, F.S.; conforming provisions
4342 to changes made by the act; prohibiting the division
4343 and its employees and representatives from accepting
4344 specified accommodations, goods, or services from
4345 specified parties; providing that any person who
4346 accepts any such good or services is subject to
4347 specified penalties; amending s. 288.1254, F.S.;
4348 redefining and revising terms; requiring the
4349 department and the division, rather than the Office of
4350 Film and Entertainment, to be responsible for
4351 applications for the entertainment industry program;
4352 revising provisions relating to the application
4353 process, tax credit eligibility, transfer of tax
4354 credits, election and distribution of tax credits,
4355 allocation of tax credits, forfeiture of tax credits,
4356 and annual report; extending the repeal date;
4357 conforming provisions to changes made by the act;
4358 specifying a date on which the applications on file
4359 with the department and not yet certified are deemed
4360 denied; creating s. 288.1256, F.S.; creating the

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4361 entertainment action fund within the department;
4362 defining terms; authorizing a production company to
4363 apply for funds from the entertainment action fund in
4364 certain circumstances; requiring the department and
4365 the division to jointly review and evaluate
4366 applications to determine the eligibility of each
4367 project; requiring the department to select projects
4368 that maximize the return to the state; requiring
4369 certain criteria to be considered by the department
4370 and the division; requiring a production company to
4371 have financing for a project before it applies for
4372 action funds; requiring the department to prescribe a
4373 form for an application with specified information;
4374 requiring that the department make a recommendation to
4375 the Governor to approve or deny an award within a
4376 specified timeframe after the completion of the review
4377 and evaluation; providing that an award of funds may
4378 not constitute more than a specified percentage of
4379 qualified expenditures in this state and prohibiting
4380 the use of such funds to pay wages to nonresidents;
4381 requiring a production to start within a specified
4382 period after it is approved by the Governor; requiring
4383 that the recommendation include performance conditions
4384 that the project must meet to obtain funds; requiring
4385 the department and the production company to enter
4386 into a specified agreement after approval by the
4387 Governor; requiring that the agreement be finalized
4388 and signed by an authorized officer of the production
4389 company within a specified period after approval by

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4390 the Governor; prohibiting an approved production
4391 company from simultaneously receiving specified
4392 benefits for the same production; requiring that the
4393 department validate contractor performance and report
4394 such validation in the annual report; prohibiting the
4395 department from approving awards in excess of the
4396 amount appropriated for a fiscal year; requiring the
4397 department to maintain a schedule of funds; providing
4398 that a production company that submits fraudulent
4399 information is liable for reimbursement of specified
4400 costs; providing a penalty; prohibiting the department
4401 from waiving any provision or providing an extension
4402 of time to meet specified requirements; providing an
4403 expiration date; amending s. 288.1258, F.S.;
4404 conforming provisions to changes made by the act;
4405 prohibiting an approved production company from
4406 simultaneously receiving benefits under specified
4407 provisions for the same production; requiring the
4408 department to develop a standardized application form
4409 in cooperation with the division and other agencies;
4410 requiring the qualified production company to submit
4411 aggregate data on specified topics; authorizing a
4412 qualified production company to renew its certificate
4413 of exemption for a specified period; amending s.
4414 288.901, F.S.; revising expertise requirements of
4415 members of the board of directors of Enterprise
4416 Florida, Inc.; amending s. 288.905, F.S.; prohibiting
4417 a former president of Enterprise Florida, Inc., from
4418 receiving compensation for personally representing a

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4419 specified entity before the legislative or executive
4420 branch of state government; providing applicability;
4421 amending s. 288.92, F.S.; requiring Enterprise
4422 Florida, Inc., to have a division relating to film and
4423 entertainment; amending s. 288.9622, F.S.; revising
4424 legislative intent; amending s. 288.9624, F.S.;
4425 specifying additional investment sectors for the
4426 Florida Opportunity Fund; amending s. 288.980, F.S.;
4427 removing the requirement that an applicant to the
4428 Defense Infrastructure Grant Program provide matching
4429 funds of a certain amount; requiring the department to
4430 administer the program; expanding eligibility for the
4431 program; defining the term “technological
4432 competitiveness activities”; amending s. 288.9937,
4433 F.S.; requiring the Office of Program Policy Analysis
4434 and Government Accountability to analyze and evaluate
4435 certain programs for a specified period; requiring the
4436 Office of Economic and Demographic Research to
4437 determine the economic benefits of certain programs;
4438 requiring the Office of Program Policy Analysis and
4439 Government Accountability to identify inefficiencies
4440 in certain programs and to recommend changes to such
4441 programs; revising the date by which each office must
4442 submit a report to certain persons; amending s.
4443 420.5087, F.S.; revising the reservation of funds
4444 within each notice of fund availability to specified
4445 tenant groups; creating s. 420.57, F.S.; providing
4446 legislative intent; defining terms; authorizing the
4447 Florida Housing Finance Corporation to provide low-

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4448 interest loans for construction or rehabilitation of
4449 workforce housing in the Florida Keys Area of Critical
4450 State Concern, subject to certain requirements;
4451 requiring the corporation to select projects for
4452 funding by competitive solicitation, including
4453 consideration of certain factors; specifying factors
4454 all eligible applications must demonstrate; specifying
4455 factors for priority consideration for funding for
4456 projects; authorizing the corporation to adopt rules
4457 for certain purposes; authorizing the corporation to
4458 use a maximum of 2 percent of any funds appropriated
4459 for the program for costs of administration; amending
4460 s. 420.622, F.S.; requiring that the State Office on
4461 Homelessness coordinate among certain agencies and
4462 providers to produce a statewide consolidated
4463 inventory for the state’s entire system of homeless
4464 programs which incorporates regionally developed
4465 plans; directing the State Office on Homelessness to
4466 create a task force to make recommendations regarding
4467 the implementation of a statewide Homeless Management
4468 Information System (HMIS) subject to certain
4469 requirements; requiring the task force to include in
4470 its recommendations the development of a statewide,
4471 centralized coordinated assessment system; requiring
4472 the task force to submit a report to the Council on
4473 Homelessness by a specified date; deleting the
4474 requirement that the Council on Homelessness explore
4475 the potential of creating a statewide Management
4476 Information System and encourage future participation

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4477 of certain award or grant recipients; requiring the
4478 State Office on Homelessness to accept and administer
4479 moneys appropriated to it to provide annual Challenge
4480 Grants to certain lead agencies of homeless assistance
4481 continuums of care; removing the requirement that
4482 levels of grant awards be based upon the total
4483 population within the continuum of care catchment area
4484 and reflect the differing degrees of homelessness in
4485 the respective areas; allowing expenditures of
4486 leveraged funds or resources only for eligible
4487 activities subject to certain requirements; providing
4488 that preference for a grant award must be given to
4489 those lead agencies that have demonstrated the ability
4490 to leverage specified federal homeless-assistance
4491 funding, as well as private funding, for the provision
4492 of services to homeless persons; revising preference
4493 conditions relating to grant applicants; requiring the
4494 State Office on Homelessness, in conjunction with the
4495 Council on Homelessness, to establish specific
4496 objectives by which it may evaluate the outcomes of
4497 certain lead agencies; requiring that any funding
4498 through the State Office on Homelessness be
4499 distributed to lead agencies based on their
4500 performance and achievement of specified objectives;
4501 revising the factors that may be included as criteria
4502 for evaluating the performance of lead agencies;
4503 amending s. 420.624, F.S.; revising requirements for
4504 the local homeless assistance continuum of care plan;
4505 providing that the components of a continuum of care

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4506 plan should include Rapid ReHousing; requiring that
4507 specified components of a continuum of care plan be
4508 coordinated and integrated with other specified
4509 services and programs; creating s. 420.6265, F.S.;
4510 providing legislative findings and intent relating to
4511 Rapid ReHousing; providing a Rapid ReHousing
4512 methodology; amending s. 420.9071, F.S.; conforming a
4513 cross-reference; redefining the term “rent subsidies”;
4514 amending s. 420.9072, F.S.; prohibiting a county or an
4515 eligible municipality from expending its portion of
4516 the local housing distribution to provide ongoing rent
4517 subsidies; specifying exceptions; amending s.
4518 420.9073, F.S.; requiring the Florida Housing Finance
4519 Corporation to first distribute a certain percentage
4520 of the total amount to be distributed each fiscal year
4521 from the Local Government Housing Trust Fund to the
4522 Department of Children and Families and to the
4523 Department of Economic Opportunity, respectively,
4524 subject to certain requirements; amending s. 420.9075,
4525 F.S.; providing that a certain partnership process of
4526 the State Housing Initiatives Partnership Program
4527 should involve lead agencies of local homeless
4528 assistance continuums of care; encouraging counties
4529 and eligible municipalities to develop a strategy
4530 within their local housing assistance plans which
4531 provides program funds for reducing homelessness;
4532 revising the criteria that apply to awards made to
4533 sponsors or persons for the purpose of providing
4534 housing; requiring that a specified report submitted

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4535 by counties and municipalities include a description
4536 of efforts to reduce homelessness; creating s.
4537 420.9089, F.S.; providing legislative findings and
4538 intent relating to the National Housing Trust Fund;
4539 amending s. 477.0135, F.S.; conforming a provision to
4540 changes made by the act; approving specified sports
4541 development project applications; requiring the
4542 department to certify the applicants by a specified
4543 date; defining the term “eligible business”;
4544 authorizing an eligible business to apply for
4545 specified programs in certain circumstances; requiring
4546 the department to provide a list of eligible business
4547 annually to the Department of Revenue; requiring the
4548 department to provide notice to the Department of
4549 Revenue upon the expiration or termination of a
4550 contract; providing an effective date and an
4551 expiration date; providing an appropriation from the
4552 State Economic Enhancement and Development Trust Fund
4553 and Economic Development Trust Fund for specified
4554 purposes; providing an effective date.

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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/22/2015	.	
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	.	

The Committee on Appropriations (Latvala) recommended the following:

Senate Amendment to Amendment (160810) (with title amendment)

Delete lines 199 - 236
and insert:
d. ~~Beginning 30 days after notice by the Department of Economic Opportunity to the Department of Revenue that the applicant has been certified as the International Game Fish Association World Center facility pursuant to s. 288.1169, and the facility is open to the public, $83,333 shall be distributed~~

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11 ~~monthly, for up to 168 months, to the applicant. This~~
12 ~~distribution is subject to reduction pursuant to s. 288.1169. A~~
13 ~~lump sum payment of $999,996 shall be made after certification~~
14 ~~and before July 1, 2000.~~
15 ~~e.~~ The department shall distribute up to $83,333 monthly to
16 each certified applicant as defined in s. 288.11631 for a
17 facility used by a single spring training franchise, or up to
18 $166,667 monthly to each certified applicant as defined in s.
19 288.11631 for a facility used by more than one spring training
20 franchise. Monthly distributions begin 60 days after such
21 certification or July 1, 2016, whichever is later, and continue
22 for not more than 20 years to each certified applicant as
23 defined in s. 288.11631 for a facility used by a single spring
24 training franchise or not more than 25 years to each certified
25 applicant as defined in s. 288.11631 for a facility used by more
26 than one spring training franchise. A certified applicant
27 identified in this sub-subparagraph may not receive more in
28 distributions than expended by the applicant for the public
29 purposes provided in s. 288.11631(3).
30 e.~~f.~~ Beginning 45 days after notice by the Department of
31 Economic Opportunity to the Department of Revenue that an
32 applicant has been approved by the Legislature and certified by
33 the Department of Economic Opportunity under s. 288.11625 or
34 upon a date specified by the Department of Economic Opportunity
35 as provided under s. 288.11625(6)(d), the department shall
36 distribute each month an amount equal to one-twelfth of the
37 annual distribution amount certified by the Department of
38 Economic Opportunity for the applicant. The department may not
39 distribute more than $7 million in the 2014-2015 fiscal year or

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40 more than $13 million annually thereafter under this sub-
41 subparagraph.
42 7. All other proceeds must remain in the General Revenue
43 Fund.
44 Section 5. Subsections (1) and (3), paragraph (a) of
45 subsection (5), and paragraph (e) of subsection (7) of section
46 288.11625, Florida Statutes, are amended to read:
47 288.11625 Sports development.—
48 (1) ADMINISTRATION.—The department shall serve as the state
49 agency responsible for screening applicants for state funding
50 under s. 212.20(6)(d)6.e. ~~s. 212.20(6)(d)6.f.~~
51 (3) PURPOSE.—The purpose of this section is to provide
52 applicants state funding under s. 212.20(6)(d)6.e. ~~s.~~
53 ~~212.20(6)(d)6.f.~~ for the public purpose of constructing,
54 reconstructing, renovating, or improving a facility.
55 (5) EVALUATION PROCESS.—
56 (a) Before recommending an applicant to receive a state
57 distribution under s. 212.20(6)(d)6.e. ~~s. 212.20(6)(d)6.f.~~, the
58 department must verify that:
59 1. The applicant or beneficiary is responsible for the
60 construction, reconstruction, renovation, or improvement of a
61 facility and obtained at least three bids for the project.
62 2. If the applicant is not a unit of local government, a
63 unit of local government holds title to the property on which
64 the facility and project are, or will be, located.
65 3. If the applicant is a unit of local government in whose
66 jurisdiction the facility is, or will be, located, the unit of
67 local government has an exclusive intent agreement to negotiate
68 in this state with the beneficiary.

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69 4. A unit of local government in whose jurisdiction the
70 facility is, or will be, located supports the application for
71 state funds. Such support must be verified by the adoption of a
72 resolution, after a public hearing, that the project serves a
73 public purpose.
74 5. The applicant or beneficiary has not previously
75 defaulted or failed to meet any statutory requirements of a
76 previous state-administered sports-related program under s.
77 288.1162, s. 288.11621, s. 288.11631, or this section.
78 Additionally, the applicant or beneficiary is not currently
79 receiving state distributions under s. 212.20 for the facility
80 that is the subject of the application, unless the applicant
81 demonstrates that the franchise that applied for a distribution
82 under s. 212.20 no longer plays at the facility that is the
83 subject of the application.
84 6. The applicant or beneficiary has sufficiently
85 demonstrated a commitment to employ residents of this state,
86 contract with Florida-based firms, and purchase locally
87 available building materials to the greatest extent possible.
88 7. If the applicant is a unit of local government, the
89 applicant has a certified copy of a signed agreement with a
90 beneficiary for the use of the facility. If the applicant is a
91 beneficiary, the beneficiary must enter into an agreement with
92 the department. The applicant’s or beneficiary’s agreement must
93 also require the following:
94 a. The beneficiary must reimburse the state for state funds
95 that will be distributed if the beneficiary relocates or no
96 longer occupies or uses the facility as the facility’s primary
97 tenant before the agreement expires. Reimbursements must be sent

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98 to the Department of Revenue for deposit into the General
99 Revenue Fund.
100 b. The beneficiary must pay for signage or advertising
101 within the facility. The signage or advertising must be placed
102 in a prominent location as close to the field of play or
103 competition as is practicable, must be displayed consistent with
104 signage or advertising in the same location and of like value,
105 and must feature Florida advertising approved by the Florida
106 Tourism Industry Marketing Corporation.
107 8. The project will commence within 12 months after
108 receiving state funds or did not commence before January 1,
109 2013.
110 (7) CONTRACT.—An applicant approved by the Legislature and
111 certified by the department must enter into a contract with the
112 department which:
113 (e) Requires the applicant to reimburse the state by
114 electing to do one of the following:
115 1. After all distributions have been made, reimburse at the
116 end of the contract term any amount by which the total
117 distributions made under s. 212.20(6)(d)6.e. ~~s. 212.20(6)(d)6.f.~~
118 exceed actual new incremental state sales taxes generated by
119 sales at the facility during the contract, plus a 5 percent
120 penalty on that amount.
121 2. After the applicant begins to submit the independent
122 analysis under paragraph (c), reimburse each year any amount by
123 which the previous year's annual distribution exceeds 75 percent
124 of the actual new incremental state sales taxes generated by
125 sales at the facility.
126

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127 Any reimbursement due to the state must be made within 90 days
128 after the applicable distribution under this paragraph. If the
129 applicant is unable or unwilling to reimburse the state for such
130 amount, the department may place a lien on the applicant's
131 facility. If the applicant is a municipality or county, it may
132 reimburse the state from its half-cent sales tax allocation, as
133 provided in s. 218.64(3). Reimbursements must be sent to the
134 Department of Revenue for deposit into the General Revenue Fund.
135 Section 6. Paragraph (c) of subsection (2) and paragraphs
136 (a), (c), and (d) of subsection (3) of section 288.11631,
137 Florida Statutes, are amended to read:
138 288.11631 Retention of Major League Baseball spring
139 training baseball franchises.—
140 (2) CERTIFICATION PROCESS.—
141 (c) Each applicant certified on or after July 1, 2013,
142 shall enter into an agreement with the department which:
143 1. Specifies the amount of the state incentive funding to
144 be distributed. The amount of state incentive funding per
145 certified applicant may not exceed $20 million. However, if a
146 certified applicant's facility is used by more than one spring
147 training franchise, the maximum amount may not exceed $50
148 million, and the Department of Revenue shall make distributions
149 to the applicant pursuant to s. 212.20(6)(d)6.d. ~~s.~~
150 ~~212.20(6)(d)6.c.~~
151 2. States the criteria that the certified applicant must
152 meet in order to remain certified. These criteria must include a
153 provision stating that the spring training franchise must
154 reimburse the state for any funds received if the franchise does
155 not comply with the terms of the contract. If bonds were issued

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156 to construct or renovate a facility for a spring training
157 franchise, the required reimbursement must be equal to the total
158 amount of state distributions expected to be paid from the date
159 the franchise violates the agreement with the applicant through
160 the final maturity of the bonds.
161 3. States that the certified applicant is subject to
162 decertification if the certified applicant fails to comply with
163 this section or the agreement.
164 4. States that the department may recover state incentive
165 funds if the certified applicant is decertified.
166 5. Specifies the information that the certified applicant
167 must report to the department.
168 6. Includes any provision deemed prudent by the department.
169 (3) USE OF FUNDS.—
170 (a) A certified applicant may use funds provided under s.
171 212.20(6)(d)6.d. ~~s. 212.20(6)(d)6.c.~~ only to:
172 1. Serve the public purpose of constructing or renovating a
173 facility for a spring training franchise.
174 2. Pay or pledge for the payment of debt service on, or to
175 fund debt service reserve funds, arbitrage rebate obligations,
176 or other amounts payable with respect thereto, bonds issued for
177 the construction or renovation of such facility, or for the
178 reimbursement of such costs or the refinancing of bonds issued
179 for such purposes.
180 (c) The Department of Revenue may not distribute funds
181 under s. 212.20(6)(d)6.d. ~~s. 212.20(6)(d)6.c.~~ until July 1,
182 2016. Further, the Department of Revenue may not distribute
183 funds to an applicant certified on or after July 1, 2013, until
184 it receives notice from the department that:

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185 1. The certified applicant has encumbered funds under
186 either subparagraph (a)1. or subparagraph (a)2.; and
187 2. If applicable, any existing agreement with a spring
188 training franchise for the use of a facility has expired.
189 (d)1. All certified applicants shall place unexpended state
190 funds received pursuant to s. 212.20(6)(d)6.d. ~~s.~~
191 ~~212.20(6)(d)6.e.~~ in a trust fund or separate account for use
192 only as authorized in this section.
193 2. A certified applicant may request that the department
194 notify the Department of Revenue to suspend further
195 distributions of state funds made available under s.
196 212.20(6)(d)6.d. ~~s. 212.20(6)(d)6.e.~~ for 12 months after
197 expiration of an existing agreement with a spring training
198 franchise to provide the certified applicant with an opportunity
199 to enter into a new agreement with a spring training franchise,
200 at which time the distributions shall resume.
201 3. The expenditure of state funds distributed to an applicant
202 certified after July 1, 2013, must begin within 48 months after
203 the initial receipt of the state funds. In addition, the
204 construction or renovation of a spring training facility must be
205 completed within 24 months after the project's commencement.
206
207 ========== T I T L E A M E N D M E N T ==========
208 And the title is amended as follows:
209 Delete lines 4115 - 4117
210 and insert:
211 conforming a cross-reference; amending ss. 163.524 and
212 212.08, F.S.; conforming cross-references; amending s.
213 212.20, F.S.; deleting an obsolete provision; amending

473484

214 ss. 288.11625, 288.11631, and 220.1899, F.S.;
215 conforming cross-references; amending s. 220.191,
216 F.S.; redefining the

302034

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/22/2015	.	
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The Committee on Appropriations (Latvala) recommended the following:

Senate Amendment to Amendment (160810) (with title amendment)

Delete lines 466 - 558
and insert:
(c) The department shall provide notice, including an updated description and evaluation, to the Legislature upon the final execution of each contract or agreement.
(d) The release of funds for the incentive or incentives awarded to the applicant depends upon the statutory requirements

302034

11 of the particular incentive program.
12 (7) ~~(4)~~ The department shall validate contractor performance
13 and report such validation in the annual incentives report
14 required under s. 288.907.
15 (8) ~~(5)~~ (a) The executive director may not approve an
16 economic development incentive application unless the
17 application includes a signed written declaration by the
18 applicant which states that the applicant has read the
19 information in the application and that the information is true,
20 correct, and complete to the best of the applicant's knowledge
21 and belief.
22 (b) After an economic development incentive application is
23 approved, the awardee shall provide, in each year that the
24 department is required to validate contractor performance, a
25 signed written declaration. The written declaration must state
26 that the awardee has reviewed the information and that the
27 information is true, correct, and complete to the best of the
28 awardee's knowledge and belief.
29 (9) The department shall provide notice, including a
30 written description and evaluation, to the Legislature of any
31 proposed amendment to an agreement or contract that reduces the
32 projected economic benefits calculated at the time the agreement
33 or contract was executed by 0.50 or more or changes any
34 performance conditions or other statutorily required criteria.
35 In order to provide an opportunity for review, at least 3
36 business days before signing an amendment to an agreement or
37 contract, the department shall provide notice of the proposed
38 change to the chair and vice chair of the Legislative Budget
39 Commission, the President of the Senate, and the Speaker of the

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40 House of Representatives. However, a proposed amendment to an
41 agreement or contract is subject to the 10-day notice and
42 objection procedures specified in this section if the proposed
43 amendment reduces the projected economic benefits calculated at
44 the time the agreement or contract was executed to result in an
45 economic benefit ratio below a statutorily required level for
46 receipt of funds or, if already below the statutorily required
47 level, by 0.50 or more. Any such amended agreement or contract
48 must also provide for a proportionate reduction in the award
49 amount. If the chair or vice chair of the Legislative Budget
50 Commission, the President of the Senate, or the Speaker of the
51 House of Representatives timely advises the Governor, in
52 writing, that such action or proposed action exceeds the
53 delegated authority of the Governor or is contrary to
54 legislative policy or intent, the Governor shall instruct the
55 department to immediately suspend any action proposed or taken
56 until the Legislative Budget Commission or the Legislature makes
57 a determination on the project.
58 (10)(a) The department is authorized to execute contracts
59 and agreements that obligate the state to make payments from
60 appropriations in the current or a future fiscal year for
61 incentive programs specified in this paragraph. The total amount
62 of actual or projected funds approved for payment by the
63 department based on actual project performance and the schedule
64 of payments for each incentive contract or agreement may not
65 exceed a combined total of $50 million in any fiscal year for
66 all of the following:
67 1. The Local Government Distressed Area Matching Grant
68 Program established under s. 288.0659.

302034

69 2. The qualified defense contractor and space flight
70 business tax refund program established under s. 288.1045.
71 3. The qualified target industry businesses tax refund
72 program established under s. 288.106.
73 4. The brownfield redevelopment bonus refund program
74 established under s. 288.107.
75 5. The high-impact business performance grant program
76 established under s. 288.108.
77 6. The Quick Action Closing Fund projects established under
78 s. 288.1088, with the exception of those projects with funds
79 held in escrow as of June 30, 2015, which are being paid out of
80 the Quick Action Closing Fund Escrow Account under s. 288.10881.
81 7. The Innovation Incentive Program established under s.
82 288.1089.
83 (b) The funding limitation under paragraph (a) may only be
84 waived by the Legislature in the General Appropriations Act or
85 other legislation.
86 (c) By January 2 of each year, the department shall provide
87 to the Legislature a list of projected payments for the
88 following fiscal year and, by March 1 of each year, the
89 department shall provide to the Legislature a list of claims
90 actually filed for payment in the following fiscal year. The
91 department may not make a scheduled payment under a contract or
92 agreement for a given fiscal year until the department has
93 validated that the applicant has met the performance
94 requirements of the contract or agreement. Any funds
95 appropriated for scheduled payments in a fiscal year which are
96 unexpended by June 30 of that year shall revert in accordance
97 with s. 216.301 and may not be transferred to an escrow account.

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98 (d) The Legislature shall annually appropriate in the
99
100 ========== T I T L E A M E N D M E N T ==========
101 And the title is amended as follows:
102 Delete lines 4188 - 4217
103 and insert:
104 providing applicability; requiring the department to
105 provide specified notice to the Legislature upon the
106 final execution of each contract or agreement;
107 requiring the department to provide notice, with a
108 written description and evaluation, to the Legislature
109 of any proposed amendments to an agreement or
110 contract; requiring the department to provide notice
111 of the proposed change to specified persons in order
112 to provide an opportunity for review; providing that a
113 proposed amendment to an agreement or contract which
114 reduces projected economic benefits calculated at the
115 time the agreement or contract was executed by a
116 specified amount or more or that results in an
117 economic benefit ratio below a specified level, or if
118 already below the specified level, by a specified
119 amount, is subject to specified notice and objection
120 procedures; requiring the Governor to instruct the
121 department to immediately suspend an action or
122 proposed action until the Legislative Budget
123 Commission or Legislature makes a determination on the
124 project in certain circumstances; authorizing the
125 department to execute specified contracts and
126 agreements from current or future fiscal year

302034

127 appropriations for specified incentive programs;
128 prohibiting the total amount of actual or projected
129 funds approved for a specified payment by the
130 department from exceeding a specified amount in any
131 fiscal year for certain programs; providing that the
132 specified funding limitation may only be waived by the
133 Legislature in the General Appropriations Act or other
134 legislation; requiring the

890582

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/22/2015	.	
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The Committee on Appropriations (Latvala) recommended the following:

Senate Amendment to Amendment (160810) (with directory and title amendments)

Between lines 1063 and 1064
insert:
(9) INCENTIVE PAYMENTS.—The incentive payments made from the account to a business pursuant to this section are not repayments of the actual taxes paid to the state or to a local government by the business. The amount of state and local government taxes paid by a business serve as a limitation on the

890582

11 amount of incentive payments a business may receive.
12
13 ====== D I R E C T O R Y C L A U S E A M E N D M E N T ======
14 And the directory clause is amended as follows:
15 Delete line 782
16 and insert:
17 Statutes, are amended, present subsection (9) is redesignated as
18 subsection (10), and a new subsection (9) is added to that
19 section, to read:
20
21 ================ T I T L E A M E N D M E N T ===============
22 And the title is amended as follows:
23 Delete line 4260
24 and insert:
25 private sector wage paid by the business; providing
26 that incentive payments made from a specified account
27 to a business are not specified repayments of the
28 actual taxes paid; providing that the amount of state
29 and local government taxes paid by a business serve as
30 a specified limitation; amending s.

323572

LEGISLATIVE ACTION

Senate	.	House
Comm: RS	.	
04/22/2015	.	
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The Committee on Appropriations (Smith) recommended the following:

1 **Senate Amendment to Amendment (160810)**
2
3 Delete line 752
4 and insert:
5 of the filing date for claims due on or after January 31, 2015.
6 The application must include a notarized

876012

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/22/2015	.	
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The Committee on Appropriations (Smith) recommended the following:

1 **Senate Substitute for Amendment (323572)**
2
3 Delete line 1001
4 and insert:
5 date for claims due on or after January 31, 2015.

905332

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/22/2015	.	
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The Committee on Appropriations (Richter) recommended the following:

Senate Amendment to Amendment (160810) (with title amendment)

Delete lines 1454 - 1461.

========== T I T L E A M E N D M E N T ==========
And the title is amended as follows:
Delete lines 4308 - 4312
and insert:
by the act; amending s. 288.1168, F.S.; requiring

472320

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/22/2015	.	
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The Committee on Appropriations (Lee) recommended the following:

1 **Senate Amendment to Amendment (160810) (with title**
2 **amendment)**
3
4 Delete lines 4044 - 4051.
5
6 ========== T I T L E A M E N D M E N T ==========
7 And the title is amended as follows:
8 Delete lines 4540 - 4543
9 and insert:
10 changes made by the act; defining the term "eligible
11 business";

811924

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/22/2015	.	
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The Committee on Appropriations (Lee) recommended the following:

1 **Senate Amendment to Amendment (160810) (with title**
2 **amendment)**
3
4 Delete lines 79 - 104.
5 Delete lines 237 - 243.
6 Delete lines 1503 - 3239.
7 Delete lines 3269 - 3282.
8 Delete lines 4033 - 4043.
9
10 ========== T I T L E A M E N D M E N T ==========
11 And the title is amended as follows:

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12 Delete lines 4116 - 4540
13 and insert:
14 and 212.20, F.S.; conforming cross-references;
15 amending s. 220.191, F.S.; redefining the term
16 “cumulative capital investment”; amending s. 288.0001,
17 F.S.; conforming a cross-reference; requiring the
18 Office of Economic and Demographic Research and the
19 Office of Program Policy Analysis and Government
20 Accountability to provide a detailed analysis of the
21 retention of Major League Baseball spring training
22 baseball franchises; amending s. 288.005, F.S.;
23 redefining the term “economic benefits”; amending s.
24 288.061, F.S.; requiring the Department of Economic
25 Opportunity to prescribe a specified application form;
26 requiring the incentive application to include
27 specified information; requiring the Office of
28 Economic and Demographic Research to include
29 guidelines for the appropriate application of the
30 department’s internal model in the establishment of
31 the methodology and model it will use to calculate
32 economic benefits; requiring that if the Office of
33 Economic and Demographic Research develops an amended
34 definition of the term “economic benefits,” it must
35 reflect a specified requirement; prohibiting the
36 department from attributing to the business any
37 capital investment made by a business using state
38 funds; requiring that the evaluation account for all
39 capital investment relating to the project; requiring
40 the department’s evaluation of the application to

811924

41 include specified information; requiring the
42 department to recommend to the Governor approval or
43 disapproval of a project that will receive funds from
44 specified programs; requiring the department, in
45 recommending a project, to include justification for
46 the project and proposed performance conditions that
47 the project must meet to obtain incentive funds;
48 authorizing the Governor to approve a project without
49 consulting the Legislature if the requested funding is
50 less than a specified amount; requiring the Governor
51 to provide a written description and evaluation of the
52 project to specified persons during a specified
53 timeframe; requiring the recommendation to include
54 proposed payment and performance conditions that the
55 project must meet in order to obtain incentive funds
56 and to avoid sanctions; requiring the Governor to
57 instruct the department to immediately suspend an
58 action or proposed action until the Legislative Budget
59 Commission or the Legislature makes a determination on
60 the project in certain circumstances; requiring a
61 project that exceeds a specified amount of funding to
62 be approved by the Legislative Budget Commission
63 before final approval by the Governor; requiring a
64 project that exceeds a specified amount of funding and
65 that provides a waiver of program requirements to be
66 approved by the Legislative Budget Commission before
67 final approval by the Governor; providing that a
68 project is deemed approved by the Legislative Budget
69 Commission in certain circumstances; requiring the

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70 department to issue a letter certifying the applicant
71 as qualified for an award upon approval; specifying
72 the authorized funding sources related to the term
73 “project”; requiring the department and the applicant
74 to enter into an agreement or contract upon
75 certification; requiring the agreement or contract to
76 require that the applicant use the workforce
77 information systems in certain circumstances;
78 requiring any agreement or contract that requires
79 capital investment to be made by the business to also
80 require that such investment remain in the state for
81 the duration of the agreement or contract; prohibiting
82 an agreement or contract from having a term of longer
83 than 10 years; authorizing the department to enter
84 into a successive agreement or contract for a
85 specified project under certain circumstances;
86 providing applicability; requiring the department to
87 provide notice, with a written description and
88 evaluation, to the Legislature of any proposed
89 amendments to an agreement or contract; requiring the
90 department to provide notice of the proposed change to
91 specified persons in order to provide an opportunity
92 for review; providing that a proposed amendment to an
93 agreement or contract which reduces projected economic
94 benefits calculated at the time the agreement or
95 contract was executed by a specified amount or more or
96 that results in an economic benefit ratio below a
97 specified level, or if already below the specified
98 level, by a specified amount, is subject to specified

811924

99 notice and objection procedures; requiring the
100 Governor to instruct the department to immediately
101 suspend an action or proposed action until the
102 Legislative Budget Commission or Legislature makes a
103 determination on the project in certain circumstances;
104 authorizing the department to execute specified
105 contracts and agreements from current or future fiscal
106 year appropriations for specified incentive programs;
107 prohibiting the total amount of actual or projected
108 funds approved for a specified payment by the
109 department from exceeding a specified amount in any
110 fiscal year for certain programs; providing that the
111 specified funding limitation may only be waived by the
112 Legislature in the General Appropriations Act or other
113 legislation; requiring the department to provide
114 specified notice to the Legislature upon the final
115 execution of each contract or agreement; requiring the
116 department to provide to the Legislature a list of
117 projected payments for the following fiscal year and a
118 list of claims actually filed for payment in the
119 following fiscal year by specified dates; prohibiting
120 the department from making a scheduled payment under a
121 contract or agreement for a given fiscal year until
122 the department has validated that the applicant has
123 met the performance requirements of the contract or
124 agreement; providing for reversion of specified funds
125 that are unexpended by a specified date in a fiscal
126 year; prohibiting the transfer of such reverted funds
127 to an escrow account; requiring the Legislature to

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128 annually appropriate in the General Appropriations Act
129 an amount estimated to sufficiently satisfy scheduled
130 payments in a fiscal year; requiring the department to
131 pay unfunded claims if the amount appropriated by the
132 Legislature proves insufficient to satisfy the
133 scheduled payments in a fiscal year; requiring the
134 department to notify the legislative appropriations
135 committees of any anticipated shortfall for the
136 current fiscal year and of the amount it estimates
137 will be needed to pay claims during the next fiscal
138 year; amending s. 288.095, F.S.; providing that moneys
139 credited to the Economic Development Trust Fund
140 consist of specified funds; restricting the use of
141 moneys in the Economic Development Incentives Account;
142 providing that any balance in the account at the end
143 of the fiscal year remains in the account and is
144 available for carrying out the purposes of the
145 account; amending s. 288.1045, F.S.; revising the term
146 “average wage in the area” to “average private sector
147 wage in the area”; conforming provisions to changes
148 made by the act; prohibiting the department from
149 certifying any applicant as a qualified applicant in
150 certain circumstances; increasing the number of days
151 the department may extend the filing date; extending
152 the future expiration of an applicant for a tax
153 refund; requiring the department to verify taxes paid;
154 amending s. 288.106, F.S.; conforming provisions to
155 changes made by the act; revising terms; increasing
156 the number of days the department may extend the

811924

157 filing date; revising the limitations on the average
158 private sector wage paid by the business; amending s.
159 288.107, F.S.; revising the term “eligible business”;
160 defining the term “fixed capital investment”;
161 conforming provisions to changes made by the act;
162 amending s. 288.108, F.S.; conforming provisions to
163 changes made by the act; amending s. 288.1088, F.S.;
164 revising the requirements for projects eligible for
165 receipt of funds from the Quick Action Closing Fund;
166 conforming provisions to changes made by the act;
167 defining the term “average private sector wage in the
168 area”; requiring a specified request to be transmitted
169 in writing to the department with an explanation of
170 the specific justification for the request; requiring
171 a decision to be stated in writing with an explanation
172 of the reason for approving the request if the
173 department approves the request; prohibiting the
174 department from waiving more than a specified amount
175 of criteria; revising the information that the
176 department must include in an evaluation of an
177 individual proposal for high-impact business
178 facilities; prohibiting the payment of moneys from the
179 fund to a business until the scheduled goals have been
180 achieved; revising the information that must be
181 included in a contract that sets forth the conditions
182 for payments of moneys from the fund; creating s.
183 288.10881, F.S.; creating the Quick Action Closing
184 Fund Escrow Account within the State Board of
185 Administration; providing the composition of the

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186 escrow account; restricting the usage of moneys in the
187 escrow account to specified payments; requiring the
188 State Board of Administration to transfer specified
189 funds to the department for deposit in the State
190 Economic Enhancement and Development Trust Fund in
191 certain circumstances; requiring the establishment of
192 a continuing appropriation category; requiring
193 specified funds to be returned to the department for
194 deposit in the State Economic Enhancement and
195 Development Trust Funds within a specified period;
196 requiring funds in the escrow account to be managed
197 under specified investment practices; requiring that
198 the funds be made available to make specified
199 payments; requiring the State Board of Administration
200 to transfer interest earnings on a quarterly basis to
201 the department for deposit in the State Economic
202 Enhancement and Development Trust Fund; authorizing
203 specified funds to be used to fund specified marketing
204 activities of Enterprise Florida, Inc.; amending s.
205 288.1089, F.S.; conforming provisions to changes made
206 by the act; amending s. 288.1097, F.S.; authorizing a
207 qualified job training organization to participate in
208 a self-insurance fund; providing that a qualified job
209 training organization is not subject to specified
210 requirements; amending s. 288.1168, F.S.; requiring
211 the Department of Economic Opportunity to recertify
212 the professional golf hall of fame facility annually;
213 requiring the PGA Tour, Inc., to increase funding if
214 the facility does not meet minimum projections;

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215 requiring advertising to be done in consultation with
216 the Florida Tourism Industry Marketing Corporation;
217 providing for decertification of the facility under
218 certain circumstances; repealing s. 288.1169, F.S.,
219 relating to state agency funding of the International
220 Game Fish Association World Center facility; amending
221 s. 288.1201, F.S.; conforming provisions to changes
222 made by the act; amending s. 288.901, F.S.; revising
223 expertise requirements of members of the board of
224 directors of Enterprise Florida, Inc.; amending s.
225 288.905, F.S.; prohibiting a former president of
226 Enterprise Florida, Inc., from receiving compensation
227 for personally representing a specified entity before
228 the legislative or executive branch of state
229 government; providing applicability; amending s.
230 288.9622, F.S.; revising legislative intent; amending
231 s. 288.9624, F.S.; specifying additional investment
232 sectors for the Florida Opportunity Fund; amending s.
233 288.980, F.S.; removing the requirement that an
234 applicant to the Defense Infrastructure Grant Program
235 provide matching funds of a certain amount; requiring
236 the department to administer the program; expanding
237 eligibility for the program; defining the term
238 “technological competitiveness activities”; amending
239 s. 288.9937, F.S.; requiring the Office of Program
240 Policy Analysis and Government Accountability to
241 analyze and evaluate certain programs for a specified
242 period; requiring the Office of Economic and
243 Demographic Research to determine the economic

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244 benefits of certain programs; requiring the Office of
245 Program Policy Analysis and Government Accountability
246 to identify inefficiencies in certain programs and to
247 recommend changes to such programs; revising the date
248 by which each office must submit a report to certain
249 persons; amending s. 420.5087, F.S.; revising the
250 reservation of funds within each notice of fund
251 availability to specified tenant groups; creating s.
252 420.57, F.S.; providing legislative intent; defining
253 terms; authorizing the Florida Housing Finance
254 Corporation to provide low-interest loans for
255 construction or rehabilitation of workforce housing in
256 the Florida Keys Area of Critical State Concern,
257 subject to certain requirements; requiring the
258 corporation to select projects for funding by
259 competitive solicitation, including consideration of
260 certain factors; specifying factors all eligible
261 applications must demonstrate; specifying factors for
262 priority consideration for funding for projects;
263 authorizing the corporation to adopt rules for certain
264 purposes; authorizing the corporation to use a maximum
265 of 2 percent of any funds appropriated for the program
266 for costs of administration; amending s. 420.622,
267 F.S.; requiring that the State Office on Homelessness
268 coordinate among certain agencies and providers to
269 produce a statewide consolidated inventory for the
270 state’s entire system of homeless programs which
271 incorporates regionally developed plans; directing the
272 State Office on Homelessness to create a task force to

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273 make recommendations regarding the implementation of a
274 statewide Homeless Management Information System
275 (HMIS) subject to certain requirements; requiring the
276 task force to include in its recommendations the
277 development of a statewide, centralized coordinated
278 assessment system; requiring the task force to submit
279 a report to the Council on Homelessness by a specified
280 date; deleting the requirement that the Council on
281 Homelessness explore the potential of creating a
282 statewide Management Information System and encourage
283 future participation of certain award or grant
284 recipients; requiring the State Office on Homelessness
285 to accept and administer moneys appropriated to it to
286 provide annual Challenge Grants to certain lead
287 agencies of homeless assistance continuums of care;
288 removing the requirement that levels of grant awards
289 be based upon the total population within the
290 continuum of care catchment area and reflect the
291 differing degrees of homelessness in the respective
292 areas; allowing expenditures of leveraged funds or
293 resources only for eligible activities subject to
294 certain requirements; providing that preference for a
295 grant award must be given to those lead agencies that
296 have demonstrated the ability to leverage specified
297 federal homeless-assistance funding, as well as
298 private funding, for the provision of services to
299 homeless persons; revising preference conditions
300 relating to grant applicants; requiring the State
301 Office on Homelessness, in conjunction with the

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302 Council on Homelessness, to establish specific
303 objectives by which it may evaluate the outcomes of
304 certain lead agencies; requiring that any funding
305 through the State Office on Homelessness be
306 distributed to lead agencies based on their
307 performance and achievement of specified objectives;
308 revising the factors that may be included as criteria
309 for evaluating the performance of lead agencies;
310 amending s. 420.624, F.S.; revising requirements for
311 the local homeless assistance continuum of care plan;
312 providing that the components of a continuum of care
313 plan should include Rapid ReHousing; requiring that
314 specified components of a continuum of care plan be
315 coordinated and integrated with other specified
316 services and programs; creating s. 420.6265, F.S.;
317 providing legislative findings and intent relating to
318 Rapid ReHousing; providing a Rapid ReHousing
319 methodology; amending s. 420.9071, F.S.; conforming a
320 cross-reference; redefining the term “rent subsidies”;
321 amending s. 420.9072, F.S.; prohibiting a county or an
322 eligible municipality from expending its portion of
323 the local housing distribution to provide ongoing rent
324 subsidies; specifying exceptions; amending s.
325 420.9073, F.S.; requiring the Florida Housing Finance
326 Corporation to first distribute a certain percentage
327 of the total amount to be distributed each fiscal year
328 from the Local Government Housing Trust Fund to the
329 Department of Children and Families and to the
330 Department of Economic Opportunity, respectively,

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331 subject to certain requirements; amending s. 420.9075,
332 F.S.; providing that a certain partnership process of
333 the State Housing Initiatives Partnership Program
334 should involve lead agencies of local homeless
335 assistance continuums of care; encouraging counties
336 and eligible municipalities to develop a strategy
337 within their local housing assistance plans which
338 provides program funds for reducing homelessness;
339 revising the criteria that apply to awards made to
340 sponsors or persons for the purpose of providing
341 housing; requiring that a specified report submitted
342 by counties and municipalities include a description
343 of efforts to reduce homelessness; creating s.
344 420.9089, F.S.; providing legislative findings and
345 intent relating to the National Housing Trust Fund;
346 approving specified sports

123970

576-02558-15

Proposed Committee Substitute by the Committee on Appropriations (Appropriations Subcommittee on Transportation, Tourism, and Economic Development)

A bill to be entitled

An act relating to economic development; amending s. 220.191, F.S.; revising the term "cumulative capital investment"; amending s. 288.0001, F.S.; requiring the Office of Economic and Demographic Research and the Office of Program Policy Analysis and Government Accountability to provide a detailed analysis of the retention of Major League Baseball spring training baseball franchises; amending s. 288.005, F.S.; revising the term "economic benefits"; amending s. 288.061, F.S.; requiring the Department of Economic Opportunity to prescribe a specified application form; requiring the incentive application to include specified information; requiring the Office of Economic and Demographic Research to include guidelines for the appropriate application of the department's internal model in the establishment of the methodology and model it will use to calculate economic benefits; requiring that if the Office of Economic and Demographic Research develops an amended definition of the term "economic benefits," it must reflect a specified requirement; prohibiting the department from attributing to the business any capital investment made by a business using state funds; requiring the department's evaluation of the application to include specified information;

123970

576-02558-15

requiring the department to recommend to the Governor approval or disapproval of a project that will receive funds from specified programs; requiring the department, in recommending a project, to include justification for the project and proposed performance conditions that the project must meet to obtain incentive funds; authorizing the Governor to approve a project without consulting the Legislature if the requested funding is less than a specified amount; requiring the Governor to provide a written description and evaluation of the project to specified persons during a specified timeframe; requiring the recommendation to include proposed payment and performance conditions that the project must meet in order to obtain incentive funds and to avoid sanctions; requiring the Governor to instruct the department to immediately suspend an action or proposed action until the Legislative Budget Commission or the Legislature makes a determination on the project in certain circumstances; requiring a project that requires funding that falls into a specified range to be approved by the Legislative Budget Commission before final approval by the Governor; requiring a project that requires at least a specified amount of funds and that provides a waiver of program requirements to be approved by the Legislative Budget Commission before final approval by the Governor; requiring the department to issue a letter certifying the applicant as qualified for an

56 award upon approval; specifying the funding sources
57 authorized within the definition of the term
58 “project”; requiring the department and the applicant
59 to enter into an agreement or contract upon
60 certification; requiring any agreement or contract
61 that requires capital investment to be made by the
62 business to also require that such investment remain
63 in the state for the duration of the agreement or
64 contract; prohibiting an agreement or contract from
65 having a term of longer than 10 years; authorizing the
66 department to enter into a successive agreement or
67 contract for a specified project under certain
68 circumstances; providing that the restriction on
69 duration of the agreement or contract does not apply
70 in certain circumstances; requiring the agreement or
71 contract to require that the applicant use the
72 workforce information systems in certain
73 circumstances; requiring the department to provide
74 notice, with a written description and evaluation, to
75 the Legislature of any proposed amendment to an
76 agreement or contract; requiring the department to
77 provide notice of the proposed change to specified
78 persons in order to provide an opportunity for review;
79 providing that a proposed amendment to an agreement or
80 contract which reduces projected economic benefits
81 calculated at the time the agreement or contract was
82 executed by a specified amount or more or that results
83 in an economic benefit ratio below a specified level
84 is subject to specified notice and objection

85 procedures; requiring the Governor to instruct the
86 department to immediately suspend an action or
87 proposed action until the Legislative Budget
88 Commission or Legislature makes a determination on the
89 project in certain circumstances; authorizing the
90 department to execute specified contracts and
91 agreements from current or future fiscal year
92 appropriations for specified incentive programs;
93 prohibiting the total amount of actual or projected
94 funds approved for a specified payment by the
95 department from exceeding a specified amount in any
96 fiscal year for certain programs; providing that the
97 specified funding limitation may only be waived by the
98 Legislature in the General Appropriations Act or other
99 legislation; requiring the department to provide
100 specified notice to the Legislature upon the final
101 execution of each contract or agreement; requiring the
102 department to provide to the Legislature a list of
103 projected payments for the following fiscal year and a
104 list of claims actually filed for payment in the
105 following fiscal year by specified dates; prohibiting
106 the department from making a scheduled payment under a
107 contract or agreement for a given fiscal year until
108 the department has validated that the applicant has
109 met the performance requirements of the contract or
110 agreement; providing that the department may only make
111 payments to the applicant; providing for reversion of
112 specified funds that are unexpended by a specified
113 date in a fiscal year; requiring the Legislature to

annually appropriate in the General Appropriations Act an amount estimated to sufficiently satisfy scheduled payments in a fiscal year; requiring the department to pay unfunded claims if the amount appropriated by the Legislature proves insufficient to satisfy the scheduled payments in a fiscal year; requiring the department to notify the legislative appropriations committees of any anticipated shortfall for the current fiscal year and of the amount it estimates will be needed to pay claims during the next fiscal year; amending s. 288.095, F.S.; providing that moneys credited to the Economic Development Trust Fund consist of specified funds and interest earnings; restricting the use of moneys in the Economic Development Incentives Account; providing that any balance in the account at the end of the fiscal year remains in the account and is available for carrying out the purposes of the account; creating the Quick Action Closing Fund Escrow Account within the Economic Development Trust Fund; restricting the use of moneys in the Quick Action Closing Fund Escrow Account; providing for the establishment of a continuing appropriation category to make payments from the account; requiring the department to submit a specified budget amendment in certain circumstances; requiring the reversion of specified funds to the State Economic Enhancement and Development Trust Fund in certain circumstances; establishing an expiration date for the continuing appropriation category;

providing for reversion of specified funds to the State Economic Enhancement and Development Trust Fund in certain circumstances; providing that any balance in the account at the end of the fiscal year remains in the account and is available for carrying out the purposes of the account; providing for the reversion of any interest earnings in the account to the State Economic Enhancement and Development Trust Fund on a specified date of each fiscal year; providing for expiration of the Quick Action Closing Fund Escrow Account and reversion of the funds remaining in the account; authorizing the department to adopt rules; requiring Enterprise Florida, Inc., to transfer any funds held in an escrow account for approved Quick Action Closing Fund contracts or agreements to the Quick Action Closing Fund Escrow Account within the Economic Development Trust Fund by a specified date; amending s. 288.1045, F.S.; revising the term “average wage in the area”; conforming provisions to changes made by the act; prohibiting the department from certifying any applicant as a qualified applicant in certain circumstances; increasing the number of days the department may extend the filing date; extending the future expiration of an applicant for a tax refund; amending s. 288.106, F.S.; conforming provisions to changes made by the act; revising the definition of the term “local financial support exemption option” to remove a limit on the allowable percentage of total tax refunds; increasing the number

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of days the department may extend the filing date; revising the limitations on the average private sector wage paid by the business; amending s. 288.107, F.S.; revising the term "eligible business"; defining the term "fixed capital investment"; conforming provisions to changes made by the act; amending s. 288.108, F.S.; conforming provisions to changes made by the act; amending s. 288.1088, F.S.; revising the requirements for projects eligible for receipt of funds from the Quick Action Closing Fund; conforming provisions to changes made by the act; requiring a specified request to be transmitted in writing to the department with an explanation of the specific justification for the request; requiring a decision to be stated in writing with an explanation of the reason for approving the request if the department approves the request; prohibiting the department from waiving more than a specified amount of criteria; revising the information that the department must include in an evaluation of an individual proposal for high-impact business facilities; prohibiting the payment of moneys from the fund to a business until the scheduled goals have been achieved; revising the information that must be included in a contract that sets forth the conditions for payments of moneys from the fund; amending s. 288.1089, F.S.; conforming provisions to changes made by the act; amending s. 288.1201, F.S.; conforming provisions to changes made by the act; amending s. 288.905, F.S.; providing that the president appointed

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by the board of directors of Enterprise Florida, Inc., is subject to confirmation by the Senate; prohibiting a former president from receiving compensation for personally representing a specified entity before the legislative or executive branch of state government; providing applicability; amending s. 288.9937, F.S.; requiring the Office of Program Policy Analysis and Government Accountability to analyze and evaluate certain programs for a specified period; requiring the Office of Economic and Demographic Research to determine the economic benefits of certain programs; requiring the Office of Program Policy Analysis and Government Accountability to identify inefficiencies in certain programs and to recommend changes to such programs; revising the date by which each office must submit a report to certain persons; providing an effective date.

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

Section 1. Paragraph (b) of subsection (1) of section 220.191, Florida Statutes, is amended to read:

220.191 Capital investment tax credit.—

(1) DEFINITIONS.—For purposes of this section:

(b) "Cumulative capital investment" means the total capital investment in land, buildings, and equipment made in connection with a qualifying project during the period from the beginning of construction of the project to the commencement of operations. <u>The term does not include any state or local funds,</u>

including funds appropriated to public or private entities, used for capital investment.

Section 2. Paragraph (e) of subsection (2) of section 288.0001, Florida Statutes, is amended to read:

288.0001 Economic Development Programs Evaluation.—The Office of Economic and Demographic Research and the Office of Program Policy Analysis and Government Accountability (OPPAGA) shall develop and present to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the chairs of the legislative appropriations committees the Economic Development Programs Evaluation.

(2) The Office of Economic and Demographic Research and OPPAGA shall provide a detailed analysis of economic development programs as provided in the following schedule:

(e) Beginning January 1, 2018, and every 3 years thereafter, an analysis of the Sports Development Program established under s. 288.11625 and the retention of Major League Baseball spring training baseball franchises under s. 288.11631.

Section 3. Subsection (1) of section 288.005, Florida Statutes, is amended to read:

288.005 Definitions.—As used in this chapter, the term:

(1) "Economic benefits" means the direct, indirect, and induced gains in state revenues as a percentage of the state's investment. The state's investment includes all state funds spent or forgone to benefit the business, including state funds appropriated to public and private entities, state grants, tax exemptions, tax refunds, tax credits, and other state incentives.

Section 4. Section 288.061, Florida Statutes, is amended to

read:

288.061 Economic development incentive application process.—

(1) Beginning January 1, 2016, the department shall prescribe a form upon which an application for an incentive must be made. At a minimum, the incentive application must include all of the following:

(a) The applicant's federal employer identification number, reemployment assistance account number, and state sales tax registration number. If such numbers are not available at the time of application, they must be submitted to the department in writing before the disbursement of any economic incentive payments or the grant of any tax credits or refunds.

(b) The applicant's signature.

(c) The location in this state at which the project is or will be located.

(d) The anticipated commencement date of the project.

(e) A description of the type of business activity, product, or research and development undertaken by the applicant, including the six-digit North American Industry Classification System code for all activities included in the project.

(f) An attestation verifying that the information provided on the application is true and accurate.

(2) ~~(1)~~ Upon receiving a submitted economic development incentive application, the Division of Strategic Business Development of the department ~~of Economic Opportunity~~ and designated staff of Enterprise Florida, Inc., shall review the application to ensure that the application is complete, whether

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288 and what type of state and local permits may be necessary for
289 the applicant's project, whether it is possible to waive such
290 permits, and what state incentives and amounts of such
291 incentives may be available to the applicant. The department
292 shall recommend to the executive director to approve or
293 disapprove an applicant business. If review of the application
294 demonstrates that the application is incomplete, the executive
295 director shall notify the applicant business within the first 5
296 business days after receiving the application.
297 (3) ~~(2) Beginning July 1, 2013,~~ The department shall review
298 and evaluate each economic development incentive application for
299 the economic benefits of the proposed award of state incentives
300 proposed for the project. The term "economic benefits" has the
301 same meaning as in s. 288.005. The Office of Economic and
302 Demographic Research shall establish the methodology and model
303 used to calculate the economic benefits, including guidelines
304 for the appropriate application of the department's internal
305 model. For purposes of this requirement, an amended definition
306 of the term "economic benefits" may be developed by the Office
307 of Economic and Demographic Research. However, the amended
308 definition must reflect the requirement of s. 288.005 that the
309 state's investment include all state funds spent or forgone to
310 benefit the business, including state funds appropriated to
311 public and private entities, to the extent that those funds
312 should reasonably be known to the department at the time of
313 approval. In the department's evaluation of an economic
314 development incentive application, the department may not
315 attribute to the business any capital investment made by the
316 business using state funds.

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317 (4) The department's evaluation of the application must
318 also include all of the following:
319 (a) A financial analysis of the company, including
320 information regarding liens and pending or ongoing litigation,
321 credit ratings, and regulatory filings.
322 (b) A review of any independent evaluations of the company.
323 (c) A review of the historical market performance of the
324 company.
325 (d) A review of the latest audit of the company's financial
326 statement and the related auditor management letter.
327 (e) A review of any other audits that are related to the
328 internal controls or management of the company.
329 (f) A review of performance in connection with past
330 incentives.
331 (g) Any other review deemed necessary by the department.
332 (5)(a) ~~(3)~~ Except as provided in paragraph (b), within 10
333 business days after the department receives a complete ~~the~~
334 ~~submitted~~ economic development incentive application, the
335 executive director shall approve or disapprove the application
336 and issue a letter of certification to the applicant which
337 includes a justification of that decision, unless the business
338 requests an extension of ~~that~~ time.
339 (b) Within 10 business days after the department receives a
340 complete economic development incentive application for a
341 project identified in paragraph (d), the executive director
342 shall recommend to the Governor approval or disproval of the
343 application. The recommendation must include a justification for
344 the recommendation and the proposed performance conditions that
345 the project must meet to obtain incentive funds.

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346 1. The Governor may approve a project without consulting
347 the Legislature for a project that requires less than $2 million
348 in funding.
349 2. Except as provided in subparagraph 4., for any project
350 that requires funding in the amount of at least $2 million and
351 up to $7.5 million, the Governor shall provide a written
352 description and evaluation of the project to the chair and vice
353 chair of the Legislative Budget Commission at least 10 days
354 before giving final approval for the project. The recommendation
355 must include proposed payment and performance conditions that
356 the project must meet in order to obtain incentive funds and to
357 avoid sanctions. If the chair or vice chair of the Legislative
358 Budget Commission, the President of the Senate, or the Speaker
359 of the House of Representatives advises the Governor, in
360 writing, that his or her planned or proposed action exceeds the
361 delegated authority of the Governor or is contrary to
362 legislative policy or intent, the Governor shall instruct the
363 department to immediately suspend any action planned or proposed
364 until the Legislative Budget Commission or the Legislature makes
365 a determination on the project.
366 3. Any project that requires funding in the amount of $7.5
367 million or greater must be approved by the Legislative Budget
368 Commission before final approval by the Governor.
369 4. Any project that requires funding in the amount of $5
370 million or greater and that provides a waiver of program
371 requirements must be approved by the Legislative Budget
372 Commission prior to final approval by the Governor.
373 (c) Upon approval of a project under paragraph (b), the
374 department shall issue a letter certifying the applicant as

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375 qualified for an award.
376 (d) For purposes of paragraphs (b) and (c), the term
377 "project" means a project that will receive funds under any one
378 of the following programs:
379 1. The Local Government Distressed Area Matching Grant
380 Program established by s. 288.0659.
381 2. The qualified defense contractor and space flight
382 business tax refund program established under s. 288.1045.
383 3. The qualified target industry business tax refund
384 authorized under s. 288.106.
385 4. The brownfield redevelopment bonus refund established
386 under s. 288.107.
387 5. High-impact business performance grants established
388 under s. 288.108.
389 6. The Quick Action Closing Fund established under s.
390 288.1088.
391 7. The Innovation Incentive Program created by s. 288.1089.
392 (6)(a) Upon certification, the department and the applicant
393 shall enter into an agreement or contract. The ~~contract or~~
394 agreement or contract with the applicant must specify the total
395 amount of the award, the performance conditions that must be met
396 to obtain the award, the schedule for payment, and sanctions
397 that would apply for failure to meet performance conditions. Any
398 agreement or contract that requires capital investment to be
399 made by the business must also require that such investment
400 remain in this state for the duration of the agreement or
401 contract. The department may enter into one agreement or
402 contract covering all of the state incentives that are being
403 provided to the applicant. The duration of an agreement or

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contract may not exceed 10 years. However, the department may enter into a successive agreement or contract for a specific project to extend the initial 10-year term, provided that each successive agreement or contract is contingent upon the successful completion of the previous agreement or contract. If all of the state incentives for one agreement or contract total $20 million or greater, the restriction on the term of the agreement or contract does not apply. The agreement or contract must provide that release of funds is contingent upon sufficient appropriation of funds by the Legislature.

(b) The release of funds for the incentive or incentives awarded to the applicant depends upon the statutory requirements of the particular incentive program. For any performance conditions that relate to job creation, the agreement or contract must require that the applicant use the workforce information systems implemented under s. 445.011.

(7) ~~(4)~~ The department shall validate contractor performance and report such validation in the annual incentives report required under s. 288.907.

(8) ~~(5)~~ (a) The executive director may not approve an economic development incentive application unless the application includes a signed written declaration by the applicant which states that the applicant has read the information in the application and that the information is true, correct, and complete to the best of the applicant's knowledge and belief.

(b) After an economic development incentive application is approved, the awardee shall provide, in each year that the department is required to validate contractor performance, a

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signed written declaration. The written declaration must state that the awardee has reviewed the information and that the information is true, correct, and complete to the best of the awardee's knowledge and belief.

(9) The department shall provide notice, including a written description and evaluation, to the Legislature of any proposed amendment to an agreement or contract. In order to provide an opportunity for review, at least 3 business days before signing an amendment to an agreement or contract, the department shall provide notice of the proposed change to the chair and vice chair of the Legislative Budget Commission, the President of the Senate, and the Speaker of the House of Representatives. However, a proposed amendment to an agreement or contract that reduces the projected economic benefits calculated at the time the agreement or contract was executed by 0.50 or more or that results in an economic benefit ratio below a statutorily required level for receipt of funds is subject to the 10-day notice and objection procedures set forth in this section. Any such amended agreement or contract must also provide for a proportionate reduction in the award amount. If the chair or vice chair of the Legislative Budget Commission, the President of the Senate, or the Speaker of the House of Representatives timely advises the Governor, in writing, that such action or proposed action exceeds the delegated authority of the Governor or is contrary to legislative policy or intent, the Governor shall instruct the department to immediately suspend any action proposed or taken until the Legislative Budget Commission or the Legislature makes a determination on the project.

462 (10)(a) The department is authorized to execute contracts
463 and agreements that obligate the state to make payments from
464 appropriations in the current or a future fiscal year for
465 incentive programs specified in this paragraph. The total amount
466 of actual or projected funds approved for payment by the
467 department based on actual project performance and the schedule
468 of payments for each incentive contract or agreement may not
469 exceed a combined total of $50 million in any fiscal year for
470 all of the following:
471 1. The Local Government Distressed Area Matching Grant
472 Program established under s. 288.0659.
473 2. The qualified defense contractor and space flight
474 business tax refund program established under s. 288.1045.
475 3. The qualified target industry businesses tax refund
476 program established under s. 288.106.
477 4. The brownfield redevelopment bonus refund program
478 established under s. 288.107.
479 5. The high-impact business performance grant program
480 established under s. 288.108.
481 6. The Quick Action Closing Fund projects established under
482 s. 288.1088, with the exception of those projects with funds
483 held in escrow as of June 30, 2015, which are being paid out of
484 the Quick Action Closing Fund Escrow Account under s. 288.095.
485 7. The Innovation Incentive Program established under s.
486 288.1089.
487 (b) The funding limitation under paragraph (a) may only be
488 waived by the Legislature in the General Appropriations Act or
489 other legislation.
490 (c) The department shall provide notice, including an

491 updated description and evaluation, to the Legislature upon the
492 final execution of each contract or agreement.
493 (d) By January 2 of each year, the department shall provide
494 to the Legislature a list of projected payments for the
495 following fiscal year and, by March 1 of each year, the
496 department shall provide to the Legislature a list of claims
497 actually filed for payment in the following fiscal year. The
498 department may not make a scheduled payment under a contract or
499 agreement for a given fiscal year until the department has
500 validated that the applicant has met the performance
501 requirements of the contract or agreement. The department may
502 only make payments to the applicant and not to a third party.
503 Any funds appropriated for scheduled payments in a fiscal year
504 which are unexpended by June 30 of that year shall revert in
505 accordance with s. 216.301 and may not be transferred to an
506 escrow account.
507 (e) The Legislature shall annually appropriate in the
508 General Appropriations Act an amount estimated to be sufficient
509 to satisfy scheduled payments in the coming fiscal year. If the
510 amount appropriated by the Legislature proves insufficient to
511 satisfy the scheduled payments, the department shall pay the
512 unfunded claims from the appropriation for the next fiscal year.
513 By March 1 of each year, the department shall notify the
514 legislative appropriations committees of any such anticipated
515 shortfall for the current fiscal year and of the amount it
516 estimates will be needed to pay claims during the next fiscal
517 year.
518 (11) ~~(6)~~ The department is authorized to adopt rules to
519 implement this section.

Section 5. Section 288.095, Florida Statutes, is amended to read:

288.095 Economic Development Trust Fund.—

(1) The Economic Development Trust Fund is created within the Department of Economic Opportunity. Moneys deposited into the fund must be used only to support the authorized activities and operations of the department. Moneys credited to the trust fund consist of local financial support funds; funds transferred from Enterprise Florida, Inc., which were held in an escrow account on June 30, 2015, for an approved Quick Action Closing Fund project; and interest earnings.

(2) There is created, within the Economic Development Trust Fund, the Economic Development Incentives Account. The Economic Development Incentives Account consists of moneys transferred from local governments as local financial support ~~appropriated to the account~~ for purposes of the tax incentives programs authorized under ss. 288.1045, ~~and~~ 288.106, and 288.107 ~~local financial support provided under ss. 288.1045 and 288.106~~. Moneys in the Economic Development Incentives Account may be used only to pay tax refunds and make other payments authorized under s. 288.1045, s. 288.106, or s. 288.107, and may only be expended pursuant to Legislative appropriation or an approved amendment to the department's operating budget pursuant to chapter 216. Notwithstanding s. 216.301, and pursuant to s. 216.351, any balance in the account at the end of a fiscal year remains in the account and is available for carrying out the purposes of the account ~~shall be subject to the provisions of s. 216.301(1)(a)~~.

(3)(a) There is created, within the Economic Development

Trust Fund, the Quick Action Closing Fund Escrow Account. The Quick Action Closing Fund Escrow Account consists of moneys transferred from Enterprise Florida, Inc., which were held in an escrow account on June 30, 2015, for approved Quick Action Closing Fund contracts or agreements. Moneys in the Quick Action Closing Fund Escrow Account may be used only for the purpose of making payments authorized under s. 288.1088 for projects authorized by these contracts or agreements. A continuing appropriation category shall be established to make payments from the account. If an approved Quick Action Closing Fund project is terminated, the department shall submit a budget amendment to place the budget authority associated with the terminated award into reserve. The funds associated with the terminated award shall immediately revert to the State Economic Enhancement and Development Trust Fund. The continuing appropriation category expires on June 30, 2029.

(b) Notwithstanding s. 216.301, and pursuant to s. 216.351, any balance in the account at the end of a fiscal year remains in the account and is available for carrying out the purposes of the account. Any interest earnings in the account revert to the State Economic Enhancement and Development Trust Fund on June 30 of each fiscal year. The Quick Action Closing Fund Escrow Account expires on June 30, 2029, and any funds remaining in the account shall revert to the State Economic Enhancement and Development Trust Fund. ~~The department may approve applications for certification pursuant to ss. 288.1045(3) and 288.106. However, the total state share of tax refund payments may not exceed $35 million.~~

~~(b) The total amount of tax refund claims approved for~~

~~payment by the department based on actual project performance may not exceed the amount appropriated to the Economic Development Incentives Account for such purposes for the fiscal year. Claims for tax refunds under ss. 288.1045 and 288.106 shall be paid in the order the claims are approved by the department. In the event the Legislature does not appropriate an amount sufficient to satisfy the tax refunds under ss. 288.1045 and 288.106 in a fiscal year, the department shall pay the tax refunds from the appropriation for the following fiscal year. By March 1 of each year, the department shall notify the legislative appropriations committees of the Senate and House of Representatives of any anticipated shortfall in the amount of funds needed to satisfy claims for tax refunds from the appropriation for the current fiscal year.~~

~~(c) Moneys in the Economic Development Incentives Account may be used only to pay tax refunds and make other payments authorized under s. 288.1045, s. 288.106, or s. 288.107.~~

(4) ~~(d)~~ The department may adopt rules necessary to carry out the provisions of this subsection, including rules providing for the use of moneys in the Economic Development Incentives Account and for the administration of the Economic Development Incentives Account and the Quick Action Closing Fund Escrow Account.

Section 6. By July 10, 2015, Enterprise Florida, Inc., shall transfer any funds held in an escrow account on June 30, 2015, for approved Quick Action Closing Fund contracts or agreements to the Quick Action Closing Fund Escrow Account within the Economic Development Trust Fund.

Section 7. Paragraph (b) of subsection (1), paragraphs (a),

(c), (e), and (f) of subsection (2), paragraphs (e) and (h) of subsection (3), paragraphs (a),(d), and (e) of subsection (5), and subsection (7) of section 288.1045, Florida Statutes, are amended to read:

288.1045 Qualified defense contractor and space flight business tax refund program.—

(1) DEFINITIONS.—As used in this section:

(b) "Average private sector wage in the area" means the average of all private sector wages and salaries in ~~the state,~~ the county~~,~~ or in the standard metropolitan area in which the business unit is located.

(2) GRANTING OF A TAX REFUND; ELIGIBLE AMOUNTS.—

(a) There shall be allowed~~, from the Economic Development Trust Fund,~~ a refund to a qualified applicant for the amount of eligible taxes certified by the department which were paid by such qualified applicant. The total amount of refunds for all fiscal years for each qualified applicant shall be determined pursuant to subsection (3). The annual amount of a refund to a qualified applicant shall be determined pursuant to subsection (5).

(c) ~~Contingent upon an annual appropriation by the Legislature,~~ The department may not approve ~~not~~ more in tax refunds ~~than the amount appropriated to the Economic Development Trust Fund for tax refunds,~~ for a fiscal year than the amount specified in s. 288.061 ~~pursuant to subsection (5) and s. 288.095~~.

(e) After entering into a tax refund agreement pursuant to subsection (4), a qualified applicant may:

1. Receive refunds ~~from the account~~ for corporate income

taxes due and paid pursuant to chapter 220 by that business beginning with the first taxable year of the business which begins after entering into the agreement.

2. Receive refunds ~~from the account~~ for the following taxes due and paid by that business after entering into the agreement:

a. Taxes on sales, use, and other transactions paid pursuant to chapter 212.

b. Intangible personal property taxes paid pursuant to chapter 199.

c. Excise taxes paid on documents pursuant to chapter 201.

d. Ad valorem taxes paid, as defined in s. 220.03(1)(a) on June 1, 1996.

e. State communications services taxes administered under chapter 202. This provision does not apply to the gross receipts tax imposed under chapter 203 and administered under chapter 202 or the local communications services tax authorized under s. 202.19.

However, a qualified applicant may not receive a tax refund pursuant to this section for any amount of credit, refund, or exemption granted such contractor for any of such taxes. If a refund for such taxes is provided by the department, which taxes are subsequently adjusted by the application of any credit, refund, or exemption granted to the qualified applicant other than that provided in this section, the qualified applicant shall reimburse the department ~~Economic Development Trust Fund~~ for the amount of such credit, refund, or exemption. A qualified applicant must notify and tender payment to the department within 20 days after receiving a credit, refund, or exemption,

other than that provided in this section.

(f) Any qualified applicant who fraudulently claims this refund is liable for repayment of the refund to the department ~~Economic Development Trust Fund~~ plus a mandatory penalty of 200 percent of the tax refund which shall be deposited into the General Revenue Fund. Any qualified applicant who fraudulently claims this refund commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) APPLICATION PROCESS; REQUIREMENTS; AGENCY DETERMINATION.—

(e) To qualify for review by the department, the application of an applicant must, at a minimum, establish the following to the satisfaction of the department:

1. The jobs proposed to be provided under the application, pursuant to subparagraph (b)6., subparagraph (c)6., or subparagraph (j)6., must pay an estimated annual average wage equaling at least 115 percent of the average private sector wage in the area where the project is to be located.

2. The consolidation of a Department of Defense contract must result in a net increase of at least 25 percent in the number of jobs at the applicant's facilities in this state or the addition of at least 80 jobs at the applicant's facilities in this state.

3. The conversion of defense production jobs to nondefense production jobs must result in net increases in nondefense employment at the applicant's facilities in this state.

4. The Department of Defense contract or the space flight business contract cannot allow the business to include the costs of relocation or retooling in its base as allowable costs under

694 a cost-plus, or similar, contract.
695 5. A business unit of the applicant must have derived not
696 less than 60 percent of its gross receipts in this state from
697 Department of Defense contracts or space flight business
698 contracts over the applicant's last fiscal year, and must have
699 derived not less than an average of 60 percent of its gross
700 receipts in this state from Department of Defense contracts or
701 space flight business contracts over the 5 years preceding the
702 date an application is submitted pursuant to this section. This
703 subparagraph does not apply to any application for certification
704 based on a contract for reuse of a defense-related facility.
705 6. The reuse of a defense-related facility must result in
706 the creation of at least 100 jobs at such facility.
707 7. A new space flight business contract or the
708 consolidation of a space flight business contract must result in
709 net increases in space flight business employment at the
710 applicant's facilities in this state.
711 (h) The department may not certify any applicant as a
712 qualified applicant when the value of tax refunds to be included
713 in that letter of certification exceeds the available amount of
714 authority to certify a new business in any fiscal year
715 ~~businesses~~ as determined pursuant to s. 288.061(10) ~~in s.~~
716 ~~288.095(3)~~. A letter of certification that approves an
717 application must specify the maximum amount of a tax refund that
718 is to be available to the contractor for each fiscal year and
719 the total amount of tax refunds for all fiscal years.
720 (5) ANNUAL CLAIM FOR REFUND.—
721 (a) To be eligible to claim any scheduled tax refund,
722 qualified applicants who have entered into a written agreement

723 with the department pursuant to subsection (4) and who have
724 entered into a valid new Department of Defense contract, entered
725 into a valid new space flight business contract, commenced the
726 consolidation of a space flight business contract, commenced the
727 consolidation of a Department of Defense contract, commenced the
728 conversion of defense production jobs to nondefense production
729 jobs, or entered into a valid contract for reuse of a defense-
730 related facility must apply by January 31 of each fiscal year to
731 the department for tax refunds scheduled to be paid from the
732 appropriation for the fiscal year that begins on July 1
733 following the January 31 claims-submission date. The department
734 may, upon written request, grant up to a 60-day ~~30-day~~ extension
735 of the filing date. The application must include a notarized
736 signature of an officer of the applicant.
737 (d) The department, with assistance from the Department of
738 Revenue, shall, by June 30 following the scheduled date for
739 submitting the tax refund claim, specify by written order the
740 approval or disapproval of the tax refund claim and, if
741 approved, the amount of the tax refund that is authorized to be
742 paid to the qualified applicant for the annual tax refund. The
743 department may grant up to a 60-day ~~an~~ extension of this date
744 upon the request of the qualified applicant for the purpose of
745 filing additional information in support of the claim.
746 (e) The total amount of tax refunds approved by the
747 department under this section in any fiscal year may not exceed
748 the amount authorized under s. 288.061(10) ~~s. 288.095(3)~~.
749 (7) EXPIRATION.—An applicant may not be certified as
750 qualified under this section after June 30, 2020 ~~2014~~. A tax
751 refund agreement existing on that date shall continue in effect

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752 in accordance with its terms.
753 Section 8. Paragraphs (c) and (k) of subsection (2),
754 paragraphs (a), (d), (e), and (g) of subsection (3), paragraphs
755 (b) and (e) of subsection (4), and paragraphs (a) and (d)
756 through (g) of subsection (6) of section 288.106, Florida
757 Statutes, are amended to read:
758 288.106 Tax refund program for qualified target industry
759 businesses.—
760 (2) DEFINITIONS.—As used in this section:
761 (c) "Average private sector wage in the area" means ~~the~~
762 ~~statewide private sector average wage or~~ the average of all
763 private sector wages and salaries in the county or in the
764 standard metropolitan area in which the business is located.
765 (k) "Local financial support exemption option" means the
766 option to exercise an exemption from the local financial support
767 requirement available to an ~~any~~ applicant whose project is
768 located in a brownfield area, a rural city, or a rural
769 community. ~~Any applicant that exercises this option is not~~
770 ~~eligible for more than 80 percent of the total tax refunds~~
771 ~~allowed such applicant under this section.~~
772 (3) TAX REFUND; ELIGIBLE AMOUNTS.—
773 (a) There shall be allowed~~, from the account,~~ a refund to a
774 qualified target industry business for the amount of eligible
775 taxes certified by the department that were paid by the
776 business. The total amount of refunds for all fiscal years for
777 each qualified target industry business must be determined
778 pursuant to subsection (4). The annual amount of a refund to a
779 qualified target industry business must be determined pursuant
780 to subsection (6).

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781 (d) After entering into a tax refund agreement under
782 subsection (5), a qualified target industry business may:
783 1. Receive refunds ~~from the account~~ for the following taxes
784 due and paid by that business beginning with the first taxable
785 year of the business that begins after entering into the
786 agreement:
787 a. Corporate income taxes under chapter 220.
788 b. Insurance premium tax under s. 624.509.
789 2. Receive refunds from ~~the account for~~ the following taxes
790 due and paid by that business after entering into the agreement:
791 a. Taxes on sales, use, and other transactions under
792 chapter 212.
793 b. Intangible personal property taxes under chapter 199.
794 c. Excise taxes on documents under chapter 201.
795 d. Ad valorem taxes paid, as defined in s. 220.03(1).
796 e. State communications services taxes administered under
797 chapter 202. This provision does not apply to the gross receipts
798 tax imposed under chapter 203 and administered under chapter 202
799 or the local communications services tax authorized under s.
800 202.19.
801 (e) However, a qualified target industry business may not
802 receive a refund under this section for any amount of credit,
803 refund, or exemption previously granted to that business for any
804 of the taxes listed in paragraph (d). If a refund for such taxes
805 is provided by the department, which taxes are subsequently
806 adjusted by the application of any credit, refund, or exemption
807 granted to the qualified target industry business other than as
808 provided in this section, the business shall reimburse the
809 department ~~account~~ for the amount of that credit, refund, or

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exemption. A qualified target industry business shall notify and tender payment to the department within 20 days after receiving any credit, refund, or exemption other than one provided in this section.

(g) A qualified target industry business that fraudulently claims a refund under this section:

1. Is liable for repayment of the amount of the refund to the department ~~account~~, plus a mandatory penalty in the amount of 200 percent of the tax refund which shall be deposited into the General Revenue Fund.

2. Commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(4) APPLICATION AND APPROVAL PROCESS.—

(b) To qualify for review by the department, the application of a target industry business must, at a minimum, establish the following to the satisfaction of the department:

1.a. The jobs proposed to be created under the application, pursuant to subparagraph (a)4., must pay an estimated annual average wage equaling at least 115 percent of the average private sector wage in the area where the business is to be located ~~or the statewide private sector average wage~~. The governing board of the local governmental entity providing the local financial support of the jurisdiction where the qualified target industry business is to be located shall notify the department and Enterprise Florida, Inc., which calculation of the average private sector wage in the area must be used as the basis for the business's wage commitment. In determining the average annual wage, the department shall include only new proposed jobs, and wages for existing jobs shall be excluded

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from this calculation.

b. The department may waive the average wage requirement at the request of the local governing body recommending the project and Enterprise Florida, Inc. The department may waive the wage requirement for a project located in a brownfield area designated under s. 376.80, in a rural city, in a rural community, in an enterprise zone, or for a manufacturing project at any location in the state if the jobs proposed to be created pay an estimated annual average wage equaling at least 100 percent of the average private sector wage in the area where the business is to be located, only if the merits of the individual project or the specific circumstances in the community in relationship to the project warrant such action. If the local governing body and Enterprise Florida, Inc., make such a recommendation, it must be transmitted in writing with~~, and~~ the specific justification for the waiver recommendation ~~must be~~ explained. If the department elects to waive the wage requirement, the waiver must be stated in writing with~~, and~~ the reasons for granting the waiver ~~must be~~ explained.

2. The target industry business's project must result in the creation of at least 10 jobs at the project and, in the case of an expansion of an existing business, must result in a net increase in employment of at least 10 percent at the business. At the request of the local governing body recommending the project and Enterprise Florida, Inc., the department may waive this requirement for a business in a rural community or enterprise zone if the merits of the individual project or the specific circumstances in the community in relationship to the project warrant such action. If the local governing body and

868 Enterprise Florida, Inc., make such a request, the request must
869 be transmitted in writing with an explanation of~~, and~~ the
870 specific justification for the request ~~must be explained~~. If the
871 department elects to grant the request, the grant must be stated
872 in writing and explain~~, and~~ the reason for granting the request
873 ~~must be explained~~.
874 3. The business activity or product for the applicant's
875 project must be within an industry identified by the department
876 as a target industry business that contributes to the economic
877 growth of the state and the area in which the business is
878 located, that produces a higher standard of living for residents
879 of this state in the new global economy, or that can be shown to
880 make an equivalent contribution to the area's and state's
881 economic progress.
882 (e) The department may not certify any target industry
883 business as a qualified target industry business if the value of
884 tax refunds to be included in that letter of certification
885 exceeds the available amount of authority to certify a new
886 business in any fiscal year ~~businesses~~ as determined pursuant to
887 s. 288.061(10) ~~in s. 288.095(3)~~. ~~However,~~ Except as provided in
888 paragraph (2)(k), if the commitments of local financial support
889 represent less than 20 percent of the eligible tax refund
890 payments, or to otherwise preserve the viability and fiscal
891 integrity of the program, the department may certify a qualified
892 target industry business to receive tax refund payments of less
893 than the allowable amounts specified in paragraph (3)(b). A
894 letter of certification that approves an application must
895 specify the maximum amount of tax refund that will be available
896 to the qualified industry business in each fiscal year and the

897 total amount of tax refunds that will be available to the
898 business for all fiscal years.
899 (6) ANNUAL CLAIM FOR REFUND.—
900 (a) To be eligible to claim any scheduled tax refund, a
901 qualified target industry business that has entered into a tax
902 refund agreement with the department under subsection (5) must
903 apply by January 31 of each fiscal year to the department for
904 the tax refund scheduled to be paid from the appropriation for
905 the fiscal year that begins on July 1 following the January 31
906 claims-submission date. The department may, upon written
907 request, grant up to a 60-day ~~30-day~~ extension of the filing
908 date.
909 (d) A tax refund may not be approved for a qualified target
910 industry business unless the required local financial support
911 has been paid into the account for that refund. Except as
912 provided in paragraph (2)(k), if the local financial support
913 provided is less than 20 percent of the approved tax refund, the
914 tax refund must be reduced. In no event may the tax refund
915 exceed an amount that is equal to 5 times the amount of the
916 local financial support received. Further, funding from local
917 sources includes any tax abatement granted to that business
918 under s. 196.1995 or the appraised market value of municipal or
919 county land conveyed or provided at a discount to that business.
920 The amount of any tax refund for such business approved under
921 this section must be reduced by the amount of any such tax
922 abatement granted or the value of the land granted, and the
923 limitations in subsection (3) and paragraph (4)(e) must be
924 reduced by the amount of any such tax abatement or the value of
925 the land granted. A report listing all sources of the local

financial support shall be provided to the department when such support is paid to the account.

(e) A prorated tax refund, less a 5 percent penalty, shall be approved for a qualified target industry business if all other applicable requirements have been satisfied and the business proves to the satisfaction of the department that:

1. It has achieved at least 80 percent of its projected employment; and

2. The average wage paid by the business is at least 90 percent of that ~~the average wage~~ specified in the tax refund agreement. However, the average wage may not be~~, but in no case~~ less than 115 percent of the average private sector wage in the area available at the time of certification; or, if the business requested the additional per-job tax refund authorized in paragraph (3)(b) for wages of at least 150 percent of the average private sector wage in the area available at the time of certification, less than 135 percent of the average private sector wage in the area available at the time of certification;~~,~~ or if the business requested the additional per-job tax refund authorized in paragraph (3)(b) for wages of at least ~~150 percent or~~ 200 percent of the average private sector wage in the area available at the time of certification, less than 180 percent of the average private sector wage in the area available at the time of certification ~~if the business requested the additional per-job tax refund authorized in paragraph (3)(b) for wages above those levels~~. The prorated tax refund shall be calculated by multiplying the tax refund amount for which the qualified target industry business would have been eligible, if all applicable requirements had been satisfied, by the percentage of

the average employment specified in the tax refund agreement which was achieved, and by the percentage of the average wages specified in the tax refund agreement which was achieved.

(f) The department, with such assistance as may be required from the Department of Revenue, shall, by June 30 following the scheduled date for submission of the tax refund claim, specify by written order the approval or disapproval of the tax refund claim and, if approved, the amount of the tax refund that is authorized to be paid to the qualified target industry business for the annual tax refund. The department may grant up to a 60-day ~~an~~ extension of this date on the request of the qualified target industry business for the purpose of filing additional information in support of the claim.

(g) The total amount of tax refund claims approved by the department under this section in any fiscal year may ~~must~~ not exceed the amount authorized under s. 288.061(10) ~~s. 288.095(3)~~.

Section 9. Paragraph (d) of subsection (1), subsection (2), paragraph (b) of subsection (3), and paragraphs (d), (e), and (i) of subsection (4) of section 288.107, Florida Statutes, are amended to read:

288.107 Brownfield redevelopment bonus refunds.—

(1) DEFINITIONS.—As used in this section:

(d) "Eligible business" means:

1. A qualified target industry business as defined in s. 288.106(2); or

2. A business that can demonstrate that it has made a fixed capital investment of at least $2 million in mixed-use business activities, including multiunit housing, commercial, retail, and industrial in brownfield areas eligible for bonus refunds, and

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984 that provides benefits to its employees.
985 (2) BROWNFIELD REDEVELOPMENT BONUS REFUND.—Bonus refunds
986 shall be approved by the department as specified in the final
987 order and allowed ~~from the account~~ as follows:
988 (a) A bonus refund of $2,500 shall be allowed to any
989 qualified target industry business as defined in s. 288.106 for
990 each new Florida job created in a brownfield area eligible for
991 bonus refunds which is claimed on the qualified target industry
992 business's annual refund claim authorized in s. 288.106(6).
993 (b) A bonus refund of up to $2,500 shall be allowed to any
994 other eligible business as defined in subparagraph (1)(d)2. for
995 each new Florida job created in a brownfield area eligible for
996 bonus refunds which is claimed under an annual claim procedure
997 similar to the annual refund claim authorized in s. 288.106(6).
998 The amount of the refund shall be equal to 20 percent of the
999 average annual wage for the jobs created.
1000 (3) CRITERIA.—The minimum criteria for participation in the
1001 brownfield redevelopment bonus refund are:
1002 (b) The completion of a fixed capital investment of at
1003 least $2 million in mixed-use business activities, including
1004 multiunit housing, commercial, retail, and industrial in
1005 brownfield areas eligible for bonus refunds, by an eligible
1006 business applying for a refund under paragraph (2)(b) which
1007 provides benefits to its employees. As used in this paragraph,
1008 the term "fixed capital investment" does not include state funds
1009 used for the capital investment, including state funds
1010 appropriated to public and private entities.
1011 (4) PAYMENT OF BROWNFIELD REDEVELOPMENT BONUS REFUNDS.—
1012 (d) After entering into a tax refund agreement as provided

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1013 in s. 288.106 or other similar agreement for other eligible
1014 businesses as defined in paragraph (1)(e), an eligible business
1015 may receive brownfield redevelopment bonus refunds ~~from the~~
1016 ~~account~~ pursuant to s. 288.106(3)(d).
1017 (e) An eligible business that fraudulently claims a refund
1018 under this section:
1019 1. Is liable for repayment of the amount of the refund to
1020 the department ~~account~~, plus a mandatory penalty in the amount
1021 of 200 percent of the tax refund, which shall be deposited into
1022 the General Revenue Fund.
1023 2. Commits a felony of the third degree, punishable as
1024 provided in s. 775.082, s. 775.083, or s. 775.084.
1025 (i) The total amount of the bonus refunds approved by the
1026 department under this section in any fiscal year may ~~must~~ not
1027 exceed the ~~total~~ amount specified in s. 288.061(10) ~~appropriated~~
1028 ~~to the Economic Development Incentives Account for this purpose~~
1029 ~~for the fiscal year~~. ~~In the event that the Legislature does not~~
1030 ~~appropriate an amount sufficient to satisfy projections by the~~
1031 ~~department for brownfield redevelopment bonus refunds under this~~
1032 ~~section in a fiscal year, the department shall, not later than~~
1033 ~~July 15 of such year, determine the proportion of each~~
1034 ~~brownfield redevelopment bonus refund claim which shall be paid~~
1035 ~~by dividing the amount appropriated for tax refunds for the~~
1036 ~~fiscal year by the projected total of brownfield redevelopment~~
1037 ~~bonus refund claims for the fiscal year. The amount of each~~
1038 ~~claim for a brownfield redevelopment bonus tax refund shall be~~
1039 ~~multiplied by the resulting quotient. If, after the payment of~~
1040 ~~all such refund claims, funds remain in the Economic Development~~
1041 ~~Incentives Account for brownfield redevelopment tax refunds, the~~

1042 ~~department shall recalculate the proportion for each refund~~
1043 ~~claim and adjust the amount of each claim accordingly.~~
1044 Section 10. Subsection (4) of section 288.108, Florida
1045 Statutes, is amended to read:
1046 288.108 High-impact business.—
1047 (4) AUTHORITY TO APPROVE QUALIFIED HIGH-IMPACT BUSINESS
1048 PERFORMANCE GRANTS.—
1049 ~~(a)~~ The total amount of active performance grants scheduled
1050 for payment by the department in any single fiscal year may not
1051 exceed the amount specified in s. 288.061(10) ~~lesser of $30~~
1052 ~~million or the amount appropriated by the Legislature for that~~
1053 ~~fiscal year for qualified high-impact business performance~~
1054 ~~grants~~. ~~If the scheduled grant payments are not made in the year~~
1055 ~~for which they were scheduled in the qualified high-impact~~
1056 ~~business agreement and are rescheduled as authorized in~~
1057 ~~paragraph (3)(c), they are, for purposes of this paragraph,~~
1058 ~~deemed to have been paid in the year in which they were~~
1059 ~~originally scheduled in the qualified high-impact business~~
1060 ~~agreement.~~
1061 ~~(b) If the Legislature does not appropriate an amount~~
1062 ~~sufficient to satisfy the qualified high-impact business~~
1063 ~~performance grant payments scheduled for any fiscal year, the~~
1064 ~~department shall, not later than July 15 of that year, determine~~
1065 ~~the proportion of each grant payment which may be paid by~~
1066 ~~dividing the amount appropriated for qualified high-impact~~
1067 ~~business performance grant payments for the fiscal year by the~~
1068 ~~total performance grant payments scheduled in all performance~~
1069 ~~grant agreements for the fiscal year. The amount of each grant~~
1070 ~~scheduled for payment in that fiscal year must be multiplied by~~

1071 ~~the resulting quotient. All businesses affected by this~~
1072 ~~calculation must be notified by August 1 of each fiscal year.~~
1073 ~~If, after the payment of all the refund claims, funds remain in~~
1074 ~~the appropriation for payment of qualified high-impact business~~
1075 ~~performance grants, the department shall recalculate the~~
1076 ~~proportion for each performance grant payment and adjust the~~
1077 ~~amount of each claim accordingly.~~
1078 Section 11. Subsections (2), (3), and (4) of section
1079 288.1088, Florida Statutes, are amended to read:
1080 288.1088 Quick Action Closing Fund.—
1081 (2) There is created within the department the Quick Action
1082 Closing Fund. Except as provided in subsection (3), projects
1083 eligible for receipt of funds from the Quick Action Closing Fund
1084 must ~~shall~~:
1085 (a) Be in an industry as referenced in s. 288.106.
1086 (b) Have a positive economic benefit ratio of at least 4 to
1087 1 ~~5 to 1~~.
1088 (c) Be an inducement to the project's location or expansion
1089 in the state.
1090 (d) Pay an average annual wage of at least 125 percent of
1091 the average ~~areawide or statewide~~ private sector ~~average~~ wage in
1092 the area. As used in this section, the term "average private
1093 sector wage in the area" means the average of all private sector
1094 wages in the county or in the standard metropolitan area in
1095 which the project is located as determined by the department.
1096 (e) Be supported by the local community in which the
1097 project is to be located.
1098 (3)(a) The department and Enterprise Florida, Inc., shall
1099 jointly review applications pursuant to s. 288.061 and determine

1100 the eligibility of each project consistent with the criteria in
1101 subsection (2).
1102 (b) If the local governing body and Enterprise Florida,
1103 Inc., decide to request a waiver of the criteria in subsection
1104 (2), such request must be transmitted in writing to the
1105 department with an explanation of the specific justification for
1106 the request. If the department approves the request, the
1107 decision must be stated in writing with an explanation of the
1108 reason for approving the request.
1109 (c) The department may not waive more than two of the
1110 criteria in subsection (2), and a waiver may
1111 ~~Waiver of these criteria may~~ be considered only ~~under the~~
1112 ~~following criteria~~:
1113 1. If the department determines the existence of ~~Based on~~
1114 extraordinary circumstances;
1115 2. In order to mitigate the impact of the conclusion of the
1116 space shuttle program; or
1117 3. In rural areas of opportunity if the project would
1118 significantly benefit the local or regional economy.
1119 (d) The criteria in subsection (2) may not be waived if:
1120 1. The economic benefit ratio would be below 2 to 1; or
1121 2. The average annual wage would be below 100 percent of
1122 the average private sector wage in the area.
1123 (e) The criteria that the incentive be an inducement to the
1124 project's location or expansion in this state may not be waived.
1125 (4) ~~(b)~~ The department shall evaluate individual proposals
1126 for high-impact business facilities. Such evaluation must
1127 include, but need not be limited to:
1128 (a) ~~1.~~ A description of the type of facility or

1129 infrastructure, its operations, and the associated product or
1130 service associated with the facility.
1131 (b) ~~2.~~ The minimum and maximum number of full-time-
1132 equivalent jobs that will be created by the facility and the
1133 total estimated average annual wages of those jobs or, in the
1134 case of privately developed rural infrastructure, the types of
1135 business activities and jobs stimulated by the investment.
1136 (c) ~~3.~~ The cumulative amount of investment to be dedicated
1137 to the facility within a specified period.
1138 (d) ~~4.~~ A statement of any special impacts the facility is
1139 expected to stimulate in a particular business sector in the
1140 state or regional economy or in the state's universities and
1141 community colleges.
1142 (e) ~~5.~~ A statement of the role the incentive is expected to
1143 play in the decision of the applicant business to locate or
1144 expand in this state or for the private investor to provide
1145 critical rural infrastructure.
1146 (f) ~~6.~~ A report evaluating the quality and value of the
1147 company submitting a proposal. The report must include:
1148 1. ~~a.~~ A financial analysis of the company, including an
1149 evaluation of the company's short-term liquidity ratio as
1150 measured by its assets to liability, the company's profitability
1151 ratio, and the company's long-term solvency as measured by its
1152 debt-to-equity ratio;
1153 2. ~~b.~~ The historical market performance of the company;
1154 3. ~~c.~~ A review of any independent evaluations of the
1155 company;
1156 4. ~~d.~~ A review of the latest audit of the company's
1157 financial statement and the related auditor's management letter;

and

5.~~c.~~ A review of any other types of audits that are related to the internal and management controls of the company.

~~(c)1. Within 7 business days after evaluating a project, the department shall recommend to the Governor approval or disapproval of a project for receipt of funds from the Quick Action Closing Fund. In recommending a project, the department shall include proposed performance conditions that the project must meet to obtain incentive funds.~~

~~2. The Governor may approve projects without consulting the Legislature for projects requiring less than $2 million in funding.~~

~~3. For projects requiring funding in the amount of $2 million to $5 million, the Governor shall provide a written description and evaluation of a project recommended for approval to the chair and vice chair of the Legislative Budget Commission at least 10 days prior to giving final approval for a project. The recommendation must include proposed performance conditions that the project must meet in order to obtain funds.~~

~~4. If the chair or vice chair of the Legislative Budget Commission or the President of the Senate or the Speaker of the House of Representatives timely advises the Executive Office of the Governor, in writing, that such action or proposed action exceeds the delegated authority of the Executive Office of the Governor or is contrary to legislative policy or intent, the Executive Office of the Governor shall void the release of funds and instruct the department to immediately change such action or proposed action until the Legislative Budget Commission or the Legislature addresses the issue. Notwithstanding such~~

~~requirement, any project exceeding $5 million must be approved by the Legislative Budget Commission prior to the funds being released.~~

(5)~~(d)~~ Upon the approval of the Governor, the department and the business shall enter into a contract that sets forth the conditions for payment of moneys from the fund. Such payment may not be made to the business until the scheduled goals have been achieved. The contract must include the total amount of funds awarded; the minimum and maximum amount of funds that may be awarded, if applicable; the performance conditions that must be met to obtain the award, including, but not limited to, net new employment in the state, average salary, ~~and~~ total capital investment incurred by the business, and the minimum and maximum number of jobs that will be created, if applicable; demonstrate a baseline of current service and a measure of enhanced capability; the methodology for validating performance; the schedule of payments from the fund; and sanctions for failure to meet performance conditions. The contract must provide that payment of moneys from the fund is contingent upon sufficient appropriation of funds by the Legislature.

(6)~~(e)~~ The department shall validate contractor performance and report such validation in the annual incentives report required under s. 288.907.

~~(4) Funds appropriated by the Legislature for purposes of implementing this section shall be placed in reserve and may only be released pursuant to the legislative consultation and review requirements set forth in this section.~~

Section 12. Paragraph (b) of subsection (2), paragraphs (a) and (d) of subsection (4), subsection (7), and paragraph (b) of

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1216 subsection (8) of section 288.1089, Florida Statutes, are
1217 amended to read:
1218 288.1089 Innovation Incentive Program.—
1219 (2) As used in this section, the term:
1220 (b) "Average private sector wage in the area" means ~~the~~
1221 ~~statewide average wage in the private sector or~~ the average of
1222 all private sector wages in the county or in the standard
1223 metropolitan area in which the project is located as determined
1224 by the department.
1225 (4) To qualify for review by the department, the applicant
1226 must, at a minimum, establish the following to the satisfaction
1227 of the department:
1228 (a) The jobs created by the project must pay an estimated
1229 annual average wage equaling at least 130 percent of the average
1230 private sector wage in the area. The department may waive this
1231 average wage requirement at the request of Enterprise Florida,
1232 Inc., for a project located in a rural area, a brownfield area,
1233 or an enterprise zone, when the merits of the individual project
1234 or the specific circumstances in the community in relationship
1235 to the project warrant such action. A recommendation for waiver
1236 by Enterprise Florida, Inc., must include a specific
1237 justification for the waiver and be transmitted to the
1238 department in writing. If the department elects to waive the
1239 wage requirement, the waiver must be stated in writing and
1240 explain ~~and~~ the reasons for granting the waiver ~~must be~~
1241 ~~explained~~.
1242 (d) For an alternative and renewable energy project in this
1243 state, the project must:
1244 1. Demonstrate a plan for significant collaboration with an

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1245 institution of higher education;
1246 2. Provide the state, at a minimum, a cumulative break-even
1247 economic benefit within a 20-year period;
1248 3. Include matching funds provided by the applicant or
1249 other available sources. The match requirement may be reduced or
1250 waived in rural areas of opportunity or reduced in rural areas,
1251 brownfield areas, and enterprise zones;
1252 4. Be located in this state; and
1253 5. Provide at least 35 direct, new jobs that pay an
1254 estimated annual average wage that equals at least 130 percent
1255 of the average private sector wage in the area.
1256 (7) Upon receipt of the evaluation and recommendation from
1257 the department, the Governor shall approve or deny an award
1258 pursuant to s. 288.061. In recommending approval of an award,
1259 the department shall include proposed performance conditions
1260 that the applicant must meet in order to obtain incentive funds
1261 and any other conditions that must be met before the receipt of
1262 any incentive funds. ~~The Governor shall consult with the~~
1263 ~~President of the Senate and the Speaker of the House of~~
1264 ~~Representatives before giving approval for an award. Upon review~~
1265 ~~and approval of an award by the Legislative Budget Commission,~~
1266 ~~the Executive Office of the Governor shall release the funds.~~
1267 (8)
1268 (b) Additionally, agreements ~~signed on or after July 1,~~
1269 ~~2009,~~ must include the following provisions:
1270 1. Notwithstanding subsection (4), a requirement that the
1271 jobs created by the recipient of the incentive funds pay an
1272 annual average wage at least equal to the relevant industry's
1273 annual average wage or at least 130 percent of the average

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1274 private sector wage in the area, whichever is greater.
1275 2. A reinvestment requirement. Each recipient of an award
1276 shall reinvest up to 15 percent of net royalty revenues,
1277 including revenues from spin-off companies and the revenues from
1278 the sale of stock it receives from the licensing or transfer of
1279 inventions, methods, processes, and other patentable discoveries
1280 conceived or reduced to practice using its facilities in Florida
1281 or its Florida-based employees, in whole or in part, and to
1282 which the recipient of the grant becomes entitled during the 20
1283 years following the effective date of its agreement with the
1284 department. Each recipient of an award also shall reinvest up to
1285 15 percent of the gross revenues it receives from naming
1286 opportunities associated with any facility it builds in this
1287 state. Reinvestment payments shall commence no later than 6
1288 months after the recipient of the grant has received the final
1289 disbursement under the contract and shall continue until the
1290 maximum reinvestment, as specified in the contract, has been
1291 paid. Reinvestment payments shall be remitted to the department
1292 for deposit in the Biomedical Research Trust Fund for companies
1293 specializing in biomedicine or life sciences, or in the Economic
1294 Development Trust Fund for companies specializing in fields
1295 other than biomedicine or the life sciences. If these trust
1296 funds no longer exist at the time of the reinvestment, the
1297 state's share of reinvestment shall be deposited in their
1298 successor trust funds as determined by law. Each recipient of an
1299 award shall annually submit a schedule of the shares of stock
1300 held by it as payment of the royalty required by this paragraph
1301 and report on any trades or activity concerning such stock. Each
1302 recipient's reinvestment obligations survive the expiration or

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1303 termination of its agreement with the state.
1304 3. Requirements for the establishment of internship
1305 programs or other learning opportunities for educators and
1306 secondary, postsecondary, graduate, and doctoral students.
1307 4. A requirement that the recipient submit quarterly
1308 reports and annual reports related to activities and performance
1309 to the department, according to standardized reporting periods.
1310 5. A requirement for an annual accounting to the department
1311 of the expenditure of funds disbursed under this section.
1312 6. A process for amending the agreement.
1313 Section 13. Subsection (2) of section 288.1201, Florida
1314 Statutes, is amended to read:
1315 288.1201 State Economic Enhancement and Development Trust
1316 Fund.—
1317 (2) The trust fund is established for use as a depository
1318 for funds to be used for the purposes specified in subsection
1319 (1). Moneys to be credited to the trust fund shall consist of
1320 documentary stamp tax proceeds as specified in law, local
1321 financial support funds, interest earnings, reversions specified
1322 in law, and cash advances from other trust funds. Funds shall be
1323 expended only pursuant to legislative appropriation or an
1324 approved amendment to the department's operating budget pursuant
1325 to the provisions of chapter 216.
1326 Section 14. Subsection (1) is amended and subsection (5) is
1327 added to section 288.905, Florida Statutes, to read:
1328 288.905 President and employees of Enterprise Florida,
1329 Inc.—
1330 (1) The board of directors of Enterprise Florida, Inc.,
1331 shall appoint a president, subject to confirmation by the

1332 Senate, who shall serve at the pleasure of the Governor. The
1333 president shall also be known as the "secretary of commerce" and
1334 shall serve as the Governor's chief negotiator for business
1335 recruitment and business expansion.
1336 (5) For a period of 2 years following vacation of office, a
1337 former president may not receive compensation for personally
1338 representing before the legislative or executive branch of state
1339 government an entity that applied for funding, received state
1340 funds, or negotiated with Enterprise Florida, Inc., for the
1341 receipt of state funds, regardless of whether the entity
1342 actually received any state funds.
1343 Section 15. The changes made to s. 288.905, Florida
1344 Statutes, apply only to presidents who are appointed or
1345 reappointed on or after July 1, 2015.
1346 Section 16. Section 288.9937, Florida Statutes, is amended
1347 to read:
1348 288.9937 Evaluation of programs.—The Office of Economic and
1349 Demographic Research and the Office of Program Policy Analysis
1350 and Government Accountability shall analyze and ~~,~~ evaluate~~, and~~
1351 ~~determine the economic benefits, as defined in s. 288.005, of~~
1352 the first 3 years of the Microfinance Loan Program and the
1353 Microfinance Guarantee Program. The analysis by the Office of
1354 Economic and Demographic Research must ~~also~~ determine the
1355 economic benefits, as defined in s. 288.005, evaluate the number
1356 of jobs created, the increase or decrease in personal income,
1357 and the impact on state gross domestic product from the direct,
1358 indirect, and induced effects of the state's investment. The
1359 analysis by the Office of Program Policy Analysis and Government
1360 Accountability must ~~also~~ identify any inefficiencies in the

1361 programs and provide recommendations for changes to the
1362 programs. Each ~~The~~ office shall submit a report to the President
1363 of the Senate and the Speaker of the House of Representatives by
1364 January 15 ~~1~~, 2018. This section expires January 31, 2018.
1365 Section 17. This act shall take effect July 1, 2015.

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 Appropriations

BILL:	CS/SB 1214
INTRODUCER:	Appropriations and Senator Latvala
SUBJECT:	Economic Development
DATE:	April 23, 2015 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Askey	McKay	CM	**Favorable**
2.	Gusky	Miller	ATD	**Recommended: Fav/CS**
3.	Gusky	Kynoch	AP	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1214 makes a number of changes to the state's economic development and housing and community development programs to provide more flexibility in some programs, and to increase transparency and accountability across those programs.

Regarding economic development programs, the bill:

- Makes the following changes to the Qualified Target Industry Business Tax Refund (QTI) Program:
  - Permits businesses in brownfield or rural areas to receive 100 percent of the total tax refunds allowed, if the option to exempt local financial support is exercised; and
  - Permits businesses to receive a prorated award if at least 90 percent of agreed-to higher wage requirements are met.
  - Increases the amount of time that the Department of Economic Opportunity (DEO) can grant extensions for claims due on or after January 31, 2015.
  - Expands the definition of "target industry business" to include certain businesses that offer baccalaureate or higher degrees in the health care field that Enterprise Florida, Inc., and the local government agree will benefit the local economy.
  - Clarifies that the amount of taxes a business pays serves as a limitation on the amount of incentive payments a business may receive.
- Extends the date applicants can be certified under the Qualified Defense Contractor and Space Flight Business Tax Refund (QDSC) Program until June 30, 2020.
- Makes the following changes to the criteria for projects eligible for funding from the Quick Action Closing Fund (QAC) Program:

- The required economic benefit ratio is lowered from 5 to 1 to 4 to 1, and cannot be waived below 2:1; or below 1.5 to 1, for a corporate headquarters business as defined in s. 288.106, F.S.
  - The contract may not waive the annual wage requirement below 100 percent of the wages in the local area;
  - The contract may only waive two of the five program criteria;
  - The contract may not waive the criteria that the incentive is an inducement to the project's location or expansion in this state; and
- Standardizes the economic development application and evaluation processes.
- Specifies incentive project approval based upon the amount of required funding. Projects requiring:
  - Less than $2 million may be approved by the Governor without legislative consultation.
  - $2 million up to $7.5 million require 10-day notice to the Legislative Budget Commission (LBC) before the Governor can give approval.
  - $7.5 million or more, and projects requiring $5 million or more with a waiver of program requirements, must receive approval from the LBC before the Governor can give approval.
  - If the LBC does not act within 30 days, the project is deemed approved.
  - This application approval process applies to the:
    - Quick Action Closing (QAC) Fund;
    - High-Impact Business Performance Grants; and
    - Innovation Incentive Program.
- Creates the following requirements for contracts for economic development incentives:
  - Capital investment must remain in the state for the duration of the contract.
  - Contract terms cannot be longer than 10 years.
  - The business must use the Employ Florida Marketplace to post new jobs.
- Requires a 3-day advanced notice to the Legislature of certain proposed amendments to an economic development contract and a 10-day legislative consultation period for a proposed amendment that reduces the projected economic benefits below statutory levels. Amendments that reduce the project's economic benefits must include a proportionate reduction in the award amount.
- Prohibits any state or local funds from being counted toward a business' required capital investment, and clarifies that the state's investment for purposes of determining the project's economic benefits includes all state funds spent or forgone to benefit the business.
- Prohibits payments for a project until contracted performance goals have been achieved.
- Creates a $50 million cap on the amount of funds that can be obligated for economic development incentive payments each fiscal year
- Requires DEO to provide the Legislature with the amount of estimated economic development payments, and the Legislature must annually appropriate in the GAA the amount estimated to be sufficient to satisfy scheduled payments.
- EFI must return any funds held in escrow on June 30, 2015, for current QAC projects to the State Board of Administration by July 10, 2015. Such funds will be held in a newly created "Quick Action Closing Fund Escrow Account."
- Prohibits the president of Enterprise Florida, Inc., (EFI) from engaging in lobbying efforts before the Legislature and Executive branch for two years after vacating the position; this change applies to presidents of EFI appointed or reappointed after July 1, 2015.

- Transfers the Office of Film and Entertainment from the DEO to Enterprise Florida, Inc.
- Revises the Entertainment Industry Program (tax credits) and creates a new Entertainment Action Fund.
- Permits businesses located in enterprise zones that have active economic development contracts entered between January 1, 2013, and December 31, 2015, to continue to apply for enterprise zone state tax programs and the child care facility property tax exemption for three years.
- Approves the four sports development project applications submitted by the DEO on January 23, 2015.

Regarding housing and community development programs, the bill:

- Expands the definition of "blighted area," enabling community redevelopment areas to enter into voluntary contracts to redevelop properties damaged by sinkhole activity.
- Amends the State Apartment Incentive Loan (SAIL) Program to change the reservation requirements for the specified tenant groups to reflect projected need.
- Creates a program to provide incentives and authorize a process to provide affordable rental opportunities for essential services personnel in the Florida Keys.
- Amends provisions related to the State Office on Homelessness and the Challenge Grant Program.
- Expresses legislative intent to encourage homeless continuums of care to adopt the Rapid ReHousing approach to prevent homelessness.
- Amends the State Housing Initiatives Partnership (SHIP) Program to provide exceptions to the limitations on using SHIP funds for rent subsidies and provides that up to 25 percent of available SHIP funds may be used by counties and eligible municipalities for rental housing.

Fiscal impacts of the bill include:

- For Fiscal Year 2015-2016, appropriations of $20 million from the State Economic Enhancement and Development Trust Fund and $3.8 million from the Economic Development Trust Fund to make payments for economic development incentive programs.
- Prohibiting the practice of escrowing funds for future QAC payments will have a positive impact on state revenues and the state's economy as a whole. Using a "pay-as-you-go" approach for QAC projects will enable the state to use funds that would be otherwise transferred outside the state treasury for other priorities each fiscal year.

The bill has other fiscal impacts to state and local governments. See Section V.

Except as otherwise expressly provided, the bill provides an effective date of July 1, 2015.

II. Present Situation:

The bill makes a number of changes to the state's economic development, housing, and community development programs to provide more flexibility in some programs, and to increase

transparency and accountability across those programs**. *For the purposes of this bill analysis, the Present Situation will be addressed in the Effect of Proposed Changes section below.***

III. Effect of Proposed Changes:

ECONOMIC DEVELOPMENT PROGRAMS

Economic Development Incentive Programs

Florida has a number of incentive programs intended to promote economic development in the state. These programs are collectively referred to as the economic development "toolkit" and come in a variety of forms including tax refunds, tax credits, tax exemptions, and cash grants.

Economic Development Programs with Tax Refunds

Qualified Target Industry Business Tax Refund

Present Situation

The Qualified Target Industry Business Tax Refund (QTI) was established in 1995 with the purpose of attracting high wage jobs to the state.[1] The tax refunds are made to qualified, pre-approved businesses creating jobs in target industries. The target industries are identified by the DEO for criteria including future growth, stability, high wages, market and resource independence, industrial base diversification, and positive economic impact. Approved QTI projects have contractual performance measures with specific milestones to be verified prior to payment of any tax refunds. This incentive requires 20 percent of the award to come from the local government. An applicant that is locating in a brownfield area, a rural city, or a rural community can exercise an option to be exempt from the 20 percent local financial support requirements of the program. Under current law, an applicant exercising the local financial support exemption option is not eligible for more than 80 percent of the total tax refunds allowed under the program.

Under current law, additional per-job tax refund payments are available to applicants for each job created if the applicant commits to paying an annual average wage greater than the minimum requirement of 115 percent of the average wage in the area. These "bonuses" are awarded at 150 percent of the average private sector wage (an additional $1,000 tax refund per job) and at 200 percent of the average private sector wage (an additional $2,000 tax refund per job), in the area. A prorated tax refund, with a 5 percent penalty, can be awarded if the business paid at least 90 percent of the wage specified in the contract.

The program is funded through a specific annual appropriation.[2] The program shares a $35 million cap on tax refund payments, per fiscal year, with the Qualified Defense and Space Contractor Tax Refund. The DEO reported that $55.3 million in maximum awards was approved in Fiscal Year 2013-14.[3] Additionally the department reported that of the 1,110 contracts

[1] Section 288.106, F.S.
[2] Section. 288.095, F.S.
[3] The amount approved in any fiscal year may exceed the statutory cap, but payments in any fiscal year will not exceed the cap.

executed from the beginning of the program to June 30, 2014, 322 contracts are active and 122 contracts were successfully completed.[4]

Effect of Proposed Changes

Section 12 of the bill amends the Tax Refund Program for Qualified Target Industry Businesses (QTI)[5] to allow an applicant exercising the local financial support exemption option to be eligible for 100 percent of the total funds allowed under the program.

The bill clarifies when a business that commits to the higher wage it can receive the prorated tax refund:

- A business that commits to pay 150 percent of the average wage must pay an annual average wage of no less than 135 percent of the annual private sector wage.
- A business that commits to pay 200 percent of the average wage must pay an annual average wage of no less than 180 percent of the average private sector wage.

The bill also increases the period of time that the DEO may grant extensions to applicants applying for a tax refund. The bill authorizes the DEO to allow an extension for submission of refund claims and information for a refund for up to 60 days, rather than the 30 days allowed by current law, for claims due on or after January 31, 2015.

The bill expands the definition of "target industry business" to include a business within NAICS code 611310 (colleges, universities and professional schools) that *only* offer baccalaureate degrees or higher that address health care workforce demands to qualify as a "target industry business," provided that EFI and the local government determines that such business is good for the local economy.

The bill clarifies that the program is not a refund of actual taxes paid, but that the amount of taxes a business pays serves as a limitation on the amount of incentive payments the business may receive.

Qualified Defense Contractor and Space Flight Business Tax Refund

Present Situation

Also known as the Qualified Defense and Space Contractor (QDSC) Tax Refund, the program was established in 1996 and is designed to attract high wage jobs in the space and defense industries.[6] The QDSC tax refunds are made to qualified and approved businesses bidding on new or securing existing defense or space contracts. As with the QTI refund, 20 percent of the award comes from the local government. As with other programs, the QDSC tax refunds are awarded after contractual performance-based milestones are met and verified by the state. Since June 30, 2014, no new applicants may be certified as eligible under statute, but tax refund agreements in existence on that date are continued in accordance with their terms.

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[4] Florida Department of Economic Opportunity, *2014 Annual Incentives Report*, 11, 15 (Dec. 30, 2014) available at http://sitefinity.floridajobs.org/docs/default-source/sbd-sports/2014-annual-incentives-report.pdf?status=Temp&sfvrsn=0.028032216409722532 (last visited March 3, 2015).
[5] Section 288.106, F.S.
[6] Section 288.1045, F.S.

The program is funded through a specific annual appropriation. The program shares a $35 million cap on tax refund payments, per fiscal year with the QTI Tax Refund. The DEO reported that $3.2 million in maximum rewards was approved in Fiscal Year 2013-2014. Additionally, the DEO reported that of the 28 contracts executed from the beginning of the program to June 30, 2014, five contracts are active and five contracts were successfully completed.[7]

Effect of Proposed Changes

Section 10 of the bill amends the Qualified Defense Contractor and Space Flight Business Tax Refund Program[8] to allow the DEO to certify applicants for this program until June 30, 2020.

The bill also increases the period of time that the DEO may grant extensions to applicants applying for a tax refund. The bill authorizes the DEO to allow an extension for submission of refund claims and information for a refund for up to 60 days, rather than the 30 days allowed by current law.

Brownfield Redevelopment Bonus Refund

Present Situation

The Brownfield Redevelopment Bonus Refund was established in 1997 to improve economic activity in designated Brownfield areas.[9] These areas are designated by the respective community for the presence or perceived presence of economic blight or environmental contamination. As with the QTI and QDSC programs, the Brownfield program requires 20 percent of the award to come from the local government. As with other programs, the Brownfield program requires performance-based contracts and specific milestones to be met in order for a project to receive awards. The Brownfield program offers a bonus for any tax refund awarded to a QTI qualified business for job creation, if that job creation occurred in a Brownfield area.

The program is funded through a specific annual appropriation. The DEO reported that $2.6 million in maximum rewards was approved in Fiscal Year 2013-2014, with an additional $875,000 in maximum awards for the Brownfield Bonus with QTI. Additionally, the department reported that of the 59 contracts executed from the beginning of the program to June 30, 2014, 33 contracts are active and 9 contracts were successfully completed. For the Brownfield Bonus with QTI, there are 103 contracts executed in the same timeframe with 40 active contracts and 6 completed.[10]

Effect of Proposed Changes

Section 13 of the bill amends s. 288.107, F.S., to provide that the term “fixed capital outlay” does not include state funds, including state funds appropriated to public and private entities, used for the capital investment required as a minimum criteria for program participation. The

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[7] *Id.*
[8] Section 288.1045, F.S.
[9] Section 288.107, F.S.,
[10] *See supra* note 3.

section is further amended to conform to the changes made to the Economic Development Trust Fund in **section 10** of the bill.

Economic Development Programs with Tax Credits

Capital Investment Tax Credit

Present Situation

The Capital Investment Tax Credit (CITC) became effective in 1998 and its purpose is to attract and grow capital-intensive industries in Florida.[11] Eligible projects must be in designated high-impact portions of certain sectors, determined by the DEO, including clean energy, biomedical technology, financial services, information or silicon technology, or transportation equipment manufacturing. The project could also be a corporate headquarters facility. For purposes of this program, the term:

> "Cumulative capital investment" means the total capital investment in land, buildings, and equipment made in connection with a qualifying project during the period from the beginning of construction of the project to the commencement of operations."[12]

The DEO reports that the value of credits claimed is often lower than the value of credits approved because the company's tax liability may be lower than the value of the credits, and most often, because the credits can only be used to offset a portion of the incremental new tax liability attributable to a project. There is no cap for this program.

The DEO reported that $7.2 million in tax credits were claimed in 2013. The DEO also reported that there have been 37 approvals or certifications for CITC projects through June 30, 2013 (numbers from 2014 were not reported), with 32 being active and five having been terminated.[13]

Effect of Proposed Changes

Section 6 of the bill amends the definition of "cumulative capital investment" to clarify that the term does not include any state or local funds, including funds appropriated to public or private entities, used for capital investment.

.Economic Development Programs with Cash Grants

High-Impact Business Performance Grants

Present Situation

Also known as the High-Impact Performance Incentive (HIPI), the program was established in 1997.[14] HIPI is a grant reserved for projects operating in the same high-impact sectors as in the CITC program. The cash grant is performance based and paid in two installments. First, upon

[11] Section 220.191, F.S.
[12] Section 220.191(1)(b), F.S.
[13] *See supra* note 3, at 12-13, 22.
[14] Section 288.108, F.S.

operational commencement, and the second upon full operational commencement as determined in contract. The program has an annual cap of $30 million.

The DEO reports that $10.6 million in grant incentives was approved in Fiscal Year 2013-14. The DEO also reports that of the 14 contracts executed from the beginning of the program to June 30, 2014, seven contracts are active and three contracts were successfully completed. [15] This program authorizes the recapture of funds if a business fails to meet its performance measures.

Effect of Proposed Changes

Section 14 of the bill amends s. 288.108, F.S., to remove the $30 million annual cap and language related to annual payments for the HIPI program to conform to the creation of a cap for seven specified economic development programs, including the HIPI program.

Quick Action Closing Fund

Present Situation

The Quick Action Closing (QAC) Fund was established in 1999.[16] The program is designed to be a competitive "deal closing" tool for negotiations where the state's other incentives are not enough to incentivize a business to remain, locate, or expand in the state.

Under current law, in order to be eligible for QAC funds a project must meet 5 criteria:

- Be in a qualified target industry;
- Have a positive economic benefit ratio of at least 5 to 1;
- Be an inducement to the project's location or expansion in the state;
- Pay an average annual wage of at least 125 percent of the area-wide or statewide private sector average wage; and
- Be supported by the local community in which the project is to be located.

The DEO is permitted to waive these criteria under certain conditions.

All QAC Fund projects have a performance based contract requiring specific scheduled milestones and annual compliance requirements. The program authorizes sanctions and penalties for failure to perform.

The program is funded by a specific annual appropriation, and has no cap. The DEO reports that $44.7 million in grant incentives was approved in Fiscal Year 2013-14. Additionally, the report stated that 144 contracts have been executed through June 30, 2014, with 106 active contracts and ten successfully completed contracts.[17]

Effect of Proposed Changes

Section 11 amends the criteria and the approval process for the Quick Action Closing (QAC) Fund Program.[18]

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[15] *See supra* note 3, at 12 and 17.
[16] Section 288.1088, F.S.
[17] *See supra* note 3, at 12 and 17.
[18] Section 288.1088, F.S.

The bill requires that a request for a waiver and the granting of a waiver must be in writing and provide the specific justification for the waiver. Similar to the requirements of other economic development programs, the DEO may not grant a waiver for more than 2 of the 5 criteria. The bill also:

- Lowers the required economic benefit ratio from 5 to 1 to 4 to 1, and prohibits the ratio from being waived:
  - Below 2 to 1; or
  - Below 1.5 to 1, for a corporate headquarters business as defined in s. 288.106, F.S.
- Prohibits the average annual wage from being waived below 100 percent of the average private sector wage in the area.
- Prohibits waiver of the criteria that the incentive be an inducement to the project's location or expansion in this state.

If a contract contains an option to award additional funds if additional jobs are created above the minimum commitment, the bill clarifies that when the DEO is evaluating QAC proposals, the minimum and maximum number of full-time equivalent jobs created by the facility should be used for evaluation purposes. The bill specifies that the contract should include the minimum and maximum amount of funds that may be awarded and the minimum and maximum number of jobs that will be created.

The bill requires that payment may not be made to a business until the business has satisfied all contracted performance requirements.

Section 288.1088, F.S., is further amended to delete the current approval process for QAC projects since those projects will now be approved through the uniform process created in the bill.

Innovation Incentive Program

Present Situation

The Innovation Incentive Program (IIP) was created in 2006.[19] The program is designed to empower the state to compete effectively for research and development, innovation business, or alternative and renewable energy projects. The program creates long-term investments, made by the state, in industry clusters critical to the state's future economic diversification. The projects have contractual performance measures and milestones that must be achieved before grant payment. The contracts also include a reinvestment portion, requiring recipients to reinvest a portion of royalty revenues earned back to the state for investment in existing state trust funds. The DEO reports that as of 2013, nine companies have been awarded funds of $455.7 million, not including the Scripps Florida Grant ($310 million).[20]

Effect of Proposed Changes

Section 18 of the bill amends s. 288.1089, F.S., to delete the current approval process for IIP projects since those projects will now be approved through the uniform process created in the bill.

[19] Section 288.1089, F.S.
[20] *See supra* note 3, at 19.

Local Government Distressed Area Matching Grant Program

The Local Government Distressed Area Matching Grant (LGDAMG) Program was established in 2010.[21] The program goal is to improve economic activity and enhance job creation in distressed communities. The grant is administered as a contract between the state and the local government. The state's funds, a $50,000 maximum, are passed through to the business.[22]

Economic Development Incentive Program Administration

The primary purpose of each incentive program is to attract and grow businesses in Florida, which includes promoting job creation and capital investment. In addition, several programs have other goals, such as revitalizing economically distressed areas and encouraging emerging technology cluster development.

Businesses that receive incentives from these programs enter into multi-year agreements with the state. These agreements include a schedule for meeting performance requirements such as job creation and capital investment; for some programs, businesses have as many as 20 years to meet these requirements.

Several entities have roles in administering the state's economic development incentive programs. Enterprise Florida, Inc. (EFI), a public-private partnership between businesses and the state, acts as the principal economic development organization for Florida. EFI's role includes:

- Advertising and marketing the state's incentive programs;
- Assisting businesses that apply for incentives;
- Working with community partners to gather information that would be useful to applicants (e.g., potential sites, area demographics, and local incentives);
- Reviewing applications for completeness; and
- Recommending projects to the Department of Economic Opportunity (DEO) for approval to receive incentives.[23]

The DEO is responsible for:

- Overseeing the application/certification approval process;
- Administering, reviewing, and approving incentive claims;
- Monitoring businesses' compliance with program agreements, which specify the required number of jobs, average wage, capital investment, and other performance goals; and
- Decertifying/terminating businesses that do not meet performance requirements.[24]

The Department of Revenue (DOR) is responsible for:

- Reviewing and approving enterprise zone tax credits and refund applications;
- Providing enterprise zone data to the DEO for annual reporting; and

[21] Section 288.0659, F.S.
[22] *See supra* note 3, at 12.
[23]The Florida Legislature, Office of Program Policy Analysis and Government Accountability (OPPAGA) & Office of Economic and Demographic Research (EDR), *Florida Economic Development Program Evaluations – Year 1, Report No. 14-01*, (January 1, 2014).
[24] Id.

- Upon request, verifying information in any claim submitted for tax credits with regard to employment, wage levels, or payment of sales, corporate, or property taxes.[25]

The Department of Financial Services (DFS) is responsible for:
- Reviewing, approving, and issuing incentive payments;
- Examining information provided by the DEO, including the request for payment and supporting documentation (e.g., incentive agreement and evidence of meeting performance requirements; and
- Authorizing payments and issuing warrants.[26]

In addition, the Department of Environmental Protection (DEP) provides information to the DEO to ensure that a project receiving a Brownfield Redevelopment Bonus Refund is within a designated brownfield area.[27]

Economic Development Incentive Application and Approval Processes

Present Situation

Businesses interested in expanding or relocating in Florida learn about the state's economic incentive programs through several channels, including EFI, state and local economic development organizations, and private site selection consultants. EFI provides businesses a variety of services prior to application filing, including evaluating businesses' needs, identifying potential site locations, and providing information on state and local incentives that might aid businesses with expansion or relocation projects. EFI also helps businesses complete the incentive application, which may require coordination with local economic development organizations and consultants. Businesses can apply for more than one incentive to support their expansion or relocation projects.[28]

Once a company begins the application process, EFI notifies the DEO so that the department may begin its formal due diligence process to determine the business's statutory eligibility and financial standing. DEO's due diligence process has two levels. Level one due diligence is conducted for all incentive applications and includes determining whether the company satisfies statutory criteria for program participation and if the business is in good financial and legal standing. Level two due diligence is used for grant incentive programs (e.g., Quick Action Closing Fund) and considers the business's credit risk and other factors that could affect its ability to repay the state should it be unable to meet incentive performance requirements.[29]

Once due diligence is complete, DEO staff review the application for completeness; if the application is not complete, the applicant is notified, and additional information is requested. The DEO is required to review and evaluate each economic development incentive application for the "economic benefits" of the proposed award of state incentives proposed for the project. As used in ch. 288, F.S., the term "economic benefits" means the direct, indirect, and induced

[25] Id.
[26] Id.
[27] Id.
[28] Id.
[29] Id.

gains in state revenues as a percentage of the state's investment. The state's investment includes state grants, tax exemptions, tax refunds, tax credits and other state incentives.[30]

Under current law, the Office of Economic and Demographic Research (EDR) establishes the methodology and model used to calculate the economic benefits.[31] Current law also allows the EDR to develop an amended definition of the term "economic benefits" for purposes of DEO's internal model.[32]

Once the application is deemed complete, the department determines what state incentives and associated amounts may be available to the applicant, and a recommendation is made to DEO's executive director to approve or disapprove the application. With the exception of applications for the Quick Action Closing Fund and Innovation Incentive programs, the executive director will approve or disapprove the application within 10 business days after receipt and issue a letter of certification to the applicant. The Innovation Incentive Program requires that projects must be approved by the Legislative Budget Commission (LBC). The Quick Action Closing Fund (QAC) program allows projects receiving under $2 million in funding to be approved by the Governor; projects receiving between $2 million and $5 million require legislative consultation; and projects exceeding $5 million in funding are subject to approval by the LBC.

Effect of Proposed Changes

Section 8 of the bill amends the definition of "economic benefits" to clarify that the "state's investment" includes *all* state funds spent or forgone to benefit the business, including state funds appropriated to public and private entities, in addition to state grants, tax exemption, tax refunds, tax credits, and other state incentives.

The bill also directs the EDR to include guidelines for the appropriate application of the DEO's internal model. The bill requires that, for the amended definition of "economic benefits," the state's investment must include all state funds spent or forgone to benefit the business, including state funds appropriated to public and private entities but excluding state funds spent for economic development transportation projects under s. 339.2821, F.S., to the extent that such funds "should reasonably be known to the department at the time of approval." The bill provides that the economic benefits evaluation must account for all capital investment related to the project.

Section 9 of the bill amends s. 288.061, F.S., to create uniform methods for the application and evaluation of all economic development projects, and uniform approval process for certain economic development incentives projects.

The bill directs the Department of Economic Opportunity (DEO or department) to create a uniform application form for incentive applications beginning January 1, 2016, which must include, at minimum:

- The applicant's federal employee identification number, reemployment assistance account number, and state sales tax registration number (if these are unavailable at the time of

[30] Section 288.005, F.S.
[31] Section 266.061(3), F.S.
[32] Id.

application, they must be submitted before DEO disburses any incentive payments or grants any tax credits or refunds);
- The applicant's signature;
- The location in the state where the project will be located;
- The anticipated commencement date of the project;
- A description of the business activity, product, or research and development undertaken by the applicant, and the 6-digit North American Industry Classification System (NAICS) code for all activities included in the project; and
- An attestation verifying that the information in the application is true and accurate.

The bill creates a uniform evaluation process for the DEO to review and evaluate each incentive application. The department's evaluation of an application must include the following:
- A financial analysis of the company including information on liens, pending or ongoing litigation, credit ratings, and regulatory filings;
- A review of any independent evaluations of the company;
- A review of the historical market performance of the company;
- A review of the latest audit of the company's financial statement and related auditor management letter;
- A review of any other audits related to the internal controls or management of the company;
- A review of performance in connection with past incentives; and
- Any other review deemed necessary by the department.

The bill creates a uniform tiered approval process for economic development incentive applications for the following programs:
- The High-Impact Business Performance Grants (HIPI);
- The Quick Action Closing Fund (QAC); and
- The Innovation Incentive Program (IIP).

Within 10 days of receiving a complete HIPI, QAC, or IIP application, the DEO must recommend a project for approval or disapproval to the Governor. Recommendations must include a justification for the recommendation and the proposed performance conditions the project must meet to receive incentive funds. The approval process for a project is dependent upon the amount of funds that the project is awarded. Projects requiring:
- Less than $2 million may be approved by the Governor without Legislative consultation.
- $2 million and up to $7.5 million require the Governor to provide a written description and evaluation to the Legislative Budget Commission (LBC) at least 10 days before final approval of the project. If the chair or vice chair of the LBC, the President of the Senate, or the Speaker of the House of Representatives advises the Governor in writing that the action exceeds executive authority or is contrary to legislative intent, the Governor and the DEO shall suspend all actions until the LBC or the Legislature makes a determination on the project.
- $7.5 million or more must be approved by the LBC before final approval by the Governor.
- $5 million or more that also waive program requirements also must be approved by the LBC before final approval by the Governor.

Under the new approval process, a project is deemed approved by the LBC if a meeting of the LBC is not held or the project is not objected to as described above within 30 calendar days of the submission of the project's written description and evaluation and the department's recommendation to the chair and vice chair of the LBC. The written description and evaluation must include proposed payment and performance conditions.

Sections 15 and 17 amend, in relevant parts, s. 288.1088, F.S., relating to the Quick Action Closing Fund, and s. 288.1089, F.S., relating to the Innovation Incentive Program, respectively, to conform to the changes in the approval process for those incentive programs.

Economic Development Incentive Agreements and Contracts

Present Situation

For all incentive programs, the DEO develops an agreement or contract with the applicant that specifies the total incentive amount, the performance conditions that must be met to receive payment, the schedule for payment, the sanctions for failure to meet performance conditions; the contracts may also include representations, warranties and other covenants. Current law does not require that an agreement or contract:

- Dictate the length of term for incentive agreements between a business and the state;
- Require the applicant to use the workforce information systems implemented under s. 445.011, F.S., to advertise job openings created; and
- Require any capital investment made by the business to remain in the state for the duration of the agreement or contract.

Current law does not provide specific authority for agreements or contracts executed for the QAC or HIPI programs to be amended. Agreements or contracts for the Innovation Incentive Program may be amended under certain circumstances.

Effect of Proposed Changes

Also in **Section 9,** the bill clarifies that upon DEO's certification, the department and the applicant must enter into an agreement or contract. The duration of a contract may not exceed 10 years. The bill provides that the DEO may enter into successive agreements or contracts for a project to extend the first 10-year term, providing that each successive agreement or contract is contingent upon the successful completion of the previous agreement or contract. Contracts for projects under s. 220.191, F.S., the Capital Investment Tax Credit Program and s. 288.1089, F.S., the Innovation Incentive Program, are not subject to the restriction on the duration of the agreement or contract.

The bill also requires that:

- Any contract that requires capital investment to be made by the applicant must also require that capital investment remain in this state for the duration of the contract.
- The contract must require the applicant to use the Employ Florida Marketplace33 to advertise job openings created as a result of the state incentive.

[33] The DEO and CareerSource Florida, Inc., (formerly Workforce Florida, Inc.) implement the workforce information systems required under s. 445.011, F.S.

The DEO must provide the Legislature with notice of each executed and finalized contract. The notice must include an updated description and evaluation of the project.

The bill requires the DEO to provide a 3-day advanced notice to the Legislature of any proposed amendment to a contract that reduces the projected economic benefits calculated at the time the contract was executed by 0.50 or more or changes any performance conditions or other statutorily required criteria. A 10-day legislative consultation period is required for amendments that reduce the projected economic benefit ratio:

- Below a statutorily required level for receipt of funds; or
- If already below the statutorily required level, by 0.50 or more.

An amendment that reduces the economic benefits as described above must also include a proportionate reduction in the award amount. As with the original contract approval process, the chair or vice-chair of the LBC, the Senate President, or the Speaker of the House of Representatives may object to the changes in writing. If there is an objection, the Governor and the DEO must suspend all action until the LBC or the Legislature makes a determination on the project.

Economic Development Incentive Obligations, Appropriations, and Escrow

Present Situation

Under current law, there is a limitation on applications that may be certified for the QTI and QDSC tax refund programs. The state share of tax refund payments under these two programs may not exceed $35 million per fiscal year.[34]

Each year, funds are appropriated in the General Appropriations Act (GAA) to make tax refunds and payments to qualifying businesses under the QTI, QDSC, HIPI and Brownfield Redevelopment Bonus programs in the year following the year in which a business meets its contractual performance requirements. In contrast, funds are currently appropriated up front in the GAA to obligate for proposed QAC and IIP projects that have been approved. The funds are initially placed in reserve and are released for disbursement upon approval of the proposed project. Funds approved for projects under these programs must either be disbursed to the business in the same fiscal year or are subject to reversion.[35]

In order to retain undisbursed funds, EFI initiated the practice of transferring undisbursed funds associated with projects that were under an executed agreement on June 30th of the fiscal year to an escrow account outside of the state treasury and budget system. Funds are held in escrow until such time that a business meets performance requirements that trigger a payment or the project is terminated. Upon termination, EFI returns the funds to the state treasury. Each quarter, EFI transfers interest earnings from the escrow account to the state treasury. Since fiscal year 2005-2006, and to date:

- Over $157 million has been transferred to EFI's escrow account for future QAC performance payments.

[34] Section 288.095(3)(a), F.S.
[35] Section 216.301, F.S.

- Approximately $33.7 million has been disbursed to businesses from the escrow account after performance requirements have been met.
- Approximately $37.2 million has been returned to the state for projects that didn't move forward or were terminated.
- The current balance in EFI's escrow account is approximately $86.1 million. An additional $39.1 million has been released in the current fiscal year for approved QAC projects. None of those funds have been disbursed or transferred to EFI's escrow account to date.

Proposed Changes

Section 9 of the bill amends s. 288.061, F.S., to authorize the DEO to execute contracts and agreements that obligate the state to make payments from appropriations in the current or a future fiscal year for incentive programs for the following economic development programs:

- The Local Government Distressed Area Matching Grant Program.[36]
- The Qualified Defense Contractor and Space Flight Business Tax Refund Program.[37]
- The Qualified Target Industry (QTI) Business Tax Refund Program.[38]
- The Brownfield Redevelopment Bonus Refund Program.[39]
- The High-Impact Business Performance (HIPI) Grant Program.[40]
- The Quick Action Closing Fund (QAC) Program.[41]
- The Innovation Incentive Program (IIP).[42]

The total amount of actual or projected payments in any fiscal year cannot exceed $50 million. Quick Action Closing Fund projects with funds held in escrow as of June 30, 2015, will be paid from the Quick Action Closing Fund Escrow Account established at the State Board of Administration (SBA). Payments for QAC projects executed on or after July 1, 2015, will be subject to the cap. This limitation may be waived in the General Appropriations Act (GAA).

Annually, the DEO must provide the Legislature with the amount of estimated payments for the upcoming fiscal year (due January 2) and then the list of claims filed for payment in the upcoming fiscal year (due March 1). Using this information, the Legislature must annually appropriate in the GAA an amount estimated to be sufficient to satisfy scheduled payments in the upcoming fiscal year. If the amount appropriated is insufficient to make all payments, the DEO must pay the unfunded claims from the next year's appropriation. The DEO is required to notify the Legislature of any anticipated shortfalls by March 1 of each year. However, if any funds remain unexpended by June 30, those funds will revert and may not be transferred to an escrow account.

The DEO may not make payments under an economic development incentive contract until it has validated that the contractual performance conditions have been met by the business.

[36] Section 288.0659, Florida Statutes.
[37] Section 288.1045, Florida Statutes.
[38] Section 288.106, Florida Statutes.
[39] Section 288.107, Florida Statutes.
[40] Section 288.108, Florida Statutes.
[41] Section 288.1088, Florida Statutes.
[42] Section 288.1089, Florida Statutes.

As to the funds presently held in escrow by EFI for current Quick Action Closing Fund contracts, **section 17** of the bill directs EFI to return any funds held on June 30, 2015, to the SBA by July 10, 2015, for deposit in a newly created "Quick Action Closing Fund Escrow Account."

Section 15 of the bill creates s. 288.10881, F.S., to provide a process for making QAC payments from this account. After the independent third-party has verified that an applicant has satisfied all of the requirements of the contract and the DEO has determined that an applicant has met the required project performance criteria and a payment is due, the DEO will request that the SBA transfer the funds for that payment to the department for deposit in the State Economic Enhancement and Development Trust Fund. A continuing appropriation category will be established to make QAC payments from this fund. If a project with funds in the escrow account is terminated, the SBA must transfer the reverted funds to the DEO within 10 calendar days from the date the department notifies the SBA of the termination. These funds will be deposited in the State Economic Enhancement and Development (SEED) Trust Fund. Any interest earned in this escrow account must be transferred quarterly to the DEO for deposit in the SEED Trust Fund. The bill provides that, subject to specific appropriation, funds transferred from the SBA for terminated projects and interest earnings may be used to fund Enterprise Florida's business brand marketing activities.

Section 22 of the bill amends s. 288.1201, F.S., to provide for the deposit of reverted funds into the SEED Trust Fund.

Section 10 of the bill amends s. 288.095, F.S., to clarify that the Economic Development Incentives Account in the Economic Development Trust Fund consists of local financial support funds required under the QTI, QDSC, and Brownfield Redevelopment Bonus programs. This section is further amended to conform to other substantive changes made in the bill.

Economic Development Program Evaluations

Present Situation

The Office of Economic Development and Research (EDR) and the Office of Public Policy Analysis and Government Accountability (OPPAGA) are required to provide a detailed analysis of state economic development programs according to a recurring schedule established in law.[43]

EDR must evaluate and determine the economic benefits, as defined in s. 288.005(1), F.S., of each program over the previous three years. For the purposes of EDR's analysis, the calculation of economic benefits is the same as the state's return on investment. The analysis will also identify the number of jobs created, the increase or decrease in personal income, and the impact on state gross domestic product from the direct, indirect, and induced effects of the state's investment in each program over the previous three years.

OPPAGA must evaluate each program over the previous three years for effectiveness and value to the state's taxpayers and include recommendations for consideration by the Legislature. The analysis may include relevant economic development reports or analyses prepared by the DEO,

[43] Section 288.0001, F.S.

EFI, or local or regional economic development organizations; interviews with parties involved; or any other relevant data.

To date, EDR and OPPAGA have completed two review cycles. In 2013, the following programs were evaluated:

- The Capital Investment Tax Credit Program (CITC);
- The Qualified Target Industry Tax Refund Program (QTI);
- The Brownfield Redevelopment Bonus Refund Program;
- The High Impact Performance Incentive Grant Program (HIPI);
- The Quick Action Closing Fund Program (QAC);
- The Innovation Incentive Program; and
- The Enterprise Zone Program.[44]

In 2014, the following programs were evaluated:

- The Office of Film and Entertainment administered Entertainment Industry Financial Incentive Program and the Entertainment Industry Sales Tax Exemption Program;
- The VISIT FLORIDA and its programs; and
- The Florida Sports Foundation and related programs.[45]

The Sports Development Program, established under s. 288.11625, F.S., provides state funding to pay for a facility for a professional sports franchise, under certain circumstances. Local governments, non-profit and for-profit entities may apply to the program. The program is scheduled for recurring review by EDR and OPPAGA beginning January 1, 2018. The retention of Major League Baseball spring training baseball franchises program, established under section 288.11631, F.S., provides state funds to pay for construction and renovation of spring training baseball facilities under certain circumstances. This program is currently not included in the list of economic development programs that must be analyzed by EDR and OPPAGA.

The state has two separate microfinance programs, the Microfinance Loan Program[46] and the Microfinance Guarantee Program.[47] The loan program is designed to make short-term, fixed-rate microloans for business management training, business development training, and technical assistance to entrepreneurs and newly established or growing small businesses for startup costs, working capital, and the acquisition of materials, supplies, furniture, fixtures, and equipment. The intent of the program is to enable entrepreneurs and small businesses to access private financing after completing the program. The guarantee program is intended to stimulate access to credit for entrepreneurs and small businesses by providing targeted guarantees to their loans.

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[44] The Florida Legislature, Office of Program Policy Analysis and Government Accountability (OPPAGA) & Office of Economic and Demographic Research (EDR), *Florida Economic Development Program Evaluations – Year 1, Report No. 14-01,* (January 1, 2014).

[45] The Florida Legislature, OPPAGA, *Florida Economic Development Program Evaluations – Year 2, Report No. 15.01, (January 1, 2015)* and The Florida Legislature, EDR, *Return on Investment for the Entertainment Industry Incentive Programs, Return on Investment for VISIT FLORIDA,* and *Return on Investment for Florida Sports Foundation Grants and Related Programs,* (January 2015).

[46] Section 288.9934, F.S.

[47] Section 288.9935, F.S.

These programs are currently not included in the list of economic development programs that must be analyzed by EDR and OPPAGA.

Effect of Proposed Changes

Section 7 of the bill adds the Major League Baseball spring training franchises program under s. 288.11631, F.S., to the list of economic development programs that must be analyzed by EDR and OPPAGA. The first evaluation must be completed by January 1, 2018, and every 3 years thereafter.

Section 38 of the bill amends s. 288.9377, F.S., to require OPPAGA, in addition to EDR, to evaluate the Microfinance Loan Program and Microfinance Guarantee Program. Because multiple reports (e.g., the reports described above) are due January 1, 2018, the bill changes the submission date for these reports to January 15, 2018. This report is not included in the recurring review cycle and s. 288.9937, F.S., expires January 31, 2018.

The bill also directs the EDR to include guidelines for the appropriate application of the DEO's internal model. The bill requires that, for the amended definition of "economic benefits," the state's investment must include all state funds spent or forgone to benefit the business, including state funds appropriated to public and private entities but excluding state funds spent for economic development transportation projects under s. 339.2821, F.S., to the extent that such funds "should reasonably be known to the department at the time of approval." The bill provides that the economic benefits evaluation must account for all capital investment related to the project.

Qualified Job Training Organizations / Self-Insurance Funds

Present Situation

Qualified Job Training Organizations

A "qualified job training organization" is an organization that meets all of the following criteria:

- Is accredited by the Commission for Accreditation of Rehabilitation Facilities.
- Collects Florida state sales tax.
- Operates statewide and has more than 100 locations within the state.
- Is exempt from income taxation under s. 501(c)(3) or (4) of the Internal Revenue Code of 1986, as amended.
- Specializes in the retail sale of donated items.
- Provides job training and employment services to individuals who have workplace disadvantages and disabilities.
- Uses a majority of its revenues for job training and placement programs that create jobs and foster economic development.[48]

Regulation of Self-Insurance Funds

The Office of Insurance Regulation (OIR) regulates the activities of insurers and other risk-

[48] Section 288.1097, F.S.

bearing entities.[49] As an alternative to traditional insurance from a licensed insurance company, the Legislature created various self-insurance funds to cover specific liabilities for specific groups or purposes.[50] The self-insurance funds may be classified as a commercial self-insurance fund, which may cover commercial property, casualty risk, or surety insurance liabilities;[51] a group self-insurance fund, which may cover worker's compensation liabilities;[52] or a specific purpose self-insurance fund that is created to address the needs of a specific group, e.g. local governments or not for profit corporations. While the types of insurance provided and membership eligibility requirements vary among the different types of self-insurance funds, all members of self-insurance funds share the common characteristic that they agree by virtue of their membership in a self-insurance fund to assume the risk of loss among themselves, rather than transferring the risk in its entirety to an insurance company.[53] Therefore, members generally see a lower annual cost for insurance in a self-insurance fund, but have a risk of higher assessment or cost in the case of a loss experienced either by themselves or a fellow member.

Not For Profit Self-Insurance Funds

Section 624.4625, F.S., governs not for profit self-insurance funds, and provides that two or more not for profit corporations[54] located in Florida and organized under Florida law may form a self-insurance fund with the purpose of pooling and spreading the property and casualty liabilities between its group members. The operating fund must:

- Have at least $5 million in annual normal premiums;
- Use a qualified actuary to determine an actuarially-sound rate, level of reserves, and loss adjustment expenses and submit annual certifications thereof to the OIR;
- Maintain excess insurance coverage and reserve evaluation;
- Submit to the OIR an annual audited fiscal year-end financial statement performed by an independent CPA;
- Have a governing body that consists of officers of its member not for profit corporations, which must submit an annual certification that the fund meets all statutory operating requirements;
- Be operated by Florida-licensed personnel who have at least 5 years' experience with commercial self-insurance funds or domestic insurers; and
- Use contracts that clearly delineate the fund's members' liabilities and obligations.

[49] Section 20.121(3)(a)1., F.S.
[50] See, ss. 624.460-624.488, F.S.
[51] Section 624.462, F.S.
[52] Section 624.4621, F.S.
[53] The Commercial Self-Insurance Fund Act (ss. 624.460-624.488, F.S.), authorizes certain groups and associations to form a commercial self-insurance fund, subject to the approval of OIR. Under s. 624.4621, F.S., two or more employers may pool their workers' compensation liabilities and form a self-insurance fund for workers' compensation purposes, referred to as a group self-insurance fund. Such funds must comply with administrative rules adopted by the Financial Services Commission. Pursuant to s. 624.4622, F.S., any two local governments may enter into interlocal agreements to create a self-insurance fund for securing the payment of benefits under the workers' compensation law. Under s. 624.4623, F.S., any two or more independent non-profit colleges or universities may form a self-insurance fund for the purpose of pooling and spreading liabilities of its group members in any property or casualty risk or surety insurance or securing the payment of benefits under the workers' compensation law.
[54] Section 617.01401, F.S., defines the term, "corporation not for profit" to mean a corporation no part of the income or profit of which is distributable to its members, directors, or officers, except as otherwise provided under this chapter.

The members of a corporation not for profit self-insurance fund must receive at least 75 percent of their revenues from government funding.[55]

A corporation not for profit self-insurance fund may not participate in or be covered by any guaranty association established under ch. 631, F.S. Additionally, these funds are neither subject to rules and regulations promulgated by the Financial Services Commission under s. 624.4621, F.S., nor required to file any report with the Department of Financial Services under s. 440.38(2)(b), F.S.

Florida Insurance Trust

The Florida Insurance Trust (FIT) is the only corporation not for profit self-insurance fund operating in Florida.[56] Created in 2007, the FIT provides property, general liability, professional liability, employment practice liability, workers compensation, health insurance, and commercial automobile coverage to its members. According to representatives of the FIT, 9,000 not for profit social service entities are eligible for FIT membership under current law, but only 175 are currently members.[57]

The FIT must ensure that all members are eligible pursuant to s. 624.4625, F.S. Potential members are required to submit a notarized certification, signed by the members' corporate officer, which states that at least 75 percent of its funding comes from governmental sources as required under s. 624.4625, F.S. Each member must submit a Form 990 for review and, if necessary, audited financial statements to confirm compliance with eligibility requirements.[58] Recently, the FIT noted during an OIR inquiry into eligibility of the FIT's members that four entities did not meet statutory eligibility requirements because they received less than 75 percent of their funding from government sources.[59] The FIT represents that these accounts have been nonrenewed. Based on the results of its inquiry, the OIR does not object to the FIT's eligibility review process.

In the event premiums fail to cover a loss, the trustees of the FIT, or an agency or court of competent jurisdiction, may assess members of the FIT for payment of the obligations of the FIT as necessary based proportionately on premiums earned from each member. If one or more members fail to pay the assessment, the other members are proportionately liable for an additional assessment.

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[55] Section 624.4625(1)(b), F.S.
[56] Florida Insurance Trust, *SB 830: Regulation of Not For Profit Self-Insurance Funds* (March 30, 2015) (on file with the Senate Commerce and Tourism Committee).
[57] Florida Insurance Trust, *Florida Insurance Trust Current Membership Overview* (February 27, 2015) (on file with the Senate Commerce and Tourism Committee).
[58] Office of Insurance Regulation letter to the Florida Insurance Trust (July 25, 2014) (on file with the Senate Banking and Insurance Committee).
[59] *Id*.

Section 501(c)(3) Tax Exempt and Publicly Supported Organizations

Corporations not for profit, defined in s. 617.01401, F.S., as corporations that do not distribute any part of their income or profit to members, directors, or officers, are distinct from tax exempt organizations, and more specifically, publicly supported organizations.

To be tax-exempt under section 501(c)(3) of the Internal Revenue Code, an organization must be organized and operated exclusively for exempt purposes[60] set forth in section 501(c)(3), and none of its earnings may inure to any private shareholder or individual.[61] Only limited exceptions to this requirement for section 501(c)(3) organizations exist. Generally, exempt organizations described in section 501(c)(3) must file their annual information returns on Form 990 or 990-EZ, unless excepted from filing and must also complete Schedule A. Schedule A is used to report and substantiate information about an organization's public charity status and public support.

A publicly supported organization is a tax exempt organization that meets one of the following requirements:

- The organization receives a substantial part of its support in the form of contributions from publicly supported organizations, governmental units, or the general public; or
- The organization receives one-third or less of its support from gross investment income and more than one-third of its support from contributions, membership fees, and gross receipts from activities related to its exempt functions.[62]

Effect of Proposed Changes

Section 19 of the bill amends s. 288.1097, F.S., relating to qualified job training organizations, to provide that, notwithstanding s. 624.4625(1)(b), F.S.,[63] a qualified job training organization that has been certified is eligible to participate in a self-insurance fund authorized by s. 624.4625, F.S., and is not subject to the requirements of s. 624.4621, F.S.

Professional Golf Hall of Fame Facility

Present Situation

The World Golf Hall of Fame is a 501(c)(3) nonprofit institution located in St. Augustine, Florida. The hall of fame's mission is to preserve the history of the game of golf and the legacies

[60] The exempt purposes set forth in section 501(c)(3) are charitable, religious, educational, scientific, literary, testing for public safety, fostering national or international amateur sports competition, and preventing cruelty to children or animals. The term *charitable* is used in its generally accepted legal sense and includes relief of the poor, the distressed, or the underprivileged; advancement of religion; advancement of education or science; erecting or maintaining public buildings, monuments, or works; lessening the burdens of government; lessening neighborhood tensions; eliminating prejudice and discrimination; defending human and civil rights secured by law; and combating community deterioration and juvenile delinquency. *See* http://www.irs.gov/Charities-&-Non-Profits/Charitable-Organizations/Exempt-Purposes-Internal-Revenue-Code-Section-501(c)(3) (last accessed April 9, 2015).

[61] *See* Internal Revenue Service, *Frequently Asked Questions about Applying for Tax Exemption* accessible at*:* http://www.irs.gov/Charities-&-Non-Profits/Frequently-Asked-Questions-About-Applying-for-Tax-Exemption (last accessed April 9, 2015).

[62] Internal Revenue Service, *Publicly Supported Charities*, (March 31, 2015) *available at* http://www.irs.gov/Charities-%26-Non-Profits/Charitable-Organizations/Publicly-Supported-Charities, (last accessed April 9, 2015).

[63] Section 624.4625(1)(b), F.S., requires that each participating member must receive at least 75 percent of its revenues from local, state, or federal governmental sources or a combination of such sources.

of its players. Originally, formed in 1974 in Pinehurst, North Carolina, the hall of fame relocated to Florida in 1998[64] and was certified as a professional golf hall of fame facility pursuant to s. 288.1168, F.S., by the Governor's Office of Tourism, Trade, and Economic Development (OTTED)[65] that same year. It is the only golf hall of fame in the U.S. recognized by the Professional Golfers' Association Tour, Inc. (PGA). In addition to serving as a golf museum, the facility provides educational programs for local K-12 schools and has a collaborative relationship with several universities in northeast Florida. The hall of fame also works closely with St. Johns County on various community events, including golf festivals and farmers markets. The hall of fame facility is located on privately-owned land and the facility is privately owned and managed.[66]

Section 288.1168, F.S., establishes the Professional Golf Hall of Fame Facility funding program which allows the DEO to screen applicants and certify one applicant as the professional golf hall of fame facility. Before certifying the facility, the DEO must determine that the applicant meets statutory criteria, including but not limited to:

- The applicant facility must be the only professional golf hall of fame in the U.S. recognized by the PGA;[67]
- Projections demonstrate that the facility will attract a paid attendance of more than 300,000 annually;68
- An independent analysis demonstrates that the amount of sales tax generated by sales at the facility will at least equal $2 million annually;69
- The applicant has submitted an agreement to provide $2 million in national and international media promotion of the hall of fame facility, Florida, and Florida tourism, through the PGA, or its affiliates during the period of time that the facility receives state funds;70 and
- Documentation exists that demonstrates the applicant has provided, or is capable of providing, more than one-half of the costs associated with the improvement and development of the facility.71

Certified applicants are eligible to receive monthly disbursements from the state in amount equal to $166,667 for up to 300 months (a total of $50,000,100 for 25 years).[72]

Every ten years, the professional golf hall of fame facility must be recertified by demonstrating that it is open, continues to be the only professional golf hall of fame in the country recognized by the PGA, and is meeting at least one of the minimum projections established at the time of original certification: 300,000 annual visitors or $2 million in annual sales tax revenue.

The professional golf hall of fame facility submitted its first 10-year recertification application and reported that annual attendance from 1998 through 2009 had varied between 230,000 and

[64] World Golf Hall of Fame, *Our History*; available at: http://www.worldgolfhalloffame.org/about-the-museum/our-history/ (last accessed on Feb. 14, 2015)
[65] DEO assumed the responsibilities of OTTED in 2011 pursuant to ch. 2011-142.
[66] Office of Program Policy Analysis and Government Accountability, *Florida Economic Development Program Evaluations – Year 2, Report No. 15*-01, pg. 51; Jan. 1, 2015
[67] Section 288.1168(1)(a), F.S.
[68] Section 288.1168(1)(d), F.S.
[69] Section 288.1168(1)(e), F.S.
[70] Section 288.1168(1)(f), F.S.
[71] Section 288.1168(1)(g), F.S.
[72] Section 212.20(6)(d)6.c., F.S.

290,000 visitors, and the facility did not exceed the $2 million sales tax threshold until 2005. Because the facility did not meet the statutory requirements for recertification in 2009, OTTED required the PGA to increase its required annual advertising contribution from $2 million to $2.5 million, in lieu of a reduction in state funds. The additional $500,000 in advertising was to be allocated for generic Florida advertising as determined by the department.[73]

Current law does not provide for the decertification of the professional golf hall of fame facility. If the facility is not open to the public or is no longer the only professional golf hall of fame recognized by the PGA Tour, Inc., the entire $2.5 million must be used for generic Florida advertising.

Effect of Proposed Changes

Section 20 of the bill amends s. 288.1168, Florida Statutes, to require an annual recertification of the professional golf hall of fame facility, beginning in 2016. If the facility is not certified, the PGA must increase the required advertising contribution from $2 million to $3 million for that year. The bill requires the DEO to consult with the Florida Tourism Industry Marketing Corporation (VISIT FLORIDA) regarding the allocation of the additional $1 million for generic Florida advertising. The facility must be prominently featured in at least ten percent, but no more than 25 percent, of such advertising. The bill provides that if the facility is not open to the public or is no longer the only professional golf hall of fame recognized by the PGA Tour, Inc., the DEO must decertify the facility.

International Game Fish Association World Center Facility

Present Situation

The International Game Fish Association (IGFA) is a nonprofit organization founded in 1939 that focuses on the conservation of game fish and the promotion of responsible and ethical angling practices. The association is housed at the IGFA Museum and Hall of Fame in Dania Beach, Florida. The facility was certified by the state as an IGFA World Center facility in February 2000.

Section 288.1169, F.S., establishes the IGFA World Center facility funding program which allows the DEO to approve applicants and certify one applicant as the IGFA World Center facility. Before certifying the facility, the DEO must determine that the applicant meets statutory criteria, including but not limited to:

- The IGFA World Center must be the only fishing museum, hall of fame, and international administrative headquarters in the U.S. recognized by the IGFA, and that one or more private sector entities have committed to donate to the IGFA land upon which the facility will operate;[74]
- IGFA is a nonprofit Florida corporation that has contracted to construct and operate the facility;[75]

[73] *Id*.
[74] Section 288.1169(2)(a), F.S.
[75] Section 288.1169(2)(b), F.S.

- Existing projections demonstrate that the facility and co-located privately-owned facilities will attract an attendance of more than 1.8 million annually;[76]
- An independent analysis demonstrates that the amount of sales tax generated by sales at the facility will at least equal $1 million annually;[77]
- Existing projections show that the project will attract more than 300,000 out-of-state visitors annually;[78]
- The applicant has submitted an agreement to provide $500,000 annually in national and international media promotion of the facility during the period of time that it receives state funds;[79] and
- Documentation exists that demonstrates the applicant has provided, or is capable of providing, more than one-half of the cost related to the improvements and the development of the facility.[80]

Every ten years the world center facility must be recertified by demonstrating that it is open, continues to be the only international administrative headquarters, fishing museum, and hall of fame in the country recognized by the IGFA, and is meeting at least one of the minimum projections established at the time of original certification: 300,000 annual visitors or $1 million in annual sales tax revenue. The facility reported an average of $3.8 million in annual sales tax revenues generated from 2000 through 2010, and it was recertified in 2011.[81]
Certified applicants are eligible to receive monthly disbursements from the state in amount equal to $83,333 for up to 168 months (a total of $13,999,944 for 14 years).[82] The state made its last disbursement to the facility in February 2014.[83]

Effect of Proposed Changes

Section 21 of the bill repeals s. 288.1169, F.S., to remove the expired International Game Fish Association World Center facility program from the statutes. **Section 4** of the bill amends s. 212.20(6)(d), F.S., to delete an obsolete cross reference.

Enterprise Florida, Inc. (EFI) Board Composition

Present Situation

The board of directors of EFI is comprised of 19 members from the public and private sectors. There are seven members who are appointed based on the position the member holds: the Governor, the Commissioner of Education, the Chief Financial Officer, the Attorney General, the

[76] Section 288.1169(2)(d), F.S.
[77] Section 288.1169(2)(e), F.S.
[78] Section 288.1169(2)(f), F.S.
[79] Section 288.1169(2)(g), F.S.
[80] Section 288.1169(2)(h), F.S.
[81] *Id*.
[82] Section 212.20(6)(d)6.d., F.S.
[83] Office of Program Policy Analysis and Government Accountability, *Florida Economic Development Program Evaluations – Year 2, Report No. 15*-01, pg. 52; Jan. 1, 2015

Commissioner of Education, the chairperson of the board of directors for CareerSource Florida, Inc., and the Secretary of State. These seven members may appoint a designee on their behalf. Twelve members of the board are appointed from the private sector as follows: six members are appointed by the Governor; and the President of the Senate and the Speaker of the House of Representatives each appoint three members. Board members who are appointed by the Governor are subject to Senate confirmation.[84]

In making their appointments, the Governor, the President of the Senate, and the Speaker of the House of Representatives must ensure that the board of directors reflects the diversity of Florida's business community and includes at least one director for each of the following areas of expertise: international business; tourism marketing; the space or aerospace industry; managing or financing a minority-owned business; manufacturing; finance and accounting; and sports marketing.[85] Appointed members serve four year terms and may be reappointed, but may not serve more than two terms.

The board of directors may also appoint at-large members to the board from the private sector, each of whom may serve a term of up to three years. At-large members have the same powers and duties of the appointed board members. At-large members may annually provide contributions to EFI, in an amount determined by the board of directors. These contributions must be used to defray EFI's operating expenses and help meet the required private match to the state's annual appropriation.[86] Each corporate sponsor currently contributes $50,000 annually to support the activities of the public-private partnership. Currently, the EFI Board of Directors has 64 voting members.[87]

In addition to the appointed members and the at-large members described above, the board also consists of a member of the Senate and a member of the House of Representatives, each appointed by the respective chamber's presiding officer. These members serve as ex-officio members.[88] The following organizations currently have representatives serving as ex-officio members on EFI's board of directors: Florida Chamber of Commerce, Florida Council of 100, Florida Economic Development Council, Florida Tax Watch, and PowerSouth Energy Cooperative.[89]

EFI's board must meet at least four times each year, upon the call of the chairperson, at the request of the vice chairperson, or at the request of a majority of the membership. A majority of the total number of current voting members constitutes a quorum.[90]

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[84] Section 288.901(5)(a), F.S.
[85] Section 288.901(5)(b), F.S.
[86] Section 288.901(6), F.S.
[87] http://www.enterpriseflorida.com/about-efi/board-of-directors/ (last visited April 21, 2015)
[88] Section 288.901(7), F.S.
[89] Id.
[90] Section 288.901(8), F.S.

Effect of Proposed Changes

Section 31 amends s. 288.901, F.S., to require that at least one of the twelve private sector representatives appointed by either the Governor, the President of the Senate, or the Speaker of the House of Representatives possess expertise in the field of rural economic development.

The President of Enterprise Florida, Inc.

Present Situation

The president of Enterprise Florida, Inc. (EFI), is appointed by the Board of Directors, serves at the pleasure of the Governor, and is the "chief administrative and operational officer" of the board and EFI. Additionally, the president may be known as the 'secretary of commerce' and serves as the Governor's chief negotiator for business recruitment and business expansion."[91]

Section 288.92, F.S., authorizes Enterprise Florida to create and dissolve divisions as necessary to carry out its mission. That section also requires Enterprise Florida to have certain divisions. The law also provides for hiring of officers and members of the divisions of Enterprise Florida and subjects certain officers and members to several standards of conduct in the Code of Ethics for Public Officers and Employees.[92] The law currently does not contain any post-employment or post-service restrictions.

Effect of Proposed Changes

Section 32 amends s. 288.905, F.S., to prohibit a former president of EFI, for a period of two years following vacation of office, from receiving compensation for personally representing before the legislative or executive branch of state government an entity that:

- Applied for funding;
- Received state funds; or
- Negotiated with EFI for the receipt of state funds, regardless of whether the entity actually received any state funds.

Section 33 provides that the change made to s. 288.905, F.S., described above only applies to EFI presidents who are appointed or reappointed on or after July 1, 2015.

Florida Opportunity Fund

Present Situation

In 2007, the Legislature found that there was a need to increase the availability of seed capital and early stage venture equity capital for emerging Florida companies in targeted industries. In response to this need, the Legislature passed the Capital Formation Act. The act provided for the creation of the Florida Opportunity Fund (FOF), which was launched in 2008, initially as a fund of funds program. In 2009, the Legislature expanded the FOF's mandate under the Capital Formation Act to create direct investment programs that invest in businesses and infrastructure

[91] Section 288.905, F.S.
[92] Part III, Chapter 112, Florida Statutes.

projects. The fund supports three programs: Fund of Funds, Clean Energy Investment, and Florida Venture Capital.

To participate, the emerging business must be in a technology sector that is strategic to Florida, including, but not limited to, enterprises in:

- Life sciences,
- Information technology,
- Advanced manufacturing processes,
- Aviation and aerospace, and
- Homeland security and defense,
- Other strategic technologies.93

Effect of Proposed Changes

Sections 35 and 36 amend ss. 288.9622 and 288.9624, F.S., respectively, to add two additional technology sectors that may participate in the Florida Opportunity Fund:

- Improvement of water quality and safety, and
- Agricultural enhancements and protections.

Defense Grant Programs

Present Situation

Section 288.980, F.S., establishes grant programs designed to aid defense-dependent communities throughout the state, administered by Enterprise Florida, Inc., (EFI) and the Department of Economic Opportunity (DEO). Among these programs are the Florida Defense Reinvestment Grant Program (DRG)[94] and the Defense Infrastructure Grant Program (DIG).[95]

The DRG program competitively funds projects proposed by defense-dependent communities to develop and implement strategies to help support the missions of a community's military installation, or diversify the defense-dependent community's economy. The DRG-funded activities can include studies, presentations, analyses, plans, marketing, modeling, and reasonable travel costs. For Fiscal Year 2014-2015, the Legislature provided an $850,000 recurring appropriation from the State Economic Enhancement and Development Trust Fund to the DEO to fund the DRG program. Twelve DRG projects were approved for Fiscal Year 2014-2015, totaling $850,000.

The DIG program competitively funds local infrastructure projects deemed to have a positive impact on the military value of installations within the state. Authorized DIG projects include, but are not limited to, those relating to encroachment, transportation and access, utilities, communications, housing, environment, and security. For Fiscal Year 2014-2015, the Legislature provided a $1.6 million recurring appropriation from the State Economic Enhancement and Development Trust Fund to the DEO to fund the DIG program. Ten DIG projects were approved for Fiscal Year 2014-2015, totaling $1.6 million.

[93] Sections 288.9622 and 288.9624, F.S.
[94] Section 288.980(4), F.S.
[95] Section 288.980(5), F.S.

The Legislature created the DIG program in 2004 in s. 288.980(4), F.S, with a provision that the now-defunct Office of Tourism, Trade, and Economic Development (OTTED) *could require* a match by the county or local community grant applicants.[96] However, s. 288.980(2)(c)2., F.S., was needed in 2004 to provide that OTTED *must require*, with one exception, that a grant applicant agree to match at least 30 percent of any grant awarded.[97] This apparent conflict between the required grant match and permissive grant match for DIG projects has therefore existed since 2004. According to EFI, in administering the two programs, the DEO and EFI require the 30 percent match for DRG projects only, and the 30 percent match requirement is appropriate for the DRG program, not the DIG program.

Effect of Proposed Changes

Section 39 of the bill amends s. 288.980, F.S., to remove the 30 percent match requirement for grants awarded under the Defense Infrastructure Grant Program. The bill clarifies that the 30 percent match requirement applies only to the Defense Reinvestment Grant Program for applicants that are defense-dependent counties and cities and local economic development councils located in those communities.

The bill also expands eligibility for purposes of the Florida Defense Reinvestment Grant Program to include businesses in the defense and space industry. Grant awards may be provided to businesses to support "technological competitiveness activities," which includes equipment purchases, upgrades, or replacement. Grant applications from businesses must include a plan of action delineating how the eligible project will be administered and accomplished.

The Office of Film and Entertainment

Present Situation

The Office of Film and Entertainment (OFE) in the DEO develops, markets, promotes, and provides services to Florida's entertainment industry, including serving as a liaison between the industry and government entities and facilitating access to filming locations.[98] The OFE gathers statistical information related to the state's entertainment industry; provides information and services to businesses, communities, organizations, and individuals engaged in entertainment industry activities; administers field offices outside the state; and coordinates with regional offices maintained by counties and regions of the state. The OFE is also required to develop a 5-year strategic plan to guide its activities, which is updated on an annual basis and aligns with the DEO's Strategic Plan for Economic Development.[99] The OFE's mission is to build, support, and market the entertainment industry in Florida.

The head of the OFE is the Commissioner of Film and Entertainment. The executive director of the DEO hires the commissioner, after conducting a statutorily required national search to find a

[96] Chapter 2004-230, L.O.F.
[97] This 30 percent match requirement has remained in law since 2004, and is currently codified at s. 288.980(3)(c)2., F.S.
[98] Section 288.1251, F.S. See also OFE website, available at http://www.filminflorida.com/about/vm.asp (last visited Mar. 3, 2015).
[99] The OFE's Film and Entertainment Industry Strategic Plan for Economic Development is available at http://www.filminflorida.com/about/OFE_Plan_V11.pdf (last visited Mar. 3, 2015).

qualified person to fill the position. For Fiscal Year 2014-2015, the OFE has an operating budget of approximately $758,000, five full-time-equivalent (FTE) positions and three temporary other personal services (OPS) positions.[100] The OFE's budget supports a field office in Los Angeles.

The OFE is assisted by the Florida Film and Entertainment Advisory Council (advisory council), which is composed of 17 members, of which seven members are appointed by the Governor, and five members each are appointed by the President of the Senate and the Speaker of the House of Representatives.[101] In addition, Enterprise Florida, Inc., Workforce Florida, Inc., and the Florida Tourism Industry Marketing Corporation (commonly referred to as "VISIT Florida") each have a representative that serves as an ex-officio nonvoting member of the advisory council. The advisory council provides the OFE and the DEO with industry insight and assists in the creation of the 5-year strategic plan.

Additionally, over 60 local film offices have been established across the state, organized predominately by county and municipal governments, local chambers of commerce, economic development councils, convention and visitors' bureaus, and tourist development councils.[102]

Effect of Proposed Changes

EFI's Division of Film and Entertainment

Section 24 of the bill transfers s. 288.1251, F.S., renumbers it as s. 288.913, and amends that section to transfer the Department of Economic Opportunity's Office of Film and Entertainment to EFI. The office is established as the Division of Film and Entertainment (division) in EFI and given additional duties with regards to the evaluation of applicants for tax credits, and applicants for funds from the Entertainment Action Fund created in Section 7 of the bill. The bill also subjects the film commissioner to conflict of interest provisions applicable to senior managers of EFI.

The Division of Film and Entertainment is established for the purpose of developing, recruiting, marketing, promoting, and providing services to the state's entertainment industry. The division will serve as a liaison between the entertainment industry and other state and local governmental agencies, local film commissions, and labor organizations. The division must develop and update a 5-year strategic plan that must include specified information. EFI's board of directors must annually review and approve the plan.

Section 25 of the bill transfers s. 288.1252, renumbers it as s. 288.914, and amends that section to transfer the Florida Film and Entertainment Advisory Council (council) to EFI. The bill reduces the council membership from 17 to 11 members, five appointed by the Governor and three each appointed by the President of the Senate and Speaker of the House of Representatives.

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[100] E-mail from Dean M. Izzo, Chief Financial Officer, Department of Economic Affairs, to Kristin Pingree Gusky, Chief Legislative Analyst, Florida Senate (March 27, 2015) (on file with the Senate Appropriations Subcommittee on Transportation, Tourism, and Economic Development).
[101] Section 288.1252, F.S.
[102] A list of Florida film commissions is provided at the OFE website, available at http://www.filminflorida.com/lr/local_film_commissions.asp (last visited Mar. 3, 2015).

A council member serving as of July 1, 2015, may finish his or her term but upon vacancy, appointments may not be made that would result in more than 11 council members.

Section 26 of the bill transfers s. 288.1253, renumbers it as s. 288.915, and amends that section to continue the department's oversight and rule-making responsibilities regarding the travel and entertainment expenses incurred by the staff of EFI's Division of Film and Entertainment. Division employees may not accept complimentary travel, accommodations, meeting space, meals, equipment, transportation, or any other goods or services from any entity, including an employee, designee, or representative of such entity, seeking funds from the Entertainment Action Fund.

Sections 25, 36, and 51 amend ss. 288.125, 288.92, and 477.0135, F.S., respectively, and make conforming changes to reflect the creation of the division and the department's responsibilities.

Entertainment Industry Financial Incentive Program[103]

Present Situation

In 2003, the Legislature created the Entertainment Industry Financial Incentive Program (incentive program).[104] The incentive program's dual purposes are to:

- Promote Florida as a site for filming, creating, or producing movies, television series, commercials, digital media and other types of entertainment productions; and
- Sustain and develop the state's entertainment workforce, studios, and other related infrastructure.

The incentive program is administered by the OFE, subject to the policies and oversight of the DEO. Currently, the incentive program is a 6-year program, which began July 1, 2010, and sunsets June 30, 2016. The incentive program provides tax credits for qualified expenditures related to filming and production activities in Florida. These tax credits may be applied against the corporate income tax or sales and use taxes. Additionally these tax credits may be transferred or sold one time.[105]

Over the 6 year period, a total of $296 million in tax credits were authorized. Annual limitations for tax credits are set at:

- $53.5 million in Fiscal Year 2010-11;
- $74.5 million in Fiscal Year 2011-12; and
- $42 million in each Fiscal Year 2012-13, 2013-14, 2014-15, and 2015-16.[106]

The law provides that if the total tax credits applied for in a fiscal year is greater than the amount available for that year, then the excess credits are to be treated as if they had been applied for in

[103] Information about the incentive program is also available on OFE's website, available at http://filminflorida.com/ifi/incentives.asp (last visited Mar. 3, 2015).
[104] Section 288.1254, F.S. See ch. 2003-81, L.O.F. In 2010, the incentive program was changed from a cash reimbursement type program to the current form. See ch. 2010-147, L.O.F.
[105] Also, tax credits may be relinquished to the DOR for 90 percent of the amount of the relinquished tax credit.
[106] Section 288.1254(7), F.S. In 2012, an additional year was added to the program. See s. 15, ch. 2012-32, L.O.F.

the next fiscal year. The OFE reports that all of the tax credits authorized for the six-year period have been certified (or allocated to certified productions).[107]

Eligibility and Application

Generally, a production company that plans to engage in a production in Florida can apply to the OFE prior to beginning production for a certification of tax credits based upon estimated qualified expenditures planned for the production. A "production" is defined in s. 288.1054, F.S., as a:

- Theatrical, direct-to-video, or made-for-television motion picture;
- Visual effects or digital animation sequences produced in conjunction with a motion picture;
- Commercial or infomercial;
- Music video;
- Industrial, educational, or documentary film;
- Television pilot program or presentation for a television pilot program;
- Digital media project; or
- Television series, including but not limited to a: drama, reality show, comedy, soap opera, telenovela, game show, awards show, or miniseries production. One season of a television series is considered one production.

A production does not include a: weather or market program; sporting event or sporting event production; gala; production that solicits funds; home shopping program; political program, documentary, or advertising; gambling-related project or production; concert production; a local, regional, or Internet-distributed-only news show or current-events show; a sports news or sports recap show; a pornographic production; or any production deemed obscene under ch. 487, F.S.

A "qualified production" must meet the requirements above, plus two additional criteria:

- Depending on the type of production and period of time in the incentive program, most of the production cast and below-the-line production crew[108] must be Florida residents, or students enrolled full-time in a film and entertainment-related course of study at a Florida university or college.; and
- The production does not contain obscene content, as defined in s. 847.001(10), F.S.[109]

Queues

Priority for tax credit certifications is made on a first-come, first-served basis within the appropriate "queue."[110] There are three queues of qualified productions eligible for tax credit certification: general production, commercial and music video, and independent and emerging media production. State incentive funding is allocated to the queues as follows:

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[107] Office of Economic and Demographic Research, The Florida Legislature, *Return on Investment for the Entertainment Industry Incentive Programs* (January, 2015).
[108] "Below-the-line production crew" excludes actors, directors, producers, and writers.
[109] Pursuant to this section, "'obscene' means the status of material which: (a) The average person, applying contemporary community standards, would find, taken as a whole, appeals to the prurient interest; (b) Depicts or describes, in a patently offensive way, sexual conduct as specifically defined herein; and (c) Taken as a whole, lacks serious literary, artistic, political, or scientific value. A mother's breastfeeding of her baby is not under any circumstance 'obscene.'"
[110] Section 288.1254(4), F.S.

- General production queue - 94 percent (no more than 45 percent of which can be certified for television series);
- Commercial and music video queue – 3 percent; and
- Independent and emerging media production queue – 3 percent.

First priority in the general production queue for tax credits not yet certified is given to "high-impact television series" and "high-impact digital media projects,"[111] in alternating order, depending on the type of application first received by the OFE. OFE may certify a project out of order (ex: two high-impact television series productions in a row) if an application by the next appropriate type of production is not received within 5 business days.[112]

Characteristics of Production Queues

	General Production	**Commercial & Music Video**	**Independent and Emerging Media Production Queue**
Minimum amount of qualified expenditures	$625,000	$100,000 per commercial or video and exceeds $500,000 combined per fiscal year	At least $100,000, but not more than $625,000
Amount of basic incentive	20% of qualified expenditures, up to $8 million	20% of qualified expenditures, up to $500,000	20% of qualified expenditures, up to $125,000

There are additional tax credits, also referred to as "bonuses," available for general production queue projects. A five percent additional tax credit is available for:

- Feature films, independent films, or television series or pilots that are "off-season certified," including those that are not able to complete 75 percent of their principal photography due to a hurricane or tropical storm. Off-season certified means that the production films 75 percent or more of its principal photography from June 1 to November 30.
- Productions that incur at least 65 percent of its principal photography days in an underutilized region. An "underutilized region" is one with a regional tax credit ratio for a fiscal year that is lower than its regional population ratio that year.[113]
- Productions which conduct at least 50 percent of their principal photography at a qualified production facility. This additional 5 percent may be applied to any qualified expenditures related to production activity at that facility.

[111] Section 288.1254(1), F.S., provides that: a "high-impact digital media project" means a digital media project that has qualified expenditures greater than $4.5 million; a "high-impact television series" means a production created to run in multiple production seasons and having an estimated order of at least seven episodes per season and qualified expenditures of at least $625,000 per episode.
[112] This rotating schedule was created in ch. 2012-32, L.O.F.
[113] "Underutilized region" is defined in s. 288.1254(1)(p), F.S. The definition establishes five regions and every county is assigned to a region.

- Qualified digital media projects or digital animation components of productions which have at least 50 percent of their qualified expenditures related to a qualified digital media production facility. This additional 5 percent may be applied to any qualified expenditures related to production activity at that facility.

A 15 percent additional tax credit is available for productions that employ students enrolled full-time in a film and entertainment-related or digital media-related course of study or recent graduates of such a course of study. The course of study must have occurred at an institution of higher education in Florida. This additional 15 percent may be applied to any qualified expenditures related to wages, salaries, or other compensation paid to such students or graduates.

Further, family-friendly certified theatrical or direct-to-video movies and video games are eligible for an additional tax credit of 5 percent of its actual qualified expenditures. The determination for "family-friendly" is made by the OFE, with the advice of the advisory council. A family friendly production is one that:

- Has cross-generational appeal;
- Is considered suitable for viewing by children aged 5 years or older;
- Is appropriate in theme, content and language for a broad family audience;
- Responsibly resolves issues raised in the film; and
- Does not include any act of smoking, sex, nudity, or vulgar or profane language.

A qualified production in the general production queue is limited to a total tax credit of 30 percent of its actual qualified expenditures.[114]

Current law defines "qualified expenditures" as production expenditures incurred by a qualified production in Florida for:[115]

- Goods purchased or leased from, or services provided by, a vendor or supplier in Florida that is registered with the Department of State or the Department of Revenue (DOR) and is doing business in Florida. Eligible production goods and services include:
  - Sound stages, back lots, production editing, digital effects, sound recordings, sets, and set construction;
  - Entertainment-related rental equipment, including cameras and grip or electrical equipment;
  - Newly purchased computer software and hardware, up to $300,000; and
  - Meals, travel, and accommodations.
- Salary, wages, or other compensation paid to Florida residents, up to a maximum of $400,000 per resident.

Additionally, for a qualified production involving an event, such as an awards show, the term "qualified expenditures" excludes expenditures solely associated with the event itself and not directly required by the production. The term also excludes expenditures prior to certification, with the exception of those incurred for a commercial, a music video, or the pickup of additional episodes of a television series within a single season.

[114] A qualified production in the commercial and music video queue is not eligible for any bonuses. A qualified production in the independent and emerging media production queue may be eligible for the family-friendly bonus.
[115] See s. 288.1254(1)(i), F.S.

Award of Credits

After production ends and all certified expenditures are made in Florida, the production company must have an independent certified public accountant licensed in Florida conduct a compliance audit. The OFE is required to review the audit and report to the DEO the final verified amount of actual qualified expenditures. The DEO then must review and approve the final tax credit award, and notify the DOR. Tax credit awards are based on the production queue and are subject to the limitations discussed above. In order to be eligible for tax credits, the production must include, when appropriate, the placement of a "Filmed in Florida" or "Produced in Florida" logo in the end credits.

Additionally after production ends, the company must make an irrevocable election to apply the tax credits to the corporate income taxes or sales and use taxes or a stated combination of both. This decision is binding on any distributee, successor, transferee, or purchaser. Tax credits that are unused in any year may be carried forward to the next for a maximum of 5 years.

Section 288.1254(9), F.S., authorizes the DOR to conduct audits related to the tax credits, and to revoke or forfeit tax credits under certain circumstances. Fraudulent applications for tax credits may also result in penalties and other costs in addition to repayment of the tax credits.

Effect of Proposed Changes

Section 27 of the bill amends s. 288.1254, F.S., to rename the Entertainment Industry Financial Incentive Program as the "Entertainment Industry Program" and makes several changes to the renamed program.

Definitions and Eligibility

The bill makes numerous changes to definitions section, including:

- Moving an existing definition of "family-friendly production" from the tax credit eligibility subsection to the definitions subsection.
- Amending the definition for "high-impact television series" to include telenovelas that have qualified expenditures of more than $6 million, at least 45 principal photography days in the state, cast and crews that are at least 90 percent state residents, and have at least 90 percent of production occurring in the state. The required amount of qualified expenditures per episode for a television series is increased from $625,000 to $1 million.
- Including direct-to-Internet motion pictures and television series in the definition of "production."
- Eliminating definitions for high-impact digital media project, off-season certified production, qualified digital media production facility, qualified production facility, regional population ratio, regional tax credit ratio, and underutilized region.

Application Procedure and Approval Process

The bill requires a production company to include additional information in its application. Currently, applications must include production-related information concerning employment of residents, a detailed budget of planned qualified expenditures, and the applicant's signed

affirmation that the information provided is correct. The bill requires additional information related to the planned aggregate nonqualified expenditures, including capital investment, and proof of financing for the production. Under current law, a production has 90 days from the date it submits the application to provide proof of financing. The bill requires such proof to be submitted as part of the application.

The bill creates two application periods per year for tax credits, and specifies criteria by which the division is to review, evaluate, and rank the applications. The criteria must be evaluated in the following order of priority:

- Number of state residents to be employed, both full-time and part-time, by the project;
- Amount of qualified and nonqualified expenditures in Florida;
- Duration of the project in Florida, including whether production will occur in an underutilized county;
- Amount of preproduction and postproduction in Florida;
- Amount of capital investment, especially fixed capital investment, to be made directly by the production company and the amount of any other capital investment to be made related to the project in Florida; and
- Local support and amount of any financial commitment for the project.

After review and ranking of the applicants, the division must provide the applications and rankings to the Department of Economic Opportunity (DEO) for review and certification.

Every fiscal year, one half of the allocated tax credits are available during each application period. Applications remaining in the queue at the end of a period are denied and applicants may reapply in the next period. The bill clarifies the denial process.

High-impact television series productions may apply and be certified for a tax credit for a future fiscal year allocation for one additional successive season of a series. The applicant must affirm that the additional season is likely to be ordered, and must notify the DEO within 10 days if the second season is not ordered or is cancelled. The department may not certify tax credits in an amount greater than the allocation for a specified year, with the exception of one additional season of a high-impact television series. The bill clarifies the certification process in regards to the changes made to the Division of Film and Entertainment.

Upon certification, the production is required to provide the DEO and the division with information related to the production's needs for cast, crew, contractors, and vendors. The production must also provide a single point of contact. The division will publish this information online and include relevant information such as the starting date of the production and its location. The DEO and division may adopt procedures for a production to post such information itself within a week of certification.

Current law permits the DEO to withdraw the eligibility of a production for tax credits if the production does not continue on a reasonable basis, or if the production does not provide proof of financing. The bill clarifies when the DEO may deny a certified production. The DEO may deny a certified production upon finding any circumstance that affects the reasonable schedule or timely completion of the production, including a break in production or loss of financing. The certified production must notify the DEO within 5 days after any circumstance affecting the

timely completion of the production. However, a certified production that has lost financing may avoid denial by the DEO if it provides the DEO with proof of replacement financing within 10 days of the original loss.

The bill makes clarifying changes to the DEO's verification process. A certified production must submit the required documentation within 180 days of the completion of the production. All production-related information on full and part-time employment and wages paid to state residents is required in the documentation. The DEO must require a certified production to submit data substantiating aggregate nonqualified expenditures in this state, including capital investment.

The Division of Film and Entertainment is required to give the Florida Tourism Industry Marketing Corporation (VISIT Florida) contact information for each qualified production. Qualified productions are required to work with VISIT Florida to develop marketing materials that promote the state. The "VISIT Florida" logo is required to be shown in the end credits of a production, along with other currently required logos.

Section 28 provides that all applications on file with the DEO to receive a tax credit through the entertainment industry program that have not been certified on July 1, 2015, are deemed denied.

General Production Queue

The bill amends several of the additional tax credit bonuses. The bill:

- Amends an existing tax credit bonus for "underutilized counties" to require that 70 days (up from 67 days) of principal photography must occur in the county to receive the bonus.
- Repeals the tax credit bonus for "underutilized regions" and related definitions.
- Repeals the tax credit bonus for "off-season" productions and related definitions.
- Repeals the tax credit bonus for productions that occur at certain production facilities and related definitions.
- Creates a tax credit bonus of 5 percent for productions that complete a permanent capital investment of at least $2 million before the completion of the qualified production. The capital investment may be the basis of an application only once.
- Expands the 15 percent tax credit bonus currently provided to productions that employ students enrolled in certain film and entertainment-related or digital media-related studies to also include: individuals participating in the Road to Independence Program and individuals with developmental disabilities and veterans that reside in the state.

The bill reduces the total tax credits a qualified production in the General Production queue is eligible for from 30 to 25 percent of qualified expenses.

Commercial and Music Video Queue

Currently, production companies that produce national or regional commercials or music videos may be eligible for a tax credit award if it demonstrates a minimum of $100,000 of qualified expenditures for each commercial or music video. The bill reduces the expenditure level for a music video to $25,000.

The bill makes clarifying changes to the tax credit carry forward process, at the suggestion of the Department of Revenue[116] and extends the program until July 1, 2021.

Florida Entertainment Action Fund

Section 7 creates in s. 288.1256, F.S., the Entertainment Action Fund. The fund is created to respond to extraordinary opportunities, to compete effectively with other states to attract and retain production companies, and to provide favorable conditions for the growth of the entertainment industry in this state.

The Entertainment Action Fund will function similarly to other state economic development programs. A production company may apply for funds from the fund and the Division of Film and Entertainment, along with the DEO, will review and evaluate applications to determine eligibility.

In their review and evaluation of applications, the division and the DEO must consider the following criteria, with priority given in descending order:

- The number of state residents that will be employed in full-time and part-time positions related to the project, the duration of employment, and the average wages paid;
- The amount of qualified and nonqualified expenditures that will be made in-state;
- Planned or executed contracts with facilities in Florida, and the percentage of principal photography or production activity that will occur at in-state facilities or locations;
- Preproduction and postproduction planned to occur in-state;
- The amount of direct capital investment, especially fixed capital investment, to be made by the production company in this state related to the project and the amount of other capital investment made in-state related to the project;
- The duration of the project in this state, including any production occurring in the off-season;
- The amount and duration of principal photography or production activity that will occur in an underutilized county;
- The amount of promotion of Florida that the production company will provide for the state;
- The employment of full-time students in entertainment-related courses of study and recent graduates from in-state institutions of higher education;
- Any plans the production company has to work with entertainment-related courses of study at an in-state institution of higher education;
- Any local support and financial commitment for the project;
- The project is about this state or shows the state in a positive light;
- A review of the production company's past activities in this or other states;
- The length of time, number, and history of commitment the production company has made in the state;
- Expected contributions to the state's economy; and
- The expected effect of the award on the viability of the project and the probability that the project will occur in Florida if funds are granted.

[116] Florida Department of Revenue, *2014 Legislative Bill Analysis SB 1734* (April 22, 2014) *available at* http://abar.laspbs.state.fl.us/ABAR/Attachment.aspx?ID=4671 (last visited Mar 3. 2015).

A production company must have financing in place for a project before it applies to receive an award from the fund. The DEO must prescribe an application form with information required by similar economic development programs. Any awards funded may not be more than 30 percent of in-state qualified expenditures, and may not fund wages paid to nonresidents.

The approval process is required to be conducted as follows:

- The DEO makes a project recommendation to the Governor within one week after the review and evaluation of an application.
- The recommendation must include the performance conditions that the project must meet to obtain funds.
- The Governor may approve projects:
  - Requiring funding less than $2 million in funding without consulting the Legislature; and
  - Requiring funding between $2 million and $5 million, after providing a written description and evaluation of a project recommended for approval to the chair and vice chair of the Legislative Budget Commission (LBC) at least 10 days before giving final approval. If the chair or vice chair of the LBC or the President of the Senate or the Speaker of the House of Representatives object, the Governor must void the release of funds until the LBC or Legislature addresses the issue.
- Projects requiring funding exceeding $5 million must be approved by the LBC.
- Production must start within 1 year after the date a project is approved.

Once a project has been approved, the DEO and the production company will enter into an agreement that specifies at minimum:

- The total funds awarded and schedule of payment;
- The performance conditions required for payment of funds awarded;
- The methodology for validating the performance conditions and the date by which a production company must submit proof of performance to the DEO;
- That the DEO may review and verify any records of the production company to determine compliance with the agreement;
- Sanctions for failure to meet performance conditions; and
- That the payment of fund awards is contingent upon an appropriation by the Legislature.

The agreement must be signed and finalized within 90 days of the Governor's approval.

The DEO may not approve awards exceeding the amount appropriated in a fiscal year. The department must set aside 50 percent of the appropriated amount each fiscal year, which becomes available to be awarded after 6 months.

Section 1 amends s. 288.1201, F.S., to create the Entertainment Industry Quick Action Account in the State Economic Enhancement and Development Trust Fund to make for payments authorized under the Entertainment Industry Quick Action Fund. In addition, all repayments are deposited into the Entertainment Industry Quick Action Account.

The bill creates a penalty for fraudulent claims. The penalty is a reimbursement for any payment amounts plus an amount double the payment amount.

The DEO may not waive any provision or provide any extension of time to meet requirements, of the new Entertainment Action Fund statute.

The Entertainment Industry Quick Action Fund expires on July 1, 2025.

Sales Tax Exemption Certificate for a Qualified Production Company

Present Situation

Entertainment industry qualified production companies are eligible for several exemptions from taxes under ch. 212, F.S. A qualified production company can obtain a certificate to avoid paying tax at the point of sale, rather than claiming a refund after paying the tax.[117] Qualified production companies are exempt from paying sales tax for the following:

- *Lease or rental of real property* that is used as an integral part of an activity or service performed directly in connection with the production of a qualified motion picture (the term "activity or service" includes photography, casting, location scouting, and designing sets).[118]
- *Fabrication labor* when a producer uses his or her own equipment and personnel to produce a qualified motion picture.[119]
- *Purchase or lease of motion picture and video equipment and sound recording equipment* used in Florida for motion picture or television production or for the production of master tapes or master records.[120]
- *Sale, lease, storage, or use of blank master tapes, records, films, and video tapes*.[121]

The OFE reviews and approves applications for the exemptions, while the DOR issues certificates of exemption to the production companies. The estimated cost of these exemptions was $51.1 million for Fiscal Year 2014-2015.[122]

Effect of Proposed Changes

Section 30 clarifies that a production can receive a sales tax exemption certificate for purchases made ***after*** filing a complete application.

The bill clarifies a portion of the certificate application process, including that:

- A production company may annually renew the 1-year certificate for up to 5 years without submitting a new application;
- A production company may quarterly renew the 90-day certificate for up to 1 year without submitting a new application;

Upon surrender or expiration of a tax certificate, a production company must report additional production-related information for inclusion in the DEO's annual report.

[117] Section 288.1258, F.S. See also DOR, Film in Florida Sales Tax Exemption, available at http://dor.myflorida.com/dor/taxes/film_in_florida.html (last visited Mar. 3, 2015).
[118] Section 212.031(1)(a)9., F.S.
[119] Section 212.06(1)(b), F.S. The term "qualified motion picture" is defined in the statute.
[120] Section 212.08(5)(f), F.S.
[121] Section 212.08(12), F.S.
[122] Florida Revenue Estimating Conference, 2015 Florida Tax Handbook.

Limitation

A production company is prohibited from receiving benefits from more than one entertainment industry incentive program at a time (the tax credit, sales tax exemption, or entertainment action fund).

Enterprise Zones

Present Situation

The Florida Enterprise Zone Program was created in 1982 to encourage economic development in economically distressed areas of the state by providing incentives and inducing private investment. Currently, Florida has 65 enterprise zones, of which 29 are rural and 36 are urban.[123]

Local governments are responsible for zone administration and monitoring activities, creating enterprise zone development agencies, and employing zone coordinators. Zone coordinators serve as local contacts and assist businesses applying for state tax credits and refunds, certify incentive applications to the Department of Revenue (DOR), educate the public about the program, and submit data on zone activities to the DEO for inclusion in the enterprise zone annual report. The DEO oversees the program at the state level and approves zone designation applications and zone boundary changes. The DEO also provides technical support to local zone coordinators and submits annual program reports to the Governor and Legislature.[124]

As outlined in s. 290.0056, F.S., each enterprise zone must have an Enterprise Zone Development Agency, which has the following powers and responsibilities:

- Assisting in the development, implementation and annual review of the zone and updating the strategic plan or measurable goals;
- Identifying ways to remove regulatory burdens;
- Promoting the incentives to residents and businesses;
- Recommending boundary changes;
- Working with nonprofit development organizations; and
- Ensuring the enterprise zone coordinator receives annual training and works with Enterprise Florida, Inc.

Available Incentives

Florida's enterprise zones qualify for various incentives from corporate income tax and sales and use tax liabilities.[125] The DEO reported that $15.8 million in state incentives were approved by the Department of Revenue (DOR) during the period of July 1, 2014 through June 30, 2014, for all state enterprise zones. During that same time period, $11 million in incentives were provided by local governing bodies. Examples of local incentives include: utility tax abatement, reduction

[123] The Florida Legislature, OPPAGA, *OPPAGA Research Memorandum – Florida's Enterprise Zone Program* (January 5, 2015)
[124] Id.
[125] Section 290.007, F.S.

of occupational license fees, reduced building permit fees or land development fees, and local funds for capital projects.[126]

Available state sales tax incentives for enterprise zones include:

- Building Materials Used in the Rehabilitation of Real Property Located in an Enterprise Zone: Provides a refund for sales taxes paid on the purchase of certain building materials, up to $5,000 or 97 percent of the tax paid.[127]
- Business Equipment Used in Enterprise Zones: Provides a refund for sales taxes paid on the purchase of certain equipment, up to $5,000 or 97 percent of the tax paid.[128]
- Rural Enterprise Zone Jobs Credit against Sales Tax: Provides a sales and use tax credit for 30 or 45 percent of wages paid to new employees who live within a rural county.[129]
- Urban Enterprise Zone Jobs Credit against Sales Tax: Provides a sales and use tax credit for 20 or 30 percent of wages paid to new employees who live within the enterprise zone.[130]
- Business Property Used in an Enterprise Zone: Provides a refund for sales taxes paid on the purchase of certain business property, up to $5,000 or 97 percent of the tax paid per parcel of property, which is used exclusively in an enterprise zone for at least 3 years.[131]
- Community Contribution Tax Credit: Provides a 50 percent sales tax refund for donations made to local community development projects.[132]
- Electrical Energy Used in an Enterprise Zone: Provides a 50 percent sales tax exemption to qualified businesses located within an enterprise zone on the purchase of electrical energy.[133]

Available state corporate income tax incentives for enterprise zones include:

- Rural Enterprise Zone Jobs Credit against Corporate Income Tax: Provides a corporate income tax credit for 30 or 45 percent of wages paid to new employees who live within a rural county.[134]
- Urban Enterprise Zone Jobs Credit against Corporate Income Tax: Provides a corporate income tax credit for 20 or 30 percent of wages paid to new employees who live within the enterprise zone.[135]
- Enterprise Zone Property Tax Credit: Provides a credit against Florida corporate income tax equal to 96 percent of ad valorem taxes paid on the new or improved property.[136]

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[126] DEO, Florida Enterprise Zone Program Annual Report, November 1, 2014, available at http://www.floridajobs.org/docs/default-source/reports-and-legislation/2014_floridaenterprisezoneprogramannualreport.pdf?sfvrsn=2 (last visited April 23, 2015).
[127] Section 9 of ch. 2010-147, L.O.F., removed the eligibility of condominium parcels or property, as defined in s. 718.103, F.S., for the sales tax exemption for building materials, pursuant to s. 212.08(5)(g), F.S.
[128] Section 212.08(5)(h), F.S.
[129] Section 212.096, F.S.
[130] Id.
[131] *Supra*, note 3.
[132] Section 212.08(5)(p), F.S.
[133] Section 212.08(15), F.S.
[134] Section 220.181, F.S.
[135] Id.
[136] Section 220.182, F.S.

- Community Contribution Tax Credit: Provides a 50 percent credit on Florida corporate income tax or insurance premium tax, or a sales tax refund, for donations made to local community development projects.137

The Enterprise Zone Program is scheduled to sunset on December 31, 2015.

Effect of Proposed Changes

Section 53 of the bill of the bill creates an unnumbered section of law which preserves state incentives for certain businesses with incentive agreements with the state that are currently located within enterprise zones. The bill defines the term "eligible business" to mean a business that entered into a contract with the DEO between January 1, 2013, and December 31, 2015, for a project that is located in an enterprise zone[138] under the following programs:

- The Local Government Distressed Area Matching Grant Program.139
- The Qualified Defense Contractor and Space Flight Business Tax Refund Program.140
- The Qualified Target Industry (QTI) Business Tax Refund Program.141
- The Brownfield Redevelopment Bonus Refund Program.142
- The High-Impact Business Performance (HIPI) Grant Program.143
- The Quick Action Closing Fund (QAC) Program.144
- The Innovation Incentive Program (IIP).145

The bill provides that an eligible business may apply for the following incentives, if the contract with the DEO is still deemed active by the department and has not expired or terminated:

- Exemption for a Licensed Child Care Facility operating in an Enterprise Zone.
- Sales Tax Refund for Building Materials.
- Sales Tax Refund for Business Machinery and Equipment.
- Sales Tax Exemption for Electrical Energy.
- Enterprise Zone Jobs Tax Credit (Sales & Use Tax).
- Enterprise Zone Jobs Tax Credit (Corporate Income Tax).
- Enterprise Zone Property Tax Credit (Corporate Income Tax).

Since July 1, 2012, a total of 40 economic development incentives have been approved by the DEO for 39 projects located in enterprise zones.[146]

This section of law is effective January 1, 2016, and expires on December 31, 2018.

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[137] *See* ss. 220.183 and 624.5105, F.S.
[138] Enterprise zone as designated pursuant to s. 290.0065, Florida Statutes 2014, on December 31, 2015.
[139] Section 288.0659, Florida Statutes.
[140] Section 288.1045, Florida Statutes.
[141] Section 288.106, Florida Statutes.
[142] Section 288.107, Florida Statutes.
[143] Section 288.108, Florida Statutes.
[144] Section 288.1088, Florida Statutes.
[145] Section 288.1089, Florida Statutes.
[146] See copy of email from the DEO Office of Strategic Business Development to Senate staff dated April 17, 2015. On file in the Senate Appropriations Subcommittee on Transportation, Tourism and Economic Development.

HOUSING AND COMMUNITY DEVELOPMENT PROGRAMS

Community Redevelopment Act

Present Situation

The Community Redevelopment Act of 1969,[147] authorizes a county or municipality to create community redevelopment areas (CRAs) as a means of redeveloping slums and blighted areas. In accordance with a community redevelopment plan,[148] CRAs can:

- Enter into contracts,
- Disseminate information,
- Acquire property within a slum or blighted area by voluntary methods,
- Demolish and remove buildings and improvements,
- Construct improvements, and
- Dispose of property at fair value.[149]

CRAs are not permitted to levy or collect taxes; however, the local governing body is permitted to establish a community redevelopment trust fund that is funded through tax increment financing (TIF).[150] Taxing authorities must annually appropriate an amount representing the calculated increment revenue to the redevelopment trust fund. This revenue is used to repay bonds issued to finance redevelopment projects. School district revenues are not subject to the tax increment mechanism.

Counties and municipalities are prohibited from exercising the community redevelopment authority provided by the Community Redevelopment Act until they adopt an ordinance that declares an area to be a slum or a blighted area.[151]

A "blighted area" is defined as an area in which there are a substantial number of deteriorated or deteriorating structures in which conditions are leading to economic distress or endangering life or property, as indicated by government-maintained statistics or other studies, and in which two

[147] Chapter 163, F.S., part III.
[148] Section 163.360, F.S.
[149] Section 163.370, F.S.
[150] Through tax increment financing, a baseline tax amount is determined and any taxes generated in future years above that baseline amount are transferred into the trust fund. *See* Section 163.387(1)(a), F.S.
[151] Sections 163.355(1) and 163.360(1), F.S.

or more of the 14 statutorily enumerated factors are present.[152] Examples of these factors include:

- Predominance of defective or inadequate street layout, parking facilities, roadways, bridges, or public transportation facilities;
- Unsanitary or unsafe conditions;
- Incidence of crime in the area higher than in the remainder of the county or municipality;
- Governmentally owned property with adverse environmental conditions caused by a public or private entity; and
- A greater number of violations of the Florida Building Code in the area than the number of violations recorded in the remainder of the county or municipality.

The term "blighted area" also means any area in which at least one of the 14 factors is present and all taxing authorities agree, either by inter-local agreement or agreements with the agency or by resolution, that the area is blighted.[153]

Sinkholes

A sinkhole has been defined as "a landform created by subsidence of soil, sediment, or rock as underlying strata are dissolved by groundwater. A sinkhole forms by collapse into subterranean voids created by dissolution of limestone or dolostone or by subsidence as these strata are dissolved."[154] Sinkholes are a common feature in Florida's landscape, due to erosional processes associated with the chemical weathering and dissolution of carbonate rocks.[155] Over geologic periods of time, persistent erosion created extensive underground voids and drainage systems throughout Florida.[156] A sinkhole forms when sediments overlying such a void collapse. Because "groundwater that feeds springs is recharged … through direct conduits such as sinkholes," the Florida Legislature has expressed a desire to promote good stewardship, effective planning strategies, and best management practices with respect to sinkholes and the springs they recharge, which may be "threatened by actual and potential flow reductions and declining water quality."[157]

The two most commonly recommended stabilization techniques for sinkholes are grouting and underpinning.[158] Under the grouting procedure, a grout mixture (either cement-based or a chemical resin that expands into foam) is injected into the ground to stabilize the subsurface soils to minimize further subsidence damage by increasing the density of the soils beneath the building as well as sealing the top of the limestone surface to minimize future raveling.[159] Underpinning consists of steel piers drilled or pushed into the ground to stabilize the building's foundation.[160] One end of the steel pipe connects to the foundation of the structure with the other

[152] Section 163.340(8), F.S.
[153] Id.
[154] Section 627.706(2)(h), F.S.
[155] Such as limestone and dolomite. See, Florida Dep't of Environmental Protection, *Sinkholes, available at* http://www.dep.state.fl.us/geology/geologictopics/sinkhole.htm (last visited Feb. 6, 2015).
[156] *Id*.
[157] Section 369.315, F.S.
[158] Citizens Property Insurance Corporation, Sinkhole Repairs: Underpinning and Grouting, (Oct. 30, 2012) *available at* https://www.citizensfla.com/shared/sinkhole/documents/GroutVersusUnderpinning.pdf (last visited on Mar. 24, 2015).
[159] See *id.*
[160] See *id*.

end resting on solid limestone. Underpinning repairs, when performed, are usually combined with grouting.

Effect of Proposed Changes

Section 1 of the bill amends s 163.340, F.S., to add certain sinkhole activity to the list of factors that define a "blighted area." Specifically, the definition is expanded to account for land that has a "substantial number or percentage of properties" that have been damaged by sinkhole activity and have not been adequately repaired or stabilized. The bill would enable a CRA focused on redeveloping land with properties damaged by sinkholes to establish a community redevelopment trust fund that is funded through tax increment financing. **Section 2** amends s. 163.524, F.S., to conform a cross-reference**.**

Housing for the Individuals with Lower Incomes

In 1986[161] the Legislature found that:

- Decent, safe, and sanitary housing for individuals of very low income, low income, and moderate income is a critical need in the state;
- New and rehabilitated housing must be provided at a cost affordable to such persons in order to alleviate this critical need;
- Special programs are needed to stimulate private enterprise to build and rehabilitate housing in order to help eradicate slum conditions and provide housing for very-low-income persons, low-income persons, and moderate-income persons as a matter of public purpose; and
- Public-private partnerships are an essential means of bringing together resources to provide affordable housing.[162]

As a result of these findings, the Legislature determined that legislation was urgently needed to alleviate crucial problems related to housing shortages for individuals with very low,[163] low[164] and moderate[165] incomes. In 1986, part VI of ch. 420, F.S., was titled as the "Florida Affordable Care Act of 1986"[166] and programs and funding mechanisms were created over the years to help remedy low income housing issues.

[161] Chapter 86-192, Laws of Fla.
[162] Section 420.6015, F.S.
[163] "Very-low-income persons" means one or more persons or a family, the total annual adjusted gross household income of which does not exceed 50 percent of the median annual adjusted gross income for households within the state, or 50 percent of the median annual adjusted gross income for households within the metropolitan statistical area (MSA) or within the county in which the person or family resides, whichever is greater.
[164] "Low-income persons" means one or more persons or a family, the total annual adjusted gross household income of which does not exceed 80 percent of the median annual adjusted gross income for households within the state, or 80 percent of the median annual adjusted gross income for households within the metropolitan statistical area (MSA) or within the county in which the person or family resides, whichever is greater.
[165] "Moderate-income persons" means one or more persons or a family, the total annual adjusted gross household income of which is less than 120 percent of the median annual adjusted gross income for households within the state, or 120 percent of the median annual adjusted gross income for households within the metropolitan statistical area (MSA) or within the county in which the household is located, whichever is greater.
[166] Chapter 86-192, Laws of Fla. Part VI was subsequently renamed the "Affordable Housing Planning and Community Assistance Act." Chapter 92-317, Laws of Fla.

State Apartment Incentive Loan (SAIL) Program

Present Situation

The SAIL program was created by the Legislature in 1988[167] for the purpose of providing first, second, or other subordinated mortgage loans or loan guarantees to sponsors, including for-profit, nonprofit, and public entities, to provide housing affordable to very-low-income persons.[168]

The SAIL program provides low-interest loans on a competitive basis to affordable housing developers each year. This funding often serves to bridge the gap between the development's primary financing and the total cost of the development and is available to individuals, public entities, not-for-profit or for-profit organizations that propose the construction or substantial rehabilitation of multifamily units affordable to very low income individuals and families.[169]

SAIL program funds must be distributed in a manner that meets the need and demand for very low-income housing throughout the state. The need and demand must be determined by using the most recent statewide low income rental housing market studies available. SAIL program funding is reserved for use within statutorily defined counties (large, medium, and small)[170] and for properties providing units for specified tenant groups. The University of Florida's Shimberg Center for Housing Studies prepares the rental housing market study for the Florida Finance Housing Corporation (FHFC).[171] Below is a comparison of the actual need based on the 2013 Rental Market Study compared to the current statutory reservation requirements for the specified tenant groups.

Specified Tenant Group	Actual Percentage of Total Households in Need	Current Statutory Reservation Requirements
Commercial fishing workers and farmworker households	4 percent	Not less than 10 percent
Persons who are homeless	10 percent	Not less than 5 percent
Persons with special needs	13 percent	Not more than 10 percent
Elder persons	20 percent	Not less than 10 percent
Families	53 percent	Not less than 10 percent

During the first 6 months of loan or loan guarantee availability, SAIL program funds are required to be reserved for use by sponsors who provide the required housing set-aside for specified tenant groups. Under current law, the statutory requirement to reserve funds for the commercial fishing worker and farmworker household tenant group significantly exceeds the actual housing need for this group. The current statutory "cap" on the reservation for the persons with special

[167] Chapter 88-376, Laws of Florida.
[168] Section 420.5087, F.S.
[169] Florida Housing Finance Corporation, *State Apartment Incentive Loan Program*, available at: http://apps.floridahousing.org/StandAlone/FHFC_ECM/ContentPage.aspx?PAGE=0173. (last visited Mar. 10, 2015).
[170] Section 420.5087(1), F.S., provides that funds must be allocated to the following categories of counties: counties that have a population of 845,000 or more ("large"); counties that have a population of more than 100,000 but less than 825,000 ("medium"); and counties that have a population of 100,000 or less ("small").
[171] Shimberg Center for Housing Studies, University of Florida, *2013 Rental Market Study: Affordable Rental Housing Needs*, April 7, 2013.

needs (no more than 10 percent) does not allow the program to address the actual housing need for this group (13 percent) during the first 6 months of loan or loan guarantee availability.

Funding for the SAIL Program is subject to an annual appropriation.[172]

Effect of Proposed Changes

Section 41 amends s. 420.5087, F.S., relating to the SAIL Program, to change the reservation requirements for three of the five tenant groups. The set-aside for the persons who are homeless tenant group is increased from not less than 5 percent to at least 10 percent. The cap of "may not be more than 10 percent" for the persons with special needs tenant group is replaced with at least 10 percent. The bill requires that at least 10 percent of SAIL Program funds available must be reserved for four of the five tenant groups. At least five percent of available SAIL Program funds must be reserved for the commercial fishing workers and farmworkers tenant group.

Affordable Housing in the Florida Keys

Present Situation

Currently, there is not a low interest loan program for qualified developers who provide affordable rental and home ownership opportunities for essential services personnel in the Florida Keys.

Section 420.507, F.S., delineates the powers of the Florida Housing Finance Corporation, which include adopting rules to prescribe a priority to fund affordable housing projects in the Florida Keys and City of Key West areas of critical state concern.

Proposed Changes

Section 42 creates s. 420.57, F.S., to provide incentives and authorize a process for providing affordable rental opportunities for essential services personnel in the Florida Keys who are affected by the area's uniquely high housing costs.

As used in the section, the bill provides definitions for the following terms: "corporation," "essential services personnel," "Florida Keys" or "Keys," "project," and "workforce housing." "Essential services personnel" mean persons in need of affordable housing who are considered essential services personnel as defined by Monroe County in its local housing assistance plan pursuant to s. 420.9075(3)(a), F.S.

"Workforce housing" means multifamily rental housing affordable to persons or households whose income does not exceed 140 percent of the area median income (AMI) for Monroe County established by the United States Department of Housing and Urban Development.

The bill authorizes the Florida Housing Finance Corporation (FHFC or corporation) to provide low-interest loans for the construction or rehabilitation of workforce housing in the Florida Keys Area of Critical State Concern, provided that the loans:

[172] Section 420.5087, F.S.

- Do not exceed the lesser of 50 percent of development costs as defined in s. 420.503(13), F.S., or the minimum amount required to make the project economically feasible; and
- Bear interest rates of 1 to 3 percent, where long-term affordability is provided and guaranteed for units set aside for workforce housing for essential services personnel.

The FHFC shall select projects for funding by competitive solicitation as provided in s. 420.507(48), F.S., including consideration of factors contained in s. 420.5087, F.S.

All eligible applications must demonstrate the following:

- Rents for all workforce housing serving those with incomes at or below 140 percent of AMI at the appropriate income level using the restricted rents for the federal income low-income housing tax credit program. Such residences may not be used for transient occupancy, tourist housing, or vacation rentals.
- The applicant proves it has site control of the proposed project site or sites and provides evidence that infrastructure sufficient to support the project is in place at the time of application.

The bill requires that priority consideration for funding must be given to projects that meet certain criteria related to meeting workforce housing needs and objectives, funding and financial feasibility, developer experience and ability, local government support, and design features that enhance efficiency and reduce long-term costs.

The bill gives the FHFC the authority to adopt rules necessary to implement the program and the corporation may use up to 2 percent of any funds appropriated for costs of administration.

State Office on Homelessness

Present Situation

In 2001, the Florida Legislature created the State Office on Homelessness (office) within the DCF to serve as a central point of contact within state government on homelessness. The office is responsible for coordinating resources and programs across all levels of government, and with private providers that serve the homeless. It also manages targeted state grants to support the implementation of local homeless service continuum of care plans.[173]

Council on Homelessness

The inter-agency Council on Homelessness (council) was also created in 2001. The 17-member council is charged with developing recommendations on how to reduce homelessness statewide and advising the State Office on Homelessness.[174]

Local Coalitions for the Homeless

The DCF is required to establish local coalitions to plan, network, coordinate, and monitor the delivery of services to the homeless.[175] Groups and organizations provided the opportunity to

[173] Section 420.622(1), F.S.
[174] *Id*.
[175] Section 420.623, F.S.

participate in such coalitions include: organizations and agencies providing mental health and substance abuse services; county health departments and community health centers; organizations and agencies providing food, shelter, or other services targeted to the homeless; local law enforcement agencies; regional workforce boards; county and municipal governments; local public housing authorities; local school districts; local organizations and agencies serving specific subgroups of the homeless population such as veterans, victims of domestic violence, persons with HIV/AIDS, runaway youth; and local community-based care alliances.[176]

"Challenge Grants"

The office is authorized to accept and administer moneys appropriated to it to provide "Challenge Grants" annually to designated lead agencies of homeless assistance continuums of care.[177] The office may award grants in an amount of up to $500,000 per lead agency.[178] A lead agency may spend a maximum of eight percent of its funding on administrative costs. To qualify for the grant, a lead agency must develop and implement a local homeless assistance continuum of care plan for its designated area.[179]

Pursuant to s. 420.624, F.S., the DCF provides funding for local homeless assistance continuum of care, which is a framework for providing an array of emergency, transitional, and permanent housing and services to address the various needs of homeless persons and persons at risk of becoming homeless. There is no statutorily identified funding source for this program.[180] Pursuant to s. 420.606(3), F.S., the DEO provides training and technical assistance to staff of state and local government entities, community-based organizations, and persons forming such organizations for the purpose of developing new housing and rehabilitating existing housing that is affordable for very-low-income persons, low-income persons, and moderate-income persons. There is no statutorily identified funding source for this program.[181]

Homeless Housing Assistance Grants

The office is authorized to accept and administer moneys appropriated to it to provide Homeless Housing Assistance Grants annually to lead agencies of local homeless assistance continuum of care. The grants may not exceed $750,000 per project and an applicant may spend a maximum of five percent of its funding on administrative costs. The grant funds must be used to acquire, construct, or rehabilitate transitional or permanent housing units for homeless persons. The funds available for the eligible grant activities may be appropriated, received from donations, gifts, or from any public or private source.[182]

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[176] *Id*.
[177] "Section 420.621(1), F.S., defines "Continuum of Care" to mean the community components needed to organize and deliver housing and services to meet the specific needs of people who are homeless as they move to stable housing and maximum self-sufficiency. It includes action steps to end homelessness and prevent a return to homelessness."
[178] Section 420.622, F.S.
[179] *Id*.
[180] Department of Economic Opportunity, *House Bill 379 Analysis*, (January 22, 2015.)
[181] *Id*.
[182] *Id*.

Effect of Proposed Changes

Section 43 amends s. 420.622, F.S., relating to the State Office on Homelessness (office) and the Council on Homelessness (council), to:

- Require the office, in coordination with other entities, to produce an inventory of state homeless programs instead of the currently required program and financial plan.
- Require the office to establish a task force to make recommendations related to the implementation of a statewide HMIS. The task force must make its recommendations to the council by December 31, 2015.
- Require, rather than allow, the office and the council to accept and administer moneys appropriated for annual "Challenge Grants."
- Remove the requirement that award levels for "Challenge Grants" be based upon the total population within the continuum of care catchment area and reflect the differing degrees of homelessness in the catchment planning areas.
- Provide requirements related to expenditures of leveraged funds or resources. They may only be used for eligible activities committed on one project which have not been used as leverage or match for any other project.
- Require the office, in conjunction with the council, to establish performance measures and specific objectives to evaluate the performance and outcomes of lead agencies that receive grant funds.
- Require any funding distributed to the lead agencies be based on overall performance and achievement of specified objectives, including the number of persons or households that are no longer homeless, the rate of recidivism to homelessness, and the number of persons who obtain gainful employment.

Continuum of Care

Present Situation

The local coalition serves as the lead agency for the local homeless assistance continuum of care (CoC).[183] A local CoC is a framework for a comprehensive and seamless array of emergency, transitional, and permanent housing, and services to address the various needs of the homeless and those at risk of homelessness.[184]The purpose of a CoC is to help communities or regions envision, plan, and implement comprehensive and long-term solutions.[185]

The department interacts with the state's 28 CoCs through the office, which serves as the state's central point of contact on homelessness. The office has designated local entities to serve as lead agencies for local planning efforts to create homeless assistance CoC systems. The office has made these designations in consultation with the local homeless coalitions and the Florida offices of the federal Department of Housing and Urban Development (HUD).

The CoC planning effort is an ongoing process that addresses all subpopulations of the homeless. The development of a local CoC plan is a prerequisite to applying for federal housing grants

[183] *Id*.
[184] Section 420.624, F.S.
[185] *Id*.

through HUD. The plan also makes the community eligible to compete for the state's Challenge Grant and Homeless Housing Assistance Grant.[186]

Effect of Proposed Changes

Section 44 amends s. 420.624, F.S., relating to the local homeless assistance continuum of care, to require the office and the council to include a methodology for assessing performance and outcomes and data reporting in the plan that communities seeking to implement a local homeless assistance continuum of care are encouraged to develop. The bill also requires Rapid ReHousing to be added to the components of a continuum of care plan.

Rapid Re-Housing

Present Situation

Rapid re-housing is a model for providing housing for individuals and families who are homeless. The model places a priority on moving a family or individual experiencing homelessness into permanent housing as quickly as possible, hopefully within 30 days of a client becoming homeless and entering a program. While originally focused primarily on people experiencing homelessness due to short-term financial crises, programs across the country have begun to assist individuals and families who are traditionally perceived as more difficult to serve. This includes people with limited or no income, survivors of domestic violence, and those with substance abuse issues. Although the duration of financial assistance may vary, many programs find that, on average, four to six months of financial assistance is sufficient to stably re-house a household.[187]

Since federal funding for rapid re-housing first became available in 2008, a number of communities, including Palm Beach County, Florida, that prioritized rapid re-housing as a response to homelessness have seen decreases in the amount of time that households spend homeless, less recidivism, and improved permanent housing outcomes relative to other available interventions.[188]

There are three core components of rapid re-housing: housing identification, rent and move-in assistance (financial), and rapid re-housing case management and services. While all three components are present and available in effective rapid re-housing programs, there are instances where the components are provided by different entities or agencies, or where a household does not utilize all three.[189] A key element of rapid re-housing is the "Housing First" philosophy, which offers housing without preconditions such as employment, income, lack of a criminal

[186] Florida Department of Children and Families, *Lead Agencies*, available at: http://www.myflfamilies.com/service-programs/homelessness/lead-agencies. (last visited Mar. 16, 2015).
[187] National Alliance to End Homelessness, *Rapid Re-Housing: A History and Core Components*, (2014), available at: http://www.endhomelessness.org/library/entry/rapid-re-housing-a-history-and-core-components (last visited Mar. 11, 2015).
[188] *Id*.
[189] *Id*.

background, or sobriety. If issues such as these need to be addressed, the household can address them most effectively once they are in housing.[190]

Effect of Proposed Changes

Section 45 creates s. 420.6265, F.S., relating to Rapid ReHousing, to express legislative intent to encourage homeless continuums of care to adopt the Rapid ReHousing approach to preventing homelessness for individuals and families who do not require the intense level of supports provided in the Permanent Supportive Housing model.[191] The bill also statutorily prescribes the Rapid Rehousing Methodology.

State Housing Initiatives Partnership (SHIP) Program

Present Situation

The State Housing Initiatives Partnership (SHIP) Program, was created in 1992[192] to provide funds to local governments as an incentive to create partnerships that produce and preserve affordable homeownership and multifamily housing. The program was designed to serve very low, low and moderate income families and is administered by the Florida Housing Finance Corporation (corporation). A dedicated funding source for this program was established by the passage of the 1992 William E. Sadowski Affordable Housing Act. The SHIP Program is funded through a statutory distribution of documentary stamp tax revenues, which are deposited into the Local Government Housing Trust Fund. Subject to specific appropriation, funds are distributed quarterly to local governments participating in the program under an established formula.[193]

Effect of Proposed Changes

Section 46 amends s. 420.9071(26), F.S., relating to the definition of "rent subsidies", to allow initial assistance for tenants, such as grants or loans for security and utility deposits.

Section 47 amends s. 420.9072, F.S., relating to the SHIP Program, to provide that counties or eligible municipalities may not spend its portion of the local housing distribution to provide ongoing rent subsidies with the exception of:

- Security and utility deposit assistance.
- Eviction prevention not to exceed rent for 6 months.
- A rent subsidy program for very low income households that meet specified qualifications.

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[190] The Florida Legislature expressed the intent to encourage homeless continuums of care to adopt the Housing First approach to ending homelessness for individuals and families in 2009. See s. 420.6275, F.S.

[191] Permanent Supportive Housing is for individuals who need long-term housing assistance with supportive services in order to stay housed. Individuals and families living in supportive housing often have long histories of homelessness and face persistent obstacles to maintaining housing, such as a serious mental illness, a substance use disorder, or a chronic medical problem. Many supportive housing tenants face more than one of these serious conditions. *See* United States Interagency Council on Homelessness, *Permanent Supportive Housing,* available at http://usich.gov/usich_resources/solutions/explore/permanent_supportive_housing/. (last visited Mar 11, 2015).

[192] Chapter 92-317, Laws of Fla.

[193] Section 420.9073, F.S.

Section 48 amends s. 420.9073, F.S., relating to local housing distributions, to distribute four percent of the total amount appropriated to the FHFC for the SHIP Program from the Local Government Housing Trust Fund as follows:

- Ninety-five percent of the four percent is to be provided to the DCF to provide operating and other support to the designated lead agency in each continuum of care; and
- Five percent of the four percent is to be provided to the DEO to provide training and technical assistance to lead agencies that received funding from DCF. The training and technical assistance must be provided by a nonprofit entity that meets the specific requirements.

Section 49 amends s. 420.9075, F.S., relating to local housing assistance plans and partnerships, to:

- Add "Lead agencies of local homeless assistance continuums of care" as part of the partnership process to participate in the SHIP Program.
- Add language to encourage eligible municipalities to develop a strategy for providing program funds to reduce homelessness.
- Provide that up to 25 percent of the SHIP Program funds made available in a county or municipality may be reserved for rental housing.
- Require a county or eligible municipality to include a description of efforts to reduce homelessness in the annual report that must be submitted to the FHFC.

National Housing Trust Fund

Present Situation

In July 2008, the Housing and Economic Recovery Act was signed into law,[194] establishing a National Housing Trust Fund (NHTF or trust fund), among other housing-related provisions. Although the National Housing Trust Fund has been established, a permanent funding stream has not been secured.[195]

The goal of the trust fund is to provide ongoing, permanent, dedicated, and sufficient sources of revenue to build, rehabilitate, and preserve 1.5 million units of housing for the lowest-income families, including people experiencing homelessness, over the next 10 years. The NHTF particularly aims to increase and preserve the supply of rental housing that is affordable for extremely[196] and very low-income households, and increase homeownership opportunities for those households. To prevent funding for the NHTF from competing with existing U.S. Department of Housing and Urban Development programs, this revenue is expected to be generated separately from the current appropriations process.[197]

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[194] Public Law 110-289.
[195] The National Alliance to End Homelessness. *National Housing Trust Fund*, available at: http://www.endhomelessness.org/pages/national_housing_trust_fund. (last visited Mar. 15, 2015).
[196] "Extremely-low-income persons" means one or more persons or a family, the total annual adjusted gross household income of which does not exceed 30 percent of the median annual adjusted gross income for households within the state, or 50 percent of the median annual adjusted gross income for households within the metropolitan statistical area (MSA) or within the county in which the person or family resides, whichever is greater.
[197] The National Alliance to End Homelessness, *National Housing Trust Fund*, available at: http://www.endhomelessness.org/pages/national_housing_trust_fund. (last visited Mar. 15, 2015).

Effect of Proposed Changes

Section 50 creates s. 420.9089, F.S., relating to the National Housing Trust Fund (NHTF), to express legislative intent to encourage the state entity that administers funds from the N HTF to propose an allocation plan that includes strategies to reduce statewide homelessness.

OTHER ECONOMIC DEVELOPMENT PROVISIONS

Section 52 of the bill provides that effective July 1, 2015, the four sports development project applications that the DEO reviewed and recommended to the Legislature for approval pursuant to s. 288.11625, F.S., on January 23, 2015, are approved pursuant to s. 288.11625(4)(e), F.S. The DEO shall certify the applicants for sports development projects no later than August 15, 2015.

Section 53 of the bill provides nonrecurring appropriations of $20 million from the State Economic Enhancement and Development Trust Fund and $3.8 million from the Economic Development Trust Fund within the DEO to make payments during Fiscal Year 2015-2016 for economic development incentive programs. Claims for payment must be verified by an independent third-party auditor before payment can be made

Section 55 provides an effective date of July 1, 2015, except as otherwise expressly provided in the act.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The extension of the Qualified Defense Contractor and Space Flight tax refund program to allow the Department of Economic Opportunity (DEO) to certify applications through June 30, 2020, will have a negative impact to state revenues. Funds to make payments for this refund program are appropriated in the General Appropriations Act each year. The bill permits businesses located in enterprise zones that have active economic development contracts entered into between January 1, 2013, and December 31, 2015, to continue to apply for enterprise zone state tax programs and the child care facility

property tax exemption for three years. The Revenue Estimating Conference has not yet reviewed this provision.

B. Private Sector Impact:

The fiscal impact to the private sector is indeterminate.

C. Government Sector Impact:

CS/SB 1214 provides nonrecurring appropriations of $20 million from the State Economic Enhancement and Development Trust Fund and $3.8 million from the Economic Development Trust Fund within the DEO to make payments during Fiscal Year 2015-2016 for economic development incentive programs. SB 2500, 1st Engrossed, the Senate's General Appropriation Bill for Fiscal Year 2015-2015, includes an identical appropriation for this purpose (Specific Appropriation 2246).

The provisions of the bill that eliminate the practice of the DEO disbursing funds to Enterprise Florida, Inc. (EFI), upon execution of a Quick Action Closing Fund (QAC) contract or agreement will have a positive impact on state revenues and the state's economy as a whole. Currently, the return on investment (ROI) for a QAC project is calculated from the time that the DEO disburses an award to EFI for deposit into an escrow account. Because the ROI Model accounts for the time value of money, the return on investment will increase for projects when funds are no longer held in escrow. Additionally, using a "pay-as-you-go" approach for QAC projects will enable the state to use funds that would otherwise reside in an escrow account for other priorities each fiscal year.

The provisions of the bill that revise the Qualified Targeted Industry Business Tax Refund Program may increase state tax refunds awarded to businesses. Specifically these provisions permit businesses in brownfield or rural areas to receive 100 percent of the total tax refunds allowed if the local financial support is waived; and permit businesses to receive a prorated award if certain wage requirements are met. The impact is dependent on the use of these incentives and is indeterminate.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The DEO is authorized to adopt rules to prescribe a form for applications for economic development and other changes made in s. 288.061, F.S.; and for the administration of the Quick Action Closing Fund Escrow Account.

The Florida Housing Finance Corporation is authorized to adopt rules to implement the affordable housing program for the Florida Keys Critical Area of State Concern that is created in the bill.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 163.340, 163.524, 212.08, 212.20, 220.1899, 220.191, 288.0001, 288.005, 288.061, 288.095, 288.1045, 288.106, 288.107, 288.108, 288.1088, 288.1089, 288.1097, 288.11625, 288.11631, 288.1168, 288.1201, 288.125, 288.913 (288.1251), 288.914 (288.1252), 288.915 (288.1253), 288.1254, 288.1258, 288.901, 288.905, 288.92, 288.9622, 288.9624, 288.980, 288.9937, 420.5087, 420.622, 420.624, 420.9071, 420.9072, 420.9073, 420.9075, and 477.0135.

This bill creates the following sections of the Florida Statutes: 288.10881, 288.1256, 420.57, 420.6265, and 420.9089.

This bill repeals section 288.1169 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

CS by Appropriations on April 21, 2015:
The committee substitute:

- Creates a cap ($50 million) on the amount of funds that can be obligated for payment each fiscal year for specified economic development incentive programs, which may be waived in the General Appropriations Act (GAA).
- Requires the Department of Economic Opportunity (DEO) to annually provide the Legislature with the amount of estimated and scheduled payments for the upcoming fiscal year. The Legislature will use this information to appropriate in the GAA the amount estimated to be sufficient to satisfy scheduled payments in the upcoming fiscal year.
- Excludes state funded economic development transportation projects from the "economic benefits" calculation (return on investment or ROI).
- Provides that projects requiring Legislative Budget Commission (LBC) approval are deemed approved after submission after 30 days if the LBC does not meet and an objection is not made.
- Removes the $20 million exemption for the 10-year contract duration limitation and provides that the limitation does not apply to the Innovation Incentive Program or the Capital Investment Tax Credit Program.
- Removes the Senate confirmation requirement for future EFI presidents.
- Requires that notice be provided to the Legislature for proposed amendments to executed economic development contracts as follows:
  - 3-day notification for any proposed amendment that reduces the ROI calculation by .0.50 or more or changes any performance conditions or other statutorily required criteria; and
  - 10-day notification and objection procedure for any proposed amendment if the ROI calculation is reduced to be below 4 to 1, or if already below 4 to 1, the ROI calculation is reduced by 0.50 or more.

- Provides a "floor" of 1.5 to 1 for ROI calculations involving corporate headquarter businesses.
- Removes provision that only allowed payments to be made to the applicant business.
- Creates the "Quick Action Closing Fund Escrow Account" at the State Board of Administration (SBA) for investment of funds held in Enterprise Florida, Inc.'s (EFI) escrow account as of June 30, 2015. Requires EFI to transfer all funds to the SBA no later than July 10, 2015.
- Provides a transparent process for making payments to businesses from SBA's escrow account and provides for transfers of reverted funds and interest earnings to the State Economic Enhancement and Development (SEED) Trust Fund.
- Provides that interest earnings and funds reverted for terminated projects may be used to fund Enterprise Florida, Inc. (EFI) marketing activities, subject to specific appropriation.
- Expands the definition of "target industry business" to include certain businesses that offer baccalaureate or higher degrees in the health care field that Enterprise Florida, Inc., and the local government agree will benefit the local economy.
- Transfers the Office of Film and Entertainment from the DEO to Enterprise Florida, Inc., effective October 1, 2015.
- Revises the Entertainment Industry Program (tax credits) and creates a new Entertainment Action Fund, effective October 1, 2015.
- Permits businesses located in enterprise zones that have active economic development contracts entered into between January 1, 2013, and December 31, 2015, to continue to apply for enterprise zone state tax programs and the child care facility property tax exemption for three years, effective January 1, 2016.
- Approves the four sports development project applications submitted by the DEO on January 23, 2015.
- Amends the State Apartment Incentive Loan (SAIL) Program to change the reservation requirements for the specified tenant groups to reflect projected need.
- Creates a program to provide incentives and authorize a process to provide affordable rental opportunities for essential services personnel in the Florida Keys.
- Amends provisions related to the State Office on Homelessness and the Challenge Grant Program.
- Expresses legislative intent to encourage homeless continuums of care to adopt the Rapid ReHousing approach to prevent homelessness.
- Amends the State Housing Initiatives Partnership (SHIP) Program to provide exceptions to the limitations on using SHIP funds for rent subsidies and provides that up to 25 percent of available SHIP funds may be used by counties and eligible municipalities for rental housing.
- Appropriates nonrecurring funds from the State Economic Enhancement and Development Trust Fund ($20 million) and the Economic Development Trust Fund ($3.8 million) to the DEO to make payments for economic development incentive programs during Fiscal Year 2015-2016.
- Makes conforming and clarifying changes.

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 Latvala

20-00790B-15 20151214__

A bill to be entitled

An act relating to economic development; amending s. 220.191, F.S.; revising the term "cumulative capital investment"; amending s. 288.0001, F.S.; requiring the Office of Economic and Demographic Research and the Office of Program Policy Analysis and Government Accountability to provide a detailed analysis of the retention of Major League Baseball spring training baseball franchises; amending s. 288.005, F.S.; revising the term "economic benefits"; amending s. 288.061, F.S.; requiring the Department of Economic Opportunity to prescribe a specified application form; requiring the incentive application to include specified information; requiring the Office of Economic and Demographic Research to include guidelines for the appropriate application of the department's internal model in the establishment of the methodology and model it will use to calculate economic benefits; requiring that if the Office of Economic and Demographic Research develops an amended definition of the term "economic benefits," it must reflect a specified requirement; prohibiting the department from attributing to the business any capital investment made by a business using state funds; requiring the department's evaluation of the application to include specified information; requiring the department to recommend to the Governor approval or disapproval of a project that will receive funds from specified programs; requiring the

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department, in recommending a project, to include justification for the project and proposed performance conditions that the project must meet to obtain incentive funds; authorizing the Governor to approve a project without consulting the Legislature if the requested funding is less than a specified amount; requiring the Governor to provide a written description and evaluation of the project to specified persons during a specified timeframe; requiring the recommendation to include proposed payment and performance conditions that the project must meet in order to obtain incentive funds and to avoid sanctions; requiring the Governor to instruct the department to immediately suspend an action or proposed action until the Legislative Budget Commission or the Legislature makes a determination on the project in certain circumstances; requiring a project that requires funding that falls into a specified range to be approved by the Legislative Budget Commission before final approval by the Governor; requiring a project that requires at least a specified amount of funds and that provides a waiver of program requirements to be approved by the Legislative Budget Commission before final approval by the Governor; requiring the department to issue a letter certifying the applicant as qualified for an award upon approval; specifying the funding sources authorized within the definition of the term "project"; requiring the department and the applicant

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59 to enter into an agreement or contract upon
60 certification; requiring any agreement or contract
61 that requires capital investment to be made by the
62 business to also require that such investment remain
63 in the state for the duration of the agreement or
64 contract; prohibiting an agreement or contract from
65 having a term of longer than 10 years; authorizing the
66 department to enter into a successive agreement or
67 contract for a specified project under certain
68 circumstances; providing that the restriction on
69 duration of the agreement or contract does not apply
70 in certain circumstances; requiring the agreement or
71 contract to require that the applicant use the
72 workforce information systems in certain
73 circumstances; requiring the department to provide
74 notice, with a written description and evaluation, to
75 the Legislature of any proposed amendment to an
76 agreement or contract; requiring the department to
77 provide notice of the proposed change to specified
78 persons in order to provide an opportunity for review;
79 providing that a proposed amendment to an agreement or
80 contract which reduces projected economic benefits
81 calculated at the time the agreement or contract was
82 executed by a specified amount or more or that results
83 in an economic benefit ratio below a specified level
84 is subject to specified notice and objection
85 procedures; requiring the Governor to instruct the
86 department to immediately suspend an action or
87 proposed action until the Legislative Budget

88 Commission or Legislature makes a determination on the
89 project in certain circumstances; amending s.
90 288.1045, F.S.; revising the term “average wage in the
91 area”; conforming a provision to a change made by the
92 act; increasing the number of days the department may
93 extend the filing date; extending the future
94 expiration of an applicant for a tax refund; amending
95 s. 288.106, F.S.; conforming provisions to changes
96 made by the act; revising the definition of the term
97 “local financial support exemption option” to remove a
98 limit on the allowable percentage of total tax
99 refunds; increasing the number of days the department
100 may extend the filing date; revising the limitations
101 on the average private sector wage paid by the
102 business; amending s. 288.107, F.S.; revising the term
103 “eligible business”; defining the term “fixed capital
104 investment”; amending s. 288.1088, F.S.; revising the
105 requirements for projects eligible for receipt of
106 funds from the Quick Action Closing Fund; conforming a
107 provision to a change made by the act; requiring a
108 specified request to be transmitted in writing to the
109 department with an explanation of the specific
110 justification for the request; requiring a decision to
111 be stated in writing with an explanation of the reason
112 for approving the request if the department approves
113 the request; prohibiting the department from waiving
114 more than a specified amount of criteria; revising the
115 information that the department must include in an
116 evaluation of an individual proposal for high-impact

117 business facilities; prohibiting the payment of moneys
118 from the fund to a business until the scheduled goals
119 have been achieved; revising the information that must
120 be included in a contract that sets forth the
121 conditions for payments of moneys from the fund;
122 amending s. 288.1089, F.S.; conforming provisions to
123 changes made by the act; amending s. 288.905, F.S.;
124 providing that the president appointed by the board of
125 directors of Enterprise Florida, Inc., is subject to
126 confirmation by the Senate; prohibiting a former
127 president from receiving compensation for personally
128 representing a specified entity before the legislative
129 or executive branch of state government; providing
130 applicability; amending s. 288.9937, F.S.; requiring
131 the Office of Program Policy Analysis and Government
132 Accountability to analyze and evaluate certain
133 programs for a specified period; requiring the Office
134 of Economic and Demographic Research to determine the
135 economic benefits of certain programs; requiring the
136 Office of Program Policy Analysis and Government
137 Accountability to identify inefficiencies in certain
138 programs and to recommend changes to such programs;
139 revising the date by which each office must submit a
140 report to certain persons; providing an effective
141 date.
142
143 Be It Enacted by the Legislature of the State of Florida:
144
145 Section 1. Paragraph (b) of subsection (1) of section

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146 220.191, Florida Statutes, is amended to read:
147 220.191 Capital investment tax credit.—
148 (1) DEFINITIONS.—For purposes of this section:
149 (b) "Cumulative capital investment" means the total capital
150 investment in land, buildings, and equipment made in connection
151 with a qualifying project during the period from the beginning
152 of construction of the project to the commencement of
153 operations. The term does not include any state or local funds,
154 including funds appropriated to public or private entities, used
155 for capital investment.
156 Section 2. Paragraph (e) of subsection (2) of section
157 288.0001, Florida Statutes, is amended to read:
158 288.0001 Economic Development Programs Evaluation.—The
159 Office of Economic and Demographic Research and the Office of
160 Program Policy Analysis and Government Accountability (OPPAGA)
161 shall develop and present to the Governor, the President of the
162 Senate, the Speaker of the House of Representatives, and the
163 chairs of the legislative appropriations committees the Economic
164 Development Programs Evaluation.
165 (2) The Office of Economic and Demographic Research and
166 OPPAGA shall provide a detailed analysis of economic development
167 programs as provided in the following schedule:
168 (e) Beginning January 1, 2018, and every 3 years
169 thereafter, an analysis of the Sports Development Program
170 established under s. 288.11625 and the retention of Major League
171 Baseball spring training baseball franchises under s. 288.11631.
172 Section 3. Subsection (1) of section 288.005, Florida
173 Statutes, is amended to read:
174 288.005 Definitions.—As used in this chapter, the term:

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175 (1) "Economic benefits" means the direct, indirect, and
176 induced gains in state revenues as a percentage of the state's
177 investment. The state's investment includes all state funds
178 spent or forgone to benefit the business, including state funds
179 appropriated to public and private entities, state grants, tax
180 exemptions, tax refunds, tax credits, and other state
181 incentives.
182 Section 4. Section 288.061, Florida Statutes, is amended to
183 read:
184 288.061 Economic development incentive application
185 process.—
186 (1) Beginning January 1, 2016, the department shall
187 prescribe a form upon which an application for an incentive must
188 be made. At a minimum, the incentive application must include
189 all of the following:
190 (a) The applicant's federal employer identification number,
191 reemployment assistance account number, and state sales tax
192 registration number. If such numbers are not available at the
193 time of application, they must be submitted to the department in
194 writing before the disbursement of any economic incentive
195 payments or the grant of any tax credits or refunds.
196 (b) The applicant's signature.
197 (c) The location in this state at which the project is or
198 will be located.
199 (d) The anticipated commencement date of the project.
200 (e) A description of the type of business activity,
201 product, or research and development undertaken by the
202 applicant, including the six-digit North American Industry
203 Classification System code for all activities included in the

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204 project.
205 (f) An attestation verifying that the information provided
206 on the application is true and accurate.
207 (2)~~(1)~~ Upon receiving a submitted economic development
208 incentive application, the Division of Strategic Business
209 Development of the department ~~of Economic Opportunity~~ and
210 designated staff of Enterprise Florida, Inc., shall review the
211 application to ensure that the application is complete, whether
212 and what type of state and local permits may be necessary for
213 the applicant's project, whether it is possible to waive such
214 permits, and what state incentives and amounts of such
215 incentives may be available to the applicant. The department
216 shall recommend to the executive director to approve or
217 disapprove an applicant business. If review of the application
218 demonstrates that the application is incomplete, the executive
219 director shall notify the applicant business within the first 5
220 business days after receiving the application.
221 (3)~~(2)~~ ~~Beginning July 1, 2013,~~ The department shall review
222 and evaluate each economic development incentive application for
223 the economic benefits of the proposed award of state incentives
224 proposed for the project. The term "economic benefits" has the
225 same meaning as in s. 288.005. The Office of Economic and
226 Demographic Research shall establish the methodology and model
227 used to calculate the economic benefits, including guidelines
228 for the appropriate application of the department's internal
229 model. For purposes of this requirement, an amended definition
230 of the term "economic benefits" may be developed by the Office
231 of Economic and Demographic Research. However, the amended
232 definition must reflect the requirement of s. 288.005 that the

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233 state's investment include all state funds spent or forgone to
234 benefit the business, including state funds appropriated to
235 public and private entities, to the extent that those funds
236 should reasonably be known to the department at the time of
237 approval. In the department's evaluation of an economic
238 development incentive application, the department may not
239 attribute to the business any capital investment made by the
240 business using state funds.
241 (4) The department's evaluation of the application must
242 also include all of the following:
243 (a) A financial analysis of the company, including
244 information regarding liens and pending or ongoing litigation,
245 credit ratings, and regulatory filings.
246 (b) A review of any independent evaluations of the company.
247 (c) A review of the historical market performance of the
248 company.
249 (d) A review of the latest audit of the company's financial
250 statement and the related auditor management letter.
251 (e) A review of any other audits that are related to the
252 internal controls or management of the company.
253 (f) A review of performance in connection with past
254 incentives.
255 (g) Any other review deemed necessary by the department.
256 (5)(a) ~~(3)~~ Except as provided in paragraph (b), within 10
257 business days after the department receives a complete ~~the~~
258 ~~submitted~~ economic development incentive application, the
259 executive director shall approve or disapprove the application
260 and issue a letter of certification to the applicant which
261 includes a justification of that decision, unless the business

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262 requests an extension of ~~that~~ time.
263 (b) Within 10 business days after the department receives a
264 complete economic development incentive application for a
265 project identified in paragraph (d), the executive director
266 shall recommend to the Governor approval or disproval of the
267 application. The recommendation must include a justification for
268 the recommendation and the proposed performance conditions that
269 the project must meet to obtain incentive funds.
270 1. The Governor may approve a project without consulting
271 the Legislature for a project that requires less than $2 million
272 in funding.
273 2. Except as provided in subparagraph 4., for any project
274 that requires funding in the amount of at least $2 million and
275 up to $7.5 million, the Governor shall provide a written
276 description and evaluation of the project to the chair and vice
277 chair of the Legislative Budget Commission at least 10 days
278 before giving final approval for the project. The recommendation
279 must include proposed payment and performance conditions that
280 the project must meet in order to obtain incentive funds and to
281 avoid sanctions. If the chair or vice chair of the Legislative
282 Budget Commission, the President of the Senate, or the Speaker
283 of the House of Representatives advises the Governor, in
284 writing, that his or her planned or proposed action exceeds the
285 delegated authority of the Governor or is contrary to
286 legislative policy or intent, the Governor shall instruct the
287 department to immediately suspend any action planned or proposed
288 until the Legislative Budget Commission or the Legislature makes
289 a determination on the project.
290 3. Any project that requires funding in the amount of $7.5

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291 million or greater must be approved by the Legislative Budget
292 Commission before final approval by the Governor.
293 4. Any project that requires funding in the amount of $5
294 million or greater and that provides a waiver of program
295 requirements must be approved by the Legislative Budget
296 Commission prior to final approval by the Governor.
297 (c) Upon approval of a project under paragraph (b), the
298 department shall issue a letter certifying the applicant as
299 qualified for an award.
300 (d) For purposes of paragraphs (b) and (c), the term
301 "project" means a project that will receive funds under any one
302 of the following programs:
303 1. The Local Government Distressed Area Matching Grant
304 Program established by s. 288.0659.
305 2. The qualified defense contractor and space flight
306 business tax refund program established under s. 288.1045.
307 3. The qualified target industry business tax refund
308 authorized under s. 288.106.
309 4. The brownfield redevelopment bonus refund established
310 under s. 288.107.
311 5. High-impact business performance grants established
312 under s. 288.108.
313 6. The Quick Action Closing Fund established under s.
314 288.1088.
315 7. The Innovation Incentive Program created by s. 288.1089.
316 (6)(a) Upon certification, the department and the applicant
317 shall enter into an agreement or contract. The ~~contract or~~
318 agreement or contract with the applicant must specify the total
319 amount of the award, the performance conditions that must be met

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320 to obtain the award, the schedule for payment, and sanctions
321 that would apply for failure to meet performance conditions. Any
322 agreement or contract that requires capital investment to be
323 made by the business must also require that such investment
324 remain in this state for the duration of the agreement or
325 contract. The department may enter into one agreement or
326 contract covering all of the state incentives that are being
327 provided to the applicant. The duration of an agreement or
328 contract may not exceed 10 years. However, the department may
329 enter into a successive agreement or contract for a specific
330 project to extend the initial 10-year term, provided that each
331 successive agreement or contract is contingent upon the
332 successful completion of the previous agreement or contract. If
333 all of the state incentives for one agreement or contract total
334 $20 million or greater, the restriction on the term of the
335 agreement or contract does not apply. The agreement or contract
336 must provide that release of funds is contingent upon sufficient
337 appropriation of funds by the Legislature.
338 (b) The release of funds for the incentive or incentives
339 awarded to the applicant depends upon the statutory requirements
340 of the particular incentive program. For any performance
341 conditions that relate to job creation, the agreement or
342 contract must require that the applicant use the workforce
343 information systems implemented under s. 445.011.
344 (7) ~~(4)~~ The department shall validate contractor performance
345 and report such validation in the annual incentives report
346 required under s. 288.907.
347 (8) ~~(5)~~(a) The executive director may not approve an
348 economic development incentive application unless the

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349 application includes a signed written declaration by the
350 applicant which states that the applicant has read the
351 information in the application and that the information is true,
352 correct, and complete to the best of the applicant's knowledge
353 and belief.
354 (b) After an economic development incentive application is
355 approved, the awardee shall provide, in each year that the
356 department is required to validate contractor performance, a
357 signed written declaration. The written declaration must state
358 that the awardee has reviewed the information and that the
359 information is true, correct, and complete to the best of the
360 awardee's knowledge and belief.
361 (9) The department shall provide notice, including a
362 written description and evaluation, to the Legislature of any
363 proposed amendment to an agreement or contract. In order to
364 provide an opportunity for review, at least 3 business days
365 before signing an amendment to an agreement or contract, the
366 department shall provide notice of the proposed change to the
367 chair and vice chair of the Legislative Budget Commission, the
368 President of the Senate, and the Speaker of the House of
369 Representatives. However, a proposed amendment to an agreement
370 or contract that reduces the projected economic benefits
371 calculated at the time the agreement or contract was executed by
372 0.50 or more or that results in an economic benefit ratio below
373 a statutorily required level for receipt of funds is subject to
374 the 10-day notice and objection procedures set forth in this
375 section. Any such amended agreement or contract must also
376 provide for a proportionate reduction in the award amount. If
377 the chair or vice chair of the Legislative Budget Commission,

378 the President of the Senate, or the Speaker of the House of
379 Representatives timely advises the Governor, in writing, that
380 such action or proposed action exceeds the delegated authority
381 of the Governor or is contrary to legislative policy or intent,
382 the Governor shall instruct the department to immediately
383 suspend any action proposed or taken until the Legislative
384 Budget Commission or the Legislature makes a determination on
385 the project.
386 (10) ~~(6)~~ The department is authorized to adopt rules to
387 implement this section.
388 Section 5. Paragraph (b) of subsection (1), paragraph (e)
389 of subsection (3), paragraphs (a) and (d) of subsection (5), and
390 subsection (7) of section 288.1045, Florida Statutes, are
391 amended to read:
392 288.1045 Qualified defense contractor and space flight
393 business tax refund program.—
394 (1) DEFINITIONS.—As used in this section:
395 (b) "Average private sector wage in the area" means the
396 average of all private sector wages and salaries in ~~the state,~~
397 the county~~,~~ or in the standard metropolitan area in which the
398 business unit is located.
399 (3) APPLICATION PROCESS; REQUIREMENTS; AGENCY
400 DETERMINATION.—
401 (e) To qualify for review by the department, the
402 application of an applicant must, at a minimum, establish the
403 following to the satisfaction of the department:
404 1. The jobs proposed to be provided under the application,
405 pursuant to subparagraph (b)6., subparagraph (c)6., or
406 subparagraph (j)6., must pay an estimated annual average wage

407 equaling at least 115 percent of the average private sector wage
408 in the area where the project is to be located.
409 2. The consolidation of a Department of Defense contract
410 must result in a net increase of at least 25 percent in the
411 number of jobs at the applicant's facilities in this state or
412 the addition of at least 80 jobs at the applicant's facilities
413 in this state.
414 3. The conversion of defense production jobs to nondefense
415 production jobs must result in net increases in nondefense
416 employment at the applicant's facilities in this state.
417 4. The Department of Defense contract or the space flight
418 business contract cannot allow the business to include the costs
419 of relocation or retooling in its base as allowable costs under
420 a cost-plus, or similar, contract.
421 5. A business unit of the applicant must have derived not
422 less than 60 percent of its gross receipts in this state from
423 Department of Defense contracts or space flight business
424 contracts over the applicant's last fiscal year, and must have
425 derived not less than an average of 60 percent of its gross
426 receipts in this state from Department of Defense contracts or
427 space flight business contracts over the 5 years preceding the
428 date an application is submitted pursuant to this section. This
429 subparagraph does not apply to any application for certification
430 based on a contract for reuse of a defense-related facility.
431 6. The reuse of a defense-related facility must result in
432 the creation of at least 100 jobs at such facility.
433 7. A new space flight business contract or the
434 consolidation of a space flight business contract must result in
435 net increases in space flight business employment at the

436 applicant's facilities in this state.
437 (5) ANNUAL CLAIM FOR REFUND.—
438 (a) To be eligible to claim any scheduled tax refund,
439 qualified applicants who have entered into a written agreement
440 with the department pursuant to subsection (4) and who have
441 entered into a valid new Department of Defense contract, entered
442 into a valid new space flight business contract, commenced the
443 consolidation of a space flight business contract, commenced the
444 consolidation of a Department of Defense contract, commenced the
445 conversion of defense production jobs to nondefense production
446 jobs, or entered into a valid contract for reuse of a defense-
447 related facility must apply by January 31 of each fiscal year to
448 the department for tax refunds scheduled to be paid from the
449 appropriation for the fiscal year that begins on July 1
450 following the January 31 claims-submission date. The department
451 may, upon written request, grant up to a 60-day ~~30-day~~ extension
452 of the filing date. The application must include a notarized
453 signature of an officer of the applicant.
454 (d) The department, with assistance from the Department of
455 Revenue, shall, by June 30 following the scheduled date for
456 submitting the tax refund claim, specify by written order the
457 approval or disapproval of the tax refund claim and, if
458 approved, the amount of the tax refund that is authorized to be
459 paid to the qualified applicant for the annual tax refund. The
460 department may grant up to a 60-day ~~an~~ extension of this date
461 upon the request of the qualified applicant for the purpose of
462 filing additional information in support of the claim.
463 (7) EXPIRATION.—An applicant may not be certified as
464 qualified under this section after June 30, 2020 ~~2014~~. A tax

465 refund agreement existing on that date shall continue in effect
466 in accordance with its terms.
467 Section 6. Paragraphs (c) and (k) of subsection (2),
468 paragraph (b) of subsection (4), and paragraphs (a), (e), and
469 (f) of subsection (6) of section 288.106, Florida Statutes, are
470 amended to read:
471 288.106 Tax refund program for qualified target industry
472 businesses.—
473 (2) DEFINITIONS.—As used in this section:
474 (c) "Average private sector wage in the area" means ~~the~~
475 ~~statewide private sector average wage or~~ the average of all
476 private sector wages and salaries in the county or in the
477 standard metropolitan area in which the business is located.
478 (k) "Local financial support exemption option" means the
479 option to exercise an exemption from the local financial support
480 requirement available to an ~~any~~ applicant whose project is
481 located in a brownfield area, a rural city, or a rural
482 community. ~~Any applicant that exercises this option is not~~
483 ~~eligible for more than 80 percent of the total tax refunds~~
484 ~~allowed such applicant under this section.~~
485 (4) APPLICATION AND APPROVAL PROCESS.—
486 (b) To qualify for review by the department, the
487 application of a target industry business must, at a minimum,
488 establish the following to the satisfaction of the department:
489 1.a. The jobs proposed to be created under the application,
490 pursuant to subparagraph (a)4., must pay an estimated annual
491 average wage equaling at least 115 percent of the average
492 private sector wage in the area where the business is to be
493 located ~~or the statewide private sector average wage~~. The

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494 governing board of the local governmental entity providing the
495 local financial support of the jurisdiction where the qualified
496 target industry business is to be located shall notify the
497 department and Enterprise Florida, Inc., which calculation of
498 the average private sector wage in the area must be used as the
499 basis for the business's wage commitment. In determining the
500 average annual wage, the department shall include only new
501 proposed jobs, and wages for existing jobs shall be excluded
502 from this calculation.
503 b. The department may waive the average wage requirement at
504 the request of the local governing body recommending the project
505 and Enterprise Florida, Inc. The department may waive the wage
506 requirement for a project located in a brownfield area
507 designated under s. 376.80, in a rural city, in a rural
508 community, in an enterprise zone, or for a manufacturing project
509 at any location in the state if the jobs proposed to be created
510 pay an estimated annual average wage equaling at least 100
511 percent of the average private sector wage in the area where the
512 business is to be located, only if the merits of the individual
513 project or the specific circumstances in the community in
514 relationship to the project warrant such action. If the local
515 governing body and Enterprise Florida, Inc., make such a
516 recommendation, it must be transmitted in writing with~~, and~~ the
517 specific justification for the waiver recommendation ~~must be~~
518 explained. If the department elects to waive the wage
519 requirement, the waiver must be stated in writing with~~, and~~ the
520 reasons for granting the waiver ~~must be~~ explained.
521 2. The target industry business's project must result in
522 the creation of at least 10 jobs at the project and, in the case

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523 of an expansion of an existing business, must result in a net
524 increase in employment of at least 10 percent at the business.
525 At the request of the local governing body recommending the
526 project and Enterprise Florida, Inc., the department may waive
527 this requirement for a business in a rural community or
528 enterprise zone if the merits of the individual project or the
529 specific circumstances in the community in relationship to the
530 project warrant such action. If the local governing body and
531 Enterprise Florida, Inc., make such a request, the request must
532 be transmitted in writing with an explanation of~~, and~~ the
533 specific justification for the request ~~must be explained~~. If the
534 department elects to grant the request, the grant must be stated
535 in writing and explain~~, and~~ the reason for granting the request
536 ~~must be explained~~.
537 3. The business activity or product for the applicant's
538 project must be within an industry identified by the department
539 as a target industry business that contributes to the economic
540 growth of the state and the area in which the business is
541 located, that produces a higher standard of living for residents
542 of this state in the new global economy, or that can be shown to
543 make an equivalent contribution to the area's and state's
544 economic progress.
545 (6) ANNUAL CLAIM FOR REFUND.—
546 (a) To be eligible to claim any scheduled tax refund, a
547 qualified target industry business that has entered into a tax
548 refund agreement with the department under subsection (5) must
549 apply by January 31 of each fiscal year to the department for
550 the tax refund scheduled to be paid from the appropriation for
551 the fiscal year that begins on July 1 following the January 31

552 claims-submission date. The department may, upon written
553 request, grant up to a 60-day ~~30-day~~ extension of the filing
554 date.
555 (e) A prorated tax refund, less a 5 percent penalty, shall
556 be approved for a qualified target industry business if all
557 other applicable requirements have been satisfied and the
558 business proves to the satisfaction of the department that:
559 1. It has achieved at least 80 percent of its projected
560 employment; and
561 2. The average wage paid by the business is at least 90
562 percent of that ~~the average wage~~ specified in the tax refund
563 agreement. However, the average wage may not be~~, but in no case~~
564 less than 115 percent of the average private sector wage in the
565 area available at the time of certification; or, if the business
566 requested the additional per-job tax refund authorized in
567 paragraph (3)(b) for wages of at least 150 percent of the
568 average private sector wage in the area available at the time of
569 certification, less than 135 percent of the average private
570 sector wage in the area available at the time of certification;~~,~~
571 or if the business requested the additional per-job tax refund
572 authorized in paragraph (3)(b) for wages of at least ~~150 percent~~
573 ~~or~~ 200 percent of the average private sector wage in the area
574 available at the time of certification, less than 180 percent of
575 the average private sector wage in the area available at the
576 time of certification ~~if the business requested the additional~~
577 ~~per-job tax refund authorized in paragraph (3)(b) for wages~~
578 ~~above those levels~~. The prorated tax refund shall be calculated
579 by multiplying the tax refund amount for which the qualified
580 target industry business would have been eligible, if all

581 applicable requirements had been satisfied, by the percentage of
582 the average employment specified in the tax refund agreement
583 which was achieved, and by the percentage of the average wages
584 specified in the tax refund agreement which was achieved.
585 (f) The department, with such assistance as may be required
586 from the Department of Revenue, shall, by June 30 following the
587 scheduled date for submission of the tax refund claim, specify
588 by written order the approval or disapproval of the tax refund
589 claim and, if approved, the amount of the tax refund that is
590 authorized to be paid to the qualified target industry business
591 for the annual tax refund. The department may grant up to a 60-
592 day ~~an~~ extension of this date on the request of the qualified
593 target industry business for the purpose of filing additional
594 information in support of the claim.
595 Section 7. Paragraph (d) of subsection (1) and paragraph
596 (b) of subsection (3) of section 288.107, Florida Statutes, are
597 amended to read:
598 288.107 Brownfield redevelopment bonus refunds.—
599 (1) DEFINITIONS.—As used in this section:
600 (d) "Eligible business" means:
601 1. A qualified target industry business as defined in s.
602 288.106(2); or
603 2. A business that can demonstrate that it has made a fixed
604 capital investment of at least $2 million in mixed-use business
605 activities, including multiunit housing, commercial, retail, and
606 industrial in brownfield areas eligible for bonus refunds, and
607 that provides benefits to its employees.
608 (3) CRITERIA.—The minimum criteria for participation in the
609 brownfield redevelopment bonus refund are:

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610 (b) The completion of a fixed capital investment of at
611 least $2 million in mixed-use business activities, including
612 multiunit housing, commercial, retail, and industrial in
613 brownfield areas eligible for bonus refunds, by an eligible
614 business applying for a refund under paragraph (2)(b) which
615 provides benefits to its employees. As used in this paragraph,
616 the term "fixed capital investment" does not include state funds
617 used for the capital investment, including state funds
618 appropriated to public and private entities.
619 Section 8. Subsections (2), (3), and (4) of section
620 288.1088, Florida Statutes, are amended to read:
621 288.1088 Quick Action Closing Fund.—
622 (2) There is created within the department the Quick Action
623 Closing Fund. Except as provided in subsection (3), projects
624 eligible for receipt of funds from the Quick Action Closing Fund
625 must ~~shall~~:
626 (a) Be in an industry as referenced in s. 288.106.
627 (b) Have a positive economic benefit ratio of at least 4 to
628 1 ~~5 to 1~~.
629 (c) Be an inducement to the project's location or expansion
630 in the state.
631 (d) Pay an average annual wage of at least 125 percent of
632 the average ~~areawide or statewide~~ private sector ~~average~~ wage in
633 the area. As used in this section, the term "average private
634 sector wage in the area" means the average of all private sector
635 wages in the county or in the standard metropolitan area in
636 which the project is located as determined by the department.
637 (e) Be supported by the local community in which the
638 project is to be located.

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639 (3)(a) The department and Enterprise Florida, Inc., shall
640 jointly review applications pursuant to s. 288.061 and determine
641 the eligibility of each project consistent with the criteria in
642 subsection (2).
643 (b) If the local governing body and Enterprise Florida,
644 Inc., decide to request a waiver of the criteria in subsection
645 (2), such request must be transmitted in writing to the
646 department with an explanation of the specific justification for
647 the request. If the department approves the request, the
648 decision must be stated in writing with an explanation of the
649 reason for approving the request.
650 (c) The department may not waive more than two of the
651 criteria in subsection (2), and a waiver may
652 ~~Waiver of these criteria may~~ be considered only ~~under the~~
653 ~~following criteria~~:
654 1. If the department determines the existence of ~~Based on~~
655 extraordinary circumstances;
656 2. In order to mitigate the impact of the conclusion of the
657 space shuttle program; or
658 3. In rural areas of opportunity if the project would
659 significantly benefit the local or regional economy.
660 (d) The criteria in subsection (2) may not be waived if:
661 a. The economic benefit ratio would be below 2 to 1; or
662 b. The average annual wage would be below 100 percent of
663 the average private sector wage in the area.
664 (e) The criteria that the incentive be an inducement to the
665 project's location or expansion in this state may not be waived.
666 (4)~~(b)~~ The department shall evaluate individual proposals
667 for high-impact business facilities. Such evaluation must

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668 include, but need not be limited to:
669 (a)~~1.~~ A description of the type of facility or
670 infrastructure, its operations, and the associated product or
671 service associated with the facility.
672 (b)~~2.~~ The minimum and maximum number of full-time-
673 equivalent jobs that will be created by the facility and the
674 total estimated average annual wages of those jobs or, in the
675 case of privately developed rural infrastructure, the types of
676 business activities and jobs stimulated by the investment.
677 (c)~~3.~~ The cumulative amount of investment to be dedicated
678 to the facility within a specified period.
679 (d)~~4.~~ A statement of any special impacts the facility is
680 expected to stimulate in a particular business sector in the
681 state or regional economy or in the state's universities and
682 community colleges.
683 (e)~~5.~~ A statement of the role the incentive is expected to
684 play in the decision of the applicant business to locate or
685 expand in this state or for the private investor to provide
686 critical rural infrastructure.
687 (f)~~6.~~ A report evaluating the quality and value of the
688 company submitting a proposal. The report must include:
689 1.~~a.~~ A financial analysis of the company, including an
690 evaluation of the company's short-term liquidity ratio as
691 measured by its assets to liability, the company's profitability
692 ratio, and the company's long-term solvency as measured by its
693 debt-to-equity ratio;
694 2.~~b.~~ The historical market performance of the company;
695 3.~~c.~~ A review of any independent evaluations of the
696 company;

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697 4.~~d.~~ A review of the latest audit of the company's
698 financial statement and the related auditor's management letter;
699 and
700 5.~~e.~~ A review of any other types of audits that are related
701 to the internal and management controls of the company.
702 ~~(c)1. Within 7 business days after evaluating a project,~~
703 ~~the department shall recommend to the Governor approval or~~
704 ~~disapproval of a project for receipt of funds from the Quick~~
705 ~~Action Closing Fund. In recommending a project, the department~~
706 ~~shall include proposed performance conditions that the project~~
707 ~~must meet to obtain incentive funds.~~
708 ~~2. The Governor may approve projects without consulting the~~
709 ~~Legislature for projects requiring less than $2 million in~~
710 ~~funding.~~
711 ~~3. For projects requiring funding in the amount of $2~~
712 ~~million to $5 million, the Governor shall provide a written~~
713 ~~description and evaluation of a project recommended for approval~~
714 ~~to the chair and vice chair of the Legislative Budget Commission~~
715 ~~at least 10 days prior to giving final approval for a project.~~
716 ~~The recommendation must include proposed performance conditions~~
717 ~~that the project must meet in order to obtain funds.~~
718 ~~4. If the chair or vice chair of the Legislative Budget~~
719 ~~Commission or the President of the Senate or the Speaker of the~~
720 ~~House of Representatives timely advises the Executive Office of~~
721 ~~the Governor, in writing, that such action or proposed action~~
722 ~~exceeds the delegated authority of the Executive Office of the~~
723 ~~Governor or is contrary to legislative policy or intent, the~~
724 ~~Executive Office of the Governor shall void the release of funds~~
725 ~~and instruct the department to immediately change such action or~~

726 ~~proposed action until the Legislative Budget Commission or the~~
727 ~~Legislature addresses the issue. Notwithstanding such~~
728 ~~requirement, any project exceeding $5 million must be approved~~
729 ~~by the Legislative Budget Commission prior to the funds being~~
730 ~~released.~~
731 (5)~~(d)~~ Upon the approval of the Governor, the department
732 and the business shall enter into a contract that sets forth the
733 conditions for payment of moneys from the fund. Such payment may
734 not be made to the business until the scheduled goals have been
735 achieved. The contract must include the total amount of funds
736 awarded; the minimum and maximum amount of funds that may be
737 awarded, if applicable; the performance conditions that must be
738 met to obtain the award, including, but not limited to, net new
739 employment in the state, average salary, ~~and~~ total capital
740 investment incurred by the business, and the minimum and maximum
741 number of jobs that will be created, if applicable; demonstrate
742 a baseline of current service and a measure of enhanced
743 capability; the methodology for validating performance; the
744 schedule of payments from the fund; and sanctions for failure to
745 meet performance conditions. The contract must provide that
746 payment of moneys from the fund is contingent upon sufficient
747 appropriation of funds by the Legislature.
748 Section 9. Paragraph (b) of subsection (2), paragraphs (a)
749 and (d) of subsection (4), subsection (7), and paragraph (b) of
750 subsection (8) of section 288.1089, Florida Statutes, are
751 amended to read:
752 288.1089 Innovation Incentive Program.—
753 (2) As used in this section, the term:
754 (b) "Average private sector wage in the area" means ~~the~~

755 ~~statewide average wage in the private sector or~~ the average of
756 all private sector wages in the county or in the standard
757 metropolitan area in which the project is located as determined
758 by the department.
759 (4) To qualify for review by the department, the applicant
760 must, at a minimum, establish the following to the satisfaction
761 of the department:
762 (a) The jobs created by the project must pay an estimated
763 annual average wage equaling at least 130 percent of the average
764 private sector wage in the area. The department may waive this
765 average wage requirement at the request of Enterprise Florida,
766 Inc., for a project located in a rural area, a brownfield area,
767 or an enterprise zone, when the merits of the individual project
768 or the specific circumstances in the community in relationship
769 to the project warrant such action. A recommendation for waiver
770 by Enterprise Florida, Inc., must include a specific
771 justification for the waiver and be transmitted to the
772 department in writing. If the department elects to waive the
773 wage requirement, the waiver must be stated in writing and
774 explain ~~and~~ the reasons for granting the waiver ~~must be~~
775 ~~explained~~.
776 (d) For an alternative and renewable energy project in this
777 state, the project must:
778 1. Demonstrate a plan for significant collaboration with an
779 institution of higher education;
780 2. Provide the state, at a minimum, a cumulative break-even
781 economic benefit within a 20-year period;
782 3. Include matching funds provided by the applicant or
783 other available sources. The match requirement may be reduced or

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

784 waived in rural areas of opportunity or reduced in rural areas,
785 brownfield areas, and enterprise zones;
786 4. Be located in this state; and
787 5. Provide at least 35 direct, new jobs that pay an
788 estimated annual average wage that equals at least 130 percent
789 of the average private sector wage in the area.
790 (7) Upon receipt of the evaluation and recommendation from
791 the department, the Governor shall approve or deny an award
792 pursuant to s. 288.061. In recommending approval of an award,
793 the department shall include proposed performance conditions
794 that the applicant must meet in order to obtain incentive funds
795 and any other conditions that must be met before the receipt of
796 any incentive funds. ~~The Governor shall consult with the~~
797 ~~President of the Senate and the Speaker of the House of~~
798 ~~Representatives before giving approval for an award. Upon review~~
799 ~~and approval of an award by the Legislative Budget Commission,~~
800 ~~the Executive Office of the Governor shall release the funds.~~
801 (8)
802 (b) Additionally, agreements ~~signed on or after July 1,~~
803 ~~2009,~~ must include the following provisions:
804 1. Notwithstanding subsection (4), a requirement that the
805 jobs created by the recipient of the incentive funds pay an
806 annual average wage at least equal to the relevant industry's
807 annual average wage or at least 130 percent of the average
808 private sector wage in the area, whichever is greater.
809 2. A reinvestment requirement. Each recipient of an award
810 shall reinvest up to 15 percent of net royalty revenues,
811 including revenues from spin-off companies and the revenues from
812 the sale of stock it receives from the licensing or transfer of

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813 inventions, methods, processes, and other patentable discoveries
814 conceived or reduced to practice using its facilities in Florida
815 or its Florida-based employees, in whole or in part, and to
816 which the recipient of the grant becomes entitled during the 20
817 years following the effective date of its agreement with the
818 department. Each recipient of an award also shall reinvest up to
819 15 percent of the gross revenues it receives from naming
820 opportunities associated with any facility it builds in this
821 state. Reinvestment payments shall commence no later than 6
822 months after the recipient of the grant has received the final
823 disbursement under the contract and shall continue until the
824 maximum reinvestment, as specified in the contract, has been
825 paid. Reinvestment payments shall be remitted to the department
826 for deposit in the Biomedical Research Trust Fund for companies
827 specializing in biomedicine or life sciences, or in the Economic
828 Development Trust Fund for companies specializing in fields
829 other than biomedicine or the life sciences. If these trust
830 funds no longer exist at the time of the reinvestment, the
831 state's share of reinvestment shall be deposited in their
832 successor trust funds as determined by law. Each recipient of an
833 award shall annually submit a schedule of the shares of stock
834 held by it as payment of the royalty required by this paragraph
835 and report on any trades or activity concerning such stock. Each
836 recipient's reinvestment obligations survive the expiration or
837 termination of its agreement with the state.
838 3. Requirements for the establishment of internship
839 programs or other learning opportunities for educators and
840 secondary, postsecondary, graduate, and doctoral students.
841 4. A requirement that the recipient submit quarterly

842 reports and annual reports related to activities and performance
843 to the department, according to standardized reporting periods.
844 5. A requirement for an annual accounting to the department
845 of the expenditure of funds disbursed under this section.
846 6. A process for amending the agreement.
847 Section 10. Subsection (1) is amended and subsection (5) is
848 added to section 288.905, Florida Statutes, to read:
849 288.905 President and employees of Enterprise Florida,
850 Inc.—
851 (1) The board of directors of Enterprise Florida, Inc.,
852 shall appoint a president, subject to confirmation by the
853 Senate, who shall serve at the pleasure of the Governor. The
854 president shall also be known as the "secretary of commerce" and
855 shall serve as the Governor's chief negotiator for business
856 recruitment and business expansion.
857 (5) For a period of 2 years following vacation of office, a
858 former president may not receive compensation for personally
859 representing before the legislative or executive branch of state
860 government an entity that applied for funding, received state
861 funds, or negotiated with Enterprise Florida, Inc., for the
862 receipt of state funds, regardless of whether the entity
863 actually received any state funds.
864 Section 11. The changes made to s. 288.905, Florida
865 Statutes, apply only to presidents who are appointed or
866 reappointed on or after July 1, 2015.
867 Section 12. Section 288.9937, Florida Statutes, is amended
868 to read:
869 288.9937 Evaluation of programs.—The Office of Economic and
870 Demographic Research and the Office of Program Policy Analysis

871 and Government Accountability shall analyze and ~~,~~ evaluate~~, and~~
872 ~~determine the economic benefits, as defined in s. 288.005, of~~
873 the first 3 years of the Microfinance Loan Program and the
874 Microfinance Guarantee Program. The analysis by the Office of
875 Economic and Demographic Research must ~~also~~ determine the
876 economic benefits, as defined in s. 288.005, evaluate the number
877 of jobs created, the increase or decrease in personal income,
878 and the impact on state gross domestic product from the direct,
879 indirect, and induced effects of the state's investment. The
880 analysis by the Office of Program Policy Analysis and Government
881 Accountability must ~~also~~ identify any inefficiencies in the
882 programs and provide recommendations for changes to the
883 programs. Each ~~The~~ office shall submit a report to the President
884 of the Senate and the Speaker of the House of Representatives by
885 January 15 ~~1~~, 2018. This section expires January 31, 2018.
886 Section 13. This act shall take effect July 1, 2015.

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

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Appropriations Subcommittee on Transportation, Tourism, and Economic Development, *Chair*
Appropriations
Commerce and Tourism
Governmental Oversight and Accountability
Regulated Industries
Rules

SENATOR JACK LATVALA
20th District

March 19, 2015

The Honorable Tom Lee, Chairman
Senate Committee on Appropriations
201 The Capitol
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chairman Lee:

I respectfully request consideration of Senate Bill 1214/Economic Development by the Senate Appropriations Committee at your earliest convenience. The bill was favorably referred by the Appropriations Subcommittee on Transportation, Tourism, and Economic Development on March 19.

The purpose of the bill is to modernize and simplify incentives to respond to business needs in communities in Florida.

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

Sincerely,

Jack

Jack Latvala
State Senator
District 20

Cc: Cindy Kynoch, Staff Director; Alicia Weiss, Administrative Assistant

SENATE APPROPRIATIONS
RECEIVED
15 MAR 23 AM 10: 53
COMM. C: Chairman
STAFF DIR. ____ STAFF ____

REPLY TO:
☐ 26133 U.S. Highway 19 North, Suite 201, Clearwater, Florida 33763 (727) 793-2797 FAX: (727) 793-2799
☐ 408 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5020

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

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

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

Meeting Date: _____

Bill Number (if applicable): 1214

Amendment Barcode (if applicable): _____

Topic: _____

Name: Mike Coussoun

Job Title: _____

Address: _____ Street

_____ City State Zip

Phone: _____

Email: _____

Speaking: ☐ For ☐ Against ☑ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing: V.P. of Enterprise.

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4-21-15
Meeting Date

1214
Bill Number (if applicable)

160810
Amendment Barcode (if applicable)

Topic ~~[illegible]~~ Economic Development

Name Jonathan Kilman

Job Title

Address 111 N. Orange Ave #1800
Street

Orlando FL 32801
City State Zip

Phone 850-459-3829

Email

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Electronic Arts

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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THE FLORIDA SENATE

APPEARANCE RECORD

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4-21-15
Meeting Date

1214
Bill Number (if applicable)

160810
Amendment Barcode (if applicable)

Topic ECONOMIC DEVELOPMENT

Name David Caserta

Job Title

Address 7855 NW 12th St #202
Street

Doral Fla 33126
City State Zip

Phone 305-401-3004

Email

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Film Florida

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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4·21·15
Meeting Date

1214
Bill Number (if applicable)

160810
Amendment Barcode (if applicable)

Topic: Film Credits / Economic Development

Name: Will McKinley

Job Title:

Address: 106 E College Avenue
Street

Tallahassee, 32301
City, State, Zip

Phone: 850·681·1980

Email: will@podemckinley.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing: Motion Picture Association of America

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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4/21/2015
Meeting Date

SB1214
Bill Number (if applicable)

160810
Amendment Barcode (if applicable)

Topic: Relating to Economic Development

Name: Jarrett Skorup

Job Title: Policy Analyst

Address: 140 W. Main St.
Street

Midland, MI 48640
City, State, Zip

Phone: 989-631-0900

Email: skorup@mackinac.org

Speaking: ☐ For ☐ Against ☑ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing: Mackinac Center for Public Policy

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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THE FLORIDA SENATE

APPEARANCE RECORD

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4/21/2015
Meeting Date

SB 1214
Bill Number (if applicable)

160810
Amendment Barcode (if applicable)

Topic: Relating to Economic Development

Name: Jared Walczak

Job Title: Policy Analyst

Address: 1325 G St NW, Ste 950
Street

Washington, DC 22005
City, State, Zip

Phone: (202) 464-5101

Email: jmw@taxfoundation.org

Speaking: ☐ For ☐ Against ☑ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing: The Tax Foundation

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/21/15
Meeting Date

1214
Bill Number (if applicable)

160810
Amendment Barcode (if applicable)

Topic: ECONOMIC DEVELOPMENT

Name: TODD BONLARRON

Job Title: LEGESLATIVE AFFAIRS DIRECTOR

Address: 301 N. OLIVE AVE. STE. 1101
Street

WEST PALM BEACH, FL 33401
City, State, Zip

Phone: (561) 355-3451

Email: tbonlarr@pbcgov.org

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☑ In Support ☐ Against
(The Chair will read this information into the record.)

Representing: PALM BEACH COUNTY

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/21/15
Meeting Date

1214
Bill Number (if applicable)

160810
Amendment Barcode (if applicable)

Topic: Economic Development

Name: Davin Suggs

Job Title: Fiscal Policy Director

Address: 100 S. Monroe Street
Street

Tallahassee, FL 32301
City, State, Zip

Phone: 850.320.2635

Email:

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing: Florida Association of Counties

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

412-K
10:00AM

THE FLORIDA SENATE

APPEARANCE RECORD

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

4-21-2015
Meeting Date

SB 1214
Bill Number (if applicable)

#160810
Amendment Barcode (if applicable)

Topic: ECONOMIC DEVELOPMENT

Name: STEPHEN R. WINN

Job Title: EXECUTIVE DIRECTOR

Address: 2544 BLAIRSTONE PINES DRIVE
Street

TALLAHASSEE, FL 32301
City, State, Zip

Phone: 878-7364

Email:

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

Waive Speaking: [X] In Support [ ] Against
(The Chair will read this information into the record.)

Representing: FLORIDA OSTEOPATHIC MEDICAL ASSOCIATION

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

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/21/15
Meeting Date

1214
Bill Number (if applicable)

160810
Amendment Barcode (if applicable)

Topic: Economic Development

Name: Carolyn Johnson

Job Title: Policy Director

Address: 136 S Bronough St
Street

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

Phone: 850-521-1235

Email: cjohnson@flchamber.com

Speaking: ☑ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing: Florida Chamber of Commerce

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/21
Meeting Date

SB 1214
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic

Name MIKE GRISSOM

Job Title VP OF GOV'T RELATIONS

Address
Street

City State Zip

Phone

Email

Speaking: ☐ For ☐ Against ☑ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing ENTERPRISE FLORIDA

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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4/21/15
Meeting Date

1214
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic

Name Leticia M Adams

Job Title

Address
Street

City State Zip

Phone 850 528 6133

Email

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing The Walt Disney Company

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

412-K
10:00AM

THE FLORIDA SENATE

APPEARANCE RECORD

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

4-21-2015
Meeting Date

SB 1214
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic: ECONOMIC DEVELOPMENT

Name: STEPHEN R. WINN

Job Title: EXECUTIVE DIRECTOR

Address: 2544 BLAIRSTONE PINES DR
Street

TALLAHASSEE, FL 32301
City, State, Zip

Phone: 878-7364

Email:

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

Waive Speaking: [X] In Support [ ] Against
(The Chair will read this information into the record.)

Representing: FLORIDA OSTEOPATHIC MEDICAL ASSOCIATION

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

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/21/15
Meeting Date

1214
Bill Number (if applicable)

160810
Amendment Barcode (if applicable)

Topic: Economic Development

Name: David Cruz

Job Title: Assistant General Counsel

Address: P.O. Box 1757
Street

Tallahassee, FL 32302
City, State, Zip

Phone: 701-3676

Email: DCRUZ@FLcities.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☑ In Support ☐ Against
(The Chair will read this information into the record.)

Representing: Florida League of Cities

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4.21.15
Meeting Date

1214
Bill Number (if applicable)

160810
Amendment Barcode (if applicable)

Topic: Economic Development / Film Tax credits

Name: Brian Musselwhite

Job Title: VP Govt Affairs

Address: 3760 Hartsfield Rd
Street

Tallahassee, 32303
City, State, Zip

Phone: 850.528.854

Email: brian_musselwhite@comcast.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing:

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4.21.15
Meeting Date

1214
Bill Number (if applicable)

160810
Amendment Barcode (if applicable)

Topic: Film Tax Credits / Economic Development

Name: Melanie Becker

Job Title: Director Government Affairs

Address: 1000 Universal Studios Plaza
Street

Orlando, FL 32819
City, State, Zip

Phone: 407 310 2561

Email: melanie.becker@universalorlando.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing: Universal Orlando

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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4/21/15
Meeting Date

SB 1214
Bill Number (if applicable)

472320 -
Amendment Barcode (if applicable)

Topic: Sports Franchise Economic Development

Name: Ron Book

Job Title:

Address: 104 West Jefferson
Street

Tlh, Fla 32301
City, State, Zip

Phone: 850-224-3427

Email: Ronald RLBook@aol

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

Waive Speaking: [ ] In Support [ ] Against
(The Chair will read this information into the record.)

Representing: Miami Dolphins | SunLife Stadium

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

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/21/2015
Meeting Date

SB 1214
Bill Number (if applicable)

811924
Amendment Barcode (if applicable)

Topic: Relating to Economic Development

Name: Jarrett Skorup

Job Title: Policy Analyst

Address: 140 W. ~~Michigan~~ Main St.
Street

Midland, MI 48640
City, State, Zip

Phone: 989-631-0900

Email: skorup@mackinac.org

Speaking: ☐ For ☐ Against ☑ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing: Mackinac Center for Public Policy

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/21/2015
Meeting Date

SB 1214
Bill Number (if applicable)

811924
Amendment Barcode (if applicable)

Topic: Relating to Economic Development

Name: Jared Walczak

Job Title: Policy Analyst

Address: 1325 G St NW, Ste 950
Street

Washington, DC 22005
City, State, Zip

Phone: (202) 464-5101

Email: jrw@taxfoundation.org

Speaking: ☐ For ☐ Against ☑ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing: The Tax Foundation

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 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/21/15
Meeting Date

1214
Bill Number (if applicable)

811924
Amendment Barcode (if applicable)

Topic: Eco Devo / Film

Name: Carolyn Johnson

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Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☒ Against
(The Chair will read this information into the record.)

Representing: FL Chamber of Commerce

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)

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 Appropriations

BILL: CS/SB 1248

INTRODUCER: Judiciary Committee and Senator Stargel

SUBJECT: Family Law

DATE: April 20, 2015 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Brown	Cibula	JU	**Fav/CS**
2.	Harkness	Sadberry	ACJ	**Favorable**
3.	Harkness	Kynoch	AP	**Favorable**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1248 makes various changes to laws relating to the amount and duration of alimony awards, grounds, and procedures for modifying an alimony award due to a substantial change in circumstances, and timesharing with children.

Regarding alimony awarded to assist a party with legal fees and costs in a dissolution of marriage case, this bill requires the court to consider need and ability to pay, and the same bases for alimony required of all alimony determinations in dissolution cases.

With respect to alimony amounts, the bill establishes presumptive alimony ranges, for courts to use in determining the amount and duration of alimony awards. The presumptive amounts are determined by formulas based in part on the difference between the parties' gross incomes and the duration of their marriage. However, the combination of alimony and child support may not exceed 55 percent of the obligor's income. The bill also generally limits the duration of an alimony award to 25 to 75 percent of the duration of the parties' marriage.

The bill specifies events that constitute a substantial change in circumstances which are grounds for modifying or terminating an alimony award. These grounds include increases in the recipient's income, the involuntary underemployment or unemployment of the obligor, and the obligor's retirement. This bill authorizes an obligor to request that the court preapprove the customary retirement date for the obligor's profession one year in advance of retirement.

The bill also lessens the proof required to show the existence of a supportive relationship between an alimony recipient and another person.

To protect an award of alimony, the court may order an obligor to purchase a security, such as a life insurance policy or a bond. Security is modifiable if the underlying alimony award is modified.

With respect to timesharing with a child, the bill establishes a presumption that approximately equal timesharing with a child by both parents is in the child's best interest. However, a court may establish an unequal timesharing arrangement if after the consideration of a number of factors, unequal timesharing is supported by written findings of fact.

The bill provides that it does not affect the duration of existing alimony awards.

The bill applies to:
- All initial alimony determinations and all alimony modification actions pending as of its October 1, 2015 effective date; and
- All future initial determinations of alimony and alimony modification actions.

The bill does not have a fiscal impact.

The bill provides an effective date of October 1, 2015. However, for the court to consider modifying a preexisting alimony obligation based on a provision of the bill, the petition must be before the court for a reason other than the enactment of the bill.

II. Present Situation:

Alimony Pendente Lite

Alimony pendente lite is temporary alimony awarded after a marital party files for dissolution of marriage. The right to temporary alimony ends when the divorce becomes final, which is after the appeal process has run.[1] Florida law stipulates that a party may request alimony pendente lite through petition or motion, and if well-founded, the court must order a reasonable amount.[2]

Bases for Alimony

Chapter 61, F.S., addresses dissolution of marriage proceedings. Alimony is based on both financial need and the ability to pay.[3] After making an initial determination to award alimony, the court must consider:
- The standard of living established during the marriage.
- The length of marriage.
- Ages and physical and emotional condition of the parties.
- Financial resources of the parties.

[1] 24A AM. JR. 2D *Divorce and Separation* §615.
[2] Section 61.071, F.S.
[3] Section 61.08(2), F.S.

- Earning capacity, education level, vocational skill, and employability of the parties.
- Marital contributions, including homemaking, child care, and education and career building of the other party.
- Responsibilities of each party towards minor children.
- Tax treatment and consequences of alimony awards.
- All sources of income.
- Any other factor that advances equity and justice.[4]

The court may consider adultery by either spouse in a decision to award alimony.[5]

To protect an alimony award, the court may order an obligor to maintain a life insurance policy.[6]

Determination of Alimony Based on Length of Marriage

Limitations on Alimony in Florida

In determining the duration or form of an alimony award, the court applies presumptions based on the duration of the marriage. The length of marriage runs from the date of marriage until the date of the filing for dissolution of marriage.[7]

Florida law categorizes marriage lengths as follows:
- A short-term marriage is a marriage of less than seven years.
- A moderate-term marriage is a marriage of more than seven but less than 17 years.
- A long-term marriage is a marriage of 17 years or more.[8]

Florida law appears to create a presumption in favor of permanent periodic alimony following a long-term marriage.[9] A similar presumption appears to exist in favor of durational alimony following a moderate-term marriage or following a long-term marriage if permanent alimony is not appropriate. Durational alimony generally may not exceed the length of the marriage.[10]

The law appears to disfavor permanent alimony following a moderate-term marriage by requiring clear and convincing evidence for an award of permanent alimony. Permanent alimony for a short-term marriage is reserved for exceptional circumstances.

Limitations on Alimony in Other States

Some states have limited alimony based on the duration of the marriage:
- Colorado: Provides a table that calculates the term of support for marriages of at least three years and up to 20 years in length. After 20 years of marriage, the court may award an indefinite term of alimony.[11]

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[4] Section 61.08(2)(a) through (j), F.S.
[5] Section 61.08(1), F.S.
[6] Section 61.08(3), F.S.
[7] *Id*.
[8] Section 61.08(4), F.S.
[9] Section 61.08(8), F.S.
[10] Section 61.08(4), F.S.
[11] Colo. Rev. Stat. Ann. s. 14-10-114.

- Delaware: Permits alimony for a period of up to 50 percent of the length of marriage, except that if a party is married for 20 years or longer, alimony may be indefinite.[12]
- Maine: Provides a rebuttable presumption that general support may not be awarded if the parties were married for less than 10 years as of the date of the filing of the petition.[13]
- Texas: Disfavors alimony for marriages of less than 10 years unless the obligee meets certain conditions and if so, caps the duration of alimony at five years. Alimony is capped at 20 percent of the payor's gross income, or $2,500 a month, whichever is less.[14]
- Massachusetts: No longer authorizes permanent alimony in most dissolution of marriage cases. Limits permanent alimony awards to marriages of 20 years or longer if the award is otherwise appropriate. Reserves the possibility of permanent alimony for shorter marriages if an award is in the interests of justice.[15]
- Utah: Prohibits alimony awards for a duration longer than the length of the marriage, unless the court finds extenuating circumstances.[16]

Forms of Alimony

Florida Law

Florida law recognizes various forms of alimony, including bridge-the-gap, rehabilitative, durational, and permanent periodic alimony.[17] See the table on the next page for additional information on the various types of alimony authorized under current law.

Types of Alimony

	Bridge-the-gap	***Rehabilitative***	***Durational***	***Permanent***
Purpose	Allows a party to transition from being married to being single upon showing legitimate short-term need.	Assists a party in becoming self-sufficient through skills training, education, or work experience.	Provides a party with economic assistance for a set period of time after a marriage of short or moderate duration, or a marriage of long duration if no need exists for a permanent award.	Provides for the needs and necessities of life as established during the marriage for a party who lacks the financial ability to maintain needs.
Length of Time	Up to 2 years.	Temporary.	Set period of time but not to exceed length of marriage.	Permanent.

[12] Del. Code Ann. title 14, s. 1512
[13] Me. Rev. Stat. Ann. title 19-A, s. 951A.
[14] Tex. Fam. Code Ann. Sections 8.054 and 8.055.
[15] Mass. Gen. Laws Chapter 208, Section 49.
[16] Utah Code Ann. s. 30-3-5.
[17] Section 61.08(1), F.S.

Types of Alimony (Cont.)				
Modifiable/ Termination	Not modifiable in amount or duration. Can terminate upon death or remarriage of recipient.	Modifiable upon a showing of a substantial change in circumstances, including cohabitation. Can be terminated upon noncompliance or completion of the rehabilitative plan.	Modifiable or terminated based on a substantial change in circumstances, including cohabitation. Length of award may not change unless exceptional circumstances are shown. Terminates upon death or remarriage of recipient.	Modifiable upon a substantial change in circumstances, including cohabitation. Terminates upon death or remarriage of recipient.
How Established		Requires inclusion of a specific and defined rehabilitative plan.		Awardable if appropriate for a marriage of long duration, upon a showing of clear and convincing evidence for a marriage of moderate duration, and with written findings of exceptional circumstances for a marriage of short duration.

Modification and Termination of Alimony

Four bases exist for a court to reconsider an alimony award, including whether to terminate alimony:

- A substantial change in circumstances of either party;
- Cohabitation by the obligee;
- Remarriage by the obligee; or
- Death of either party.[18]

[18] Section 61.08(8), F.S.

Substantial Change of Circumstance

A motion for modification may be made by either party for the court to consider a substantial change in circumstances.[19] If the court modifies support on this basis, the court may modify support retroactively to the date of the filing of the action.[20]

Cohabitation

To modify alimony on an assertion of cohabitation between the alimony obligee and a third party, the court must find:

- The existence of a supportive relationship between the recipient and a third party; and
- That the recipient lives with the third party.

To determine whether a relationship is supportive, the court will examine:

- The extent to which the obligee and the third party hold themselves out as a married couple;
- The length of time that the third party has resided with the obligee;
- Whether the obligee and the third party have jointly purchased property;
- The extent to which the obligee and third party commingle financial assets; and
- The extent to which one of the parties supports the other party.[21]

The burden is on the obligor to show by a preponderance of evidence that a supportive relationship exists.[22]

Parenting and Time-sharing

Florida Law

The public policy of the state is for each minor child to have "frequent and continuing contact with both parents."[23] Additionally, a court must order shared parental responsibility for a minor child unless the court finds that shared responsibility would be detrimental to the child.[24] In determining timesharing with each parent, a court must evaluate the relative fitness of each parent on 19 specific statutory factors plus "any other factor that is relevant" to the court's determination.

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[19] Section 61.14(1)(a), F.S. Courts have found a substantial change in circumstance where an obligor's health deteriorated due to two heart attacks. He was unable to continue gainful employment and received social security disability income as his full income (*Scott v. Scott*, 2012 WL 5621672, 1 (Fla. 5th DCA 2012)). An obligor demonstrated a showing of a substantial change in circumstance through a detrimental impact on his business in manufacturing cathode ray television tubes due to advancing technology that made his product obsolete. The court also noted that the obligor was forced to remove money from family trust accounts to meet his alimony obligation. (*Shawfrank v. Shawfrank*, 97 So. 3d 934, 937 (Fla. 1st DCA 2012)). The court found a substantial change in circumstance where financial affidavits showed that the obligee's income jumped from $1,710 to $4,867 a month, making her income higher than the obligor's income of $3,418 a month. (*Koski v. Koski*, 98 So. 3d 93, 94 (Fla. 4th DCA 2012)).
[20] Section 61.14(1)(a), F.S.
[21] Section 61.14(b), F.S.
[22] Section 61.14(1)(b)1., F.S.
[23] Section 61.13(2)(c)1., F.S.
[24] Section 61.13 (2)(c)2., F.S.

Equal Time-sharing in other States

No state has required the court to order equal time-sharing or joint custody of minor children. A number of states, in addition to Florida, provide in law a presumption that joint custody is in the best interest of the child. These states are the District of Columbia, Idaho, Minnesota, New Mexico, South Dakota, Texas, Utah, Virginia, West Virginia, and Wisconsin. Other states provide the presumption only if the parents agree. These states are Alabama, California, Connecticut, Maine, Michigan, Mississippi, Nevada, New Hampshire, and Vermont.[25]

Several state legislatures recently amended laws on child custody to encourage equal time-sharing. Arkansas codified a preference for joint custody. [26] The South Dakota Legislature passed a law that permits the court to order joint physical custody when the court has awarded joint legal custody if it is in the best interest of the child.[27] The Utah Legislature enacted a rebuttable presumption for joint legal custody. Grounds for rebutting the presumption include domestic violence and physical or mental needs of a parent or child.[28]

Child Support Enforcement

Congress passed into law Title IV-D of the Social Security Act[29] to require states to provide specific child support enforcement services to receive federal funding under the Aid for Dependent Children (AFDC) Program.[30] Services are available to single-parent families on public assistance who are entitled to child support from the other parent.

Florida established the Child Support Enforcement Application and Program Revenue Trust Fund (trust fund) to provide a trust fund for deposits of Title IV-D program income.[31] The trust fund is administered by the state Department of Revenue.[32] The clerk of the court of each circuit operates a depository for alimony transactions, support, maintenance, and support payments.[33] A fee is collected for payments made in non-Title IV-D cases to fund the depository.[34]

III. Effect of Proposed Changes:

This bill makes various changes to laws applicable to dissolution of marriage cases in the areas of alimony, support, and time-sharing with children.

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[25] National Conference of State Legislatures, *Shared/Joint Custody Enactments 2012* (Feb. 2015).
[26] AR s. 901.
[27] South Dakota House Bill 1055 (Chapter 141).
[28] Utah HB 88 (Chapter 269); HB 107 (Chapter 271).
[29] 42 USC §§ 651-669 (1988)
[30] Ashish Prasad, *Rights Without Remedies: Section 1983 Enforcement of Title IV-D of the Social Security Act*, 60 U.CHI. L. REV. 197, 197 (1993).
[31] Section 61.1814(1), F.S.
[32] *Id*.
[33] Section 61.181(1)(a), F.S.
[34] Section 61.181(2)(a) and (b), F.S.

Alimony Awarded During a Pending Suit—Alimony Pendente Lite

Alimony pendente lite is temporary alimony awarded after a marital party files for dissolution of marriage. The bill requires the court to consider the bases for alimony (without the formula) after determining a need for alimony pendente lite and an ability to pay.

Alimony Awarded through a Final Court Order

Under the bill, a court must determine the amount of an alimony award in a multi-step process, from making initial findings, applying guidelines, and considering other factors, including factors which might justify a deviation from guidelines. The bill also establishes presumptive alimony duration ranges which range from 25 to 75 percent of the length of the marriage. The bill does not maintain the distinctions in current law relating to the duration or purposes of bridge-the-gap, rehabilitative, durational, or permanent alimony.

Initial Findings

In determining alimony, a court must make initial written findings based on:

- The amount of each party's monthly gross income, including potential income and actual or potential income from nonmarital property distributed to each party; and
- The years of marriage.

The courts must look at net income, rather than gross income, in calculating alimony and support. In instances in which trial courts have erroneously used a party's gross income, the appellate courts have routinely reversed those decisions.[35] In instances in which an obligor is self-employed, the court may start with gross income and subtract from it ordinary business expenses to arrive at net income.

This bill specifies that income considered in alimony calculations is gross income. Gross income is recurring income from any source and includes:

- Income from salaries, overtime pay, and wages, including tips declared to the Internal Revenue Service or tips imputed to bring the employee's gross earnings to the minimum wage for the number of hours worked, whichever is greater, commissions, bonuses; and dividends, and severance pay;
- Pension pay and retirement benefits actually received;
- Spousal support received from a previous marriage;
- Trust income and distributions regularly received, relied upon, or readily available to the beneficiary, royalties, income from estates, annuity payments, capital gains, recurring gains derived from dealings in property, rental income (gross receipts minus ordinary and necessary expenses required to produce the income), interest, and continuing monetary gifts;
- Payments received as an independent contractor for labor or services, which must be considered income from self-employment; money drawn by a self-employed person for personal use that is deducted as a business expense, and expense reimbursements or in-kind payments or benefits received by a party in the course of employment, self-employment, or operation of a business which reduces personal living expenses;

[35] *Kingsbury v. Kingsbury*, 116 So. 3d 473, 474(Fla. 1st DCA 2013); *Vanzant v. Vanzant*, 82 So. 3d 991, 993 (Fla. 1st DCA 2011); *Vega v. Vega*, 877 So. 2d 882, 883 (Fla. 3d DCA 2004).

- Workers' compensation; unemployment benefits, social security benefits, including those actually received based on disability, disability insurance benefits and funds paid from health, accident, disability, or casualty insurance if the insurance replaces wages; and
- Income from general partnerships, limited partnerships, closely held corporations, or limited liability companies, except that if the party is a passive investor with a minority interest in the company, income is limited to actual cash distributions received.

Gross income does not include:
- Child support payments received;
- Public assistance benefits;
- Social security benefits received by a parent on behalf of a minor child due to death or disability of a parent or stepparent; and
- Earnings or gains on retirement accounts, including individual retirement accounts, except that the earnings or gains are income if a party takes a distribution from the account, and if a party is able to take a distribution tax-free and chooses not to, the court may consider as income the distribution that could have been taken.

For income from self-employment, rent, royalties, proprietorship of a business, or joint ownership of a partnership or closely held corporation, gross income equals gross receipts minus ordinary and necessary expenses. Ordinary and necessary expenses do not include amounts allowable by the Internal Revenue Service for the accelerated component of depreciation expenses or investment tax credits or any other business expenses determined by the court to be inappropriate for determining gross income for purposes of calculating alimony.

The bill defines "potential income" as income which could be earned by a party using best efforts, and includes potential income from employment, investment of assets, or use of property in a financially prudent manner. Potential income from employment is income a party could reasonably expect to earn working at a locally available, full-time job based on the person's education, training, and experience. A person is considered to be underemployed if he or she is not working full-time in a position which is appropriate based on his or her education, training, and experience, and which is available in the local area. A person is not underemployed if he or she is enrolled in an educational program that can reasonably expect to result in a degree or certification and higher income within the foreseeable future. A court generally must impute income to a party who is voluntarily unemployed or underemployed.

The court must consider years of marriage based on whole years, calculated from the date of marriage until the date of the filing for dissolution.

This bill creates a rebuttable presumption against alimony for marriages of two years or less. The party seeking alimony may rebut the presumption by showing:
- The party seeking alimony has a clear and convincing need for alimony;
- The party from whom alimony is sought has an ability to pay alimony; and
- An inequity would result if the court does not award alimony.

If the court finds that the party rebuts the presumption, the court must provide written findings. Alimony will then be awarded under the formula.

Alimony Guidelines

This bill establishes formulas for use by the court after making its initial findings in alimony determinations, unless the parties agree to an amount otherwise. After making initial findings, the court will calculate the presumptive alimony ranges based upon two formulas. The formulas provide a presumptive range for alimony as follows:

- At the low end of the range: 0.015 x the years of marriage x the difference between the monthly gross income of the parties; and
- At the high end of the range: 0.020 x the years of marriage x the difference between the monthly gross incomes of the parties.

The formula bases the years of marriage at 20 for both the low and the high end of the range. However, if a court establishes the duration of the alimony award at 50 percent or less of the length of the marriage, the court is required to use the actual years of marriage, up to 25 years to calculate the high end of a presumptive alimony amount range.

Difference in the Parties' Monthly Incomes	**Presumptive Alimony Amount Ranges**							
$20,000	High	$1,200	$2,000	$4,000	$4,800	$6,000	$8,000	$8,000
	Low	$900	$1,500	$3,000	$3,600	$4,500	$6,000	$6,000
$15,000	High	$900	$1,500	$3,000	$3,600	$4,500	$6,000	$6,000
	Low	$675	$1,125	$2,250	$2,700	$3,375	$4,500	$4,500
$10,000	High	$600	$1,000	$2,000	$2,400	$3,000	$4,000	$4,000
	Low	$450	$750	$1,500	$1,800	$2,250	$3,000	$3,000
$8,000	High	$480	$800	$1,600	$1,920	$2,400	$3,200	$3,200
	Low	$360	$600	$1,200	$1,440	$1,800	$2,400	$2,400
$7,000	High	$420	$700	$1,400	$1,680	$2,100	$2,800	$2,800
	Low	$315	$525	$1,050	$1,260	$1,575	$2,100	$2,100
$6,000	High	$360	$600	$1,200	$1,440	$1,800	$2,400	$2,400
	Low	$270	$450	$900	$1,080	$1,350	$1,800	$1,800
$5,000	High	$300	$500	$1,000	$1,200	$1,500	$2,000	$2,000
	Low	$225	$375	$750	$900	$1,125	$1,500	$1,500
$4,000	High	$240	$400	$800	$960	$1,200	$1,600	$1,600
	Low	$180	$300	$600	$720	$900	$1,200	$1,200
$3,000	High	$180	$300	$600	$720	$900	$1,200	$1,200
	Low	$135	$225	$450	$540	$675	$900	$900
$2,000	High	$120	$200	$400	$480	$600	$800	$800
	Low	$90	$150	$300	$360	$450	$600	$600
Length of Marriage		**3 Years**	**5 Years**	**10 Years**	**12 Years**	**15 Years**	**20 Years**	**25 Years**

The court retains flexibility to determine alimony within the presumptive alimony ranges.

Bases for Alimony (Considered by the Court after Presumptive Alimony is Calculated):

Presumptive alimony may then be established by the court within the presumptive ranges, based on the following:

- The financial resources of the obligee and the obligor, including the actual or potential income from nonmarital or marital property or any other source and the ability of each spouse to meet his or her reasonable needs;
- The standard of living of the parties during the marriage considering that there will be two households to maintain after the dissolution of marriage and that neither party may be able to maintain the same standard of living they had while married;
- The equitable distribution of marital property, including whether an unequal distribution of marital property was made to reduce or alleviate the need for alimony;
- Both parties' income, employment, and employability, obtainable through reasonable diligence and additional training or education, and any necessary reduction in employment due to parenting or circumstances of the parties;
- Whether a party could reduce the need for alimony by pursuing additional educational or vocational training, including the length of time required and anticipated costs of training;
- Whether one party has historically earned higher or lower income than that at the time of trial;
- Whether a party has foregone or postponed economic, educational, or employment opportunities during the course of the marriage;
- Whether either party has caused the unreasonable depletion or dissipation of marital assets;
- The amount of temporary alimony and the number of months temporary alimony was paid to the recipient spouse;
- The age, health, and physical and mental condition of the parties, including health care needs and costs;
- Significant economic or noneconomic contributions to the marriage or to the economic, educational, or occupational advancement of a party, including services rendered in homemaking, child care, education, and career building of the other party, payment by one spouse of the other spouse's separate debts, or enhancement of the other spouse's personal or real property;
- The tax consequence of the alimony award; and
- Any other factor necessary to provide equity and justice between the parties.

If the court awards alimony, the court must include in written findings that the obligor has the financial ability to pay alimony.

Under no circumstance may a court order alimony and child support that, when combined, constitutes more than 55 percent of the obligor's net income. This change appears to codify case law, as appellate courts have reversed awards of trial courts where the percent of income awarded as support is considered unreasonable. The Fourth District Court of Appeal found that the trial court committed an abuse of discretion in awarding combined alimony and child support totaling 58 percent of the obligor's net income.[36] The appellate court noted that the trial court had legitimate grounds on which to order permanent alimony. The former wife earned only a

[36] *Thomas v. Thomas*, 418 So. 2d 316, (Fla. 4th DCA 1982).

two-year college degree and supported her husband as a teacher's aide while he secured a law school education. She then became a homemaker. However, the court noted that the excessive award left the obligor with just $330 a month on which to live after paying for rent and a car loan.[37]

In *Casella v. Casella*, the same appellate court ruled clearly excessive an award of combined alimony and child support that approached 70 percent of the husband's net income.[38] A 1990 case, the court reversed the trial court on the basis that the award left the obligor with just $800 a month on which to live.

To protect an award of alimony, the court may require an obligor to purchase or maintain a decreasing term life insurance policy or a bond, or provide other security to protect the alimony award. To award security, a court must find the existence of special circumstances and make specific evidentiary findings about the availability, cost, and financial impact on the obligor. Security is modifiable if the underlying alimony award is reduced.

Deviation from Guidelines

The court may determine an award of alimony that is outside the presumptive alimony amount or alimony duration ranges only if the court makes specific written findings that the application of the ranges is inappropriate or inequitable after considering all the factors used as the bases of alimony.

Even if the court does not intend to award alimony at the time, the court may reserve the issue of alimony by awarding alimony of $1.00 a year under the durational guidelines if:

- A party who has traditionally been the breadwinner temporarily lacks the ability to pay support but is reasonably anticipated to have the ability to pay in the future; or
- A party is presently able to work but for whom a medical condition with a reasonable degree of medical certainty may inhibit the ability to pay in the future.

The courts routinely award nominal alimony to reserve the issue of alimony at a later date.[39]

Tax and Alimony

Unless otherwise stated in the agreement between the parties or by the court through judgment or order, alimony is deductible from income by the obligor and included in the income of the obligee for tax purposes.

The agreement between the parties may provide or the court, after considering equities and tax efficiencies, may order alimony to be nondeductible from income by the obligor and not includable in the income of the obligee.

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[37] *Id*. at 316-317.

[38] *Casella v. Casella*, 569 So. 2d 848, 849 (Fla. 4th DCA 1990). The court stopped short of ruling that a particular percentage constitutes a bright-line rule, and instead, ruled that each case must be determined individually.

[39] *Lightcap v. Lightcap*, 14 So. 3d 259, 260 (Fla. 3d DCA 2009). "Here the trial court did not abuse its discretion when it granted the former wife nominal alimony. Nominal alimony would permit her to apply for modification upon a proper showing if and when the former husband achieves his full earning potential in the future."

Payment of Alimony in Depository

Under the bill, for orders on alimony entered into on or after January 1, 1985, the court must order that payments of alimony be made through a depository. For orders on alimony entered before January 1, 1985, upon appearance by one or both parties before the court to modify or enforce the order, the court must modify the order require that alimony payments to be made through the depository.

Alimony payments do not need to be directed through the depository:
- If there is no minor child; or
- If there is a minor child and both parties agree to payment without the depository.

However, a payee may subsequently file an affidavit with the clerk of the court a verified motion that an obligor has been in default or arrearages in payment. No later than 15 days after receiving the motion, the court must:
- Hold an evidentiary hearing establishing the default and arrearages;
- Issue an order that the clerk establish or amend an existing family law case history account; and
- Advise the parties that future payments must be directed through the depository.

A Title IV-D agency, currently the Department of Revenue, can also request payments to be made through the depository.

Timesharing with Children

This bill creates a rebuttable presumption that approximately equal timesharing with a minor child by both parents is in the best interest of the child. A party may overcome the presumption by providing evidence based on factors that affect the welfare and interests of the child and the circumstance of the family.

In addition to the factors currently in law, this bill adds the following:
- The amount of timesharing requested by each parent; and
- The frequency that a parent would likely leave the child in the care of a nonrelative on evenings and weekends when the other parent would be available and willing to provide care.

If the initial permanent timesharing schedule does not provide for approximately equal time-sharing the court order must include written findings of fact justifying its order for unequal timesharing.

Substantial Change in Circumstance Justifying the Modification of Alimony

Existing law authorizes the court to modify alimony upon a showing of a substantial change in circumstances. However, a court may not decrease or increase the duration of alimony provided for in the agreement or order.

Under the bill, upon the filing of a petition by the obligor, the court may temporarily reduce or suspend the obligor's payment of alimony while the petition is pending. However, if either party unreasonably pursues or defends an action, the other party is entitled to pay reasonable attorney fees and costs of the prevailing party.

Rebuttable Presumption

This bill creates a rebuttable presumption that alimony must be modified or terminated if the courts finds that the obligor's retirement is a substantial change in circumstance.

The presumption can be rebutted by the following factors:

- The age of the parties;
- The health of the parties;
- Assets and liabilities of the parties;
- Earned or imputed income of the parties;
- The ability of the parties to maintain part-time or full-time employment; and
- Any other factor deemed relevant by the court.

New Grounds for a Substantial Change in Circumstance

This bill establishes new substantial changes in circumstance:

- If the actual income of a party exceeds by at least 10 percent the amount the court imputed to the party when the court initially determined alimony, the other party may seek an immediate modification of alimony. An increase in an obligor's income alone does not constitute a basis for modification unless at the time the court established alimony, the court determined that the obligor was underemployed or unemployed but did not impute income at his or her maximum potential income.
- If an obligor becomes involuntarily underemployed or unemployed for six months after the court enters its final order for alimony, the obligor is entitled to pursue an immediate modification of alimony.
- Retirement is a substantial change in circumstance if:
  - The obligor has reached the age for eligibility to receive full retirement benefits under the Social Security Act and has retired;
  - The obligor has reached the customary retirement age for his or her occupation and has retired from that occupation; or
  - The obligor retires early and the court determines that the retirement is reasonable based upon the obligor's age, health, motivation for retirement, and impact on the obligee.

At least one court has refused modification of alimony on the basis that an obligor voluntarily retired early. Here the court held that the obligor did not establish voluntary retirement as a circumstance beyond his control.[40] In this case, the obligor retired early at the age of 63, after 40 years of steady employment.[41]

[40] *Ward v. Ward*, 502 So. 2d 477, 478 (FLA. 3D DCA 1987).
[41] *Id*.

An obligor may file an action within a year of his or her anticipated retirement date for the court to determine the customary retirement date for the obligor's profession. Allowing the obligor to file in advance of retirement helps the obligor to plan.

Remarriage of Obligor is not a Substantial Change in Circumstance

The bill clarifies that remarriage of the obligor is not a substantial change in circumstance.

Financial information of a subsequent spouse of a party paying or receiving alimony is inadmissible and may not be considered as part of any modification action unless a party is claiming that his or her income has decreased since the marriage. If the party makes this claim, financial information is admissible for a limited purpose.

Supportive Relationship

Regarding the change in circumstance that is the presence of a supportive relationship between an obligee and another person, this bill expands the requirement that the relationship currently exist, to one which existed within the previous year before the date of the filing of the petition for modification or termination of alimony.

The bill adds as a factor for the court to use in determining to modify alimony based on a supportive relationship whether the obligor's failure, in whole or in part, to comply with all court-ordered financial obligations contributed to the need to have a supportive relationship.

This bill requires the obligor to demonstrate by a preponderance of the evidence that a supportive relationship exists or has existed within the previous year before the filing date of the petition for modification. The obligor is not required to prove the cohabitation of the obligee. These changes reduce the burden on an obligor to show a supportive relationship.

If an obligor prevails in a showing of a supportive relationship, reduction or termination of alimony is retroactive to the date of the filing of the petition.

Advancing Trial

The court must give priority to cases that have remained pending for more than two years from the initial date a party files a petition if a party requests that the case advance to trial.

Application of the Bill

A court may not modify the duration of an award of alimony initially established under the provisions of this bill. However, the formulas, factors, and other provisions of the bill will apply to the resolution of a petition for modification.

This bill applies to:

- All initial alimony determinations and all alimony modification actions pending as of the bill's October 1, 2015, effective date; and
- All future initial determinations of alimony and alimony modification actions.

The bill takes effect October 1, 2015.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

Most alimony awards are based on marital settlement agreements (MSAs), which are incorporated into final judgments in dissolution of marriage cases. Courts consider these MSAs as contracts. Courts interpret challenges to MSAs on the same basis as other forms of contract.[42] "A marital settlement agreement entered into by the parties and ratified by a final judgment is a contract, subject to the laws of contract."[43]

Although, existing s. 61.14, F.S., gives courts broad authority to modify MSAs, the power of the legislature to reach back to existing contracts is restricted by Article I, s. 10, of the Florida Constitution which provides, in part: "No … ex post facto law or law impairing the obligation of contracts shall be passed." As such, the extent to which the Legislature may authorize the provisions of the bill to apply to preexisting alimony awards is not clear.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

To the extent that CS/SB 1248 more clearly defines gross income, provides guidelines for alimony, and establishes new bases for a substantial change in circumstance justifying a

[42] The First District Court of Appeal applied contract law in determining whether to admit parol evidence, or evidence outside the contract (MSA), on the basis that the contract language contains a latent ambiguity (*Toussaint v. Toussaint*, 107 So. 3d 474, 477-478 (Fla. 1st DCA 2013). A latent ambiguity, requiring extrinsic evidence, existed where an MSA failed to address financing of college education and the contract otherwise provided for equal payments for education costs (*Riera v. Riera*, 86 So. 3d 1163, 1166—67 (Fla. 3d DCA 2012)). The court found no breach of contract from the plain language of the MSA. (*McCord v. McCord*, 94 So. 3d 719 (Fla. 2nd DCA 2012).

[43] *Ferguson v. Ferguson*, 54 So. 3d 553, 556 (Fla. 3d DCA 2011).

modification of alimony, this bill may reduce time spent in litigation which will reduce costs.

C. Government Sector Impact:

The Office of the State Courts Administrator (OSCA) anticipates that the bill would have an indeterminate impact on judicial workload, due to the substantial revisions in determining alimony.[44] While OSCA cannot accurately determine the bill's fiscal impact, if any, OCSA did not offer data to support the need for additional court resources to address the bill's changes to the alimony statutes.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The child support guidelines in section 61.30, F.S., define gross income differently than the way gross income is defined in the bill. The reason for the different definitions is not apparent.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 61.071, 61.08, 61.13, 61.14, and 61.30.

This bill creates section 61.192 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS by Judiciary on March 24, 2015:
The committee substitute:

- Revises the formula to increase the minimum amounts of the presumptive alimony range;
- Provides for larger monthly award of alimony for marriages exceeding 20 years if the duration of the award is limited to no more than half of the marriage's length.;
- Authorizes the court to require an obligor to purchase a security, such as a life insurance policy or a bond to protect an award of alimony, subject to modification if alimony is reduced or terminated;
- Regarding imputation of income, requires actual income to exceed 10 percent the amount imputed to that party before the other party can request an immediate modification of alimony;

[44] Office of the State Courts Administrator (OSCA), *2015 Judicial Impact Statement* (March 20, 2015).

- Regarding alimony awarded to assist a party with legal fees and costs in a dissolution of marriage case, requires the court to consider need and ability to pay and the same bases for alimony required of all alimony determinations in dissolution cases; and
- Authorizes an obligor to request that the court preapprove the customary retirement date for the obligor's profession one year in advance of retirement.

B. Amendments:

None.

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

797912

LEGISLATIVE ACTION

Senate	.	House
Comm: UNFAV	.	
04/22/2015	.	
	.	
	.	
	.	

The Committee on Appropriations (Joyner) recommended the following:

Senate Amendment (with title amendment)

Delete lines 672 - 676
and insert:
4.~~3.~~ This paragraph does not abrogate the requirement that

========== T I T L E A M E N D M E N T ==========
And the title is amended as follows:
Delete lines 43 - 44
and insert:

797912

11 relationships;

781886

LEGISLATIVE ACTION

Senate	.	House
Comm: UNFAV	.	
04/22/2015	.	
	.	
	.	
	.	

The Committee on Appropriations (Joyner) recommended the following:

Senate Amendment (with title amendment)

Delete lines 747 - 754
and insert:
(e) A party who unreasonably pursues an action for modification of alimony shall be required to pay the reasonable attorney fees and costs of the prevailing party. Further, a party obligated to pay prevailing party attorney fees and costs in connection with unreasonably pursuing
========== T I T L E A M E N D M E N T ==========

781886

11 And the title is amended as follows:
12 Delete lines 55 - 62
13 and insert:
14 substantial change in circumstance; providing for an
15 award of attorney fees and costs for unreasonably
16 pursuing a modification of an award; providing for an
17 effective date of a modification or termination of an
18 award; amending s. 61.30, F.S.; providing that

937376

LEGISLATIVE ACTION

Senate	.	House
Comm: UNFAV	.	
04/22/2015	.	
	.	
	.	
	.	

The Committee on Appropriations (Joyner) recommended the following:

Senate Amendment (with title amendment)

Delete lines 757 - 760.

========== T I T L E A M E N D M E N T ==========
And the title is amended as follows:
Delete lines 58 - 59
and insert:
termination is pending;

By the Committee on Judiciary; and Senator Stargel

A bill to be entitled

An act relating to family law; amending s. 61.071, F.S.; requiring a court to consider certain alimony factors and make specific written findings of fact after making specified determinations; prohibiting a court from using certain presumptive alimony guidelines in calculating alimony pendente lite; amending s. 61.08, F.S.; defining terms; requiring a court to make specified initial written findings in a dissolution of marriage proceeding where a party has requested alimony; requiring a court to make specified findings before ruling on a request for alimony; providing for determinations of presumptive alimony amount range and duration range; providing presumptions concerning alimony awards depending on the duration of marriages; providing for imputation of income in certain circumstances; providing for awards of nominal alimony in certain circumstances; providing for taxability and deductibility of alimony awards; prohibiting a combined award of alimony and child support from constituting more than a specified percentage of a payor's net income; authorizing the court to order a party to protect an alimony award by specified means; providing for termination of an award; authorizing a court to modify or terminate the amount of an initial alimony award; prohibiting a court from modifying the duration of an alimony award; providing for payment of awards; amending s. 61.13, F.S.; creating a presumption that approximately equal

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time-sharing by both parents is in the best interests of the child; revising a finite list of factors that a court must evaluate when determining whether the presumption of approximately equal time-sharing is overcome; requiring a court order to be supported by written findings of fact under certain circumstances; amending s. 61.14, F.S.; providing that a party may pursue an immediate modification of alimony in certain circumstances; revising factors to be considered in determining whether an existing award of alimony should be reduced or terminated because of an alleged supportive relationship; providing for burden of proof for claims concerning the existence of supportive relationships; providing for the effective date of a reduction or termination of an alimony award; providing that the remarriage of an alimony obligor is not a substantial change in circumstance; providing that the financial information of a spouse of a party paying or receiving alimony is inadmissible and undiscoverable; providing an exception; providing for modification or termination of an award based on a party's retirement; providing a presumption upon a finding of a substantial change in circumstance; specifying factors to be considered in determining whether to modify or terminate an award based on a substantial change in circumstance; providing for a temporary suspension of an obligor's payment of alimony while his or her petition for modification or termination is pending; providing for an effective

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59 date of a modification or termination of an award;
60 providing for an award of attorney fees and costs for
61 unreasonably pursuing or defending a modification of
62 an award; amending s. 61.30, F.S.; providing that
63 whenever a combined alimony and child support award
64 constitutes more than a specified percentage of a
65 payor's net income, the child support award be
66 adjusted to reduce the combined total; creating s.
67 61.192, F.S.; providing for motions to advance the
68 trial of certain actions if a specified period has
69 passed since the initial service on the respondent;
70 providing applicability; providing an effective date.
71
72 Be It Enacted by the Legislature of the State of Florida:
73
74 Section 1. Section 61.071, Florida Statutes, is amended to
75 read:
76 61.071 Alimony pendente lite; suit money.—In every
77 proceeding for dissolution of the marriage, a party may claim
78 alimony and suit money in the petition or by motion, and if the
79 petition is well founded, the court shall allow a reasonable sum
80 therefor. If a party in any proceeding for dissolution of
81 marriage claims alimony or suit money in his or her answer or by
82 motion, and the answer or motion is well founded, the court
83 shall allow a reasonable sum therefor. After determining there
84 is a need for alimony and that there is an ability to pay
85 alimony, the court shall consider the alimony factors in s.
86 61.08(4)(b)1.-14. and make specific written findings of fact
87 regarding the relevant factors that justify an award of alimony

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88 under this section. The court may not use the presumptive
89 alimony guidelines in s. 61.08 to calculate alimony under this
90 section.
91 Section 2. Section 61.08, Florida Statutes, is amended to
92 read:
93 (Substantial rewording of section. See
94 s. 61.08, F.S., for present text.)
95 61.08 Alimony.—
96 (1) DEFINITIONS.—As used in this section, unless the
97 context otherwise requires, the term:
98 (a)1. "Gross income" means recurring income from any source
99 and includes, but is not limited to:
100 a. Income from salaries.
101 b. Wages, including tips declared by the individual for
102 purposes of reporting to the Internal Revenue Service or tips
103 imputed to bring the employee's gross earnings to the minimum
104 wage for the number of hours worked, whichever is greater.
105 c. Commissions.
106 d. Payments received as an independent contractor for labor
107 or services, which payments must be considered income from self-
108 employment.
109 e. Bonuses.
110 f. Dividends.
111 g. Severance pay.
112 h. Pension payments and retirement benefits actually
113 received.
114 i. Royalties.
115 j. Rental income, which is gross receipts minus ordinary
116 and necessary expenses required to produce the income.

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117 k. Interest.
118 l. Trust income and distributions which are regularly
119 received, relied upon, or readily available to the beneficiary.
120 m. Annuity payments.
121 n. Capital gains.
122 o. Any money drawn by a self-employed individual for
123 personal use that is deducted as a business expense, which
124 moneys must be considered income from self-employment.
125 p. Social security benefits, including social security
126 benefits actually received by a party as a result of the
127 disability of that party.
128 q. Workers' compensation benefits.
129 r. Unemployment insurance benefits.
130 s. Disability insurance benefits.
131 t. Funds payable from any health, accident, disability, or
132 casualty insurance to the extent that such insurance replaces
133 wages or provides income in lieu of wages.
134 u. Continuing monetary gifts.
135 v. Income from general partnerships, limited partnerships,
136 closely held corporations, or limited liability companies;
137 except that if a party is a passive investor, has a minority
138 interest in the company, and does not have any managerial duties
139 or input, the income to be recognized may be limited to actual
140 cash distributions received.
141 w. Expense reimbursements or in-kind payments or benefits
142 received by a party in the course of employment, self-
143 employment, or operation of a business which reduces personal
144 living expenses.
145 x. Overtime pay.

146 y. Income from royalties, trusts, or estates.
147 z. Spousal support received from a previous marriage.
148 aa. Gains derived from dealings in property, unless the
149 gain is nonrecurring.
150 2. "Gross income" does not include:
151 a. Child support payments received.
152 b. Benefits received from public assistance programs.
153 c. Social security benefits received by a parent on behalf
154 of a minor child as a result of the death or disability of a
155 parent or stepparent.
156 d. Earnings or gains on retirement accounts, including
157 individual retirement accounts; except that such earnings or
158 gains shall be included as income if a party takes a
159 distribution from the account. If a party is able to take a
160 distribution from the account without being subject to a federal
161 tax penalty for early distribution and the party chooses not to
162 take such a distribution, the court may consider the
163 distribution that could have been taken in determining the
164 party's gross income.
165 3.a. For income from self-employment, rent, royalties,
166 proprietorship of a business, or joint ownership of a
167 partnership or closely held corporation, the term "gross income"
168 equals gross receipts minus ordinary and necessary expenses, as
169 defined in sub-subparagraph b., which are required to produce
170 such income.
171 b. "Ordinary and necessary expenses," as used in sub-
172 subparagraph a., does not include amounts allowable by the
173 Internal Revenue Service for the accelerated component of
174 depreciation expenses or investment tax credits or any other

175 business expenses determined by the court to be inappropriate
176 for determining gross income for purposes of calculating
177 alimony.
178 (b) "Potential income" means income which could be earned
179 by a party using his or her best efforts and includes potential
180 income from employment and potential income from the investment
181 of assets or use of property. Potential income from employment
182 is the income which a party could reasonably expect to earn by
183 working at a locally available, full-time job commensurate with
184 his or her education, training, and experience. Potential income
185 from the investment of assets or use of property is the income
186 which a party could reasonably expect to earn from the
187 investment of his or her assets or the use of his or her
188 property in a financially prudent manner.
189 (c)1. "Underemployed" means a party is not working full-
190 time in a position which is appropriate, based upon his or her
191 educational training and experience, and available in the
192 geographical area of his or her residence.
193 2. A party is not considered "underemployed" if he or she
194 is enrolled in an educational program that can be reasonably
195 expected to result in a degree or certification within a
196 reasonable period, so long as the educational program is:
197 a. Expected to result in higher income within the
198 foreseeable future.
199 b. A good faith educational choice based upon the previous
200 education, training, skills, and experience of the party and the
201 availability of immediate employment based upon the educational
202 program being pursued.
203 (d) "Years of marriage" means the number of whole years,

204 beginning from the date of the parties' marriage until the date
205 of the filing of the action for dissolution of marriage.
206 (2) INITIAL FINDINGS.—When a party has requested alimony in
207 a dissolution of marriage proceeding, before granting or denying
208 an award of alimony, the court shall make initial written
209 findings as to:
210 (a) The amount of each party's monthly gross income,
211 including, but not limited to, the actual or potential income,
212 and also including actual or potential income from nonmarital or
213 marital property distributed to each party.
214 (b) The years of marriage as determined from the date of
215 marriage through the date of the filing of the action for
216 dissolution of marriage.
217 (3) ALIMONY GUIDELINES.—After making the initial findings
218 described in subsection (2), the court shall calculate the
219 presumptive alimony amount range and the presumptive alimony
220 duration range. The court shall make written findings as to the
221 presumptive alimony amount range and presumptive alimony
222 duration range.
223 (a) Presumptive alimony amount range.—The low end of the
224 presumptive alimony amount range shall be calculated by using
225 the following formula:
226
227 (0.015 x the years of marriage) x the difference between the
228 monthly gross incomes of the parties
229
230 The high end of the presumptive alimony amount range shall be
231 calculated by using the following formula:
232

233 (0.020 x the years of marriage) x the difference between the
234 monthly gross incomes of the parties
235
236 For purposes of calculating the presumptive alimony amount
237 range, 20 years of marriage shall be used in calculating the low
238 end and high end for marriages of 20 years or more. In
239 calculating the difference between the parties' monthly gross
240 income, the income of the party seeking alimony shall be
241 subtracted from the income of the other party. If the
242 application of the formulas to establish a guideline range
243 results in a negative number, the presumptive alimony amount
244 shall be $0. If a court establishes the duration of the alimony
245 award at 50 percent or less of the length of the marriage, the
246 court shall use the actual years of the marriage, up to a
247 maximum of 25 years, to calculate the high end of the
248 presumptive alimony amount range.
249 (b) Presumptive alimony duration range.—The low end of the
250 presumptive alimony duration range shall be calculated by using
251 the following formula:
252
253 0.25 x the years of marriage
254
255 The high end of the presumptive alimony duration range shall be
256 calculated by using the following formula:
257
258 0.75 x the years of marriage.
259
260 (4) ALIMONY AWARD.—
261 (a) Marriages of 2 years or less.—For marriages of 2 years

262 or less, there is a rebuttable presumption that no alimony shall
263 be awarded. The court may award alimony for a marriage with a
264 duration of 2 years or less only if the court makes written
265 findings that there is a clear and convincing need for alimony,
266 there is an ability to pay alimony, and that the failure to
267 award alimony would be inequitable. The court shall then
268 establish the alimony award in accordance with paragraph (b).
269 (b) Marriages of more than 2 years.—Absent an agreement of
270 the parties, alimony shall presumptively be awarded in an amount
271 within the alimony amount range calculated in paragraph (3)(a).
272 Absent an agreement of the parties, alimony shall presumptively
273 be awarded for a duration within the alimony duration range
274 calculated in paragraph (3)(b). In determining the amount and
275 duration of the alimony award, the court shall consider all of
276 the following factors upon which evidence was presented:
277 1. The financial resources of the recipient spouse,
278 including the actual or potential income from nonmarital or
279 marital property or any other source and the ability of the
280 recipient spouse to meet his or her reasonable needs
281 independently.
282 2. The financial resources of the payor spouse, including
283 the actual or potential income from nonmarital or marital
284 property or any other source and the ability of the payor spouse
285 to meet his or her reasonable needs while paying alimony.
286 3. The standard of living of the parties during the
287 marriage with consideration that there will be two households to
288 maintain after the dissolution of the marriage and that neither
289 party may be able to maintain the same standard of living after
290 the dissolution of the marriage.

291 4. The equitable distribution of marital property,
292 including whether an unequal distribution of marital property
293 was made to reduce or alleviate the need for alimony.
294 5. Both parties' income, employment, and employability,
295 obtainable through reasonable diligence and additional training
296 or education, if necessary, and any necessary reduction in
297 employment due to the needs of an unemancipated child of the
298 marriage or the circumstances of the parties.
299 6. Whether a party could become better able to support
300 himself or herself and reduce the need for ongoing alimony by
301 pursuing additional educational or vocational training along
302 with all of the details of such educational or vocational plan,
303 including, but not limited to, the length of time required and
304 the anticipated costs of such educational or vocational
305 training.
306 7. Whether one party has historically earned higher or
307 lower income than the income reflected at the time of trial and
308 the duration and consistency of income from overtime or
309 secondary employment.
310 8. Whether either party has foregone or postponed economic,
311 educational, or employment opportunities during the course of
312 the marriage.
313 9. Whether either party has caused the unreasonable
314 depletion or dissipation of marital assets.
315 10. The amount of temporary alimony and the number of
316 months that temporary alimony was paid to the recipient spouse.
317 11. The age, health, and physical and mental condition of
318 the parties, including consideration of significant health care
319 needs or uninsured or unreimbursed health care expenses.

320 12. Significant economic or noneconomic contributions to
321 the marriage or to the economic, educational, or occupational
322 advancement of a party, including, but not limited to, services
323 rendered in homemaking, child care, education, and career
324 building of the other party, payment by one spouse of the other
325 spouse's separate debts, or enhancement of the other spouse's
326 personal or real property.
327 13. The tax consequence of the alimony award.
328 14. Any other factor necessary to do equity and justice
329 between the parties.
330 (c) Deviation from guidelines.—The court may establish an
331 award of alimony that is outside the presumptive alimony amount
332 or alimony duration ranges only if the court considers all of
333 the factors in paragraph (b) and makes specific written findings
334 concerning the relevant factors justifying that the application
335 of the presumptive alimony amount or alimony duration ranges, as
336 applicable, is inappropriate or inequitable.
337 (d) Order establishing alimony award.—After consideration
338 of the presumptive alimony amount and duration ranges in
339 accordance with paragraphs (3)(a) and (b) and the factors upon
340 which evidence was presented in accordance with paragraph (b),
341 the court may establish an alimony award. An order establishing
342 an alimony award must clearly set forth both the amount and the
343 duration of the award. The court shall also make a written
344 finding that the payor has the financial ability to pay the
345 award.
346 (5) IMPUTATION OF INCOME.—If a party is voluntarily
347 unemployed or underemployed, alimony shall be calculated based
348 on a determination of potential income unless the court makes

349 specific written findings regarding the circumstances that make
350 it inequitable to impute income.
351 (6) NOMINAL ALIMONY.—Notwithstanding subsections (1), (3),
352 and (4), the court may make an award of nominal alimony in the
353 amount of $1 per year if, at the time of trial, a party who has
354 traditionally provided the primary source of financial support
355 to the family temporarily lacks the ability to pay support but
356 is reasonably anticipated to have the ability to pay support in
357 the future. The court may also award nominal alimony for an
358 alimony recipient who is presently able to work but for whom a
359 medical condition with a reasonable degree of medical certainty
360 may inhibit or prevent his or her ability to work during the
361 duration of the alimony period. The duration of the nominal
362 alimony shall be established within the presumptive durational
363 range based upon the length of the marriage subject to the
364 alimony factors in paragraph (4)(b). Before the expiration of
365 the durational period, nominal alimony may be modified in
366 accordance with s. 61.14 as to amount to a full alimony award
367 using the alimony guidelines and factors in accordance with s.
368 61.08.
369 (7) TAXABILITY AND DEDUCTIBILITY OF ALIMONY.—
370 (a) Unless otherwise stated in the judgment or order for
371 alimony or in an agreement incorporated thereby, alimony shall
372 be deductible from income by the payor under s. 215 of the
373 Internal Revenue Code and includable in the income of the payee
374 under s. 71 of the Internal Revenue Code.
375 (b) When making a judgment or order for alimony, the court
376 may, in its discretion after weighing the equities and tax
377 efficiencies, order alimony be nondeductible from income by the

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378 payor and nonincludable in the income of the payee.
379 (c) The parties may, in a marital settlement agreement,
380 separation agreement, or related agreement, specifically agree
381 in writing that alimony be nondeductible from income by the
382 payor and nonincludable in the income of the payee.
383 (8) MAXIMUM COMBINED AWARD.—In no event shall a combined
384 award of alimony and child support constitute more than 55
385 percent of the payor's net income, calculated without any
386 consideration of alimony or child support obligations.
387 (9) SECURITY OF AWARD.—To the extent necessary to protect
388 an award of alimony, the court may order any party who is
389 ordered to pay alimony to purchase or maintain a decreasing term
390 life insurance policy or a bond, or to otherwise secure such
391 alimony award with any other assets that may be suitable for
392 that purpose, in an amount adequate to secure the alimony award.
393 Any such security may be awarded only upon a showing of special
394 circumstances. If the court finds special circumstances and
395 awards such security, the court must make specific evidentiary
396 findings regarding the availability, cost, and financial impact
397 on the obligated party. Any security may be modifiable in the
398 event the underlying alimony award is modified and shall be
399 reduced in an amount commensurate with any reduction in the
400 alimony award.
401 (10) TERMINATION OF AWARD.—An alimony award shall terminate
402 upon the death of either party or the remarriage of the obligee.
403 (11) MODIFICATION OF AWARD.—A court may subsequently modify
404 or terminate the amount of an award of alimony initially
405 established under this section in accordance with s. 61.14.
406 However, a court may not modify the duration of an award of

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407 alimony initially established under this section.
408 (12) PAYMENT OF AWARD.—
409 (a) With respect to an order requiring the payment of
410 alimony entered on or after January 1, 1985, unless paragraph
411 (c) or paragraph (d) applies, the court shall direct in the
412 order that the payments of alimony be made through the
413 appropriate depository as provided in s. 61.181.
414 (b) With respect to an order requiring the payment of
415 alimony entered before January 1, 1985, upon the subsequent
416 appearance, on or after that date, of one or both parties before
417 the court having jurisdiction for the purpose of modifying or
418 enforcing the order or in any other proceeding related to the
419 order, or upon the application of either party, unless paragraph
420 (c) or paragraph (d) applies, the court shall modify the terms
421 of the order as necessary to direct that payments of alimony be
422 made through the appropriate depository as provided in s.
423 61.181.
424 (c) If there is no minor child, alimony payments do not
425 need to be directed through the depository.
426 (d)1. If there is a minor child of the parties and both
427 parties so request, the court may order that alimony payments do
428 not need to be directed through the depository. In this case,
429 the order of support shall provide, or be deemed to provide,
430 that either party may subsequently apply to the depository to
431 require that payments be made through the depository. The court
432 shall provide a copy of the order to the depository.
433 2. If subparagraph 1. applies, either party may
434 subsequently file with the clerk of the court a verified motion
435 alleging a default or arrearages in payment stating that the

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436 party wishes to initiate participation in the depository
437 program. The moving party shall copy the other party with the
438 motion. No later than 15 days after filing the motion, the court
439 shall conduct an evidentiary hearing establishing the default
440 and arrearages, if any, and issue an order directing the clerk
441 of the circuit court to establish, or amend an existing, family
442 law case history account, and further advising the parties that
443 future payments must thereafter be directed through the
444 depository.
445 3. In IV-D cases, the Title IV-D agency shall have the same
446 rights as the obligee in requesting that payments be made
447 through the depository.
448 Section 3. Subsection (3) of section 61.13, Florida
449 Statutes, is amended to read:
450 61.13 Support of children; parenting and time-sharing;
451 powers of court.—
452 (3) For purposes of establishing or modifying parental
453 responsibility and creating, developing, approving, or modifying
454 a parenting plan, including a time-sharing schedule, which
455 governs each parent's relationship with his or her minor child
456 and the relationship between each parent with regard to his or
457 her minor child, the best interest of the child shall be the
458 primary consideration.
459 (a) Approximately equal time-sharing with a minor child by
460 both parents is presumed to be in the best interest of the
461 child. In determining whether the presumption is overcome, the
462 court shall evaluate the evidence based on ~~A determination of~~
463 ~~parental responsibility, a parenting plan, or a time-sharing~~
464 ~~schedule may not be modified without a showing of a substantial,~~

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465 ~~material, and unanticipated change in circumstances and a~~
466 ~~determination that the modification is in the best interests of~~
467 ~~the child. Determination of the best interests of the child~~
468 ~~shall be made by evaluating~~ all of the factors affecting the
469 welfare and interests of the particular minor child and the
470 circumstances of that family, including~~, but not limited to~~:
471 1.~~(a)~~ The demonstrated capacity or ~~and~~ disposition of each
472 parent to facilitate and encourage a close and continuing
473 parent-child relationship, to honor the time-sharing schedule,
474 and to be reasonable when changes are required.
475 2.~~(b)~~ The anticipated division of parental responsibilities
476 after the litigation, including the extent to which parental
477 responsibilities will be delegated to third parties.
478 3.~~(c)~~ The demonstrated capacity and disposition of each
479 parent to determine, consider, and act upon the needs of the
480 child as opposed to the needs or desires of the parent.
481 4.~~(d)~~ The length of time the child has lived in a stable,
482 satisfactory environment and the desirability of maintaining
483 continuity.
484 5.~~(e)~~ The geographic viability of the parenting plan, with
485 special attention paid to the needs of school-age children and
486 the amount of time to be spent traveling to carry out ~~effectuate~~
487 the parenting plan. This factor does not create a presumption
488 for or against relocation of either parent with a child.
489 6.~~(f)~~ The moral fitness of the parents.
490 7.~~(g)~~ The mental and physical health of the parents.
491 8.~~(h)~~ The home, school, and community record of the child.
492 9.~~(i)~~ The reasonable preference of the child~~,~~ if the court
493 deems the child to be of sufficient intelligence, understanding,

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494 and experience to express a preference.
495 10.~~(j)~~ The demonstrated knowledge, capacity, or ~~and~~
496 disposition of each parent to be informed of the circumstances
497 of the minor child, including, but not limited to, the child's
498 friends, teachers, medical care providers, daily activities, and
499 favorite things.
500 11.~~(k)~~ The demonstrated capacity or ~~and~~ disposition of each
501 parent to provide a consistent routine for the child, such as
502 discipline~~,~~ and daily schedules for homework, meals, and
503 bedtime.
504 12.~~(l)~~ The demonstrated capacity of each parent to
505 communicate with the other parent and keep the other parent
506 informed of issues and activities regarding the minor child, and
507 the willingness of each parent to adopt a unified front on all
508 major issues when dealing with the child.
509 13.~~(m)~~ Evidence of domestic violence, sexual violence,
510 child abuse, child abandonment, or child neglect, regardless of
511 whether a prior or pending action relating to those issues has
512 been brought. If the court accepts evidence of prior or pending
513 actions regarding domestic violence, sexual violence, child
514 abuse, child abandonment, or child neglect, the court must
515 specifically acknowledge in writing that such evidence was
516 considered when evaluating the best interests of the child.
517 14.~~(n)~~ Evidence that either parent has knowingly provided
518 false information to the court regarding any prior or pending
519 action regarding domestic violence, sexual violence, child
520 abuse, child abandonment, or child neglect.
521 15.~~(o)~~ The demonstrated capacity or disposition of each
522 parent to perform or ensure the performance of particular

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523 parenting tasks customarily performed by the other ~~each~~ parent
524 and the division of parental responsibilities before the
525 institution of litigation and during the pending litigation,
526 including the extent to which parenting responsibilities were
527 undertaken by third parties.
528 16.~~(p)~~ The demonstrated capacity and disposition of each
529 parent to participate and be involved in the child's school and
530 extracurricular activities.
531 17.~~(q)~~ The demonstrated capacity and disposition of each
532 parent to maintain an environment for the child which is free
533 from substance abuse.
534 18.~~(r)~~ The capacity and disposition of each parent to
535 protect the child from the ongoing litigation as demonstrated by
536 not discussing the litigation with the child, not sharing
537 documents or electronic media related to the litigation with the
538 child, and refraining from disparaging comments about the other
539 parent to the child.
540 19.~~(s)~~ The developmental stages and needs of the child and
541 the demonstrated capacity and disposition of each parent to meet
542 the child's developmental needs.
543 20. The amount of time-sharing requested by each parent.
544 21. The frequency that a parent would likely leave the
545 child in the care of a nonrelative on evenings and weekends when
546 the other parent would be available and willing to provide care.
547 22.~~(t)~~ Any other factor that is relevant to the
548 determination of a specific parenting plan, including the time-
549 sharing schedule.
550 (b) A court order must be supported by written findings of
551 fact if the order establishes an initial permanent time-sharing

552 schedule that does not provide for approximately equal time-
553 sharing.
554 (c) A determination of parental responsibility, a parenting
555 plan, or a time-sharing schedule may not be modified without a
556 determination that such modification is in the best interest of
557 the child and upon a showing of a substantial, material, and
558 unanticipated change in circumstances.
559 Section 4. Subsection (1) of section 61.14, Florida
560 Statutes, is amended to read:
561 61.14 Enforcement and modification of support, maintenance,
562 or alimony agreements or orders.—
563 (1)(a) When the parties enter into an agreement for
564 payments for, or instead of, support, maintenance, or alimony,
565 whether in connection with a proceeding for dissolution or
566 separate maintenance or with any voluntary property settlement,
567 or when a party is required by court order to make any payments,
568 and the circumstances or the financial ability of either party
569 changes or the child who is a beneficiary of an agreement or
570 court order as described herein reaches majority after the
571 execution of the agreement or the rendition of the order, either
572 party may apply to the circuit court of the circuit in which the
573 parties, or either of them, resided at the date of the execution
574 of the agreement or reside at the date of the application, or in
575 which the agreement was executed or in which the order was
576 rendered, for an order decreasing or increasing the amount of
577 support, maintenance, or alimony, and the court has jurisdiction
578 to make orders as equity requires, with due regard to the
579 changed circumstances or the financial ability of the parties or
580 the child, decreasing, increasing, or confirming the amount of

581 separate support, maintenance, or alimony provided for in the
582 agreement or order. However, a court may not decrease or
583 increase the duration of alimony provided for in the agreement
584 or order. A party is entitled to pursue an immediate
585 modification of alimony if the actual income earned by the other
586 party exceeds by at least 10 percent the amount imputed to that
587 party at the time the existing alimony award was determined and
588 such circumstance shall constitute a substantial change in
589 circumstances sufficient to support a modification of alimony.
590 However, an increase in an alimony obligor's income alone does
591 not constitute a basis for a modification to increase alimony
592 unless at the time the alimony award was established it was
593 determined that the obligor was underemployed or unemployed and
594 the court did not impute income to that party at his or her
595 maximum potential income. If an alimony obligor becomes
596 involuntarily underemployed or unemployed for a period of 6
597 months following the entry of the last order requiring the
598 payment of alimony, the obligor is entitled to pursue an
599 immediate modification of his or her existing alimony
600 obligations and such circumstance shall constitute a substantial
601 change in circumstance sufficient to support a modification of
602 alimony. A finding that medical insurance is reasonably
603 available or the child support guidelines schedule in s. 61.30
604 may constitute changed circumstances. Except as otherwise
605 provided in s. 61.30(11)(c), the court may modify an order of
606 support, maintenance, or alimony by increasing or decreasing the
607 support, maintenance, or alimony retroactively to the date of
608 the filing of the action or supplemental action for modification
609 as equity requires, giving due regard to the changed

610 circumstances or the financial ability of the parties or the
611 child.
612 (b)1. The court may reduce or terminate an award of alimony
613 upon specific written findings by the court that since the
614 granting of a divorce and the award of alimony a supportive
615 relationship exists or has existed within the previous year
616 before the date of the filing of the petition for modification
617 or termination between the obligee and another ~~a~~ person ~~with~~
618 ~~whom the obligee resides~~. ~~On the issue of whether alimony should~~
619 ~~be reduced or terminated under this paragraph, the burden is on~~
620 ~~the obligor to prove by a preponderance of the evidence that a~~
621 ~~supportive relationship exists.~~
622 2. In determining whether an existing award of alimony
623 should be reduced or terminated because of an alleged supportive
624 relationship between an obligee and a person who is not related
625 by consanguinity or affinity ~~and with whom the obligee resides~~,
626 the court shall elicit the nature and extent of the relationship
627 in question. The court shall give consideration, without
628 limitation, to circumstances, including, but not limited to, the
629 following, in determining the relationship of an obligee to
630 another person:
631 a. The extent to which the obligee and the other person
632 have held themselves out as a married couple by engaging in
633 conduct such as using the same last name, using a common mailing
634 address, referring to each other ~~in terms such~~ as ~~"my husband"~~
635 ~~or "my wife,"~~ "my spouse" or otherwise conducting themselves in
636 a manner that evidences a permanent supportive relationship.
637 b. The period of time that the obligee has resided with the
638 other person in a permanent place of abode.

c. The extent to which the obligee and the other person have pooled their assets or income or otherwise exhibited financial interdependence.

d. The extent to which the obligee or the other person has supported the other, in whole or in part.

e. The extent to which the obligee or the other person has performed valuable services for the other.

f. The extent to which the obligee or the other person has performed valuable services for the other's company or employer.

g. Whether the obligee and the other person have worked together to create or enhance anything of value.

h. Whether the obligee and the other person have jointly contributed to the purchase of any real or personal property.

i. Evidence in support of a claim that the obligee and the other person have an express agreement regarding property sharing or support.

j. Evidence in support of a claim that the obligee and the other person have an implied agreement regarding property sharing or support.

k. Whether the obligee and the other person have provided support to the children of one another, regardless of any legal duty to do so.

l. Whether the obligor's failure, in whole or in part, to comply with all court-ordered financial obligations to the obligee constituted a significant factor in the establishment of the supportive relationship.

3. In any proceeding to modify an alimony award based upon a supportive relationship, the obligor has the burden of proof to establish, by a preponderance of the evidence, that a

supportive relationship exists or has existed within the previous year before the date of the filing of the petition for modification or termination. The obligor is not required to prove cohabitation of the obligee and the third party.

4. Notwithstanding paragraph (f), if a reduction or termination is granted under this paragraph, the reduction or termination is retroactive to the date of filing of the petition for reduction or termination.

5.~~3.~~ This paragraph does not abrogate the requirement that every marriage in this state be solemnized under a license, does not recognize a common law marriage as valid, and does not recognize a de facto marriage. This paragraph recognizes only that relationships do exist that provide economic support equivalent to a marriage and that alimony terminable on remarriage may be reduced or terminated upon the establishment of equivalent equitable circumstances as described in this paragraph. The existence of a conjugal relationship, though it may be relevant to the nature and extent of the relationship, is not necessary for the application of the provisions of this paragraph.

(c)1. For purposes of this section, the remarriage of an alimony obligor does not constitute a substantial change in circumstance or a basis for a modification of alimony.

2. The financial information, including, but not limited to, information related to assets and income, of a subsequent spouse of a party paying or receiving alimony is inadmissible and may not be considered as a part of any modification action unless a party is claiming that his or her income has decreased since the marriage. If a party makes such a claim, the financial

697 information of the subsequent spouse is discoverable and
698 admissible only to the extent necessary to establish whether the
699 party claiming that his or her income has decreased is diverting
700 income or assets to the subsequent spouse that might otherwise
701 be available for the payment of alimony. However, this
702 subparagraph may not be used to prevent the discovery of or
703 admissibility in evidence of the income or assets of a party
704 when those assets are held jointly with a subsequent spouse.
705 This subparagraph is not intended to prohibit the discovery or
706 admissibility of a joint tax return filed by a party and his or
707 her subsequent spouse in connection with a modification of
708 alimony.
709 (d)1. An obligor may file a petition for modification or
710 termination of an alimony award based upon his or her actual
711 retirement.
712 a. A substantial change in circumstance is deemed to exist
713 if:
714 (I) The obligor has reached the age for eligibility to
715 receive full retirement benefits under s. 216 of the Social
716 Security Act, 42 U.S.C. s. 416, and has retired; or
717 (II) The obligor has reached the customary retirement age
718 for his or her occupation and has retired from that occupation.
719 An obligor may file an action within 1 year of his or her
720 anticipated retirement date and the court shall determine the
721 customary retirement date for the obligor's profession. However,
722 a determination of the customary retirement age is not an
723 adjudication of a petition for a modification of an alimony
724 award.
725 b. If an obligor voluntarily retires before reaching any of

726 the ages described in sub-subparagraph a., the court shall
727 determine whether the obligor's retirement is reasonable upon
728 consideration of the obligor's age, health, and motivation for
729 retirement and the financial impact on the obligee. A finding of
730 reasonableness by the court shall constitute a substantial
731 change in circumstance.
732 2. Upon a finding of a substantial change in circumstance,
733 there is a rebuttable presumption that an obligor's existing
734 alimony obligation shall be modified or terminated. The court
735 shall modify or terminate the alimony obligation, or make a
736 determination regarding whether the rebuttable presumption has
737 been overcome, based upon the following factors applied to the
738 current circumstances of the obligor and obligee:
739 a. The age of the parties.
740 b. The health of the parties.
741 c. The assets and liabilities of the parties.
742 d. The earned or imputed income of the parties as provided
743 in s. 61.08(1)(a) and (5).
744 e. The ability of the parties to maintain part-time or
745 full-time employment.
746 f. Any other factor deemed relevant by the court.
747 3. The court may temporarily reduce or suspend the
748 obligor's payment of alimony while his or her petition for
749 modification or termination under this paragraph is pending.
750 (e) A party who unreasonably pursues or defends an action
751 for modification of alimony shall be required to pay the
752 reasonable attorney fees and costs of the prevailing party.
753 Further, a party obligated to pay prevailing party attorney fees
754 and costs in connection with unreasonably pursuing or defending

755 an action for modification is not entitled to an award of
756 attorney fees and cost in accordance with s. 61.16.
757 (f) There is a rebuttable presumption that a modification
758 or termination of an alimony award is retroactive to the date of
759 the filing of the petition, unless the obligee demonstrates that
760 the result is inequitable.
761 (g) ~~(e)~~ For each support order reviewed by the department as
762 required by s. 409.2564(11), if the amount of the child support
763 award under the order differs by at least 10 percent but not
764 less than $25 from the amount that would be awarded under s.
765 61.30, the department shall seek to have the order modified and
766 any modification shall be made without a requirement for proof
767 or showing of a change in circumstances.
768 (h) ~~(d)~~ The department may ~~shall have authority to~~ adopt
769 rules to implement this section.
770 Section 5. Paragraph (d) is added to subsection (11) of
771 section 61.30, Florida Statutes, to read:
772 61.30 Child support guidelines; retroactive child support.—
773 (11)
774 (d) Whenever a combined alimony and child support award
775 constitutes more than 55 percent of the payor's net income,
776 calculated without any consideration of alimony or child support
777 obligations, the court shall adjust the award of child support
778 to ensure that the 55 percent cap is not exceeded.
779 Section 6. Section 61.192, Florida Statutes, is created to
780 read:
781 61.192 Advancing trial.—In an action brought pursuant to
782 this chapter, if more than 2 years have passed since the initial
783 petition was served on the respondent, either party may move the

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784 court to advance the trial of their action on the docket. This
785 motion may be made at any time after 2 years have passed since
786 the petition was served, and once made the court must give the
787 case priority on the court's calendar.
788 Section 7. The amendments made by this act to chapter 61,
789 Florida Statutes, apply to all initial determinations of alimony
790 and all alimony modification actions that are pending as of the
791 effective date of this act, and to all initial determinations of
792 alimony and all alimony modification actions brought on or after
793 the effective date of this act. The enacting of this act may not
794 serve as the sole basis for a party to seek a modification of an
795 alimony award existing before the effective date of this act.
796 Section 8. This act shall take effect October 1, 2015.

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THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Higher Education, *Chair*
Appropriations Subcommittee on Education
Fiscal Policy
Judiciary
Military and Veterans Affairs, Space, and Domestic Security
Regulated Industries

JOINT COMMITTEE:
Joint Committee on Public Counsel Oversight

SENATOR KELLI STARGEL
15th District

April 10, 2015

The Honorable Tom Lee
Senate Appropriations Committee, Chair
418 Senate Office Building
404 S. Monroe Street
Tallahassee, FL 32399

Dear Chair Lee:

I am respectfully requesting that SB 1248, related to *Family Law*, be placed on the next committee agenda.

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

Sincerely,

Kelli Stargel
State Senator, District 15

Cc: Cindy Kynoch/ Staff Director
Alicia Weiss/ AA

REPLY TO:
❒ 2033 East Edgewood Drive, Suite 1, Lakeland, Florida 33803
❒ 324 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5015

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

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

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

4-21-15
Meeting Date

SB 1248
Bill Number (if applicable)

781886, 937376, 797912
Amendment Barcode (if applicable)

Topic: Alimony

Name: Thomas J. Sasser

Job Title: Attorney - Family Law Section FL Bar

Address: 1800 Australian Ave S Suite 203
Street

West Palm Beach, FL 33409
City, State, Zip

Phone: 561-689-4378

Email: tomsasser@sasserlaw.com

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

Waive Speaking: [ ] In Support [ ] Against
(The Chair will read this information into the record.)

Representing: Family Law Section FL Bar

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

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

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4-21-15
Meeting Date

1298
Bill Number (if applicable)

797912
Amendment Barcode (if applicable)

Topic: Family Law

Name: Tarie Mac Millan

Job Title: Jewelry Sales VP

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City, State, Zip

Phone: 813-545-3342

Email: tariemac@verizon.net

~~Speaking~~: ☐ For ☑ Against ☐ Information

Waive Speaking: ☐ In Support ☒ Against
(~~The Chair~~ will read this information into the record.) ☑ amendment

Representing: Family Law Reform

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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THE FLORIDA SENATE

APPEARANCE RECORD

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4/21/15
Meeting Date

1248
Bill Number (if applicable)

797912
Amendment Barcode (if applicable)

Topic: FAMILY LAW

Name: TERRANCE POWER

Job Title: Consultant

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City State Zip

Phone: 813-781-3266

Email:

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☒ Against
(The Chair will read this information into the record.)

AMENDMENT

Representing:

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

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4/21/2015
Meeting Date

1248
Bill Number (if applicable)

797912
Amendment Barcode (if applicable)

Topic: Family Law

Name: ALAN FRISHER

Job Title: President Family Law Reform, inc

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Melbourne, FL 32940
City, State, Zip

Phone:

Email: ALAN.Frisher@gmail.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☒ Against
(The Chair will read this information into the record.)

Representing: Family Law Reform, Inc Amendment

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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THE FLORIDA SENATE

APPEARANCE RECORD

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4/21/2015
Meeting Date

1248
Bill Number (if applicable)

781886
Amendment Barcode (if applicable)

Topic: Family Law

Name: Alan Fischer

Job Title: President - Family Law Reform

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Melbourne, FL 32940
City, State, Zip

Phone:

Email: Alan.Fischer@gmail.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☒ Against
(The Chair will read this information into the record.)

Representing: Family Law Reform

Amendment

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 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/21/15
Meeting Date

1248
Bill Number (if applicable)

781886
Amendment Barcode (if applicable)

Topic: FAMILY LAW

Name: TERRANCE POWER

Job Title: CONSULTANT

Address: 1612 SHADY OAKS DR
Street

OLDSMAR, FL 34677
City State Zip

Phone: 813-781-3266

Email:

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☒ Against
(The Chair will read this information into the record.)
AMENDMENT

Representing: FAMILY LAW REFORM

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 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4-21-15
Meeting Date

1248
Bill Number (if applicable)

781886
Amendment Barcode (if applicable)

Topic: Family Law

Name: Tarie Mac Millan

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Email: tariemac@verizon.net

~~Speaking:~~ ☐ For ☑ Against ☐ Information

Waive Speaking: ☐ In Support ☑ Against
(The Chair will read this information into the record.) 7 amendment

Representing: Family Law Reform

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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THE FLORIDA SENATE

APPEARANCE RECORD

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4/21/2015
Meeting Date

1248
Bill Number (if applicable)

937376
Amendment Barcode (if applicable)

Topic: FAMILY LAW

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Waive Speaking: ☐ In Support ☒ Against
(The Chair will read this information into the record.)

AMENDMENT

Representing: FAMILY LAW REFORM

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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4/21/15
Meeting Date

1248
Bill Number (if applicable)

937376
Amendment Barcode (if applicable)

Topic: FAMILY LAW

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Email:

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☒ Against
(The Chair will read this information into the record.)

Representing: FAMILY LAW Reform AMENDMENT

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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4-21-15
Meeting Date

1248
Bill Number (if applicable)

937376
Amendment Barcode (if applicable)

Topic: Family Law

Name: Tarie MacMillan

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~~Speaking:~~ ☐ For ☑ Against ☐ Information

Waive Speaking: ☐ In Support ☑ Against
(The Chair will read this information into the record.)

7 amendment

Representing: Family Law Reform

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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4-21-15
Meeting Date

1248
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic: Alimony

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Speaking: ☐ For ☑ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing: FL NOW

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

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4-21-15
Meeting Date

1248
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic: Family Law Reform

Name: Erin Minta

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Speaking: ☐ For ☑ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing: Self

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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4/21/2015
Meeting Date

1248
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic: family Law

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Speaking: ☐ For ☑ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing: Self

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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4/21/15
Meeting Date

SB 1248
Bill Number (if applicable)

Topic: ALIMONY CHAPTER 61.08 REVISIONS

Amendment Barcode (if applicable)

Name: Joy Bolton Herring and caregiver, Glenn

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Email: joyboltonherring@gmail.com

Speaking: ☐ For ☑ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing: all disabled, abused and long-term spouses similarly situated

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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S-001 (10/14/14)

THE FLORIDA SENATE

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4/21/2015
Meeting Date

SB 1248
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic: Family Law

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

Waive Speaking: [ ] In Support [ ] Against
(The Chair will read this information into the record.)

Representing: Family Law Reform, Inc

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

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

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4/21/15
Meeting Date

1248
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic: FAMILY LAW

Name: TERRANCE POWER

Job Title: CONSULTANT

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Email:

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

Waive Speaking: [X] In Support [ ] Against
(The Chair will read this information into the record.)

Representing: FAMILY LAW REFORM

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

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

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4-21-15
Meeting Date

1248
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic: Family Law Reform

Name: Tarie MacMillan

Job Title: Jewelry Sales V.P.

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

Waive Speaking: [X] In Support [ ] Against
(The Chair will read this information into the record.)

Representing: Family Law Reform

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

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

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THE FLORIDA SENATE

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4-21-15
Meeting Date

SB 1248
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic: Alimony & Parenting

Name: Thomas J. Sasser

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Waive Speaking: [ ] In Support [ ] Against
(The Chair will read this information into the record.)

Representing: Family Law Section FL Bar

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

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/21/2015
Meeting Date

Bill Number 1248 *(if applicable)*

Topic

Amendment Barcode *(if applicable)*

Name BRIAN PITTS

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Speaking: ☐ For ☐ Against ☑ Information

Representing JUSTICE-2-JESUS

Lobbyist registered with Legislature: ☐ Yes ☑ No

Appearing at request of Chair: ☐ 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.

S-001 (10/20/11)

of the public record for this meeting.

THE FLORIDA SENATE

APPEARANCE RECORD

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4/21/15
Meeting Date

SB 1248
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic: Family Law.

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Job Title:

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Largo, FL. 33773
City, State, Zip

Phone:

Email:

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

Waive Speaking: [ ] In Support [ ] Against
(The Chair will read this information into the record.)

Representing:

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

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

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S-001 (10/14/14)

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 Appropriations

BILL: PCS/CS/SB 1264 (368432)

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Education); Education Pre-K - 12 Committee; and Senator Legg

SUBJECT: Digital Classrooms

DATE: April 20, 2015 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Bailey	Klebacha	ED	**Fav/CS**
2.	Sikes	Elwell	AED	**Recommend: Fav/CS**
3.	Sikes	Kynoch	AP	**Pre-meeting**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/CS/SB 1264 provides a mechanism for comparing the status of digital readiness of school districts and public schools, which is independently verified, based on technology infrastructure standards identified by the Agency for State Technology (AST or agency) or a professional organization that the agency contracts with (contracted organization). The digital readiness of school districts must be assessed using a digital readiness scorecard and uniform definitions of technology infrastructure components established by the Department of Education (DOE) in consultation with the agency.

Specifically, the bill requires the AST, or a contracted organization, to consult with the DOE to identify technology infrastructure standards for the successful implementation of digital classrooms in Florida. The bill also specifies that the AST must collaborate with the DOE and the Department of Management Services (DMS) to identify state term procurement options and shared services available to school districts.

The bill appropriates $9,953,566 to the AST. This appropriation is for the AST, or a contracted organization, to perform the digital classrooms implementation and compliance assessment, provide planning guidance to address identified gaps, and recommend cost efficiency improvements as required in the bill.

The bill provides an effective date of July 1, 2015.

II. Present Situation:

Florida Digital Classrooms Allocation

In 2014, the Legislature elevated policy and funding for technology-enhanced classroom teaching and learning by creating the Florida digital classrooms allocation (allocation) to support efforts and strategies of school districts and public schools in integrating technology into classroom instruction to improve student performance outcomes.[1] In response to the 2014 legislation that created the allocation,[2] the Department of Education (DOE or department) adopted a Strategic Technology Plan establishing the general parameters for digital classrooms which are used by the by the district school boards to adopt their district digital classrooms plan.[3] For the 2014-2015 fiscal year, the Legislature appropriated $40 million to school districts to support digital classrooms.[4] A minimum of $250,000 was provided to each school district and the remaining balance was allocated based on each district's share of the state's total unweighted student enrollment.[5]

State Digital Classrooms Plan

The Office of Technology and Information Services, within the DOE, is responsible for developing a 5-year strategic plan (state plan) that must:[6]

- Describe how technology will be integrated into classroom teaching and learning to improve student performance outcomes and prepare students to be digital learners.
- Establish minimum technology requirements that include specifications for hardware, software, devices, networking, security, and bandwidth capacity and guidelines for the ratio of students per device.
- Establish minimum requirements for professional development opportunities and training to assist district instructional personnel staff with integrating technology into classroom teaching.
- Identify the types of digital tools and resources that can assist district instructional personnel and staff in management, assessment, and monitoring of student learning and performance.

The DOE must update the state plan annually by January 1st.[7]

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[1] Section 1011.62(12)(a), F.S.
[2] Sections 5 and 27, ch. 2014-56, L.O.F.
[3] Florida Department of Education, *FDOE Digital Classrooms Plan*, http://www.fldoe.org/about-us/division-of-technology-info-services/bureau-of-edu-tech.stml (last visited March 6, 2015); *see* ss. 1001.20(4) and 1011.62(12)(b), F.S. The Department of Education (DOE) has provided to school districts, technical assistance memo and guidance document regarding digital classrooms. Florida Department of Education, *Digital Classrooms Plan (DCP) and Allocation*, http://www.fldoe.org/about-us/division-of-technology-info-services/bureau-of-edu-tech.stml (last visited March 9, 2015).
[4] Specific Appropriation 96, s. 2, ch. 2014-51, LO.F.
[5] *Id*.
[6] Section 1001.20(4)(a)1., F.S.
[7] Section 1001.20(4)(a)1., F.S

Technology Integration Matrix

To assist with integrating technology into curriculum, the DOE has prepared a Technology Integration Matrix (TIM)[8] for teachers to use technology to enhance learning by:[9]

- Providing a framework for defining and evaluating technology integration;
- Setting a clear vision for effective teaching with technology;
- Giving teachers and administrators a common language for setting goals; and
- Helping target professional development resources effectively.

District Digital Classrooms Plan

The 2014 legislation required each district school board to adopt a district digital classrooms plan (DCP) that meets the unique needs of students, schools, and personnel and submit the district DCP to the DOE for approval.[10] By permitting the customization of district digital classrooms plan to meet local needs, the legislation promoted local control of targeted and purposeful technology enhancements in Florida's classrooms. At a minimum, the district DCPs must be updated annually to include the following:[11]

- Measurable student performance outcomes, including the outcomes for students with disabilities.
- Digital learning and technology infrastructure purchases and operational activities including, but not limited to, connectivity, broadband access, wireless capacity, internet speed, and data security, all of which must meet or exceed the minimum requirements and protocols established by the department.
- Professional development purchases and operational activities including, but not limited to, using technology in the classroom and improving digital literacy and competency.
- Digital tool purchases and operational activities including, but not limited to, competency-based credentials that measure and demonstrate digital competency and certifications; third-party assessments that demonstrate acquired knowledge and use of digital applications; and devices that meet or exceed the minimum requirements and protocols established by the department.
- Online assessment-related purchases and operational activities including, but not limited to, expanding the capacity to administer assessments and compatibility with minimum assessment requirements and protocols established by the department.

Each district superintendent must certify to the Commissioner of Education (commissioner) that "the district school board has approved a comprehensive district digital classrooms plan that

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[8] Florida Department of Education, *Presentation to the Florida Senate Appropriations Subcommittee on Education* (March 4, 2015), *available at* http://www.flsenate.gov/PublishedContent/Committees/2014-2016/AED/MeetingRecords/MeetingPacket_2873.pdf, at 115 of 120.

[9] Florida Department of Education, *The Technology Integration Matrix*, http://fcit.usf.edu/matrix/index.php (last visited March 10, 2015). The five interdependent characteristics of meaningful learning environments are: active, constructive, goal directed (i.e., reflective), authentic, and collaborative. The five levels of technology integration (i.e., entry, adoption, adaptation, infusion, and transformation) with each of the five characteristics of meaningful learning environments. Together, the five levels of technology integration and the five characteristics of meaningful learning environments create a matrix of 25 cells to set a clear vision for effective teaching with technology. Florida Department of Education, *The Technology Integration Matrix* (March 9, 2015), *available at* http://fcit.usf.edu/matrix/matrix.php.

[10] Section 1011.62(12)(b), F.S.

[11] *Id*.

supports the fidelity of implementation of the Florida digital classrooms allocation."[12] In addition, each district's DCP must include a formal verification of the district superintendent's approval of the DCP for each charter school in the district.[13] The DOE must approve the DCPs before distributing the allocation funds to the school districts.[14]

For the 2014-2015 school year, the deadline for submitting district DCPs was October 1, 2014.[15] All 67 district school boards have submitted their district DCP and the DOE has approved all district DCPs.[16] For the 2015-2016 school year and each year thereafter, the district school boards must submit their district DCPs annually by March 1.[17]

In addition to submitting DCPs, beginning in the 2015-2016 fiscal year, each district school board must report to the department its use of allocation funds and student performance outcomes.[18] The department may contract with an independent third-party entity to conduct an annual independent verification of the district's use of allocation funds in accordance with the district's DCP.[19] If an independent third-party verification is not conducted, the Auditor General must, during scheduled operational audits of school districts, verify compliance of the use of allocation funds in accordance with the district's DCP.[20]

Annually, by October 1, beginning in the 2015-2016 fiscal year, the commissioner must provide to the Governor, President of the Senate, and Speaker of the House of Representatives, a summary of each district's use of funds, student performance outcomes, and progress toward meeting statutory requirements and timelines.[21]

Local Capital Improvement Revenue for Computer Hardware and Enterprise Software

School districts are authorized to use local improvement revenue to purchase, lease-purchase, or lease:

- New and replacement equipment;
- Computer hardware; and
- Enterprise resource software applications that are classified as capital assets, have a useful life of at least 5 years, and are used to support districtwide administration or state-mandated reporting requirements.

III. Effect of Proposed Changes:

The bill provides a mechanism for assessing and comparing the status of digital readiness of school districts and public schools based on technology infrastructure standards identified by the

[12] Section 1011.62(12)(c), F.S.
[13] Section 1011.62(12)(b)5(c), F.S.
[14] *Id*.
[15] Section 1011.62(12)(b), F.S.
[16] Florida Department of Education, *Approved Districts' Digital Classroom Plans*, http://www.fldoe.org/about-us/division-of-technology-info-services/dcp.stml (last visited March 6, 2015).
[17] Section 1011.62(12)(b), F.S.
[18] Section 1011.62(12)(e), F.S.
[19] *Id*.
[20] *Id*.
[21] *Id*.

Agency for State Technology (AST or agency) or a professional organization that the agency contracts with (contracted organization). The digital readiness of school districts must be assessed using a digital readiness scorecard and uniform definitions of technology infrastructure components established by the Department of Education (DOE or department) in consultation with the agency.

Specifically, the bill requires the AST, or a contracted organization, to consult with the department to identify technology infrastructure standards for the successful implementation of digital classrooms. These standards must include, but are not limited to, device recommendations, security and connectivity requirements, and browser expectations.

This provision will likely facilitate a collaboration between the AST, the agency that establishes the standards for the most efficient use of state's information technology resources,[22] and the DOE, the department that is familiar with public schools' instructional needs.

Requirements for the Agency for State Technology

The AST was established in 2014 by the Legislature to oversee the state's essential technology projects and is responsible for establishing standards and processes for information technology (IT).[23] The agency is responsible for establishing technology architecture standards to provide the most efficient use of the state's IT resources which must include, but not be limited to, performance measurements and metrics that objectively reflect the status of an IT project based on a defined and documented scope, cost, and schedule.[24]

In addition to identifying the technology infrastructure standards and targets, the bill requires the AST, or a contracted organization, to:

- Perform an annual assessment of the DOE's 5-year strategic plan for establishing Florida digital classrooms and the districts' and charter schools' digital classrooms plans for the 2015-2016 school year, and annually thereafter, to determine the status of technology infrastructure and digital readiness of school districts. The retrospective analyses will likely provide the state with an independent assessment of the districts' and schools' technology infrastructure and digital readiness status and needs. Currently, technology readiness data are self-reported by the school districts. In addition, the retrospective analyses will likely assist with identifying gaps in technology infrastructure relative to the identified standards and targets. The bill requires school districts to be assessed using a digital readiness scorecard to provide a mechanism for comparing the status of school districts' digital readiness.
- Provide prospective planning guidance and technical assistance to the department, school districts, and public schools regarding identified gaps in technology infrastructure and recommended improvements to meet the standards identified by the AST or a contracted

[22] Section 282.0051(2), F.S. The Agency for State Technology is responsible for developing and publishing "information technology policy for the management of the state's information technology resources." Section 282.0051(1), F.S.
[23] Section 10, ch. 2014-221, L.O.F.; Agency for State Technology, *About Us*, http://www.ast.myflorida.com/about.asp (lasted visited March 9, 2015) Information technology means " equipment, hardware, software, firmware, programs, systems, networks, infrastructure, media, and related material used to automatically, electronically, and wirelessly collect, receive, access, transmit, display, store, record, retrieve, analyze, evaluate, process, classify, manipulate, manage, assimilate, control, communicate, exchange, convert, converge, interface, switch, or disseminate information of any kind or form." Section 282.0041, F.S.
[24] Section 282.0051(2)-(3), F.S.

organization. The guidance and technical assistance will likely help the DOE, school districts, and public schools to make strategic and purposeful investments in technology infrastructure.

- Submit a report by May 1, 2016, for the 2015-2016 school year, and annually by December 1 thereafter, to the Governor, President of the Senate, and Speaker of the House of Representatives, summarizing the status of technology infrastructure and recommending strategies for improving cost efficiencies and maximizing the state's and school districts' investments in technology to establish digital classrooms. The annual report, which the AST must provide to the Commissioner of Education (commissioner) by November 1 of each year, will likely help to inform the state about the school districts' and public schools' technology infrastructure status and progress toward meeting the technology infrastructure standards and targets that are identified by the AST or a contracted organization in consultation with the DOE. Additionally, the recommendations regarding cost efficiencies may help inform strategic budgetary investments in technology infrastructure.
- Collaborate with the DOE and the Department of Management Services (DMS) to identify:
  - State term contract procurement options available to school districts that provide information technology commodities, consultant services, or staff augmentation contractual services that support the information technology architecture standards applicable to digital classrooms.
  - Shared services available to school districts through the State Data Center to facilitate the implementation of school district digital classrooms plans.

Requirements for the Department of Education

The bill specifies requirements for the DOE regarding incorporating the identified technology infrastructure standards and targets in the department's 5-year strategic plan (state plan), establishing uniform definitions of technology infrastructure components, creating a digital readiness scorecard, and providing access to statewide procurement service agreements:

- The DOE must include the identified technology infrastructure standards and targets in the state plan for successful implementation of digital classrooms to improve student performance outcomes. In addition to the components that must be included in the state plan, which are specified in law,[25] the bill clarifies that the state plan must also identify minimum technology infrastructure requirements in consultation with the AST. The minimum technology infrastructure requirements will likely help the school districts and public schools strategically plan for technology investments and allocate funds purposefully.
- The DOE must coordinate with the AST to facilitate school districts' access to statewide procurement service agreements. Access to competitively procured service agreements may result in cost savings and efficiencies for the school districts.
- The DOE must consult with the AST to establish uniform definitions of technology infrastructure components which must be incorporated into the state plan. The uniform definitions must also be used by charter schools that seek Florida digital classrooms allocation funds and by each district school board in the technology information submitted annually to the DOE. Uniform definitions will allow for comparability of technology infrastructure components across school districts to assess the status of districts' digital readiness.

[25] Section 1001.20(4)(a)1., F.S.

- The DOE must consult with the AST to create a digital readiness scorecard to compare the digital readiness of school districts within the state. The scorecard must use the uniform definitions and identified technology infrastructure standards and targets identified by the department in consultation with the AST. At a minimum, the scorecard must include the student-to-device ratio, the percentage of schools within each district that meet bandwidth standards, the percentage of classrooms within each district that must meet wireless standards, the refresh rate of devices, network capacity, information storage capacity, and information security services.
- The DOE must provide each school district with their information technology architecture standards compliance status by June 1, 2016, for the 2015-2016 school year, and annually by January 1 thereafter.
- The DOE, if it determines the administration of online assessments after January 1, 2015, does not comply with the minimum assessment protocols and requirements it established, must contract with an independent, auditing entity that has expertise in the area to evaluate the extent of the noncompliance and provide recommendations to remediate the noncompliance in future administrations of online assessments.

Requirements for School Districts

Beginning in the 2016-2017 school year, each school district must undergo an annual assessment and independent verification of its use of Florida digital classrooms allocation funds (digital classrooms funds) for the district to be eligible to receive digital classrooms funds. An independent assessment of the districts' use of digital classrooms funds will likely help inform the state about school districts' technology needs and investments to improve student performance outcomes. Access to such information will also likely assist the state with budgetary decisions concerning school districts' and public schools' preparedness to integrate technology into classroom teaching and learning and administer computer-based assessments.

Requirements for Submitting Digital Classrooms Plans

The bill also makes modifications to the format and deadline for submitting digital classrooms plans:

- The DOE must develop a streamlined format for charter schools to use for submitting their digital classrooms plan. This process may result in creating a precise accountability measurement tool matching the charter school's mission, program, goals, students served, methods of assessment and ways to measure success of charter schools.[26]
- The commissioner must implement an online, web-based portal for school districts and charter schools to submit their digital classrooms plan. The online submission system may result in a cost-effective method for the school districts to timely report their digital classrooms plan information to the department.
- District school boards must submit their digital classrooms plan annually to the DOE by August 1, instead of the March 1 deadline which is the current statutory deadline. The August 1 deadline will likely assist the districts with budgetary planning by taking into consideration allocation funds appropriated for the next school year.

[26] Florida Department of Education, *General Information* (March 9, 2015), *available at* http://www.fldoe.org/schools/school-choice/charter-schools/charter-school-faqs.stml.

Finally, the bill clarifies that the annual report the commissioner must provide to the Governor, President of the Senate, and Speaker of the House of Representatives, by October 1 of each year, include a summary of each district's:

- Student performance goals and outcomes; and
- Use of funds in support of such goals and outcomes.

The clarification emphasizes that improving student performance outcomes should be the goal that drives technology integration in classroom teaching and learning.

The bill appropriates $9,993,566 for the AST to perform the digital classrooms implementation and compliance assessment, provide planning guidance to address identified gaps, and recommend cost efficiency improvements.

Local Capital Improvement Revenue for Computer Hardware and Enterprise Software

School districts are currently authorized to purchase enterprise resource software with their local capital improvement revenue, however, it is unclear as to whether annual license fees, maintenance fees, or lease agreements for enterprise resource software are authorized uses of these funds. The bill specifically authorizes school districts to use their local capital improvement revenue for enterprise resource software annual license fees, maintenance fees, or lease agreements.

The bill takes effect July 1, 2015.

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:

PCS/CS/SB 1264 appropriates nearly $10 million to the Agency for State Technology (AST). This appropriation is for the AST, or a contracted organization, to perform the digital classrooms implementation and compliance assessment, provide planning guidance to address identified gaps, and recommend cost efficiency improvements as required in the bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 282.0051, 282.00515, 1001.20, 1011.62, and 1011.71.

This bill creates section 282.0052 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

Recommended CS/CS by Appropriations Subcommittee on Education on April 8, 2015:

The committee substitute:

- Perform annual assessment of state and school district digital classrooms plans.
- Requires the Agency for State Technology (AST) to:
  - Establish information technology architecture standards for purposes of implementing digital classrooms, including but not limited to, device recommendations, security requirements, connectivity requirements, and browser expectations.
  - Collaborate with the Department of Education (DOE) and the Department of Management Services (DMS) to identify state term contract procurement and shared services options for school districts.
  - Include, in the annual assessment of the DOE, the status of statewide implementation of digital classrooms and recommendations for improving cost efficiencies.
- Requires the DOE to contract with independent auditing entity to make recommendations to remediate technology infrastructure issues associated with the administration of 2014-15 online assessments.

- Authorizes school districts to use their local capital improvement revenue for enterprise resource software annual license fees, maintenance fees, or lease agreements.
- Appropriates nearly $10 million for the AST to conduct the duties outlines in the bill.

CS by Education Pre-K – 12 on March 18, 2015:
The committee substitute maintains the original substance of SB 1264 with the following modifications:

- Requires the Department of Education's technology office to consult with the Agency for State Technology (AST) to:
  - Establish uniform definitions of technology infrastructure components. The uniform definitions must be incorporated into the state and local digital classrooms plans and technology resources inventory.
  - Create a digital readiness scorecard to compare school districts' digital readiness and include specified information in the scorecard.
- Modifies a requirement in the bill that requires the AST, or an independent organization that the agency contracts with, to perform retrospective analyses of the state and local digital classrooms plans by clarifying that the retrospective analyses must also include an assessment of the digital readiness of school districts using the digital readiness scorecard.

B. Amendments:

None.

738072

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/22/2015	.	
	.	
	.	
	.	

The Committee on Appropriations (Ring) recommended the following:

1 **Senate Amendment**
2
3 Delete line 97
4 and insert:
5 1. State term contract or other local procurement options
6 that are

970550

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/22/2015	.	
	.	
	.	
	.	

The Committee on Appropriations (Ring) recommended the following:

Senate Amendment (with title amendment)

Delete lines 297 - 304
and insert:
1. Measurable student performance outcomes. Outcomes related to student performance, including outcomes for students with disabilities, must be tied to the efforts and strategies to improve outcomes related to student performance by use of an instructional delivery system that increases the depth of student and teacher engagement by enabling the interactive and

970550

11 collaborative use of classroom devices, digital curriculum, and
12 assessments for ~~integrating technology in classroom teaching and~~
13 learning. Results of the outcomes shall be reported at least
14 annually for the current school year and subsequent 3 years and
15 be accompanied by an independent evaluation and validation of
16 the reported results.
17
18 ========== T I T L E A M E N D M E N T ==========
19 And the title is amended as follows:
20 Between lines 47 and 48
21 insert:
22 revising minimum requirements for the digital
23 classrooms plan;

101248

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/22/2015	.	
	.	
	.	
	.	

The Committee on Appropriations (Gaetz) recommended the following:

Senate Amendment (with title amendment)

Delete lines 431 - 435.

========== T I T L E A M E N D M E N T ==========
And the title is amended as follows:
Delete line 67
and insert:
effective date.

659380

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/22/2015	.	
	.	
	.	
	.	

The Committee on Appropriations (Montford) recommended the following:

Senate Amendment (with title amendment)

Between lines 267 and 268
insert:
Section 5. Paragraph (i) of subsection (12) of section 1001.42, Florida Statutes, is amended to read:
1001.42 Powers and duties of district school board.—The district school board, acting as a board, shall exercise all powers and perform all duties listed below:
(12) FINANCE.—Take steps to assure students adequate

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11 educational facilities through the financial procedure
12 authorized in chapters 1010 and 1011 and as prescribed below:
13 (i) *Contracts for materials, supplies, and services.*—
14 Contract for materials, supplies, and services needed for the
15 district school system. No contract for supplying these needs
16 shall be made with any member of the district school board, with
17 the district school superintendent, or with any business
18 organization in which any district school board member or the
19 district school superintendent has any financial interest
20 whatsoever. The district school board may adopt rules to
21 facilitate the efficient and effective procurement of materials,
22 supplies, and services, including the use of online procurement
23 and electronic auction services. For purposes of this paragraph,
24 the term "electronic auction services" means a competitive
25 procurement conducted on a centralized website using third-party
26 software, jointly managed by an approved vendor and the district
27 school board, for the purpose of obtaining competitive prices in
28 an auction environment.
29 Section 6. Subsection (1) of section 1006.27, Florida
30 Statutes, is amended to read:
31 1006.27 Pooling of school buses and related purchases by
32 district school boards; transportation services contracts.—
33 (1) The department shall assist district school boards in
34 securing school buses, contractual needs, equipment, and
35 supplies at as reasonable prices as possible by providing a plan
36 under which district school boards may voluntarily pool their
37 bids for such purchases. The department shall prepare bid forms
38 and specifications, obtain quotations of prices and make such
39 information available to district school boards in order to

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40 facilitate this service and use electronic auction services, as
41 defined in s. 1001.42(12)(i), or other efficient procurement
42 tools. District schools may also use electronic auction services
43 or other efficient procurement tools for such purchases.
44 District school boards from time to time, as prescribed by State
45 Board of Education rule, shall furnish the department with
46 information concerning the prices paid for such items and the
47 department shall furnish to district school boards periodic
48 information concerning the lowest prices at which school buses,
49 equipment, and related supplies are available based upon
50 comparable specifications.
51
52 ========== T I T L E A M E N D M E N T ==========
53 And the title is amended as follows:
54 Delete lines 2 - 44
55 and insert:
56 An act relating to education; amending s. 282.0051,
57 F.S.; requiring the Agency for State Technology to
58 establish and publish information technology
59 architecture standards for purposes of implementing
60 digital classrooms by a specified date; requiring the
61 agency to collaborate with the Department of Education
62 and the Department of Management Services to identify
63 certain state contract procurement options for
64 services that support such standards and to identify
65 certain shared services available through the State
66 Data Center to facilitate the implementation of school
67 district digital classrooms plans; requiring the
68 agency’s annual assessment of the Department of

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69 Education to review specified issues with respect to
70 school district digital classrooms plans and to
71 provide planning assistance to address and reduce
72 issues identified by the assessment; amending s.
73 282.00515, F.S.; conforming a cross-reference to
74 changes made by the act; creating s. 282.0052, F.S.;
75 establishing requirements for the agency or a
76 contracted organization with respect to the
77 establishment and assessment of digital classrooms
78 information technology architecture standards;
79 requiring the agency or contracted organization to
80 annually submit a report to the Governor and the
81 Legislature; prescribing report requirements;
82 requiring the agency to annually update the
83 Commissioner of Education on the status of technology
84 infrastructure; requiring the Department of Education
85 to annually update school districts regarding
86 compliance with information technology architecture
87 standards and provide planning guidance; requiring a
88 school district to take certain action in the event of
89 noncompliance with information technology architecture
90 standards; amending s. 1001.20, F.S.; requiring the
91 Office of Technology and Information Services of the
92 Department of Education to consult with the Agency for
93 State Technology in developing the 5-year strategic
94 plan for Florida digital classrooms; removing an
95 obsolete date; revising requirements for the 5-year
96 strategic plan; expanding the list of responsibilities
97 of the Office of Technology and Information Services;

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98 amending s. 1001.42, F.S.; revising the powers and
99 duties of the district school board to authorize the
100 adoption of rules regarding procurement practices;
101 defining the term “electronic auction services”;
102 amending s. 1006.27, F.S.; authorizing a district
103 school board’s use of electronic auction services in
104 conjunction with bid pooling for school buses and
105 related purchases; amending s.

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Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on Education)

A bill to be entitled

An act relating to digital classrooms; amending s. 282.0051, F.S.; requiring the Agency for State Technology to establish and publish information technology architecture standards for purposes of implementing digital classrooms by a specified date; requiring the agency to collaborate with the Department of Education and the Department of Management Services to identify certain state contract procurement options for services that support such standards and to identify certain shared services available through the State Data Center to facilitate the implementation of school district digital classrooms plans; requiring the agency's annual assessment of the Department of Education to review specified issues with respect to school district digital classrooms plans and to provide planning assistance to address and reduce issues identified by the assessment; amending s. 282.00515, F.S.; conforming a cross-reference to changes made by the act; creating s. 282.0052, F.S.; establishing requirements for the agency or a contracted organization with respect to the establishment and assessment of digital classrooms information technology architecture standards; requiring the agency or contracted organization to annually submit a report to the Governor and the Legislature;

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prescribing report requirements; requiring the agency to annually update the Commissioner of Education on the status of technology infrastructure; requiring the Department of Education to annually update school districts regarding compliance with information technology architecture standards and provide planning guidance; requiring a school district to take certain action in the event of noncompliance with information technology architecture standards; amending s. 1001.20, F.S.; requiring the Office of Technology and Information Services of the Department of Education to consult with the Agency for State Technology in developing the 5-year strategic plan for Florida digital classrooms; removing an obsolete date; revising requirements for the 5-year strategic plan; expanding the list of responsibilities of the Office of Technology and Information Services; amending s. 1011.62, F.S.; revising the date by which district school boards must annually submit a digital classrooms plan to the Department of Education; requiring the department to contract with an independent auditing entity in the event of noncompliance with minimum protocols and requirements in the administration of online assessments; requiring a charter school to submit the school's digital classrooms plan to the applicable school district; specifying required format for the plan; specifying conditions for a school district to maintain eligibility for Florida digital classrooms allocation

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funds; requiring the Commissioner of Education to implement an online portal for electronic submission of digital classrooms plans by a specified date; requiring a charter school to annually report to the department regarding the use of specified funds; revising requirements for the commissioner's annual report to the Governor and the Legislature regarding the digital classrooms plan; amending s. 1011.71, F.S.; authorizing enterprise resource software to be acquired by certain fees and agreements; providing an appropriation; providing an effective date.

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

Section 1. Subsections (2), (7), and (10) of section 282.0051, Florida Statutes, are amended to read:

282.0051 Agency for State Technology; powers, duties, and functions.—The Agency for State Technology shall have the following powers, duties, and functions:

(2) Establish and publish information technology architecture standards that:

(a) ~~to~~ Provide for the most efficient use of the state's information technology resources and that ~~to~~ ensure compatibility and alignment with the needs of state agencies. The agency shall assist state agencies in complying with the standards.

(b) Address for purposes of implementing digital classrooms under s. 1011.62(12) issues that include, but are not limited to, device recommendations, security requirements, connectivity

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requirements, and browser expectations. Such standards must be published by December 1, 2015.

(7)(a) Participate with the Department of Management Services in evaluating, conducting, and negotiating competitive solicitations for state term contracts for information technology commodities, consultant services, or staff augmentation contractual services pursuant to s. 287.0591.

(b) Collaborate with the Department of Management Services in information technology resource acquisition planning.

(c) Collaborate with the Department of Education and the Department of Management Services to identify:

1. State term contract procurement options that are available to school districts which provide information technology commodities, consultant services, or staff augmentation contractual services that support the information technology architecture standards applicable to digital classrooms.

2. Shared services available to school districts through the State Data Center to facilitate the implementation of school district digital classrooms plans.

(10)(a) Beginning July 1, 2016, and annually thereafter, conduct annual assessments of state agencies to determine compliance with all information technology standards and guidelines developed and published by the agency, and beginning December 1, 2016, and annually thereafter, provide results of the assessments to the Executive Office of the Governor, the President of the Senate, and the Speaker of the House of Representatives.

(b) Include in the annual assessment of the Department of

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115 Education under paragraph (a), the status of statewide
116 implementation of digital classrooms and each school district's
117 status of compliance with the information technology
118 architecture standards identified under paragraph (2)(b),
119 planning guidance to address identified gaps, and
120 recommendations for improving cost efficiencies pursuant to s.
121 282.0052.
122 Section 2. Section 282.00515, Florida Statutes, is amended
123 to read:
124 282.00515 Duties of Cabinet agencies.—The Department of
125 Legal Affairs, the Department of Financial Services, and the
126 Department of Agriculture and Consumer Services shall adopt the
127 standards established in s. 282.0051(2)(a) ~~s. 282.0051(2)~~, (3),
128 and (8) or adopt alternative standards based on best practices
129 and industry standards, and may contract with the Agency for
130 State Technology to provide or perform any of the services and
131 functions described in s. 282.0051 for the Department of Legal
132 Affairs, the Department of Financial Services, or the Department
133 of Agriculture and Consumer Services.
134 Section 3. Section 282.0052, Florida Statutes, is created
135 to read:
136 282.0052 Digital classrooms information technology
137 architecture standards.—
138 (1) Beginning July 1, 2015, the Agency for State
139 Technology, or an independent third-party professional
140 organization that the agency contracts with, shall:
141 (a) Consult with the Department of Education to identify
142 information technology architecture standards pursuant to s.
143 282.0051 for the successful implementation of digital

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144 classrooms, pursuant to s. 1011.62(12), in public schools within
145 the state beginning in the 2016-2017 school year. Such standards
146 must include, but are not limited to, device recommendations,
147 security requirements, connectivity requirements, and browser
148 expectations.
149 (b) Perform an annual assessment of the state 5-year
150 strategic plan developed pursuant to s. 1001.20 and school
151 district digital classrooms plan adopted pursuant to s.
152 1011.62(12) to determine the digital readiness of school
153 districts and their compliance with the information technology
154 architecture standards identified under paragraph (a). The
155 digital readiness of school districts must be assessed using the
156 digital readiness scorecard established under s. 1001.20(4)(a).
157 (c) Provide prospective planning guidance and technical
158 assistance to the Department of Education, school districts, and
159 public schools regarding identified gaps in technology
160 infrastructure and recommended improvements to meet the
161 information technology architecture standards identified under
162 paragraph (a).
163 (d) Summarize and report, by May 1, 2016, for the 2015-2016
164 school year, and by December 1 for each school year thereafter,
165 to the Governor, the President of the Senate, and the Speaker of
166 the House of Representatives:
167 1. The status of technology infrastructure of school
168 districts and public schools within the state.
169 2. Recommendations for improving cost efficiencies and
170 maximizing investments in technology by the state and school
171 districts to establish digital classrooms.
172 (2) For the 2015-2016 school year, the Agency for State

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173 Technology must provide the status of technology infrastructure
174 information regarding implementation of digital classrooms
175 statewide and by each school district to the Commissioner of
176 Education by April 1, 2016. For each school year thereafter, the
177 status of technology infrastructure information must be provided
178 to the commissioner by November 1 of each year.
179 (3) For the 2015-2016 school year, the Department of
180 Education must provide to each school district the status of the
181 statewide implementation of digital classrooms and the school
182 district's status regarding compliance with the information
183 technology architecture standards identified under paragraph
184 (1)(a) by June 1, 2016. For each school year thereafter, the
185 Department of Education must notify a school district regarding
186 compliance with the information technology architecture
187 standards by January 1 of each year. In addition, the Department
188 of Education must provide planning guidance to address
189 identified gaps and recommendations for improving cost
190 efficiencies in accordance with subsection (1) to each school
191 district. If the annual assessment indicates that a school
192 district is not in compliance with the information technology
193 architecture standards identified under paragraph (1)(a), the
194 school district must, within 60 days from the date of receipt of
195 such notification from the Department of Education become
196 compliant; obtain an exemption to waive compliance from the
197 Department of Education; or procure services through the agency
198 or the Department of Management Services to achieve compliance.
199 Section 4. Paragraph (a) of subsection (4) of section
200 1001.20, Florida Statutes, is amended to read:
201 1001.20 Department under direction of state board.—

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202 (4) The Department of Education shall establish the
203 following offices within the Office of the Commissioner of
204 Education which shall coordinate their activities with all other
205 divisions and offices:
206 (a) *Office of Technology and Information Services.*—
207 1. Responsible for developing a 5-year strategic plan, in
208 consultation with the Agency for State Technology, to
209 incorporate the minimum information technology architecture
210 standards for the successful implementation of digital
211 classrooms to improve student performance outcomes under s.
212 1011.62(12) ~~for establishing Florida digital classrooms by~~
213 ~~October 1, 2014~~, and annually updating the plan by January 1
214 ~~each year thereafter~~. The Florida digital classrooms plan shall
215 be provided to each school district and published on the
216 department's website. The plan must:
217 a. Describe how technology will be integrated into
218 classroom teaching and learning to assist the state in improving
219 student performance outcomes and enable all students in Florida
220 to be digital learners with access to digital tools and
221 resources.
222 b. Identify minimum information technology architecture
223 standards requirements, which ~~that~~ include specifications for
224 hardware, software, devices, networking, security, and bandwidth
225 capacity and guidelines for the ratio of students per device.
226 The Office of Technology and Information Services shall consult
227 with the Agency for State Technology in identifying minimum
228 information technology architecture standards.
229 c. Establish minimum requirements for professional
230 development opportunities and training to assist district

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instructional personnel and staff with the integration of technology into classroom teaching.

d. Identify the types of digital tools and resources that can assist district instructional personnel and staff in the management, assessment, and monitoring of student learning and performance.

2. Responsible for making budget recommendations to the commissioner, providing data collection and management for the system, assisting school districts in securing Internet access and telecommunications services, including those eligible for funding under the Schools and Libraries Program of the federal Universal Service Fund, and coordinating services with other state, local, and private agencies.

3. Responsible for coordinating with the Agency for State Technology to facilitate school districts' access to state term contract procurement options and shared services pursuant to s. 282.0051(7)(c).

4. Responsible for consulting with the Agency for State Technology to establish uniform definitions of information technology architecture components which must be incorporated into the department's 5-year strategic plan. The uniform definitions must be incorporated by each charter school that seeks Florida digital classrooms allocation funds and by each district school board in the technology information annually submitted to the department which includes, but is not limited to, digital classroom plans and technology resources inventory.

5. Responsible for consulting with the Agency for State Technology to create a digital readiness scorecard to compare the digital readiness of school districts within the state. The

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scorecard must use the uniform definitions identified under this section and information technology architecture standards identified under s. 282.0052(1)(a). At a minimum, the scorecard must include the student-to-device ratio, the percentage of schools within each district that meet bandwidth standards, the percentage of classrooms within each district that meet wireless standards, the refresh rate of devices, network capacity, information storage capacity, and information security services.

Section 5. Paragraphs (b) through (e) of subsection (12) of section 1011.62, Florida Statutes, are amended to read:

1011.62 Funds for operation of schools.—If the annual allocation from the Florida Education Finance Program to each district for operation of schools is not determined in the annual appropriations act or the substantive bill implementing the annual appropriations act, it shall be determined as follows:

(12) FLORIDA DIGITAL CLASSROOMS ALLOCATION.—

(b) Each district school board shall adopt a district digital classrooms plan that meets the unique needs of students, schools, and personnel and submit the plan for approval to the Department of Education. In addition, each district school board must, at a minimum, seek input from the district's instructional, curriculum, and information technology staff to develop the district digital classrooms plan. The district's plan must be within the general parameters established in the Florida digital classrooms plan pursuant to s. 1001.20. In addition, if the district participates in federal technology initiatives and grant programs, the district digital classrooms plan must include a plan for meeting requirements of such

289 initiatives and grant programs. Funds allocated under this
290 subsection must be used to support implementation of district
291 digital classrooms plans. By August ~~October 1, 2014, and by~~
292 ~~March~~ 1 of each year ~~thereafter~~, on a date determined by the
293 department, each district school board shall submit to the
294 department, in a format prescribed by the department, a digital
295 classrooms plan. At a minimum, such plan must include, and be
296 annually updated to reflect, the following:
297 1. Measurable student performance outcomes. Outcomes
298 related to student performance, including outcomes for students
299 with disabilities, must be tied to the efforts and strategies to
300 improve outcomes related to student performance by integrating
301 technology in classroom teaching and learning. Results of the
302 outcomes shall be reported at least annually for the current
303 school year and subsequent 3 years and be accompanied by an
304 independent evaluation and validation of the reported results.
305 2. Digital learning and technology infrastructure purchases
306 and operational activities. Such purchases and activities must
307 be tied to the measurable outcomes under subparagraph 1.,
308 including, but not limited to, connectivity, broadband access,
309 wireless capacity, Internet speed, and data security, all of
310 which must meet or exceed minimum requirements and protocols
311 established by the department. For each year that the district
312 uses funds for infrastructure, a third-party, independent
313 evaluation of the district's technology inventory and
314 infrastructure needs must accompany the district's plan.
315 3. Professional development purchases and operational
316 activities. Such purchases and activities must be tied to the
317 measurable outcomes under subparagraph 1., including, but not

318 limited to, using technology in the classroom and improving
319 digital literacy and competency.
320 4. Digital tool purchases and operational activities. Such
321 purchases and activities must be tied to the measurable outcomes
322 under subparagraph 1., including, but not limited to,
323 competency-based credentials that measure and demonstrate
324 digital competency and certifications; third-party assessments
325 that demonstrate acquired knowledge and use of digital
326 applications; and devices that meet or exceed minimum
327 requirements and protocols established by the department.
328 5. Online assessment-related purchases and operational
329 activities. Such purchases and activities must be tied to the
330 measurable outcomes under subparagraph 1., including, but not
331 limited to, expanding the capacity to administer assessments and
332 compatibility with minimum assessment protocols and requirements
333 established by the department. If the administration of online
334 assessments after January 1, 2015, does not comply with the
335 minimum assessment protocols and requirements established by the
336 department, the department shall contract with an independent
337 auditing entity that has expertise in the area of the
338 noncompliance to evaluate the extent of the noncompliance and
339 provide recommendations to remediate the noncompliance in future
340 administrations of online assessments.
341 (c) The Legislature shall annually provide in the General
342 Appropriations Act the FEFP allocation for implementation of the
343 Florida digital classrooms plan to be calculated in an amount up
344 to 1 percent of the base student allocation multiplied by the
345 total K-12 full-time equivalent student enrollment included in
346 the FEFP calculations for the legislative appropriation or as

347 provided in the General Appropriations Act. Each school district
348 shall be provided a minimum of $250,000, with the remaining
349 balance of the allocation to be distributed based on each
350 district's proportion of the total K-12 full-time equivalent
351 student enrollment. Distribution of funds for the Florida
352 digital classrooms allocation shall begin following submittal of
353 each district's digital classrooms plan, which must include
354 formal verification of the superintendent's approval of the
355 digital classrooms plan of each charter school in the district,
356 and approval of the plan by the department. A charter school
357 shall submit the school's digital classrooms plan, in a
358 streamlined format prescribed by the department, to the
359 applicable school district. Prior to the distribution of the
360 Florida digital classrooms allocation funds, each district
361 school superintendent shall certify to the Commissioner of
362 Education that the district school board has approved a
363 comprehensive district digital classrooms plan that supports the
364 fidelity of implementation of the Florida digital classrooms
365 allocation. District allocations shall be recalculated during
366 the fiscal year consistent with the periodic recalculation of
367 the FEFP. School districts shall provide a proportionate share
368 of the digital classrooms allocation to each charter school in
369 the district, as required for categorical programs in s.
370 1002.33(17)(b). A school district may use a competitive process
371 to distribute funds for the Florida digital classrooms
372 allocation to the schools within the school district. Beginning
373 in the 2016-2017 school year, to be eligible to receive Florida
374 digital classrooms allocation funds, a school district must
375 undergo an annual assessment pursuant to s. 282.0052 and an

376 annual independent verification of its use of Florida digital
377 classrooms allocation funds pursuant to paragraph (e).
378 (d) To facilitate the implementation of the district
379 digital classrooms plans and charter school digital classrooms
380 plans, the commissioner shall support statewide, coordinated
381 partnerships and efforts of this state's education practitioners
382 in the field, including, but not limited to, superintendents,
383 principals, and teachers, to identify and share best practices,
384 corrective actions, and other identified needs. By August 1,
385 2016, the commissioner shall implement an online, web-based
386 portal for school districts and charter schools to submit their
387 digital classrooms plan.
388 (e) Beginning in the 2015-2016 fiscal year and each year
389 thereafter, each district school board and charter school shall
390 report to the department its use of funds provided through the
391 Florida digital classrooms allocation and student performance
392 outcomes in accordance with the district's digital classrooms
393 plan. The department may contract with an independent third-
394 party entity to conduct an annual independent verification of
395 the district's use of Florida digital classrooms allocation
396 funds in accordance with the district's digital classrooms plan.
397 In the event an independent third-party verification is not
398 conducted, the Auditor General shall, during scheduled
399 operational audits of the school districts, verify compliance of
400 the use of Florida digital classrooms allocation funds in
401 accordance with the district's digital classrooms plan. No later
402 than October 1 of each year, beginning in the 2015-2016 fiscal
403 year, the commissioner shall provide to the Governor, the
404 President of the Senate, and the Speaker of the House of

Representatives a summary of each district's student performance goals and outcomes, use of funds~~,~~ in support of such ~~student~~ performance goals and outcomes, and progress toward meeting statutory requirements and timelines.

Section 6. Paragraph (d) of subsection (2) of section 1011.71, Florida Statutes, is amended to read:

1011.71 District school tax.—

(2) In addition to the maximum millage levy as provided in subsection (1), each school board may levy not more than 1.5 mills against the taxable value for school purposes for district schools, including charter schools at the discretion of the school board, to fund:

(d) The purchase, lease-purchase, or lease of new and replacement equipment; computer hardware, including electronic hardware and other hardware devices necessary for gaining access to or enhancing the use of electronic content and resources or to facilitate the access to and the use of a school district's digital classrooms plan pursuant to s. 1011.62, excluding software other than the operating system necessary to operate the hardware or device; and enterprise resource software applications that are classified as capital assets in accordance with definitions of the Governmental Accounting Standards Board, have a useful life of at least 5 years, and are used to support districtwide administration or state-mandated reporting requirements. Enterprise resource software may be acquired by annual license fees, maintenance fees, or lease agreements.

Section 7. For the 2015-2016 fiscal year, the sum of $9,993,566 from the General Revenue Fund is appropriated in the "Special Categories - Contracted Services" appropriation

category to the Agency for State Technology to conduct the agency's duties under s. 282.0051(10)(b), Florida Statutes.

Section 8. This act shall take effect July 1, 2015.

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 Appropriations

BILL: CS/CS/SB 1264

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Education); Education Pre-K - 12 Committee; and Senator Legg

SUBJECT: Digital Classrooms

DATE: April 23, 2015 REVISED: _____ _____ _____ _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Bailey	Klebacha	ED	**Fav/CS**
2.	Sikes	Elwell	AED	**Recommend: Fav/CS**
3.	Sikes	Kynoch	AP	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1264 provides a mechanism for comparing the status of digital readiness of school districts and public schools, which is independently verified, based on technology infrastructure standards identified by the Agency for State Technology (AST or agency) or a professional organization that the agency contracts with (contracted organization). The digital readiness of school districts must be assessed using a digital readiness scorecard and uniform definitions of technology infrastructure components established by the Department of Education (DOE) in consultation with the agency.

Specifically, the bill requires the AST, or a contracted organization, to consult with the DOE to identify technology infrastructure standards for the successful implementation of digital classrooms in Florida. The bill also specifies that the AST must collaborate with the DOE and the Department of Management Services (DMS) to identify state term contract or other local procurement options, and shared services available to school districts.

The bill also authorizes district school boards to adopt rules regarding procurement practices, including the use of online procurement and electronic auction services. The term "electronic auction services" is defined. The bill also authorizes district school boards and district schools to use electronic auction services and other efficient procurement tools for specified purchases.

The bill requires the AST, or a contracted organization, to perform a digital classrooms implementation and compliance assessment, provide planning guidance to address identified gaps, and recommend cost efficiency improvements. The estimated cost of these requirements is $10 million.

The bill provides an effective date of July 1, 2015.

II. Present Situation:

Florida Digital Classrooms Allocation

In 2014, the Legislature elevated policy and funding for technology-enhanced classroom teaching and learning by creating the Florida digital classrooms allocation (allocation) to support efforts and strategies of school districts and public schools in integrating technology into classroom instruction to improve student performance outcomes.[1] In response to the 2014 legislation that created the allocation,[2] the Department of Education (DOE or department) adopted a Strategic Technology Plan establishing the general parameters for digital classrooms which are used by the by the district school boards to adopt their district digital classrooms plan.[3] For the 2014-2015 fiscal year, the Legislature appropriated $40 million to school districts to support digital classrooms.[4] A minimum of $250,000 was provided to each school district and the remaining balance was allocated based on each district's share of the state's total unweighted student enrollment.[5]

State Digital Classrooms Plan

The Office of Technology and Information Services, within the DOE, is responsible for developing a 5-year strategic plan (state plan) that must:[6]

- Describe how technology will be integrated into classroom teaching and learning to improve student performance outcomes and prepare students to be digital learners.
- Establish minimum technology requirements that include specifications for hardware, software, devices, networking, security, and bandwidth capacity and guidelines for the ratio of students per device.
- Establish minimum requirements for professional development opportunities and training to assist district instructional personnel staff with integrating technology into classroom teaching.
- Identify the types of digital tools and resources that can assist district instructional personnel and staff in management, assessment, and monitoring of student learning and performance.

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[1] Section 1011.62(12)(a), F.S.
[2] Sections 5 and 27, ch. 2014-56, L.O.F.
[3] Florida Department of Education, *FDOE Digital Classrooms Plan*, http://www.fldoe.org/about-us/division-of-technology-info-services/bureau-of-edu-tech.stml (last visited March 6, 2015); *see* ss. 1001.20(4) and 1011.62(12)(b), F.S. The Department of Education (DOE) has provided to school districts, technical assistance memo and guidance document regarding digital classrooms. Florida Department of Education, *Digital Classrooms Plan (DCP) and Allocation*, http://www.fldoe.org/about-us/division-of-technology-info-services/bureau-of-edu-tech.stml (last visited March 9, 2015).
[4] Specific Appropriation 96, s. 2, ch. 2014-51, LO.F.
[5] *Id*.
[6] Section 1001.20(4)(a)1., F.S.

The DOE must update the state plan annually by January 1st.[7]

Technology Integration Matrix

To assist with integrating technology into curriculum, the DOE has prepared a Technology Integration Matrix (TIM)[8] for teachers to use technology to enhance learning by:[9]

- Providing a framework for defining and evaluating technology integration;
- Setting a clear vision for effective teaching with technology;
- Giving teachers and administrators a common language for setting goals; and
- Helping target professional development resources effectively.

District Digital Classrooms Plan

The 2014 legislation required each district school board to adopt a district digital classrooms plan (DCP) that meets the unique needs of students, schools, and personnel and submit the district DCP to the DOE for approval.[10] By permitting the customization of district digital classrooms plan to meet local needs, the legislation promoted local control of targeted and purposeful technology enhancements in Florida's classrooms. At a minimum, the district DCPs must be updated annually to include the following:[11]

- Measurable student performance outcomes, including the outcomes for students with disabilities.
- Digital learning and technology infrastructure purchases and operational activities including, but not limited to, connectivity, broadband access, wireless capacity, internet speed, and data security, all of which must meet or exceed the minimum requirements and protocols established by the department.
- Professional development purchases and operational activities including, but not limited to, using technology in the classroom and improving digital literacy and competency.
- Digital tool purchases and operational activities including, but not limited to, competency-based credentials that measure and demonstrate digital competency and certifications; third-party assessments that demonstrate acquired knowledge and use of digital applications; and devices that meet or exceed the minimum requirements and protocols established by the department.
- Online assessment-related purchases and operational activities including, but not limited to, expanding the capacity to administer assessments and compatibility with minimum assessment requirements and protocols established by the department.

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[7] Section 1001.20(4)(a)1., F.S

[8] Florida Department of Education, *Presentation to the Florida Senate Appropriations Subcommittee on Education* (March 4, 2015), *available at* http://www.flsenate.gov/PublishedContent/Committees/2014-2016/AED/MeetingRecords/MeetingPacket_2873.pdf, at 115 of 120.

[9] Florida Department of Education, *The Technology Integration Matrix*, http://fcit.usf.edu/matrix/index.php (last visited March 10, 2015). The five interdependent characteristics of meaningful learning environments are: active, constructive, goal directed (i.e., reflective), authentic, and collaborative. The five levels of technology integration (i.e., entry, adoption, adaptation, infusion, and transformation) with each of the five characteristics of meaningful learning environments. Together, the five levels of technology integration and the five characteristics of meaningful learning environments create a matrix of 25 cells to set a clear vision for effective teaching with technology. Florida Department of Education, *The Technology Integration Matrix* (March 9, 2015), *available at* http://fcit.usf.edu/matrix/matrix.php.

[10] Section 1011.62(12)(b), F.S.

[11] *Id*.

Each district superintendent must certify to the Commissioner of Education (commissioner) that "the district school board has approved a comprehensive district digital classrooms plan that supports the fidelity of implementation of the Florida digital classrooms allocation."[12] In addition, each district's DCP must include a formal verification of the district superintendent's approval of the DCP for each charter school in the district.[13] The DOE must approve the DCPs before distributing the allocation funds to the school districts.[14]

For the 2014-2015 school year, the deadline for submitting district DCPs was October 1, 2014.[15] All 67 district school boards have submitted their district DCP and the DOE has approved all district DCPs.[16] For the 2015-2016 school year and each year thereafter, the district school boards must submit their district DCPs annually by March 1.[17]

In addition to submitting DCPs, beginning in the 2015-2016 fiscal year, each district school board must report to the department its use of allocation funds and student performance outcomes.[18] The department may contract with an independent third-party entity to conduct an annual independent verification of the district's use of allocation funds in accordance with the district's DCP.[19] If an independent third-party verification is not conducted, the Auditor General must, during scheduled operational audits of school districts, verify compliance of the use of allocation funds in accordance with the district's DCP.[20]

Annually, by October 1, beginning in the 2015-2016 fiscal year, the commissioner must provide to the Governor, President of the Senate, and Speaker of the House of Representatives, a summary of each district's use of funds, student performance outcomes, and progress toward meeting statutory requirements and timelines.[21]

State Agency Procurement

Chapter 287, F.S., regulates state agency[22] procurement of personal property and services.[23] Agencies may use a variety of procurement methods, depending on the cost and characteristics of the needed good or service, the complexity of the procurement, and the number of available vendors. These include the following:

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[12] Section 1011.62(12)(c), F.S.
[13] Section 1011.62(12)(b)5(c), F.S.
[14] *Id*.
[15] Section 1011.62(12)(b), F.S.
[16] Florida Department of Education, *Approved Districts' Digital Classroom Plans*, http://www.fldoe.org/about-us/division-of-technology-info-services/dcp.stml (last visited March 6, 2015).
[17] Section 1011.62(12)(b), F.S.
[18] Section 1011.62(12)(e), F.S.
[19] *Id*.
[20] *Id*.
[21] *Id*.
[22] As defined in s. 287.012(1), F.S., "agency" means 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.
[23] Local governments are not subject to the provisions of ch. 287, F.S. Local governmental units may look to the chapter for guidance in the procurement of goods and services, but many have local policies or ordinances to address competitive solicitations.

- "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 (ITB)," 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 proposals (RFP)," 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 (ITN)," which are used when negotiations are determined to be necessary to obtain the best value and involve a request for high complexity, customized, mission-critical services, by an agency dealing with a limited number of vendors.[24]

Contracts for commodities or contractual services in excess of $35,000 must be procured utilizing a competitive solicitation process.[25] However, specified contractual services and commodities are not subject to competitive-solicitation requirements.[26]

The chapter establishes a process by which a person may file an action protesting a decision or intended decision pertaining to contracts administered by the Department of Management Services (DMS), a water management district, or state agencies.[27]

Online Procurement of Commodities and Contractual Services

Pursuant to s. 287.057(22), F.S., the DMS is required to maintain a program for online procurement of commodities and contractual services in consultation with the Chief Financial Officer (Department of Financial Services) and the Agency for State Technology (AST). The DMS has authority to contract for equipment and services to develop and implement online procurement in consultation with the AST and in compliance with standards of AST.[28] The DMS is required to adopt rules for the administration of the program for online procurement.[29] The DMS may also impose and collect fees for use of the online procurement system.[30]

The DMS's online procurement program is MyFloridaMarketPlace (MFMP). MFMP is used by the Division of State Purchasing for formal solicitations (ITB, RFP, and ITN) and by state

[24] *See* ss. 287.012(6) and 287.057, F.S.
[25] 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. As defined in s. 287.012(6), F.S., "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.
[26] See s. 287.057(3)(e), F.S.
[27] See ss. 287.042(2)(c) and 120.57(3), F.S.
[28] Section 287.057(22)(a), F.S. Also, see s. 282.0051(4), F.S. (AST has responsibility to perform project oversight on all state agency information technology project costs of $10 million or more that are funded in the General Appropriations Act or other law.)
[29] Section 287.057(22)(b), F.S. *See* Rules 60A-1.030-1.033, F.A.C.
[30] Section 287.057(22)(c), F.S.

agencies for informal quotes and electronic invoicing.[31] MFMP has been in operation for more than ten years.[32]

Local Capital Improvement Revenue for Computer Hardware and Enterprise Software

School districts are authorized to use local improvement revenue to purchase, lease-purchase, or lease:

- New and replacement equipment;
- Computer hardware; and
- Enterprise resource software applications that are classified as capital assets, have a useful life of at least 5 years, and are used to support districtwide administration or state-mandated reporting requirements.

III. Effect of Proposed Changes:

The bill provides a mechanism for assessing and comparing the status of digital readiness of school districts and public schools based on technology infrastructure standards identified by the Agency for State Technology (AST or agency) or a professional organization that the agency contracts with (contracted organization). The digital readiness of school districts must be assessed using a digital readiness scorecard and uniform definitions of technology infrastructure components established by the Department of Education (DOE or department) in consultation with the agency.

Specifically, the bill requires the AST, or a contracted organization, to consult with the department to identify technology infrastructure standards for the successful implementation of digital classrooms. These standards must include, but are not limited to, device recommendations, security and connectivity requirements, and browser expectations.

This provision will likely facilitate a collaboration between the AST, the agency that establishes the standards for the most efficient use of state's information technology resources,[33] and the DOE, the department that is familiar with public schools' instructional needs.

Requirements for the Agency for State Technology

The AST was established in 2014 by the Legislature to oversee the state's essential technology projects and is responsible for establishing standards and processes for information technology (IT).[34] The agency is responsible for establishing technology architecture standards to provide

[31] Analysis from the DMS dated February 3, 2015, on file with the Committee on Governmental Oversight and Accountability.
[32] *See* http://www.dms.myflorida.com/business_operations/state_purchasing.
[33] Section 282.0051(2), F.S. The Agency for State Technology is responsible for developing and publishing "information technology policy for the management of the state's information technology resources." Section 282.0051(1), F.S.
[34] Section 10, ch. 2014-221, L.O.F.; Agency for State Technology, *About Us*, http://www.ast.myflorida.com/about.asp (lasted visited March 9, 2015) Information technology means " equipment, hardware, software, firmware, programs, systems, networks, infrastructure, media, and related material used to automatically, electronically, and wirelessly collect, receive, access, transmit, display, store, record, retrieve, analyze, evaluate, process, classify, manipulate, manage, assimilate, control, communicate, exchange, convert, converge, interface, switch, or disseminate information of any kind or form." Section 282.0041, F.S.

the most efficient use of the state's IT resources which must include, but not be limited to, performance measurements and metrics that objectively reflect the status of an IT project based on a defined and documented scope, cost, and schedule.[35]

In addition to identifying the technology infrastructure standards and targets, the bill requires the AST, or a contracted organization, to:

- Perform an annual assessment of the DOE's 5-year strategic plan for establishing Florida digital classrooms and the districts' and charter schools' digital classrooms plans for the 2015-2016 school year, and annually thereafter, to determine the status of technology infrastructure and digital readiness of school districts. The retrospective analyses will likely provide the state with an independent assessment of the districts' and schools' technology infrastructure and digital readiness status and needs. Currently, technology readiness data are self-reported by the school districts. In addition, the retrospective analyses will likely assist with identifying gaps in technology infrastructure relative to the identified standards and targets. The bill requires school districts to be assessed using a digital readiness scorecard to provide a mechanism for comparing the status of school districts' digital readiness.
- Provide prospective planning guidance and technical assistance to the department, school districts, and public schools regarding identified gaps in technology infrastructure and recommended improvements to meet the standards identified by the AST or a contracted organization. The guidance and technical assistance will likely help the DOE, school districts, and public schools to make strategic and purposeful investments in technology infrastructure.
- Submit a report by May 1, 2016, for the 2015-2016 school year, and annually by December 1 thereafter, to the Governor, President of the Senate, and Speaker of the House of Representatives, summarizing the status of technology infrastructure and recommending strategies for improving cost efficiencies and maximizing the state's and school districts' investments in technology to establish digital classrooms. The annual report, which the AST must provide to the Commissioner of Education (commissioner) by November 1 of each year, will likely help to inform the state about the school districts' and public schools' technology infrastructure status and progress toward meeting the technology infrastructure standards and targets that are identified by the AST or a contracted organization in consultation with the DOE. Additionally, the recommendations regarding cost efficiencies may help inform strategic budgetary investments in technology infrastructure.
- Collaborate with the DOE and the Department of Management Services (DMS) to identify:
  - State term contract or other local procurement options available to school districts that provide information technology commodities, consultant services, or staff augmentation contractual services that support the information technology architecture standards applicable to digital classrooms.
  - Shared services available to school districts through the State Data Center to facilitate the implementation of school district digital classrooms plans.

Requirements for the Department of Education

The bill specifies requirements for the DOE regarding incorporating the identified technology infrastructure standards and targets in the department's 5-year strategic plan (state plan),

[35] Section 282.0051(2)-(3), F.S.

establishing uniform definitions of technology infrastructure components, creating a digital readiness scorecard, and providing access to statewide procurement service agreements:

- The DOE must include the identified technology infrastructure standards and targets in the state plan for successful implementation of digital classrooms to improve student performance outcomes. In addition to the components that must be included in the state plan, which are specified in law,[36] the bill clarifies that the state plan must also identify minimum technology infrastructure requirements in consultation with the AST. The minimum technology infrastructure requirements will likely help the school districts and public schools strategically plan for technology investments and allocate funds purposefully.
- The DOE must coordinate with the AST to facilitate school districts' access to statewide procurement service agreements. Access to competitively procured service agreements may result in cost savings and efficiencies for the school districts.
- The DOE must consult with the AST to establish uniform definitions of technology infrastructure components which must be incorporated into the state plan. The uniform definitions must also be used by charter schools that seek Florida digital classrooms allocation funds and by each district school board in the technology information submitted annually to the DOE. Uniform definitions will allow for comparability of technology infrastructure components across school districts to assess the status of districts' digital readiness.
- The DOE must consult with the AST to create a digital readiness scorecard to compare the digital readiness of school districts within the state. The scorecard must use the uniform definitions and identified technology infrastructure standards and targets identified by the department in consultation with the AST. At a minimum, the scorecard must include the student-to-device ratio, the percentage of schools within each district that meet bandwidth standards, the percentage of classrooms within each district that must meet wireless standards, the refresh rate of devices, network capacity, information storage capacity, and information security services.
- The DOE must provide each school district with their information technology architecture standards compliance status by June 1, 2016, for the 2015-2016 school year, and annually by January 1 thereafter.
- The DOE, if it determines the administration of online assessments after January 1, 2015, does not comply with the minimum assessment protocols and requirements it established, must contract with an independent, auditing entity that has expertise in the area to evaluate the extent of the noncompliance and provide recommendations to remediate the noncompliance in future administrations of online assessments.

Requirements for School Districts

Beginning in the 2016-2017 school year, each school district must undergo an annual assessment and independent verification of its use of Florida digital classrooms allocation funds (digital classrooms funds) for the district to be eligible to receive digital classrooms funds. An independent assessment of the districts' use of digital classrooms funds will likely help inform the state about school districts' technology needs and investments to improve student performance outcomes. Access to such information will also likely assist the state with budgetary

[36] Section 1001.20(4)(a)1., F.S.

decisions concerning school districts' and public schools' preparedness to integrate technology into classroom teaching and learning and administer computer-based assessments.

The bill also modifies district digital classrooms plan requirements by specifying that efforts to improve student performance be tied to the use of an instructional delivery system that increases the depth of student and teacher engagement through the interactive and collaborative use of classroom devices, digital curriculum, and assessments.

Requirements for Submitting Digital Classrooms Plans

The bill also makes modifications to the format and deadline for submitting digital classrooms plans:

- The DOE must develop a streamlined format for charter schools to use for submitting their digital classrooms plan. This process may result in creating a precise accountability measurement tool matching the charter school's mission, program, goals, students served, methods of assessment and ways to measure success of charter schools.[37]
- The commissioner must implement an online, web-based portal for school districts and charter schools to submit their digital classrooms plan. The online submission system may result in a cost-effective method for the school districts to timely report their digital classrooms plan information to the department.
- District school boards must submit their digital classrooms plan annually to the DOE by August 1, instead of the March 1 deadline which is the current statutory deadline. The August 1 deadline will likely assist the districts with budgetary planning by taking into consideration allocation funds appropriated for the next school year.

Finally, the bill clarifies that the annual report the commissioner must provide to the Governor, President of the Senate, and Speaker of the House of Representatives, by October 1 of each year, include a summary of each district's:

- Student performance goals and outcomes; and
- Use of funds in support of such goals and outcomes.

The clarification emphasizes that improving student performance outcomes should be the goal that drives technology integration in classroom teaching and learning.

Electronic Auction Services

The bill authorizes district school boards to adopt rules regarding procurement practices, including the use of online procurement and electronic auction services. The term "electronic auction services" is defined as a competitive procurement conducted on a centralized website using third-party software, jointly managed by an approved vendor and the district school board, for the purpose of obtaining competitive prices in an auction environment.

The bill also authorizes district school boards to use electronic auction services or other efficient procurement tools for purchasing buses, equipment and supplies. District schools are also

[37] Florida Department of Education, *General Information* (March 9, 2015), *available at* http://www.fldoe.org/schools/school-choice/charter-schools/charter-school-faqs.stml.

authorized to use electronic auction services or other efficient procurement tools for such purchases.

Local Capital Improvement Revenue for Computer Hardware and Enterprise Software

School districts are currently authorized to purchase enterprise resource software with their local capital improvement revenue, however, it is unclear as to whether annual license fees, maintenance fees, or lease agreements for enterprise resource software are authorized uses of these funds. The bill specifically authorizes school districts to use their local capital improvement revenue for enterprise resource software annual license fees, maintenance fees, or lease agreements.

The bill provides an effective date of July 1, 2015.

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:

CS/CS/SB 1264 requires the Agency for State Technology (AST), or a contracted organization, to perform a digital classrooms implementation and compliance assessment, provide planning guidance to address identified gaps, and recommend cost efficiency improvements. The estimated cost of these requirements is $10 million.

Procurement through electronic auction services or other efficient procurement tools may result in costs savings for district school boards, but the extent of those potential cost savings is not known.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 282.0051, 282.00515, 1001.20, 1001.42, 1006.27, 1011.62, and 1011.71.

This bill creates section 282.0052 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS/CS by Appropriations on April 21, 2015:
The committee substitute:

- Requires the Agency for State Technology (AST) to:
  - Establish information technology architecture standards for purposes of implementing digital classrooms, including but not limited to, device recommendations, security requirements, connectivity requirements, and browser expectations.
  - Collaborate with the Department of Education (DOE) and the Department of Management Services (DMS) to identify state term contract or other local procurement options, and shared services options for school districts.
  - Include, in the annual assessment of the DOE, the status of statewide implementation of digital classrooms and recommendations for improving cost efficiencies.
  - Perform an annual assessment of state and school district digital classrooms plans.
- Requires the DOE to contract with independent auditing entity to make recommendations to remediate technology infrastructure issues associated with the administration of 2014-15 online assessments.
- Authorizes school districts to use their local capital improvement revenue for enterprise resource software annual license fees, maintenance fees, or lease agreements.
- Modifies district digital classrooms plan requirements by specifying that efforts to improve student performance be tied to the use of an instructional delivery system that increases the depth of student and teacher engagement through the interactive and collaborative use of classroom devices, digital curriculum, and assessments.
- Authorizes district school boards to adopt rules regarding procurement practices, including the use of online procurement and electronic auction services and authorizes district school boards and district schools to use electronic auction services and other efficient procurement tools for specified purchases.

CS by Education Pre-K – 12 on March 18, 2015:
The committee substitute maintains the original substance of SB 1264 with the following modifications:

- Requires the Department of Education's technology office to consult with the Agency for State Technology (AST) to:
  - Establish uniform definitions of technology infrastructure components. The uniform definitions must be incorporated into the state and local digital classrooms plans and technology resources inventory.
  - Create a digital readiness scorecard to compare school districts' digital readiness and include specified information in the scorecard.
- Modifies a requirement in the bill that requires the AST, or an independent organization that the agency contracts with, to perform retrospective analyses of the state and local digital classrooms plans by clarifying that the retrospective analyses must also include an assessment of the digital readiness of school districts using the digital readiness scorecard.

B. Amendments:

None.

By the Committee on Education Pre-K - 12; and Senator Legg

A bill to be entitled

An act relating to digital classrooms; creating s. 282.0052, F.S.; establishing requirements for digital classrooms technology infrastructure planning by the Agency for State Technology or a contracted organization; requiring the agency or contracted organization to annually submit a report to the Governor and the Legislature; prescribing report requirements; requiring the agency to annually update the Commissioner of Education on the status of technology infrastructure; amending s. 1001.20, F.S.; requiring the Office of Technology and Information Services of the Department of Education to consult with the Agency for State Technology in developing the 5-year strategic plan for Florida digital classrooms; removing an obsolete date; revising requirements for the 5-year strategic plan; expanding the list of responsibilities of the Office of Technology and Information Services; amending s. 1011.62, F.S.; revising the date by which district school boards must annually submit a digital classrooms plan to the Department of Education; requiring a charter school to submit the school's digital classrooms plan to the applicable school district; specifying required format for the plan; specifying conditions for a school district to maintain eligibility for Florida digital classrooms allocation funds; requiring the Commissioner of Education to implement an online portal for electronic submission of digital classrooms

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

plans by a specified date; requiring a charter school to annually report to the department regarding the use of specified funds; revising requirements for the commissioner's annual report to the Governor and the Legislature regarding the digital classrooms plan; providing an effective date.

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

Section 1. Section 282.0052, Florida Statutes, is created to read:

282.0052 Digital classrooms technology infrastructure planning.—

(1) The Agency for State Technology, or an independent third-party professional organization that the agency contracts with, shall:

(a) Consult with the Department of Education to identify technology infrastructure standards and targets for the successful implementation of digital classrooms, pursuant to s. 1011.62(12), in public schools within the state beginning in the 2016-2017 school year.

(b) Perform retrospective analyses of the state 5-year strategic plan developed pursuant to s. 1001.20 and school district digital classrooms plan adopted pursuant to s. 1011.62(12) for the 2014-2015 and 2015-2016 school years to determine the status of technology infrastructure and digital readiness of school districts relative to the standards and targets identified under paragraph (a). The digital readiness of school districts must be assessed using the digital readiness

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

59 scorecard established under s. 1001.20(4)(a).
60 (c) Provide prospective planning guidance and technical
61 assistance to the Department of Education, school districts, and
62 public schools regarding identified gaps in technology
63 infrastructure and recommended improvements to meet the
64 standards and targets identified under paragraph (a).
65 (d) Summarize and report, by October 1 of each year, to the
66 Governor, the President of the Senate, and the Speaker of the
67 House of Representatives:
68 1. The status of technology infrastructure of school
69 districts and public schools within the state.
70 2. Recommendations for improving cost efficiencies and
71 maximizing investments in technology by the state and school
72 districts to establish digital classrooms.
73 (2) The Agency for State Technology must provide the status
74 of technology infrastructure information to the Commissioner of
75 Education by September 1 of each year.
76 Section 2. Paragraph (a) of subsection (4) of section
77 1001.20, Florida Statutes, is amended to read:
78 1001.20 Department under direction of state board.—
79 (4) The Department of Education shall establish the
80 following offices within the Office of the Commissioner of
81 Education which shall coordinate their activities with all other
82 divisions and offices:
83 (a) *Office of Technology and Information Services.*—
84 1. Responsible for developing a 5-year strategic plan, in
85 consultation with the Agency for State Technology, to establish
86 technology infrastructure standards and targets for the
87 successful implementation of digital classrooms to improve

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88 student performance outcomes under s. 1011.62(12) ~~for~~
89 ~~establishing Florida digital classrooms by October 1, 2014~~, and
90 annually updating the plan by January 1 ~~each year thereafter~~.
91 The Florida digital classrooms plan shall be provided to each
92 school district and published on the department's website. The
93 plan must:
94 a. Describe how technology will be integrated into
95 classroom teaching and learning to assist the state in improving
96 student performance outcomes and enable all students in Florida
97 to be digital learners with access to digital tools and
98 resources.
99 b. Identify minimum technology infrastructure requirements,
100 which ~~that~~ include specifications for hardware, software,
101 devices, networking, security, and bandwidth capacity and
102 guidelines for the ratio of students per device. The Office of
103 Technology and Information Services shall consult with the
104 Agency for State Technology in identifying minimum technology
105 infrastructure requirements.
106 c. Establish minimum requirements for professional
107 development opportunities and training to assist district
108 instructional personnel and staff with the integration of
109 technology into classroom teaching.
110 d. Identify the types of digital tools and resources that
111 can assist district instructional personnel and staff in the
112 management, assessment, and monitoring of student learning and
113 performance.
114 2. Responsible for making budget recommendations to the
115 commissioner, providing data collection and management for the
116 system, assisting school districts in securing Internet access

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117 and telecommunications services, including those eligible for
118 funding under the Schools and Libraries Program of the federal
119 Universal Service Fund, and coordinating services with other
120 state, local, and private agencies.
121 3. Responsible for coordinating with the Agency for State
122 Technology to facilitate school districts' access to statewide
123 procurement service agreements.
124 4. Responsible for consulting with the Agency for State
125 Technology to establish uniform definitions of technology
126 infrastructure components which must be incorporated into the
127 department's 5-year strategic plan. The uniform definitions must
128 be incorporated by each charter school that seeks Florida
129 digital classrooms allocation funds and by each district school
130 board in technology information annually submitted to the
131 department which includes, but is not limited to, digital
132 classroom plans and technology resources inventory.
133 5. Responsible for consulting with the Agency for State
134 Technology to create a digital readiness scorecard to compare
135 the digital readiness of school districts within the state. The
136 scorecard must use the uniform definitions identified under this
137 section and technology infrastructure standards and targets
138 identified under s. 282.0052(1)(a). At a minimum, the scorecard
139 must include the student-to-device ratio, the percentage of
140 schools within each district that meet bandwidth standards, the
141 percentage of classrooms within each district that meet wireless
142 standards, the refresh rate of devices, network capacity,
143 information storage capacity, and information security services.
144 Section 3. Paragraphs (b) through (e) of subsection (12) of
145 section 1011.62, Florida Statutes, are amended to read:

146 1011.62 Funds for operation of schools.—If the annual
147 allocation from the Florida Education Finance Program to each
148 district for operation of schools is not determined in the
149 annual appropriations act or the substantive bill implementing
150 the annual appropriations act, it shall be determined as
151 follows:
152 (12) FLORIDA DIGITAL CLASSROOMS ALLOCATION.—
153 (b) Each district school board shall adopt a district
154 digital classrooms plan that meets the unique needs of students,
155 schools, and personnel and submit the plan for approval to the
156 Department of Education. In addition, each district school board
157 must, at a minimum, seek input from the district's
158 instructional, curriculum, and information technology staff to
159 develop the district digital classrooms plan. The district's
160 plan must be within the general parameters established in the
161 Florida digital classrooms plan pursuant to s. 1001.20. In
162 addition, if the district participates in federal technology
163 initiatives and grant programs, the district digital classrooms
164 plan must include a plan for meeting requirements of such
165 initiatives and grant programs. Funds allocated under this
166 subsection must be used to support implementation of district
167 digital classrooms plans. By September ~~October 1, 2014, and by~~
168 ~~March~~ 1 of each year ~~thereafter~~, on a date determined by the
169 department, each district school board shall submit to the
170 department, in a format prescribed by the department, a digital
171 classrooms plan. At a minimum, such plan must include, and be
172 annually updated to reflect, the following:
173 1. Measurable student performance outcomes. Outcomes
174 related to student performance, including outcomes for students

175 with disabilities, must be tied to the efforts and strategies to
176 improve outcomes related to student performance by integrating
177 technology in classroom teaching and learning. Results of the
178 outcomes shall be reported at least annually for the current
179 school year and subsequent 3 years and be accompanied by an
180 independent evaluation and validation of the reported results.
181 2. Digital learning and technology infrastructure purchases
182 and operational activities. Such purchases and activities must
183 be tied to the measurable outcomes under subparagraph 1.,
184 including, but not limited to, connectivity, broadband access,
185 wireless capacity, Internet speed, and data security, all of
186 which must meet or exceed minimum requirements and protocols
187 established by the department. For each year that the district
188 uses funds for infrastructure, a third-party, independent
189 evaluation of the district's technology inventory and
190 infrastructure needs must accompany the district's plan.
191 3. Professional development purchases and operational
192 activities. Such purchases and activities must be tied to the
193 measurable outcomes under subparagraph 1., including, but not
194 limited to, using technology in the classroom and improving
195 digital literacy and competency.
196 4. Digital tool purchases and operational activities. Such
197 purchases and activities must be tied to the measurable outcomes
198 under subparagraph 1., including, but not limited to,
199 competency-based credentials that measure and demonstrate
200 digital competency and certifications; third-party assessments
201 that demonstrate acquired knowledge and use of digital
202 applications; and devices that meet or exceed minimum
203 requirements and protocols established by the department.

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204 5. Online assessment-related purchases and operational
205 activities. Such purchases and activities must be tied to the
206 measurable outcomes under subparagraph 1., including, but not
207 limited to, expanding the capacity to administer assessments and
208 compatibility with minimum assessment protocols and requirements
209 established by the department.
210 (c) The Legislature shall annually provide in the General
211 Appropriations Act the FEFP allocation for implementation of the
212 Florida digital classrooms plan to be calculated in an amount up
213 to 1 percent of the base student allocation multiplied by the
214 total K-12 full-time equivalent student enrollment included in
215 the FEFP calculations for the legislative appropriation or as
216 provided in the General Appropriations Act. Each school district
217 shall be provided a minimum of $250,000, with the remaining
218 balance of the allocation to be distributed based on each
219 district's proportion of the total K-12 full-time equivalent
220 student enrollment. Distribution of funds for the Florida
221 digital classrooms allocation shall begin following submittal of
222 each district's digital classrooms plan, which must include
223 formal verification of the superintendent's approval of the
224 digital classrooms plan of each charter school in the district,
225 and approval of the plan by the department. A charter school
226 shall submit the school's digital classrooms plan, in a
227 streamlined format prescribed by the department, to the
228 applicable school district. Prior to the distribution of the
229 Florida digital classrooms allocation funds, each district
230 school superintendent shall certify to the Commissioner of
231 Education that the district school board has approved a
232 comprehensive district digital classrooms plan that supports the

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233 fidelity of implementation of the Florida digital classrooms
234 allocation. District allocations shall be recalculated during
235 the fiscal year consistent with the periodic recalculation of
236 the FEFP. School districts shall provide a proportionate share
237 of the digital classrooms allocation to each charter school in
238 the district, as required for categorical programs in s.
239 1002.33(17)(b). A school district may use a competitive process
240 to distribute funds for the Florida digital classrooms
241 allocation to the schools within the school district. Beginning
242 in the 2016-2017 school year, to be eligible to receive Florida
243 digital classrooms allocation funds, a school district must
244 undergo retrospective and prospective analyses pursuant to s.
245 282.0052 and an annual independent verification of its use of
246 Florida digital classrooms allocation funds pursuant to
247 paragraph (e).
248 (d) To facilitate the implementation of the district
249 digital classrooms plans and charter school digital classrooms
250 plans, the commissioner shall support statewide, coordinated
251 partnerships and efforts of this state's education practitioners
252 in the field, including, but not limited to, superintendents,
253 principals, and teachers, to identify and share best practices,
254 corrective actions, and other identified needs. By August 1,
255 2016, the commissioner shall implement an online, web-based
256 portal for school districts and charter schools to submit their
257 digital classrooms plan.
258 (e) Beginning in the 2015-2016 fiscal year and each year
259 thereafter, each district school board and charter school shall
260 report to the department its use of funds provided through the
261 Florida digital classrooms allocation and student performance

262 outcomes in accordance with the district's digital classrooms
263 plan. The department may contract with an independent third-
264 party entity to conduct an annual independent verification of
265 the district's use of Florida digital classrooms allocation
266 funds in accordance with the district's digital classrooms plan.
267 In the event an independent third-party verification is not
268 conducted, the Auditor General shall, during scheduled
269 operational audits of the school districts, verify compliance of
270 the use of Florida digital classrooms allocation funds in
271 accordance with the district's digital classrooms plan. No later
272 than October 1 of each year, beginning in the 2015-2016 fiscal
273 year, the commissioner shall provide to the Governor, the
274 President of the Senate, and the Speaker of the House of
275 Representatives a summary of each district's student performance
276 goals and outcomes, use of funds~~,~~ in support of such ~~student~~
277 performance goals and outcomes, and progress toward meeting
278 statutory requirements and timelines.
279 Section 4. This act shall take effect July 1, 2015.

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Education Pre-K - 12, Chair
Ethics and Elections, Vice Chair
Appropriations Subcommittee on Education
Fiscal Policy
Government Oversight and Accountability
Higher Education

SENATOR JOHN LEGG
17th District

Legg.John.web@FLSenate.gov

March 5, 2015

The Honorable Tom Lee
Committee on Appropriations Chair
201 The Capitol
404 S. Monroe Street
Tallahassee, FL 32399

RE: SB 1264 - Digital Classrooms

Dear Chair Lee:

SB 1264 - Digital Classrooms has been referred to your committee. I respectfully request that it be placed on the Committee on Appropriations Agenda, at your convenience. Your leadership and consideration are appreciated.

Sincerely,

John Legg
State Senator, District 17

cc: Cindy Kynoch, Staff Director

JL/jb

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ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/21
Meeting Date

1264
Bill Number (if applicable)

montford Am, Late filed
Amendment Barcode (if applicable)

659380

Topic: Education

Name: Cynthia Henderson

Job Title:

Address: 108 E Jefferson St Ste A
Street

Tallahassee FL 32301
City State Zip

Phone: 850-559-0855

Email: cyhenderson@me.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing: Crowne

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 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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4/21/15
Meeting Date

1264
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic: Digital Classrooms

Name: Jim Horne

Job Title:

Address: 200 W College Ave
Street

Tallahassee FL 32301
City State Zip

Phone: 904-759-4596

Email:

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☑ In Support ☐ Against
(The Chair will read this information into the record.)

Representing: AJF

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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4/21/15
Meeting Date

1264
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic SB 1264

Name Sara Clements

Job Title Legislative Director

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TLH FL 32301
City State Zip

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Email Sara@aflorida promise.org

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Foundation for Florida's Future

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 (10/14/14)

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 Appropriations

BILL: CS/SB 1302

INTRODUCER: Environmental Preservation and Conservation Committee and Senator Evers

SUBJECT: Contaminated Sites

DATE: April 20, 2015 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Gudeman	Uchino	EP	**Fav/CS**
2.	Howard	DeLoach	AGG	**Favorable**
3.	Howard	Kynoch	AP	**Favorable**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1302 amends section 376.30701 and 376.81, Florida Statutes, to provide clarifying language and allow for additional considerations in the use of risk-based corrective action (RBCA) in contamination cleanup and brownfield site rehabilitation. It authorizes the Department of Environmental Preservation (DEP) to use alternative cleanup target levels without requiring institutional controls in remediating contaminated sites under section 376.30701, Florida Statutes. The bill amends sections 376.301 and 376.79, Florida Statutes, to provide definitions for "background concentration" and "long-term natural attenuation." The bill also makes conforming changes to correct cross references related to RBCA.

The DEP will experience a positive, indeterminate fiscal impact due to reduced costs to remediate contaminated sites and brownfields that are funded by a state cost-share agreement. The DEP will have nominal costs associated with rulemaking.

The bill provides an effective date of July 1, 2015.

II. Present Situation:

Risk-Based Corrective Action

Risk-based corrective action (RBCA) (pronounced "Rebecca") is a decision-making process used to assess and respond to incidents of contamination. The American Society of Materials and

Testing established RBCA in 1994 based on guidance from the U.S. Environmental Protection Agency (EPA), which directs states to consider the current and prospective use of groundwater and the relative risk to human health and the environment when remediating contaminated sites.[1]

The RBCA process uses a tiered approach that couples site assessment and response actions with human health, public safety, and environmental risk assessment to determine the extent and urgency of corrective action used in remediating contaminated sites. Alternative cleanup target levels,[2] institutional[3] and engineering controls,[4] and remediation by natural attenuation[5] are RBCA strategies used on a case-by-case basis that allow the use of cost-effective remediation measures in lieu of conventional cleanup technologies. RBCA is implemented in all 50 states for the remediation of contaminated sites.[6]

RBCA principles were officially introduced in Florida in 1995 by the Florida Petroleum Efficiency Task Force that recommended them to remediate contaminated petroleum sites. Section 376.3071(5)(b), F.S., was created in 1996 and specifies that the Department of Environmental Protection (DEP) must incorporate RBCA principles to achieve protection of the public health, safety, and welfare, water resources, and the environment in a cost-effective manner. The use of RBCA was later expanded to the state's dry cleaning site remediation program under s. 376.3078, F.S., and the brownfields program under s. 376.81, F.S.

Section 376.30701, F.S., was created in 2003 to apply RBCA principles to all contaminated sites (referred to as "Global RBCA") resulting from a discharge of pollutants when site rehabilitation is required pursuant to chs. 376 and 403, F.S. The law requires the DEP to develop a site rehabilitation program by rule that uses RBCA concepts already developed for the petroleum cleanup, brownfield, and dry cleaning programs. Specifically, the law requires the DEP to establish:

- Cleanup target levels in soil and groundwater using the one in one million cancer risk for carcinogenic constituents;
- Cleanup target levels for groundwater, surface water, and soil using a hazard index of one for non-carcinogenic constituents;
- Cleanup target levels for groundwater based on nuisance, taste, sight, smell, and aesthetic considerations; and
- Alternative cleanup target levels in conjunction with institutional and engineering controls.

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[1] EPA, *Use of Risk-Based Decision-Making in UST Corrective Action Programs, OSWER Directive 9610.17* (1995), http://epa.gov/swerust1/directiv/od961017.htm (last visited Mar. 27, 2015).
[2] Section 37.301(7), F.S., defines "cleanup target levels" as "the concentration for each contaminant identified by an applicable analytical test method, in the medium of concern, at which a site rehabilitation program is deemed complete."
[3] Section 376.301(21), F.S., defines "institutional control" as "the restriction on use or access to a site to eliminate or minimize exposure to petroleum products' chemicals of concern, dry cleaning solvents, or other contaminants. Such restrictions may include, but are not limited to, deed restrictions, restrictive covenants, or conservation easements."
[4] Section 376.301(16), F.S., defines "engineering controls" as "modifications to a site to reduce or eliminate the potential for exposure to petroleum products' chemicals of concern, dry cleaning solvents, or other contaminants. Such modifications may include, but are not limited to, physical or hydraulic control measures, capping, point of use treatments, or slurry walls."
[5] Section 376.301(24), F.S., defines "natural attenuation" as a "verifiable approach to site rehabilitation that allows natural processes to contain the spread of contamination and reduce the concentrations of contaminants in contaminated groundwater and soil. Natural attenuation processes may include the following: sorption, biodegradation, chemical reactions with subsurface materials, diffusion, dispersion, and volatilization."
[6] *Supra* note 1.

The law also requires the DEP to consider:

- Relocating a compliance point away from the contamination source area to the edge of the plume or property boundary to allow for natural attenuation;
- The additive,[7] synergistic,[8] and antagonistic[9] effects of contaminants;
- The current and projected land use of the site;
- The current and projected use of groundwater and surface water
- The exposed population; and
- The rate of plume migration.

The DEP adopted Rule 62-780, F.A.C., in 2005, to implement these provisions and provide the procedures necessary to implement site rehabilitation for all sites using RBCA criteria. Rule 62-780.150, F.A.C., specifies the rule must be administered in conjunction with Rule 62-777, F.A.C., which provides the default groundwater, surface water and soil cleanup target levels, as well as the natural attenuation default concentrations for groundwater, in order to determine the appropriate cleanup target levels for a contaminated site.

No Further Action

Rule 62-780.680, F.A.C., implements RBCA principles to provide a three-tiered approach to close contaminated sites and issue a No Further Action (NFA) order. The first tier is the Risk Management Option Level I, which grants an NFA without institutional controls or engineering controls if the following conditions are met:

- Free product is not present or free product removal is not feasible and there is no risk of fire or explosion;
- Contaminated soil is not present in the unsaturated zone; and
- Soil data indicates the contaminants do not exceed the default cleanup target levels or background concentrations.[10]

The second tier is the Risk Management Option Level II, which grants an NFA with institutional controls and engineering controls, if appropriate, if the controls are protective of human health, public safety, and the environment and agreed to by the property owner and:

- Free product is not present or free product removal is not feasible and there is no risk of fire or explosion
- Alternative cleanup target levels have been approved by the DEP; and
- Soil data indicates the contaminant concentrations do not exceed the alternative cleanup target levels.[11]

---

[7] Section 376.301(2), F.S., defines "additive effects" as "a scientific principle that the toxicity that occurs as a result of exposure is the sum of the toxicities of the individual chemicals to which the individual is exposed."
[8] Section 376.301(44), F.S., defines "synergistic effects" as "a scientific principle that the toxicity that occurs as a result of exposure is more than the sum of the toxicities of the individual chemicals to which the individual is exposed."
[9] Section 376.301(3), F.S., defines "antagonistic effects" as "a scientific principle that the toxicity that occurs as a result of exposure is less than the sum of the toxicities of the individual chemicals to which the individual is exposed."
[10] Fla. Admin. Code R. 62-780.680(1), (2013).
[11] Fla. Admin. Code R. 62-780.680(2), (2013).

The third tier is the Risk Management Option Level III, which grants an NFA with institutional controls and engineering controls if the controls are protective of human health, public safety, and the environment and agreed to by the property owner and:

- Free product is not present or free product removal is not feasible and there is no risk of fire or explosion; or
- Soil data indicates the contaminant concentrations do not exceed alternative cleanup target levels, which are established using the Human Health Risk Assessment and are based on exposure, toxicity, and other relevant public health information.[12]

Alternative Cleanup Target Levels

Section 376.30701(2)(g)3., F.S., authorizes the DEP to approve alternative cleanup target levels in conjunction with institutional and engineering controls. Alternative cleanup target levels are established using site specific data, modeling results, risk assessment studies, toxicity assessments, exposure assessments, and any other relevant public health information.[13] The DEP may approve alternative cleanup target levels once the responsible party has demonstrated that human health, public safety, and the environment are protected based on these factors. The law specifies that alternative cleanup target levels may only be established on a site specific basis under careful evaluation by the DEP.

Natural Attenuation

Rule 62-780.690, F.A.C., allows for natural attenuation depending on the individual site characteristics if human health, public safety, and the environment are protected. "Natural attenuation" is defined as, "a verifiable approach to site rehabilitation that allows natural processes to contain the spread of contamination and reduce the concentrations of contaminants in contaminated groundwater and soil. Natural attenuation processes may include the following: sorption, biodegradation, chemical reactions with subsurface materials, diffusion, dispersion, and volatilization."[14] The criteria to allow for natural attenuation monitoring are:

- Free product is not present or free product removal is not feasible and there is no risk of fire or explosion;
- Contaminated soil is not present in the unsaturated zone;
- Contaminants present in the groundwater above background concentrations or applicable cleanup target levels are not migrating beyond the temporary compliance point or vertically;
- The physical, chemical, and biological characteristics of each contaminant and its transformation product are conducive to natural attenuation;
- The available data shows an overall decrease in contamination; and
- One of the following are met:
    - The site is expected to achieve NFA criteria in five years or less, background concentrations or the applicable cleanup target levels are not exceeded at the temporary point of compliance, and contamination concentrations do no exceed the criteria in Rule 62-777, F.A.C.; or
    - Appropriateness of natural attenuation is demonstrated by:

[12] Fla. Admin. Codes Rs. 62-780.680(3) (2013) and 62-780.650 (2013). *See also* EPA, *Human Health Risk Assessment*, http://www.epa.gov/risk_assessment/health-risk.htm (last visited Mar. 27, 2015).
[13] Fla. Admin. Codes R. 62-780.650 (2013).
[14] Section 376.301(24), F.S.

- A technical evaluation of groundwater and soil characteristics that confirms the contaminants have the capacity to degrade under site-specific conditions; and
- A scientific evaluation of the plume migration, the estimate of the annual reduction in contaminant concentrations in monitoring wells, and an estimate of the time required to achieve NFA status.

The Brownfields Redevelopment Act

The term "brownfield" came into existence in the 1970s and originally referred to any previously developed property, regardless of any contamination issues. The term, as it is currently used, originated in 1992 during a U.S. Congressional field hearing and is defined by the U.S. Environmental Protection Agency (EPA) as, "real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant."[15] In 1995, the EPA created the Brownfields Program in order to manage contaminated property through site remediation and redevelopment. The program was designed to provide local communities access to federal funds allocated for redevelopment, including environmental assessments and cleanups, environmental health studies, and environmental training programs.[16]

In 1997, the Florida Legislature enacted the Brownfields Redevelopment Act (Act).[17] The Act provides financial and regulatory incentives to encourage voluntary remediation and redevelopment of brownfield sites in order to improve public health and reduce environmental hazards.[18] The Act provides liability protection for program participants who have not caused or contributed to the contamination of a brownfield site on or after July 1, 1997. Since the inception of the program in 1997, 64 contaminated sites have been cleaned and 362 sites have been designated brownfield area.[19]

III. Effect of Proposed Changes:

Sections 1 and 3 amend ss. 376.301 and 376.79, F.S., respectively, to define "background concentration" as "the concentration of contaminants naturally occurring or resulting from the anthropogenic impacts unrelated to the discharge of pollutants or hazardous substances at a contaminated site undergoing site rehabilitation." This allows the Department of Environmental Protection (DEP) to consider anthropogenic contamination that is not associated with the discharge that is being remediated and may lead to an alternative cleanup target levels.

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[15] Robert A. Jones and William F. Welsh, *Michigan Brownfield Redevelopment Innovation: Two Decades of Success*, 2 (Sept. 2010), *available at* http://www.miseagrant.umich.edu/downloads/focus/brownfields/10-201-EMU-Final-Report.pdf (last visited Apr. 1, 2015).
[16] The Florida Brownfields Association, *Brownfields 101*, 2, *available at* http://c.ymcdn.com/sites/www.floridabrownfields.org/resource/resmgr/imported/Brownfields101.pdf (last visited Apr. 1, 2015).
[17] Chapter 376.77, F.S.
[18] DEP, *Florida Brownfields Redevelopment Act-1998 Annual Report*, 1 (1998), *available at* http://www.dep.state.fl.us/waste/quick_topics/publications/wc/brownfields/leginfo/1998/98final.pdf (last visited Apr. 1, 2015).
[19] *Supra* note 16.

It also defines "long-term natural attenuation" as "natural attenuation approved by the DEP as a site rehabilitation program task for a period of more than five years."

Sections 2 and 4 amend ss. 376.30701 and 376.81 F.S., related to contaminated sites and the brownfield program, respectively, to require the DEP to establish rules for the use of long-term natural attenuation, which will allow contaminated sites that are currently in natural attenuation to remain in natural attenuation longer than five years.

The bill adds the term "interactive" and rearranges the terms additive, synergistic, and antagonistic effects to clarify that these effects should all be considered equally. Recent toxicological studies reveal a better understanding of synergistic and antagonistic effects; therefore, these terms may now be considered equal to additive effects.

The bill allows the DEP to establish alternative cleanup target levels based on anthropogenic concentrations for contamination and clarifies that the use of anthropogenic background concentrations is appropriate.

The bill revises the cleanup target levels for surface water that is exposed to contaminated groundwater. It allows the cleanup target levels to be based on the groundwater standard when it is demonstrated the groundwater contaminants did not cause water quality exceedances in surface water.

The bill amends s. 376.30701(2)(g)3., F.S., to allow the use of alternative cleanup target levels that do not require institutional controls if:

- The only cleanup target levels exceeded are the groundwater cleanup target levels derived from nuisance, taste, smell, sight or aesthetic factors;
- Concentrations of all contaminants meet state water quality standards or minimum criteria, based on the protection of human health, public safety, and the environment;
- All of the groundwater cleanup target levels established as state water quality standards are met at the property boundary;
- The responsible party has demonstrated that the contaminants will not migrate beyond the property boundary at concentrations that exceed the groundwater cleanup target levels established as state water quality standards;
- The property has access to and is using an offsite water supply, and an unplugged private well is not used for domestic purposes; and
- The property owner does not object to the NFA proposal submitted to the DEP or to the local pollution control program.

In establishing alternative cleanup target levels for soil and groundwater in ss. 376.30701 and 376.81, F.S, the bill specifies that any relevant data and information, risk assessment modeling results, and results from probabilistic risk assessment modeling may be used. The bill allows the DEP to consider an alternative cleanup target levels based on comprehensive assessments and information.

Sections 5 and 6 amend ss. 196.1995 and 288.1175, F.S., respectively, to correct cross references related to the DEP's brownfields program.

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:

CS/SB 1302 provides an indeterminate positive fiscal impact to those financially responsible for the cleanup of contaminated site and brownfields.

C. Government Sector Impact:

The DEP will incur a nominal, non-recurring cost associated with rulemaking to amend Rules 62 through 780, F.A.C.[20] No additional funding is needed as a result of this fiscal impact.

The DEP will experience a positive, indeterminate fiscal impact as the costs to remediate contaminated sites and brownfields that are funded by a state cost-share agreement are reduced.[21]

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

[20] DEP, *Senate Bill 1302 Agency Analysis*, 5-6 (Feb. 18, 2015) (on file with the Senate Committee on Environmental Preservation and Conservation).
[21] *Id*.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 376.301, 376.30701, 376.79, and 376.81.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS by Environmental Preservation and Conservation on March 31, 2015:
The CS amends s. 376.79, F.S., to provide definitions for "background concentration" and "long-term natural attenuation" related to the Brownfield Redevelopment Act. The bill amends s. 376.81, F.S., to provide clarifying language and include the following additional RBCA provisions in brownfield site rehabilitation:

- The DEP must establish rules for the use of long-term natural attenuation at brownfield sites;
- The terms additive, synergistic, and antagonistic effects should all be considered equally;
- Cleanup target levels may not exceed background concentrations for a contaminant;
- Cleanup target levels must be based on the groundwater standard when it is demonstrated the groundwater contaminants did not cause water quality exceedances in surface water; and
- Any relevant data and information, risk assessment modeling results, and results from probabilistic risk assessment modeling may be used in establishing alternative cleanup target levels.

The CS also makes conforming changes to correct cross references related to RBCA.

B. Amendments:

None.

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

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

592-03278-15 20151302c1

A bill to be entitled

An act relating to contaminated sites; amending s. 376.301, F.S.; defining the terms "background concentration" and "long-term natural attenuation"; amending s. 376.30701, F.S.; requiring the Department of Environmental Protection to include protocols for the use of long-term natural attenuation where site conditions warrant; requiring specified interactive effects of contaminants to be considered as cleanup criteria; revising how cleanup target levels are applied where surface waters are exposed to contaminated groundwater; authorizing the use of relevant data and information when assessing cleanup target levels; providing that institutional controls are not required under certain circumstances if using alternative cleanup target levels; amending s. 376.79, F.S.; defining the terms "background concentration" and "long-term natural attenuation"; amending s. 376.81, F.S.; adding further criteria to brownfield site and brownfield areas contamination cleanup criteria; amending ss. 196.1995 and 288.1175, F.S.; conforming cross-references; providing an effective date.

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

Section 1. Present subsections (4) through (22) of section 376.301, Florida Statutes, are redesignated as subsections (5) through (23), respectively, present subsections (23) through

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592-03278-15 20151302c1

(48) of that section are redesignated as subsections (25) through (50), respectively, and new subsections (4) and (24) are added to that section, to read:

376.301 Definitions of terms used in ss. 376.30-376.317, 376.70, and 376.75.—When used in ss. 376.30-376.317, 376.70, and 376.75, unless the context clearly requires otherwise, the term:

(4) "Background concentration" means the concentration of contaminants naturally occurring or resulting from the anthropogenic impacts unrelated to the discharge of pollutants or hazardous substances at a contaminated site undergoing site rehabilitation.

(24) "Long-term natural attenuation" means natural attenuation approved by the department as a site rehabilitation program task for a period of more than 5 years.

Section 2. Subsection (2) of section 376.30701, Florida Statutes, is amended to read:

376.30701 Application of risk-based corrective action principles to contaminated sites; applicability; legislative intent; rulemaking authority; contamination cleanup criteria; limitations; reopeners.—

(2) INTENT; RULEMAKING AUTHORITY; CLEANUP CRITERIA.—It is the intent of the Legislature to protect the health of all people under actual circumstances of exposure. By July 1, 2004, the secretary of the department shall establish criteria by rule for the purpose of determining, on a site-specific basis, the rehabilitation program tasks that comprise a site rehabilitation program, including a voluntary site rehabilitation program, and the level at which a rehabilitation program task and a site rehabilitation program may be deemed completed. In establishing

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these rules, the department shall apply, to the maximum extent feasible, a risk-based corrective action process to achieve protection of human health and safety and the environment in a cost-effective manner based on the principles set forth in this subsection. These rules shall prescribe a phased risk-based corrective action process that is iterative and that tailors site rehabilitation tasks to site-specific conditions and risks. The department and the person responsible for site rehabilitation are encouraged to establish decision points at which risk management decisions will be made. The department shall provide an early decision, when requested, regarding applicable exposure factors and a risk management approach based on the current and future land use at the site. These rules must ~~shall also~~ include protocols for the use of natural attenuation, including long-term natural attenuation where site conditions warrant, the use of institutional and engineering controls, and the issuance of "No Further Action" orders. The criteria for determining what constitutes a rehabilitation program task or completion of a site rehabilitation program task or site rehabilitation program, including a voluntary site rehabilitation program, must:

(a) Consider the current exposure and potential risk of exposure to humans and the environment, including multiple pathways of exposure. The physical, chemical, and biological characteristics of each contaminant must be considered in order to determine the feasibility of a risk-based corrective action assessment.

(b) Establish the point of compliance at the source of the contamination. However, the department is authorized to

temporarily move the point of compliance to the boundary of the property, or to the edge of the plume when the plume is within the property boundary, while cleanup, including cleanup through natural attenuation processes in conjunction with appropriate monitoring, is proceeding. The department may ~~also is authorized~~, pursuant to criteria provided in this section, ~~to~~ temporarily extend the point of compliance beyond the property boundary with appropriate monitoring, if such extension is needed to facilitate natural attenuation or to address the current conditions of the plume, provided human health, public safety, and the environment are protected. When temporarily extending the point of compliance beyond the property boundary, it cannot be extended further than the lateral extent of the plume, if known, at the time of execution of a cleanup agreement, if required, or the lateral extent of the plume as defined at the time of site assessment. Temporary extension of the point of compliance beyond the property boundary, as provided in this paragraph, must include actual notice by the person responsible for site rehabilitation to local governments and the owners of any property into which the point of compliance is allowed to extend and constructive notice to residents and business tenants of the property into which the point of compliance is allowed to extend. Persons receiving notice pursuant to this paragraph shall have the opportunity to comment within 30 days after receipt of the notice. Additional notice concerning the status of natural attenuation processes shall be similarly provided to persons receiving notice pursuant to this paragraph every 5 years.

(c) Ensure that the site-specific cleanup goal is that all

contaminated sites being cleaned up pursuant to this section ultimately achieve the applicable cleanup target levels provided in this subsection. In the circumstances provided in this subsection, and after constructive notice and opportunity to comment within 30 days after receipt of the notice to local government, owners of any property into which the point of compliance is allowed to extend, and residents of any property into which the point of compliance is allowed to extend, the department may allow concentrations of contaminants to temporarily exceed the applicable cleanup target levels while cleanup, including cleanup through natural attenuation processes in conjunction with appropriate monitoring, is proceeding, if human health, public safety, and the environment are protected.

(d) Allow the use of institutional or engineering controls at contaminated sites being cleaned up pursuant to this section, where appropriate, to eliminate or control the potential exposure to contaminants of humans or the environment. The use of controls must be preapproved by the department and only after constructive notice and opportunity to comment within 30 days after receipt of notice is provided to local governments, owners of any property into which the point of compliance is allowed to extend, and residents on any property into which the point of compliance is allowed to extend. When institutional or engineering controls are implemented to control exposure, the removal of the controls must have prior department approval and must be accompanied by the resumption of active cleanup, or other approved controls, unless cleanup target levels under this section have been achieved.

(e) Consider the interactive ~~additive~~ effects of

contaminants, including additive, synergistic, and antagonistic effects. ~~The synergistic and antagonistic effects shall also be considered when the scientific data become available.~~

(f) Take into consideration individual site characteristics, which shall include, but not be limited to, the current and projected use of the affected groundwater and surface water in the vicinity of the site, current and projected land uses of the area affected by the contamination, the exposed population, the degree and extent of contamination, the rate of contaminant migration, the apparent or potential rate of contaminant degradation through natural attenuation processes, the location of the plume, and the potential for further migration in relation to site property boundaries.

(g) Apply state water quality standards as follows:

1. Cleanup target levels for each contaminant found in groundwater shall be the applicable state water quality standards. Where such standards do not exist, the cleanup target levels for groundwater shall be based on the minimum criteria specified in department rule. The department shall apply the following, as appropriate, in establishing the applicable cleanup target levels: calculations using a lifetime cancer risk level of 1.0E-6; a hazard index of 1 or less; the best achievable detection limit; and nuisance, organoleptic, and aesthetic considerations. However, the department may not ~~shall not~~ require site rehabilitation to achieve a cleanup target level for any individual contaminant that is more stringent than the site-specific~~, naturally occurring~~ background concentration for that contaminant.

2. Where surface waters are exposed to contaminated

175 groundwater, the cleanup target levels for the contaminants must
176 ~~shall~~ be based on the more protective of the groundwater or
177 surface water standards as established by department rule,
178 unless it has been demonstrated that the contaminants do not
179 cause or contribute to the exceedance of applicable surface
180 water quality criteria. In such circumstance, the point of
181 measuring compliance with the surface water standards shall be
182 in the groundwater immediately adjacent to the surface water
183 body.
184 3. Using risk-based corrective action principles, the
185 department shall approve alternative cleanup target levels in
186 conjunction with institutional and engineering controls, if
187 needed, based upon an applicant's demonstration, using site-
188 specific or other relevant data and information, risk assessment
189 modeling results, including results from probabilistic risk
190 assessment modeling, risk assessment studies, risk reduction
191 techniques, or a combination thereof, that human health, public
192 safety, and the environment are protected to the same degree as
193 provided in subparagraphs 1. and 2. Where a state water quality
194 standard is applicable, a deviation may not result in the
195 application of cleanup target levels more stringent than the
196 standard. In determining whether it is appropriate to establish
197 alternative cleanup target levels at a site, the department must
198 consider the effectiveness of source removal, if any, that has
199 been completed at the site and the practical likelihood of the
200 use of low yield or poor quality groundwater, the use of
201 groundwater near marine surface water bodies, the current and
202 projected use of the affected groundwater in the vicinity of the
203 site, or the use of groundwater in the immediate vicinity of the

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204 contaminated area, where it has been demonstrated that the
205 groundwater contamination is not migrating away from such
206 localized source, provided human health, public safety, and the
207 environment are protected. Groundwater resource protection
208 remains the ultimate goal of cleanup, particularly in light of
209 the state's continued growth and consequent demands for drinking
210 water resources. The Legislature recognizes the need for a
211 protective yet flexible cleanup approach that risk-based
212 corrective action provides. Only where it is appropriate on a
213 site-specific basis, using the criteria in this paragraph and
214 careful evaluation by the department, shall proposed alternative
215 cleanup target levels be approved. If alternative cleanup target
216 levels are used, institutional controls are not required if:
217 a. The only cleanup target levels exceeded are the
218 groundwater cleanup target levels derived from nuisance,
219 organoleptic, or aesthetic considerations;
220 b. Concentrations of all contaminants meet the state water
221 quality standards or the minimum criteria, based on the
222 protection of human health, public safety, and the environment,
223 as provided in subparagraph 1.;
224 c. All of the groundwater cleanup target levels established
225 pursuant to subparagraph 1. are met at the property boundary;
226 d. The person responsible for site rehabilitation has
227 demonstrated that the contaminants will not migrate beyond the
228 property boundary at concentrations that exceed the groundwater
229 cleanup target levels established pursuant to subparagraph 1.;
230 e. The property has access to and is using an offsite water
231 supply, and an unplugged private well is not used for domestic
232 purposes; and

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233 f. The property owner does not object to the "No Further
234 Action" proposal to the department or the local pollution
235 control program.
236 (h) Provide for the department to issue a "No Further
237 Action" order, with conditions, including, but not limited to,
238 the use of institutional or engineering controls where
239 appropriate, when alternative cleanup target levels established
240 pursuant to subparagraph (g)3. have been achieved or when the
241 person responsible for site rehabilitation can demonstrate that
242 the cleanup target level is unachievable with the use of
243 available technologies. Before ~~Prior to~~ issuing such an order,
244 the department shall consider the feasibility of an alternative
245 site rehabilitation technology at the contaminated site.
246 (i) Establish appropriate cleanup target levels for soils.
247 Although there are existing state water quality standards, there
248 are no existing state soil quality standards. The Legislature
249 does not intend, through the adoption of this section, to create
250 such soil quality standards. The specific rulemaking authority
251 granted pursuant to this section merely authorizes the
252 department to establish appropriate soil cleanup target levels.
253 These soil cleanup target levels shall be applicable at sites
254 only after a determination as to legal responsibility for site
255 rehabilitation has been made pursuant to other provisions of
256 this chapter or chapter 403.
257 1. In establishing soil cleanup target levels for human
258 exposure to each contaminant found in soils from the land
259 surface to 2 feet below land surface, the department shall apply
260 the following, as appropriate: calculations using a lifetime
261 cancer risk level of 1.0E-6; a hazard index of 1 or less; and

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262 the best achievable detection limit. However, the department may
263 ~~shall~~ not require site rehabilitation to achieve a cleanup
264 target level for an individual contaminant that is more
265 stringent than the site-specific~~, naturally occurring~~ background
266 concentration for that contaminant. Institutional controls or
267 other methods shall be used to prevent human exposure to
268 contaminated soils more than 2 feet below the land surface. Any
269 removal of such institutional controls shall require such
270 contaminated soils to be remediated.
271 2. Leachability-based soil cleanup target levels shall be
272 based on protection of the groundwater cleanup target levels or
273 the alternate cleanup target levels for groundwater established
274 pursuant to this paragraph, as appropriate. Source removal and
275 other cost-effective alternatives that are technologically
276 feasible shall be considered in achieving the leachability soil
277 cleanup target levels established by the department. The
278 leachability goals are ~~shall~~ not ~~be~~ applicable if the department
279 determines, based upon individual site characteristics, and in
280 conjunction with institutional and engineering controls, if
281 needed, that contaminants will not leach into the groundwater at
282 levels that pose a threat to human health, public safety, and
283 the environment.
284 3. Using risk-based corrective action principles, the
285 department shall approve alternative cleanup target levels in
286 conjunction with institutional and engineering controls, if
287 needed, based upon an applicant's demonstration, using site-
288 specific or other relevant data and information, risk assessment
289 modeling results, including results from probabilistic risk
290 assessment modeling, risk assessment studies, risk reduction

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291 techniques, or a combination thereof, that human health, public
292 safety, and the environment are protected to the same degree as
293 provided in subparagraphs 1. and 2.
294
295 The department shall require source removal as a risk reduction
296 measure if warranted and cost-effective. Once source removal at
297 a site is complete, the department shall reevaluate the site to
298 determine the degree of active cleanup needed to continue.
299 Further, the department shall determine if the reevaluated site
300 qualifies for monitoring only or if no further action is
301 required to rehabilitate the site. If additional site
302 rehabilitation is necessary to reach "No Further Action" status,
303 the department is encouraged to utilize natural attenuation
304 monitoring, including long-term natural attenuation ~~and~~
305 monitoring, where site conditions warrant.
306 Section 3. Present subsections (3) through (11) of section
307 376.79, Florida Statutes, are redesignated as subsections (4)
308 through (12), respectively, and present subsections (12) through
309 (19) are redesignated as subsections (14) to (21), respectively,
310 and new subsections (3) and (13) are added to that section, to
311 read:
312 376.79 Definitions relating to Brownfields Redevelopment
313 Act.—As used in ss. 376.77-376.85, the term:
314 (3) "Background concentration" means the concentration of
315 contaminants naturally occurring or resulting from anthropogenic
316 impacts unrelated to the discharge of pollutants or hazardous
317 substances at a contaminated site undergoing site
318 rehabilitation.
319 (13) "Long-term natural attenuation" means natural

320 attenuation approved by the department as a site rehabilitation
321 program task for a period of more than 5 years.
322 Section 4. Section 376.81, Florida Statutes, is amended to
323 read:
324 376.81 Brownfield site and brownfield areas contamination
325 cleanup criteria.—
326 (1) It is the intent of the Legislature to protect the
327 health of all people under actual circumstances of exposure. By
328 July 1, 2001, the secretary of the department shall establish
329 criteria by rule for the purpose of determining, on a site-
330 specific basis, the rehabilitation program tasks that comprise a
331 site rehabilitation program and the level at which a
332 rehabilitation program task and a site rehabilitation program
333 may be deemed completed. In establishing the rule, the
334 department shall apply, to the maximum extent feasible, a risk-
335 based corrective action process to achieve protection of human
336 health and safety and the environment in a cost-effective manner
337 based on the principles set forth in this subsection. The rule
338 must prescribe a phased risk-based corrective action process
339 that is iterative and that tailors site rehabilitation tasks to
340 site-specific conditions and risks. The department and the
341 person responsible for brownfield site rehabilitation are
342 encouraged to establish decision points at which risk management
343 decisions will be made. The department shall provide an early
344 decision, when requested, regarding applicable exposure factors
345 and a risk management approach based on the current and future
346 land use at the site. The rule must ~~shall also~~ include protocols
347 for the use of natural attenuation, including long-term natural
348 attenuation where site conditions warrant, the use of

349 institutional and engineering controls, and the issuance of "no
350 further action" letters. The criteria for determining what
351 constitutes a rehabilitation program task or completion of a
352 site rehabilitation program task or site rehabilitation program
353 must:
354 (a) Consider the current exposure and potential risk of
355 exposure to humans and the environment, including multiple
356 pathways of exposure. The physical, chemical, and biological
357 characteristics of each contaminant must be considered in order
358 to determine the feasibility of risk-based corrective action
359 assessment.
360 (b) Establish the point of compliance at the source of the
361 contamination. However, the department may ~~is authorized to~~
362 temporarily move the point of compliance to the boundary of the
363 property, or to the edge of the plume when the plume is within
364 the property boundary, while cleanup, including cleanup through
365 natural attenuation processes in conjunction with appropriate
366 monitoring, is proceeding. The department may ~~also is~~
367 ~~authorized~~, pursuant to criteria provided for in this section,
368 ~~to~~ temporarily extend the point of compliance beyond the
369 property boundary with appropriate monitoring, if such extension
370 is needed to facilitate natural attenuation or to address the
371 current conditions of the plume, provided human health, public
372 safety, and the environment are protected. When temporarily
373 extending the point of compliance beyond the property boundary,
374 it cannot be extended further than the lateral extent of the
375 plume at the time of execution of the brownfield site
376 rehabilitation agreement, if known, or the lateral extent of the
377 plume as defined at the time of site assessment. Temporary

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378 extension of the point of compliance beyond the property
379 boundary, as provided in this paragraph, must include actual
380 notice by the person responsible for brownfield site
381 rehabilitation to local governments and the owners of any
382 property into which the point of compliance is allowed to extend
383 and constructive notice to residents and business tenants of the
384 property into which the point of compliance is allowed to
385 extend. Persons receiving notice pursuant to this paragraph
386 shall have the opportunity to comment within 30 days of receipt
387 of the notice.
388 (c) Ensure that the site-specific cleanup goal is that all
389 contaminated brownfield sites and brownfield areas ultimately
390 achieve the applicable cleanup target levels provided in this
391 section. In the circumstances provided below, and after
392 constructive notice and opportunity to comment within 30 days
393 from receipt of the notice to local government, to owners of any
394 property into which the point of compliance is allowed to
395 extend, and to residents on any property into which the point of
396 compliance is allowed to extend, the department may allow
397 concentrations of contaminants to temporarily exceed the
398 applicable cleanup target levels while cleanup, including
399 cleanup through natural attenuation processes in conjunction
400 with appropriate monitoring, is proceeding, if human health,
401 public safety, and the environment are protected.
402 (d) Allow brownfield site and brownfield area
403 rehabilitation programs to include the use of institutional or
404 engineering controls, where appropriate, to eliminate or control
405 the potential exposure to contaminants of humans or the
406 environment. The use of controls must be preapproved by the

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407 department and only after constructive notice and opportunity to
408 comment within 30 days from receipt of notice is provided to
409 local governments, to owners of any property into which the
410 point of compliance is allowed to extend, and to residents on
411 any property into which the point of compliance is allowed to
412 extend. When institutional or engineering controls are
413 implemented to control exposure, the removal of the controls
414 must have prior department approval and must be accompanied by
415 the resumption of active cleanup, or other approved controls,
416 unless cleanup target levels under this section have been
417 achieved.
418 (e) Consider the interactive ~~additive~~ effects of
419 contaminants, including additive, synergistic, and antagonistic
420 effects. ~~The synergistic and antagonistic effects shall also be~~
421 ~~considered when the scientific data become available.~~
422 (f) Take into consideration individual site
423 characteristics, which shall include, but not be limited to, the
424 current and projected use of the affected groundwater and
425 surface water in the vicinity of the site, current and projected
426 land uses of the area affected by the contamination, the exposed
427 population, the degree and extent of contamination, the rate of
428 contaminant migration, the apparent or potential rate of
429 contaminant degradation through natural attenuation processes,
430 the location of the plume, and the potential for further
431 migration in relation to site property boundaries.
432 (g) Apply state water quality standards as follows:
433 1. Cleanup target levels for each contaminant found in
434 groundwater shall be the applicable state water quality
435 standards. Where such standards do not exist, the cleanup target

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436 levels for groundwater shall be based on the minimum criteria
437 specified in department rule. The department shall apply the
438 following, as appropriate, in establishing the applicable
439 cleanup target levels: calculations using a lifetime cancer risk
440 level of 1.0E-6; a hazard index of 1 or less; the best
441 achievable detection limit; and nuisance, organoleptic, and
442 aesthetic considerations. However, the department may ~~shall~~ not
443 require site rehabilitation to achieve a cleanup target level
444 for any individual contaminant which is more stringent than the
445 site-specific~~, naturally occurring~~ background concentration for
446 that contaminant.
447 2. Where surface waters are exposed to contaminated
448 groundwater, the cleanup target levels for the contaminants
449 shall be based on the more protective of the groundwater or
450 surface water standards as established by department rule,
451 unless it has been demonstrated that the contaminants do not
452 cause or contribute to the exceedance of applicable surface
453 water quality criteria. In such circumstances, the point of
454 measuring compliance with the surface water standards shall be
455 in the groundwater immediately adjacent to the surface water
456 body.
457 3. Using risk-based corrective action principles, the
458 department shall approve alternative cleanup target levels in
459 conjunction with institutional and engineering controls, if
460 needed, based upon an applicant's demonstration, using site-
461 specific or other relevant data and information, risk assessment
462 modeling results, including results from probabilistic risk
463 assessment modeling, risk assessment studies, risk reduction
464 techniques, or a combination thereof, that human health, public

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465 safety, and the environment are protected to the same degree as
466 provided in subparagraphs 1. and 2. Where a state water quality
467 standard is applicable, a deviation may not result in the
468 application of cleanup target levels more stringent than the
469 standard. In determining whether it is appropriate to establish
470 alternative cleanup target levels at a site, the department must
471 consider the effectiveness of source removal, if any, which has
472 been completed at the site and the practical likelihood of the
473 use of low yield or poor quality groundwater, the use of
474 groundwater near marine surface water bodies, the current and
475 projected use of the affected groundwater in the vicinity of the
476 site, or the use of groundwater in the immediate vicinity of the
477 contaminated area, where it has been demonstrated that the
478 groundwater contamination is not migrating away from such
479 localized source, provided human health, public safety, and the
480 environment are protected. When using alternative cleanup target
481 levels at a brownfield site, institutional controls shall not be
482 required if:
483 a. The only cleanup target levels exceeded are the
484 groundwater cleanup target levels derived from nuisance,
485 organoleptic, or aesthetic considerations;
486 b. Concentrations of all contaminants meet the state water
487 quality standards or minimum criteria, based on protection of
488 human health, provided in subparagraph 1.;
489 c. All of the groundwater cleanup target levels established
490 pursuant to subparagraph 1. are met at the property boundary;
491 d. The person responsible for brownfield site
492 rehabilitation has demonstrated that the contaminants will not
493 migrate beyond the property boundary at concentrations exceeding

494 the groundwater cleanup target levels established pursuant to
495 subparagraph 1.;
496 e. The property has access to and is using an offsite water
497 supply and no unplugged private wells are used for domestic
498 purposes; and
499 f. The real property owner provides written acceptance of
500 the "no further action" proposal to the department or the local
501 pollution control program.
502 (h) Provide for the department to issue a "no further
503 action order," with conditions, including, but not limited to,
504 the use of institutional or engineering controls where
505 appropriate, when alternative cleanup target levels established
506 pursuant to subparagraph (g)3. have been achieved, or when the
507 person responsible for brownfield site rehabilitation can
508 demonstrate that the cleanup target level is unachievable within
509 available technologies. Before ~~Prior to~~ issuing such an order,
510 the department shall consider the feasibility of an alternative
511 site rehabilitation technology at ~~in~~ the brownfield site ~~area~~.
512 (i) Establish appropriate cleanup target levels for soils.
513 1. In establishing soil cleanup target levels for human
514 exposure to each contaminant found in soils from the land
515 surface to 2 feet below land surface, the department shall apply
516 the following, as appropriate: calculations using a lifetime
517 cancer risk level of 1.0E-6; a hazard index of 1 or less; and
518 the best achievable detection limit. However, the department may
519 ~~shall~~ not require site rehabilitation to achieve a cleanup
520 target level for an individual contaminant which is more
521 stringent than the site-specific~~, naturally occurring~~ background
522 concentration for that contaminant. Institutional controls or

523 other methods shall be used to prevent human exposure to
524 contaminated soils more than 2 feet below the land surface. Any
525 removal of such institutional controls shall require such
526 contaminated soils to be remediated.
527 2. Leachability-based soil cleanup target levels shall be
528 based on protection of the groundwater cleanup target levels or
529 the alternate cleanup target levels for groundwater established
530 pursuant to this paragraph, as appropriate. Source removal and
531 other cost-effective alternatives that are technologically
532 feasible shall be considered in achieving the leachability soil
533 cleanup target levels established by the department. The
534 leachability goals are ~~shall~~ not ~~be~~ applicable if the department
535 determines, based upon individual site characteristics, and in
536 conjunction with institutional and engineering controls, if
537 needed, that contaminants will not leach into the groundwater at
538 levels that pose a threat to human health, public safety, and
539 the environment.
540 3. Using risk-based corrective action principles, the
541 department shall approve alternative cleanup target levels in
542 conjunction with institutional and engineering controls, if
543 needed, based upon an applicant's demonstration, using site-
544 specific or other relevant data and information, risk assessment
545 modeling results, including results from probabilistic risk
546 assessment modeling, risk assessment studies, risk reduction
547 techniques, or a combination thereof, that human health, public
548 safety, and the environment are protected to the same degree as
549 provided in subparagraphs 1. and 2.
550 (2) The department shall require source removal, as a risk
551 reduction measure, if warranted and cost-effective. Once source

552 removal at a site is complete, the department shall reevaluate
553 the site to determine the degree of active cleanup needed to
554 continue. Further, the department shall determine if the
555 reevaluated site qualifies for monitoring only or if no further
556 action is required to rehabilitate the site. If additional site
557 rehabilitation is necessary to reach "no further action" status,
558 the department is encouraged to utilize natural attenuation
559 monitoring, including long-term natural attenuation ~~and~~
560 monitoring, where site conditions warrant.
561 (3) The cleanup criteria described in this section govern
562 only site rehabilitation activities occurring at the
563 contaminated site. Removal of contaminated media from a site for
564 offsite relocation or treatment must be in accordance with all
565 applicable federal, state, and local laws and regulations.
566 Section 5. Subsection (3) of section 196.1995, Florida
567 Statutes, is amended to read:
568 196.1995 Economic development ad valorem tax exemption.—
569 (3) The board of county commissioners or the governing
570 authority of the municipality that calls a referendum within its
571 total jurisdiction to determine whether its respective
572 jurisdiction may grant economic development ad valorem tax
573 exemptions may vote to limit the effect of the referendum to
574 authority to grant economic development tax exemptions for new
575 businesses and expansions of existing businesses located in an
576 enterprise zone or a brownfield area, as defined in s. 376.79(5)
577 ~~s. 376.79(4)~~. If an area nominated to be an enterprise zone
578 pursuant to s. 290.0055 has not yet been designated pursuant to
579 s. 290.0065, the board of county commissioners or the governing
580 authority of the municipality may call such referendum prior to

581 such designation; however, the authority to grant economic
582 development ad valorem tax exemptions does not apply until such
583 area is designated pursuant to s. 290.0065. The ballot question
584 in such referendum shall be in substantially the following form
585 and shall be used in lieu of the ballot question prescribed in
586 subsection (2):
587
588 Shall the board of county commissioners of this county (or the
589 governing authority of this municipality, or both) be authorized
590 to grant, pursuant to s. 3, Art. VII of the State Constitution,
591 property tax exemptions for new businesses and expansions of
592 existing businesses that are located in an enterprise zone or a
593 brownfield area and that are expected to create new, full-time
594 jobs in the county (or municipality, or both)?
595
596 ....Yes—For authority to grant exemptions.
597 ....No—Against authority to grant exemptions.
598 Section 6. Paragraph (c) of subsection (5) of section
599 288.1175, Florida Statutes, is amended to read:
600 288.1175 Agriculture education and promotion facility.—
601 (5) The Department of Agriculture and Consumer Services
602 shall competitively evaluate applications for funding of an
603 agriculture education and promotion facility. If the number of
604 applicants exceeds three, the Department of Agriculture and
605 Consumer Services shall rank the applications based upon
606 criteria developed by the Department of Agriculture and Consumer
607 Services, with priority given in descending order to the
608 following items:
609 (c) The location of the facility in a brownfield site as

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

610 defined in s. 376.79(4) ~~s. 376.79(3)~~, a rural enterprise zone as
611 defined in s. 290.004, an agriculturally depressed area as
612 defined in s. 570.74, or a county that has lost its agricultural
613 land to environmental restoration projects.
614 Section 7. This act shall take effect July 1, 2015.

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 Appropriations

BILL: PCS/SB 1468 (232520)

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on General Government) and Senator Richter

SUBJECT: Regulation of Oil and Gas Resources

DATE: April 20, 2015 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Gudeman	Uchino	EP	**Favorable**
2.	Howard	DeLoach	AGG	**Recommend: Fav/CS**
3.	Howard	Kynoch	AP	**Pre-meeting**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/SB 1468 amends provisions relating to the regulation of oil and gas resources. Specifically, the bill:

- Provides a definition for "high pressure well stimulation";
- Requires the Department of Environmental Protection (DEP) to adopt rules for the regulation of high pressure well stimulation;
- Specifies the rules must ensure all well drilling activities are done properly;
- Requires high pressure well stimulation to be monitored, inspected, and included in drilling reports;
- Requires notice be given to the DEP and a fee be paid prior to high pressure well stimulation activities;
- Prohibits high pressure well stimulation prior to permit issuance;
- Requires the DEP to consider groundwater contamination and public policy when reviewing a permit application for high pressure well stimulation;
- Specifies that a permit may be denied or specific permitting conditions applied based on the compliance history of the permit applicant or affiliated entity;
- Specifies the DEP has clear authority to inspect drilling activities;
- Requires the permit applicant to provide financial assurance to the DEP that high pressure well stimulation will be conducted in a safe and environmentally compatible manner;

- Increases the civil penalty from $10,000 per day to $25,000 per day for violations of the provisions found in Part I of chapter 377, Florida Statutes.
- Requires the DEP to conduct a study on high pressure well stimulations;
- Prohibits the DEP from issuing a permit for high pressure well stimulation until the study is complete and rules have been adopted to implement the findings of the study;
- Creates a high pressure well stimulation chemical disclosure registry and provides specific requirements for the registry;
- Requires the chemical ingredients used in high pressure well stimulation to be reported to the chemical disclosure registry, FracFocus; and
- Exempts information considered proprietary business information as defined in sections 377.24075(1)(a) through (e), Florida Statutes, from the disclosure registry.

The Department of Environmental Protection (DEP) estimates the cost for the study required in the bill will cost $3 million. The remaining fiscal impact of the bill is indeterminate. According to the DEP, the increased workload related to the regulatory and rulemaking process can be handled within existing resources.

The bill provides an effective date of July 1, 2015.

II. Present Situation:

Oil was first successfully extracted from the ground in large quantities in 1859 in Titusville, Pennsylvania. Prior to this, oil was collected through seeps in small quantities and skimmed from surface waters using blankets.[1] Since this time, the oil and gas industry has evolved to become one of the world's largest industries.[2]

Traditional Drilling and Hydraulic Fracturing

Traditional oil wells are drilled vertically to reach the oil and gas reservoir. A steel pipe, called a casing, is inserted into the wellbore and set in place using cement. Once the targeted area is reached, the well casing is perforated and the oil and gas immediately surrounding the well can be extracted.[3]

Hydraulic fracturing is a technique that involves stimulating the well to extract oil and gas. Large amounts of fluid under pressure are injected into a wellbore to create and extend fractures in the rock formation. The fractures are held open by a slurry mixture which allows natural gas to flow from the fractures into the production well.[4]

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[1] Business Reference Services, *History of Oil and Gas*, http://www.loc.gov/rr/business/BERA/issue5/history.html (last visited Mar. 29, 2015).
[2] American Petroleum Institute, *Industry Economics*, http://www.api.org/oil-and-natural-gas-overview/industry-economics (last visited Mar. 29, 2015).
[3] Drilling Waste Management Information System, *Fact Sheet-Drilling Practices That Minimize Generation of Drilling Wastes*, http://web.ead.anl.gov/dwm/techdesc/drilling/ (last visited Mar. 29, 2015).
[4] FracFocus Chemical Disclosure Registry, *Hydraulic Fracturing: The Process*, http://fracfocus.org/hydraulic-fracturing-how-it-works/hydraulic-fracturing-process. (last visited Mar. 27, 2013).

The injected fluid is composed of water, proppants, and chemical additives. The composition of the injected fluid varies between rock formations but the majority of the fluid, 98 to 99.5 percent, is water. The proppants are made of sand, ceramic pellets, or other small incompressible particles that hold the fractures open. The chemical additives include bactericides, buffers, stabilizers, fluid-loss additives, and surfactants that improve the effectiveness of the fracturing process and prevent damage to the rock formation.[5]

The injection of the fracturing fluid is sequenced and the blend and proportions of the additives used vary depending on the characteristics of the rock formation. The acid stage consists of several thousand gallons of water mixed with hydrochloric acid or muriatic acid that work to clear cement debris and create an open path for the fracturing fluids. The pad stage consists of approximately 100,000 gallons of "slick-water," which is a friction reducing agent that reduces the pressure needed to pump fluid into the wellbore and facilitate the flow and placement of the proppant material. The prop sequence stage, which may include several sub-stages, uses several hundred thousand gallons of water mixed with varying sized particulates that keep the fractures open. Finally, there is a flushing stage that consists of enough water to adequately flush the excess proppant from the wellbore.[6]

Oil and Gas Production in Florida

There are two major oil producing areas in Florida: the Sunniland trend in South Florida and the western panhandle. The Sunniland trend is approximately 200 to 300 feet thick and the top of the formation is approximately 11,200 to 11,600 feet below sea level. This area has been in production since 1943. Oil production in north Florida began with the discovery of the Jay field in 1970, which is the largest oil field in the state. There are eight oil fields in this region that extend through Escambia and Santa Rosa Counties. The production area is 14,500 to 16,800 feet below the land surface and between 5 to 259 feet thick.[7] Production from both regions peaked at 100,000 barrels per day in 1978 and has since leveled off to approximately 6,000 barrels per day.[8]

Oil and Gas Regulation in Florida

The Oil and Gas program in the Department of Environmental Protection (DEP) is the permitting authority for oil and gas wells under Part I of ch. 377.01, F.S. Section 377.22, F.S., directs the DEP to establish rules for the oil and gas program that ensure human health, public safety, and the environment are protected from the exploration phase to well completion and abandonment phase. The DEP is also responsible for monitoring and reporting the well drilling and production activities from exploration to well abandonment.

---

[5] *Id*.
[6] *Id*.
[7] Bureau of Land Management, *Florida, Reasonable Foreseeable Development Scenario for Fluid Minerals*, 18 (Apr. 2008), *available at* http://www.blm.gov/style/medialib/blm/es/jackson_field_office/planning/planning_pdf_florida.Par.65103.File.dat/Florida_RFDS_R1.pdf (last visited Mar. 29, 2015).
[8] EIA, Florida State Energy Profile, Florida Quick Facts, http://www.eia.gov/state/print.cfm?sid=FL (last visited Mar. 29, 2015).

The DEP adopted Rules 62C-25 through 30, Florida Administrative Code (F.A.C.), to implement Part I of ch. 377, F.S. The rules include permitting procedures, bonding requirements, well spacing, well construction, production, injection, workovers, and well abandonment. The rule also requires each operator to submit a spill prevention and cleanup plan pursuant to Rule 62C-28.004(2), F.A.C. The plan must include the potential spill source, the protective measures to prevent a spill, and the location of emergency equipment in the event of a spill.

The requirements and procedures for well stimulation technology is not provided for in rule or statute; however, hydraulic fracturing, acidizing, or other chemical treatments of a well are activities that may be approved in a workover. A workover includes a variety of remedial operations that are conducted in order to increase well production. Rule 62C-25.002(61), F.A.C., defines a "work over" as "an operation involving a deepening, plug back, repair, cement squeeze, perforation, hydraulic fracturing, acidizing, or other chemical treatment which is performed in a production, disposal, or injection well in order to restore, sustain, or increase production, disposal, or injection rates." An operator is required to notify the DEP prior to commencing a workover procedure, unless it is for an emergency operation in which case the operator must notify the DEP during the operation or immediately thereafter.[9] The operator must submit a revised Well Record to the DEP within 30 days of the workover.[10]

Emergency Planning and Community Right to Know Act

In 1986, Congress enacted the Emergency Planning and Community Right-to-Know Act (EPCRA), which requires federal, local, and state governments to report hazardous and toxic chemicals in order to increase the public's knowledge and access to information on chemicals at individual facilities. The EPCRA includes the Toxic Release Inventory (TRI), which is a publicly available database that contains information on chemical releases and waste management reported by certain industries. The U.S. Environmental Protection Agency (EPA) has not included oil and gas extraction as an industry that must report under the TRI because the EPA determined the oil and gas extraction industry is not a high priority for reporting. The decision is based on the fact that most of the information that the TRI requires is already reported by oil and gas providers to the individual state agencies and reporting for the hundreds and thousands of oil and gas sites would overwhelm the system.[11]

In May 2012, the Bureau of Land Management (BLM) published a proposed rule that would require companies that conduct hydraulic fracturing on lands managed by the BLM to disclose the composition of the fracturing fluid. Congress has also proposed legislation requiring the disclosure of chemicals under the Fracturing Responsibility and Awareness of Chemicals Act.[12]

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

[9] Fla. Admin. Code R. 62C-29.006 (1996).
[10] The Well Record is the DEP Oil and Gas Form 8.
[11] *Id*.
[12] *Id*.

trade secrets, and when the disclosure of the chemicals is to take place in relation to the fracturing process.[13]

FracFocus Chemical Disclosure Registry

FracFocus is a national hydraulic fracturing chemical registry operated by the Ground Water Protection Council and the Interstate Oil and Gas Compact Commission. The registry provides public access to reported chemicals used for hydraulic fracturing. FracFocus does not replace state governmental information systems but is used by ten states as the primary means of state chemical disclosure. Currently, there are 41,118 well sites registered with the database.[14]

Public Records Law

Article I, s. 24(a) of the Florida Constitution sets the state's public policy regarding access to government records. The section guarantees every person a right to inspect or copy any public record of the legislative, executive, and judicial branches of government. The Legislature may provide for the exemption of records from the requirements of the constitution; however, the Legislature must specify the public necessity to justify the exemption.

Access to public records is also addressed in the Open Government Sunset Review Act in s. 119.07(1), F.S., which guarantees every person the right to inspect and copy any state, county or municipal record. The Open Government Sunset Review Act provides that a public record or public meeting exemption may only be created or maintained if it serves a public purpose. The Legislature created a number of specific exemptions from the Open Government Sunset Review Act, including documents submitted by a private party that constitute trade secrets as defined in s. 812.081, F.S. and are stamped as confidential at the time of submission to an agency.

Proprietary Business Information

Section 377.24075, F.S., defines "proprietary business information," as information that:

- Is owned or controlled by the applicant or person affiliated with the applicant;
- Is intended to be private and is treated by the applicant as private;
- Has not been disclosed except as required by law or private agreement;
- Is not publicly available or otherwise readily ascertainable through proper means from another source in the same configuration as requested by the DEP;
- Includes trade secrets as defined in s. 688.002, F.S.;
- Includes leasing plans, real property acquisition plans, exploration budgets, or marketing studies; and
- Includes well design, completion plans, geologic and engineering studies, utilization strategies or operating plans.

[13] Congressional Research Service, *Hydraulic Fracturing: Chemical Disclosure Requirements*, 2 (June 19, 2012), *available at* http://www.fas.org/sgp/crs/misc/R42461.pdf (last visited Mar. 29, 2015).
[14] *Supra* note 2.

III. Effect of Proposed Changes:

Section 1 amends s. 377.19, F.S., to define "high pressure well stimulation" as "a well intervention performed by injecting more than 100,000 gallons of fluids into a rock formation at high pressure that exceeds the fracture gradient of the rock formation in order to propagate fractures in such formation to increase production at an oil or gas well by improving flow of hydrocarbons from the formation into the wellbore."

Section 2 amends s. 377.22, F.S., to require the Department of Environmental Protection (DEP) to adopt rules for the regulation of high pressure well stimulation. The bill requires the permit applicant to provide a reasonable bond or other form of security acceptable to the DEP, which is conditioned on each well being properly drilled, cased, produced, operated, and plugged. It also includes high pressure well stimulation as an activity that is monitored and inspected.

The bill requires high pressure well stimulation to be to be included in drilling reports and the disclosure of chemicals and other materials used to stimulate the well to be reported to the chemical disclosure registry FracFocus. The bill exempts information considered proprietary business information as defined in ss. 377.24075(1)(a) through (e), F.S., from the disclosure registry.

The bill requires the DEP to consider the past history of violations on the part of the permit applicant and the applicant's affiliated entities in all permit reviews.

Section 3 amends s. 377.24, F.S., to require notice be given to the DEP and a fee be paid prior to high pressure well stimulation activities. The amount of fee will be determined through the rulemaking process. The bill also prohibits high pressure well stimulation prior to permit issuance.

Section 4 amends s. 377.241, F.S., to add criteria for issuing a permit for high pressure well stimulation. The DEP must consider whether the high pressure well stimulation is designed to ensure the groundwater through which the well is drilled is not contaminated and the high pressure well stimulation is consistent with the public policy stated in s. 377.06, F.S.

The bill specifies that a permit may be denied or require specific conditions of a permit, including increased bonding and monitoring, if the permit applicant or affiliated entity has a history of violations related to the regulation of oil and gas, including violations that occurred outside of Florida.

Section 5 amends s. 377.242, F.S., to specify that the DEP has the authority to inspect drilling activities, including installation and cementing of casing, testing of blowout preventers, pressure testing of casing and casing shoe, and testing of cement plug integrity during plugging and abandoning operations.

Section 6 amends s. 377.245, F.S., to require the permit applicant to provide surety to the DEP that high pressure well stimulation will be conducted in a safe and environmentally compatible manner. The bill specifies that the permit applicant must provide such surety consistent with existing law.

Section 7 creates s. 377.2436, F.S., to require the DEP to conduct a study on high pressure well stimulation. The study must include:

- An evaluation of the geologic features in the counties where oil wells have been permitted;
- An analysis of the potential impact of high pressure well stimulation and wellbore construction on the geologic features;
- An evaluation of the potential hazards and risks that high pressure well stimulation may pose to surface water and groundwater resources;
- An assessment of the potential impact to drinking water resources that:
  - Identifies the main factors affecting the severity and frequency of impacts; and
  - Analyzes the potential for the use or reuse of recycled water in high pressure well stimulation fluids while meeting water quality standards;
- A review and evaluation of the potential for high pressure well stimulation to cause groundwater contamination under or near wells that have been abandoned and plugged;
- An identification of a setback radius from plugged and abandoned wells that could be impacted by high pressure well stimulation;
- Review and evaluate the disposition of high pressure well stimulation after the high pressure well stimulation process;
- An analysis of the risks associated with handling, treatment, and disposal of flowback fluids and any other material generated by the treatment;
- A review and evaluation of all known and potential environmental impacts of high pressure well stimulation treatments including:
  - Harmful atmospheric emissions;
  - Greenhouse gas emissions;
  - Degradation of air quality;
  - Impacts to wildlife, native plants, and habitat;
  - Habitat fragmentation;
  - Groundwater and surface water contamination;
  - Noise pollution;
  - Fire and explosions; and
  - Induced seismicity.

The bill specifies that the study is subject to an independent scientific peer review, and the findings of the study must be submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives by March 1, 2016. It also requires the results of the study to be posted to the DEP's website.

The bill requires the DEP to adopt rules to implement the findings of the study if the study determines rules are warranted and additional legislation is not required. The DEP is required to provide recommendations for legislation to the Legislature if the DEP determines that additional legislation is needed to protect surface water and groundwater.

The bill prohibits the DEP from issuing a permit for high pressure well stimulation until the study is submitted, all rulemaking is complete, or additional legislation is enacted to protect human health, safety, and the environment.

Section 8 amends s. 377.37, F.S., to increase the civil penalty from $10,000 per offense to $25,000 per offense.

Section 9 creates s. 377.45, F.S., to establish a high pressure well stimulation chemical disclosure registry. The bill requires the DEP to designate the national chemical registry, FracFocus, as the state's registry for chemical disclosure for all wells on which high pressure well stimulation is performed. A link to the FracFocus registry must be provided on the DEP's website. The service provider, vendor, well owner, or operator must report the following minimum information:

- The owner's or operator's name;
- The date of completion of the high pressure well stimulation;
- The county in which the well is located;
- The American Petroleum Institute (API) number for the well;
- The well name and number;
- The latitude and longitude of the wellhead;
- The total vertical depth of the well;
- The total volume of water used in the high pressure well stimulation; and
- Each chemical ingredient that is subject to the Occupational Safety and Health Administration (OSHA) regulations in 29 C.F.R. s. 1910.1200(g)(2) for each well that high pressure well stimulation is performed.[15]

In the event the chemical disclosure registry cannot accept or provide the information to the public, the service provider, vendor, well owner or operator must provide the required information to the DEP.

The service provider, vendor, well owner, or operator is required to report the chemical disclosure information within 60 days of the initiation of high pressure well stimulation. The service provider, vendor, well owner, or operator must also update the chemical disclosure registry and notify the DEP if any chemical ingredient not previously reported is used intentionally.

The bill exempts ingredients from the chemical disclosure registry if the ingredients are unintentionally added to the high pressure well stimulation, occur incidentally or are otherwise unintentionally present in the high pressure well stimulation, or are considered proprietary business information as defined in s. 377.24075(1)(a)-(e), F.S.

Section 10 provides an effective date of July 1, 2015.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

[15] See U.S. Department of Labor, *OSHA, Standards-29CFR*, https://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=standards&p_id=10099 (last visited Mar. 29, 2015).

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

PCS/SB 1468 authorizes a new permit fee for high pressure well stimulations and increases fines from $10,000 per offense per day to $25,000 per offense per day.

B. Private Sector Impact:

The bill increases penalties from $10,000 to $25,000 per offense, which will have a negative fiscal impact on private companies that are found in violation of the law.

The bill protects proprietary business information which may provide a financial benefit to private companies engaged in high pressure well stimulation.

C. Government Sector Impact:

The Department of Environmental Protection (DEP) will incur additional costs associated with permitting high pressure well stimulation activities. The regulatory costs and permit fee(s) will be based on the permitting requirements that will be established through the rulemaking process. According to the DEP, existing staff is sufficient to handle the anticipated workload increases.

The bill increases the penalty for violations from $10,000 per offense to $25,000 per offense. Should violations occur, the increased revenue will have a positive fiscal impact to the Minerals Protection Trust Fund within the DEP.

The costs associated to amend Rules 62C-25 through 30, F.A.C., can be absorbed within the DEP's existing budget.

According to the DEP, the estimated cost for the study on high pressure well stimulations is $3 million.

VI. Technical Deficiencies:

In line 30 of the bill, the word "treatment" should be added to clarify that the study is to examine the disposition of high pressure well stimulation treatments after they have been used.

VII. Related Issues:

The bill defines a "high pressure well stimulation" as "a well intervention performed by injecting more than 100,000 gallons of fluids into a rock formation at high pressure that exceeds the fracture gradient of the rock formation in order to propagate fractures in such formation to increase production at an oil or gas well by improving flow of hydrocarbons from the formation wellbore." The definition limits the high pressure well stimulation activities regulated by the bill to 100,000 gallons. This limit may not capture all well stimulation activities, as the DEP has received at least one workover notice for an interval of well stimulation that was less than 100,000 gallons of fluids.[16] In addition, the amount of pressure applied to a well during stimulation activities varies, therefore, the use of "high pressure" is not clear as it may not be inclusive of the range of pressures that are used during well stimulation activities.[17]

The definition of "proprietary business information" in s. 377.24075(1) (a)-(e), F.S., relates to an application for a natural gas storage facility permit. The definition may not apply to proprietary business information with respect to high pressure well stimulation.

The bill requires the DEP to conduct a study of the effects of high pressure well stimulation and prohibits the DEP from issuing a permit for high pressure well stimulation if the study determines rules are warranted. It is not clear if the rules in this section are just the rules related to the study, or the rulemaking that is required by the bill.

The term "flow back fluid" is referred to in the bill, however, this term has not been defined.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 377.19, 377.22, 377.24, 377.241, 377.242, 377.2425, and 377.37.

The bill creates section 377.45 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

Recommended CS by Appropriations Subcommittee on General Government on April 14, 2015:

The committee substitute requires the DEP to conduct a study of the effects of high pressure well stimulation. The bill requires the DEP to submit the findings of the study to the Governor, President of the Senate, and the Speaker of the House of Representatives by March 1, 2016. It also requires the DEP to adopt rules to implement the findings of the study if the study determines rules are warranted or make recommendations to the Legislature for additional legislation. The bill prohibits the DEP from issuing a permit for

[16] Dan A. Hughes, Co., *Collier-Hogan #20-3H, Well Proposal*, 6 (Dec. 23, 2013) (on file with the Senate Committee on Environmental Preservation and Conservation).

[17] ALL Consulting, *Expert Evaluation of the D.A. Hughes Collier-Hogan 20-3H, Well Drilling and Workover*, 27 (Dec. 2014) (on file with the Senate Committee on Environmental Preservation and Conservation).

high pressure well stimulation prior to the adoption of such rules or additional legislation is enacted.

B. Amendments:

None.

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

527918

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/22/2015	.	
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	.	
	.	

The Committee on Appropriations (Richter) recommended the following:

1 **Senate Amendment**
2
3 Delete lines 57 - 58
4 and insert:
5 (6) "High pressure well stimulation" means all stages of a
6 well intervention performed by injecting more than 100,000
7 gallons total of

747558

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/22/2015	.	
	.	
	.	
	.	

The Committee on Appropriations (Richter) recommended the following:

Senate Amendment (with directory and title amendments)

Between lines 205 and 206
insert:
(5) The department may not approve any permit to authorize a high pressure well stimulation until rulemaking is complete.

====== D I R E C T O R Y C L A U S E A M E N D M E N T ======
And the directory clause is amended as follows:
Delete line 178

747558

11 and insert:
12 Florida Statutes, are amended, and subsection (5) is added to
13 that section, to read:
14
15 ========== T I T L E A M E N D M E N T ==========
16 And the title is amended as follows:
17 Delete line 14
18 and insert:
19 multiple activities; prohibiting the department from
20 approving any permit for a high pressure well
21 stimulation until rulemaking is complete; amending s.
22 377.241, F.S.;

808418

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/22/2015	.	
	.	
	.	
	.	

The Committee on Appropriations (Richter) recommended the following:

1 **Senate Amendment (with title amendment)**
2
3 Delete line 304
4 and insert:
5 entered into before June 7, 1991. A county, municipality, or
6 other political subdivision of the state may not adopt or
7 establish permitting programs to accomplish the purposes of this
8 section.
9
10 ========== T I T L E A M E N D M E N T ==========

808418

11 And the title is amended as follows:
12 Between lines 20 and 21
13 insert:
14 prohibiting a county, municipality, or other political
15 subdivision of the state from adopting or establishing
16 permitting programs for certain oil and gas
17 activities;

800356

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/22/2015	.	
	.	
	.	
	.	

The Committee on Appropriations (Richter) recommended the following:

1 **Senate Amendment (with title amendment)**
2
3 Delete lines 398 - 425
4 and insert:
5 (2) The department shall continue conventional oil and gas
6 business operations during the performance of the study. There
7 shall not be a moratorium on the evaluation and issuance of
8 permits for conventional drilling, exploration, conventional
9 completions, or conventional workovers during the performance of
10 the study.

800356

11 (3) The study is subject to independent scientific peer
12 review.
13 (4) The findings of the study shall be submitted to the
14 Governor, the President of the Senate, and the Speaker of the
15 House of Representatives by June 30, 2016, and shall be
16 prominently posted on the department website.
17
18 ========== T I T L E A M E N D M E N T ==========
19 And the title is amended as follows:
20 Delete lines 25 - 36
21 and insert:
22 377.2436, F.S.; directing the department to conduct a
23 study on high pressure well stimulations; providing
24 study criteria; requiring the study to be submitted to
25 the Governor and the Legislature by a specified date;
26 requiring the study to be posted on the department
27 website; amending s. 377.37, F.S.; increasing the

670082

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/22/2015	.	
	.	
	.	
	.	

The Committee on Appropriations (Joyner) recommended the following:

Senate Amendment to Amendment (800356) (with title amendment)

Between lines 16 and 17
insert:
(5) The department may not issue any permit to authorize high pressure well stimulations until the study is complete and legislation is enacted to protect human health, safety, and the environment.

670082

11 ========== T I T L E A M E N D M E N T ==========
12 And the title is amended as follows:
13 Delete line 27
14 and insert:
15 website; prohibiting the issuance of permits for high
16 pressure well stimulations until the study is complete
17 and certain legislation is enacted; amending s.
18 377.37, F.S.; increasing the

862490

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/22/2015	.	
	.	
	.	
	.	

The Committee on Appropriations (Joyner) recommended the following:

Senate Amendment (with title amendment)

Delete lines 423 - 424
and insert:
Senate, and the Speaker of the House of Representatives, and additional legislation is enacted to

========== T I T L E A M E N D M E N T ==========
And the title is amended as follows:
Delete lines 34 - 35

862490

11 and insert:
12 the study has been submitted and additional
13 legislation is

571668

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/22/2015	.	
	.	
	.	
	.	

The Committee on Appropriations (Joyner) recommended the following:

1 **Senate Amendment**
2
3 Delete lines 498 - 502
4 and insert:
5 stimulation; or
6 (b) Occurs incidentally or is otherwise unintentionally
7 present in a high pressure well stimulation.

340874

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/22/2015	.	
	.	
	.	
	.	

The Committee on Appropriations (Richter) recommended the following:

Senate Amendment (with title amendment)

Between lines 502 and 503
insert:
Section 10. For the 2015-2016 fiscal year, the sum of $1 million in nonrecurring funds from the General Revenue Fund is appropriated to the Department of Environmental Protection to conduct a study on high pressure well stimulations pursuant to s. 377.2436, Florida Statutes.

340874

11 ========== T I T L E A M E N D M E N T ==========
12 And the title is amended as follows:
13 Delete line 42
14 and insert:
15 to the registry; providing applicability; providing an
16 appropriation; providing an

936016

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/22/2015	.	
	.	
	.	
	.	

The Committee on Appropriations (Margolis) recommended the following:

1 **Senate Amendment (with directory amendment)**
2
3 Delete line 220
4 and insert:
5 (6) For high pressure well stimulations, a permit shall be
6 denied for any proposed high pressure well stimulation occurring
7 within 1 mile of water wells, developed springs, nature
8 preserves, wildlife preserves, sites designated for endangered
9 species, state or federal parks, ponds, or groundwater for
10 public water supply.

936016

11 (7) As a basis for permit denial or imposition of specific
12
13 ====== D I R E C T O R Y C L A U S E A M E N D M E N T ======
14 And the directory clause is amended as follows:
15 Delete line 206
16 and insert:
17 Section 4. Subsections (5), (6), and (7) are added to

232520

576-04115-15

Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on General Government)

A bill to be entitled

An act relating to the regulation of oil and gas resources; amending s. 377.19, F.S.; applying the definitions of certain terms to additional sections of ch. 377, F.S.; conforming a cross-reference; defining the term "high pressure well stimulation"; amending s. 377.22, F.S.; revising the rulemaking authority of the Department of Environmental Protection; providing that certain information may be considered proprietary business information; amending s. 377.24, F.S.; requiring that a permit be obtained before the performance of any high pressure well stimulation; specifying that a permit may authorize single or multiple activities; amending s. 377.241, F.S.; requiring the Division of Resource Management to give consideration to and be guided by certain additional criteria when issuing permits; amending s. 377.242, F.S.; authorizing the department to issue permits for the performance of high pressure well stimulation; clarifying provisions relating to division inspection; amending s. 377.2425, F.S.; requiring an applicant or operator to provide surety that performance of a high pressure well stimulation will be conducted in a safe and environmentally compatible manner; creating s. 377.2436, F.S.; requiring a study on high pressure well stimulations; requiring the study to be submitted to the Governor and the Legislature by a specified

232520

576-04115-15

date; requiring the findings of the study to be posted on the department website; requiring the department to adopt rules under certain circumstances; requiring the department to provide recommendations for legislation under certain circumstances; prohibiting the approval of permits for high pressure well stimulations until the study has been submitted and all necessary rulemaking is complete or additional legislation is enacted; amending s. 377.37, F.S.; increasing the maximum amount for civil penalties; creating s. 377.45, F.S.; requiring the department to designate the national chemical registry as the state's registry; requiring service providers, vendors, or well owners or operators to report certain information to the registry; providing applicability; providing an effective date.

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

Section 1. Subsection (5) of section 377.19, Florida Statutes, is amended, present subsections (6) through (32) of that section are redesignated as subsections (7) through (33), respectively, and a new subsection (6) is added to that section, to read:

377.19 Definitions.—As used in ss. 377.06, 377.07, and 377.10-377.45 ~~377.10-377.40~~, the term:

(5) "Gas" means all natural gas, including casinghead gas, and all other hydrocarbons not defined as oil in subsection (16) ~~(15)~~.

(6) "High pressure well stimulation" means a well intervention performed by injecting more than 100,000 gallons of fluids into a rock formation at high pressure that exceeds the fracture gradient of the rock formation in order to propagate fractures in such formation to increase production at an oil or gas well by improving flow of hydrocarbons from the formation into the wellbore.

Section 2. Subsection (2) of section 377.22, Florida Statutes, is amended to read:

377.22 Rules and orders.—

(2) The department shall issue orders and adopt rules pursuant to ss. 120.536 and 120.54 to implement and enforce the provisions of this chapter. Such rules and orders shall ensure that all precautions are taken to prevent the spillage of oil or any other pollutant in all phases of the drilling for, and extracting of, oil, gas, or other petroleum products, including high pressure well stimulations, or during the injection of gas into and recovery of gas from a natural gas storage reservoir. The department shall revise such rules from time to time as necessary for the proper administration and enforcement of this chapter. Rules adopted and orders issued in accordance with this section are for, but not limited to, the following purposes:

(a) To require the drilling, casing, and plugging of wells to be done in such a manner as to prevent the pollution of the fresh, salt, or brackish waters or the lands of the state and to protect the integrity of natural gas storage reservoirs.

(b) To prevent the alteration of the sheet flow of water in any area.

(c) To require that appropriate safety equipment be

installed to minimize the possibility of an escape of oil or other petroleum products in the event of accident, human error, or a natural disaster during drilling, casing, or plugging of any well and during extraction operations.

(d) To require the drilling, casing, and plugging of wells to be done in such a manner as to prevent the escape of oil or other petroleum products from one stratum to another.

(e) To prevent the intrusion of water into an oil or gas stratum from a separate stratum, except as provided by rules of the division relating to the injection of water for proper reservoir conservation and brine disposal.

(f) To require a reasonable bond, or other form of security acceptable to the department, conditioned upon properly drilling, casing, producing, and operating each well, and properly plugging ~~the performance of the duty to plug properly~~ each dry and abandoned well, and the full and complete restoration by the applicant of the area over which geophysical exploration, drilling, or production is conducted to the similar contour and general condition in existence prior to such operation.

(g) To require and carry out a reasonable program of monitoring and inspecting ~~or inspection of~~ all drilling operations, high pressure well stimulations, producing wells, ~~or~~ injecting wells, and well sites, including regular inspections by division personnel.

(h) To require the making of reports showing the location of all oil and gas wells; the making and filing of logs; the taking and filing of directional surveys; the filing of electrical, sonic, radioactive, and mechanical logs of oil and

gas wells; if taken, the saving of cutting and cores, the cuts of which shall be given to the Bureau of Geology; and the making of reports with respect to drilling, ~~and~~ production, and high pressure well stimulations; and the disclosure of chemicals and other materials added during high pressure well stimulations to the chemical disclosure registry, known as FracFocus ~~records~~. However, such information, or any part thereof, at the request of the operator:~~,~~

1. Shall be exempt from ~~the provisions of~~ s. 119.07(1) and held confidential by the division for a period of 1 year after the completion of a well; or

2. May be considered proprietary business information, as defined in s. 377.24075(1)(a)-(e).

(i) To prevent wells from being drilled, operated, or produced in such a manner as to cause injury to neighboring leases, property, or natural gas storage reservoirs.

(j) To prevent the drowning by water of any stratum, or part thereof, capable of producing oil or gas in paying quantities and to prevent the premature and irregular encroachment of water which reduces, or tends to reduce, the total ultimate recovery of oil or gas from any pool.

(k) To require the operation of wells with efficient gas-oil ratio, and to fix such ratios.

(l) To prevent "blowouts," "caving," and "seepage," in the sense that conditions indicated by such terms are generally understood in the oil and gas business.

(m) To prevent fires.

(n) To identify the ownership of all oil or gas wells, producing leases, refineries, tanks, plants, structures, and

storage and transportation equipment and facilities.

(o) To regulate the "shooting," perforating, ~~and~~ chemical treatment, and high pressure well stimulations of wells.

(p) To regulate secondary recovery methods, including the introduction of gas, air, water, or other substance into producing formations.

(q) To regulate gas cycling operations.

(r) To regulate the storage and recovery of gas injected into natural gas storage facilities.

(s) If necessary for the prevention of waste, as herein defined, to determine, limit, and prorate the production of oil or gas, or both, from any pool or field in the state.

(t) To require, either generally or in or from particular areas, certificates of clearance or tenders in connection with the transportation or delivery of oil or gas, or any product.

(u) To regulate the spacing of wells and to establish drilling units.

(v) To prevent, so far as is practicable, reasonably avoidable drainage from each developed unit which is not equalized by counterdrainage.

(w) To require that geophysical operations requiring a permit be conducted in a manner which will minimize the impact on hydrology and biota of the area, especially environmentally sensitive lands and coastal areas.

(x) To regulate aboveground crude oil storage tanks in a manner which will protect the water resources of the state.

(y) To act in a receivership capacity for fractional mineral interests for which the owners are unknown or unlocated and to administratively designate the operator as the lessee.

(z) To evaluate the history of past adjudicated violations of any substantive and material rule or statute pertaining to the regulation of oil and gas of permit applicants and the applicants' affiliated entities.

Section 3. Subsections (1), (2), and (4) of section 377.24, Florida Statutes, are amended to read:

377.24 Notice of intention to drill well; permits; abandoned wells and dry holes.—

(1) Before drilling a well in search of oil or gas, before performing a high pressure well stimulation, or before storing gas in or recovering gas from a natural gas storage reservoir, the person who desires to drill for, store, or recover gas, ~~or~~ drill for oil or gas, or perform a high pressure well stimulation shall notify the division upon such form as it may prescribe and shall pay a reasonable fee set by rule of the department not to exceed the actual cost of processing and inspecting for each well or reservoir. The drilling of any well, the performance of any high pressure well stimulation, and the storing and recovering of gas are prohibited until such notice is given, the fee is paid, and a ~~the~~ permit is granted. A permit may authorize a single activity or multiple activities.

(2) An application for the drilling of a well in search of oil or gas, for the performance of a high pressure well stimulation, or for the storing of gas in and recovering of gas from a natural gas storage reservoir~~,~~ in this state must include the address of the residence of the applicant, or applicants, which must be the address of each person involved in accordance with the records of the Division of Resource Management until such address is changed on the records of the division after

written request.

(4) Application for permission to drill or abandon any well or perform a high pressure well stimulation may be denied by the division for only just and lawful cause.

Section 4. Subsections (5) and (6) are added to section 377.241, Florida Statutes, to read:

377.241 Criteria for issuance of permits.—The division, in the exercise of its authority to issue permits as hereinafter provided, shall give consideration to and be guided by the following criteria:

(5) For high pressure well stimulations, whether the high pressure well stimulation as proposed is designed to ensure that:

(a) The groundwater through which the well will be or has been drilled is not contaminated by the high pressure well stimulation; and

(b) The high pressure well stimulation is consistent with the public policy of this state as specified in s. 377.06.

(6) As a basis for permit denial or imposition of specific permit conditions, including increased bonding and monitoring, the history of adjudicated violations of any substantive and material rule or statute pertaining to the regulation of oil or gas, including violations that occurred outside the state, committed by the applicant or an affiliated entity of the applicant.

Section 5. Section 377.242, Florida Statutes, is amended to read:

377.242 Permits for drilling or exploring and extracting through well holes or by other means.—The department is vested

with the power and authority:

(1)(a) To issue permits for the drilling for, exploring for, performing a high pressure well stimulation, or production of, oil, gas, or other petroleum products that ~~which~~ are to be extracted from below the surface of the land, including submerged land, only through the well hole drilled for oil, gas, and other petroleum products.

1. No structure intended for the drilling for, or production of, oil, gas, or other petroleum products may be permitted or constructed on any submerged land within any bay or estuary.

2. No structure intended for the drilling for, or production of, oil, gas, or other petroleum products may be permitted or constructed within 1 mile seaward of the coastline of the state.

3. No structure intended for the drilling for, or production of, oil, gas, or other petroleum products may be permitted or constructed within 1 mile of the seaward boundary of any state, local, or federal park or aquatic or wildlife preserve or on the surface of a freshwater lake, river, or stream.

4. No structure intended for the drilling for, or production of, oil, gas, or other petroleum products may be permitted or constructed within 1 mile inland from the shoreline of the Gulf of Mexico, the Atlantic Ocean, or any bay or estuary or within 1 mile of any freshwater lake, river, or stream unless the department is satisfied that the natural resources of such bodies of water and shore areas of the state will be adequately protected in the event of accident or blowout.

5. Without exception, after July 1, 1989, no structure intended for the drilling for, or production of, oil, gas, or other petroleum products may be permitted or constructed south of 26°00′00″ north latitude off Florida’s west coast and south of 27°00′00″ north latitude off Florida’s east coast, within the boundaries of Florida’s territorial seas as defined in 43 U.S.C. s. 1301. After July 31, 1990, no structure intended for the drilling for, or production of, oil, gas, or other petroleum products may be permitted or constructed north of 26°00′00″ north latitude off Florida’s west coast to the western boundary of the state bordering Alabama as set forth in s. 1, Art. II of the State Constitution, or located north of 27°00′00″ north latitude off Florida’s east coast to the northern boundary of the state bordering Georgia as set forth in s. 1, Art. II of the State Constitution, within the boundaries of Florida’s territorial seas as defined in 43 U.S.C. s. 1301.

(b) Subparagraphs (a)1. and 4. do not apply to permitting or construction of structures intended for the drilling for, or production of, oil, gas, or other petroleum products pursuant to an oil, gas, or mineral lease of such lands by the state under which lease any valid drilling permits are in effect on the effective date of this act. In the event that such permits contain conditions or stipulations, such conditions and stipulations shall govern and supersede subparagraphs (a)1. and 4.

(c) The prohibitions of subparagraphs (a)1.-4. in this subsection do not include “infield gathering lines,” provided no other placement is reasonably available and all other required permits have been obtained.

(2) To issue permits to explore for and extract minerals which are subject to extraction from the land by means other than through a well hole.

(3) To issue permits to establish natural gas storage facilities or construct wells for the injection and recovery of any natural gas for storage in natural gas storage reservoirs.

Each permit shall contain an agreement by the permitholder that the permitholder will not prevent inspection by division personnel at any time, including during installation and cementing of casing, testing of blowout preventers, pressure testing of casing and casing shoe, and testing of cement plug integrity during plugging and abandoning operations. The provisions of this section prohibiting permits for drilling or exploring for oil in coastal waters do not apply to any leases entered into before June 7, 1991.

Section 6. Subsection (1) of section 377.2425, Florida Statutes, is amended to read:

377.2425 Manner of providing security for geophysical exploration, drilling, and production.—

(1) Before ~~Prior to~~ granting a permit to conduct geophysical operations; drilling of exploratory, injection, or production wells; producing oil and gas from a wellhead; performing a high pressure well stimulation; or transporting oil and gas through a field-gathering system, the department shall require the applicant or operator to provide surety that these operations will be conducted in a safe and environmentally compatible manner.

(a) The applicant for a drilling, production, high pressure

well stimulation, or injection well permit or a geophysical permit may provide the following types of surety to the department for this purpose:

1. A deposit of cash or other securities made payable to the Minerals Trust Fund. Such cash or securities so deposited shall be held at interest by the Chief Financial Officer to satisfy safety and environmental performance provisions of this chapter. The interest shall be credited to the Minerals Trust Fund. Such cash or other securities shall be released by the Chief Financial Officer upon request of the applicant and certification by the department that all safety and environmental performance provisions established by the department for permitted activities have been fulfilled.

2. A bond of a surety company authorized to do business in the state in an amount as provided by rule.

3. A surety in the form of an irrevocable letter of credit in an amount as provided by rule guaranteed by an acceptable financial institution.

(b) An applicant for a drilling, production, or injection well permit, or a permittee who intends to continue participating in long-term production activities of such wells, has the option to provide surety to the department by paying an annual fee to the Minerals Trust Fund. For an applicant or permittee choosing this option the following shall apply:

1. For the first year, or part of a year, of a drilling, production, or injection well permit, or change of operator, the fee is $4,000 per permitted well.

2. For each subsequent year, or part of a year, the fee is $1,500 per permitted well.

347 3. The maximum fee that an applicant or permittee may be
348 required to pay into the trust fund is $30,000 per calendar
349 year, regardless of the number of permits applied for or in
350 effect.
351 4. The fees set forth in subparagraphs 1., 2., and 3. shall
352 be reviewed by the department on a biennial basis and adjusted
353 for the cost of inflation. The department shall establish by
354 rule a suitable index for implementing such fee revisions.
355 (c) An applicant for a drilling or operating permit for
356 operations planned in coastal waters that by their nature
357 warrant greater surety shall provide surety only in accordance
358 with paragraph (a), or similar proof of financial responsibility
359 other than as provided in paragraph (b). For all such
360 applications, including applications pending at the effective
361 date of this act and notwithstanding the provisions of paragraph
362 (b), the Governor and Cabinet in their capacity as the
363 Administration Commission, at the recommendation of the
364 Department of Environmental Protection, shall set a reasonable
365 amount of surety required under this subsection. The surety
366 amount shall be based on the projected cleanup costs and natural
367 resources damages resulting from a maximum oil spill and adverse
368 hydrographic and atmospheric conditions that would tend to
369 transport the oil into environmentally sensitive areas, as
370 determined by the Department of Environmental Protection.
371 Section 7. Section 377.2436, Florida Statutes, is created
372 to read:
373 377.2436 Study on high pressure well stimulations.—
374 (1) The department shall conduct a study on high pressure
375 well stimulations. The study shall:

376 (a) Evaluate the underlying geologic features present in
377 the counties where oil wells have been permitted and analyze the
378 potential impact that high pressure well stimulation and
379 wellbore construction may have on the underlying geologic
380 features.
381 (b) Evaluate the potential hazards and risks that high
382 pressure well stimulation poses to surface water and groundwater
383 resources. The study shall assess the potential impacts of high
384 pressure well stimulation on drinking water resources and
385 identify the main factors affecting the severity and frequency
386 of impacts and shall analyze the potential for the use or reuse
387 of recycled water in high pressure well stimulation fluids while
388 meeting appropriate water quality standards.
389 (c) Review and evaluate the potential for groundwater
390 contamination from conducting high pressure well stimulation
391 under or near wells that have been previously abandoned and
392 plugged and identify a setback radius from previously plugged
393 and abandoned wells that could be impacted by high pressure well
394 stimulation.
395 (d) Review and evaluate the ultimate disposition of high
396 pressure well stimulation after use in high pressure well
397 stimulation processes.
398 (e) Analyze the risks associated with the handling,
399 treatment, and disposal of flowback fluids and other materials,
400 if any, generated by the treatment.
401 (f) Review and evaluate all known and potential
402 environmental impacts resulting from high pressure well
403 stimulation treatments, including harmful atmospheric emissions,
404 greenhouse gas emissions, the degradation of air quality,

impacts to wildlife, native plants, and habitat, habitat fragmentation, groundwater and surface water contamination, noise pollution, fire and explosions, and induced seismicity.

(2) The study is subject to independent scientific peer review, and the findings of the study shall be submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives by March 1, 2016, and shall be prominently posted on the department website.

(3) The department shall adopt rules to implement the findings of the study if such rules are warranted by the study and the department determines that additional legislation is not needed. If the department determines legislation is needed to protect surface water and groundwater resources, the department shall provide recommendations for such legislation to the Legislature.

(4) The department may not approve any permit to authorize high pressure well stimulations until the study required under this section is submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives and all rulemaking is complete, or additional legislation is enacted to protect human health, safety, and the environment.

Section 8. Paragraph (a) of subsection (1) of section 377.37, Florida Statutes, is amended to read:

377.37 Penalties.—

(1)(a) Any person who violates any provision of this law or any rule, regulation, or order of the division made under this chapter or who violates the terms of any permit to drill for or produce oil, gas, or other petroleum products referred to in s. 377.242(1) or to store gas in a natural gas storage facility, or

any lessee, permitholder, or operator of equipment or facilities used in the exploration for, drilling for, or production of oil, gas, or other petroleum products, or storage of gas in a natural gas storage facility, who refuses inspection by the division as provided in this chapter, is liable to the state for any damage caused to the air, waters, or property, including animal, plant, or aquatic life, of the state and for reasonable costs and expenses of the state in tracing the source of the discharge, in controlling and abating the source and the pollutants, and in restoring the air, waters, and property, including animal, plant, and aquatic life, of the state. Furthermore, such person, lessee, permitholder, or operator is subject to the judicial imposition of a civil penalty in an amount of not more than $25,000 ~~$10,000~~ for each offense. However, the court may receive evidence in mitigation. Each day during any portion of which such violation occurs constitutes a separate offense. Nothing herein shall give the department the right to bring an action on behalf of any private person.

Section 9. Section 377.45, Florida Statutes, is created to read:

377.45 High pressure well stimulation chemical disclosure registry.—

(1)(a) The department shall designate the national chemical registry, known as FracFocus, developed by the Ground Water Protection Council and the Interstate Oil and Gas Compact Commission, as the state's registry for chemical disclosure for all wells on which high pressure well stimulations are performed. The department shall provide a link to FracFocus through the department's website.

(b) In addition to providing such information to the department as part of the permitting process, a service provider, vendor, or well owner or operator shall report, by department rule, to the chemical disclosure registry, at a minimum, the following information:

1. The owner's or operator's name;

2. The date of completion of the high pressure well stimulation;

3. The county in which the well is located;

4. The API number for the well;

5. The well name and number;

6. The longitude and latitude of the wellhead;

7. The total vertical depth of the well;

8. The total volume of water used in the high pressure well stimulation; and

9. Each chemical ingredient that is subject to 29 C.F.R. s. 1910.1200(g)(2) for each well on which a high pressure well stimulation is performed.

(c) If the chemical disclosure registry cannot accept and make publicly available any information specified in this section, the service provider, vendor, or well owner or operator shall submit the information required under paragraph (b) to the department.

(2) A service provider, vendor, or well owner or operator shall:

(a) Report the information required under subsection (1) to the chemical disclosure registry within 60 days after the initiation of the high pressure well stimulation for each well on which such high pressure well stimulation is performed; and

(b) Update the chemical disclosure registry and notify the department if any chemical ingredient not previously reported is intentionally included and used for the purpose of performing a high pressure well stimulation.

(3) This section does not apply to an ingredient that:

(a) Is not intentionally added to the high pressure well stimulation;

(b) Occurs incidentally or is otherwise unintentionally present in a high pressure well stimulation; or

(c) Is considered proprietary business information, as defined in s. 377.24075(1)(a)-(e).

Section 10. This act shall take effect July 1, 2015.

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 Appropriations

BILL: CS/SB 1468

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on General Government) and Senator Richter

SUBJECT: Regulation of Oil and Gas Resources

DATE: April 23, 2015 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Gudeman	Uchino	EP	**Favorable**
2.	Howard	DeLoach	AGG	**Recommend: Fav/CS**
3.	Howard	Kynoch	AP	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1468 amends provisions relating to the regulation of oil and gas resources. Specifically, the bill:

- Provides a definition for "high pressure well stimulation";
- Requires the Department of Environmental Protection (DEP) to adopt rules for the regulation of high pressure well stimulation;
- Specifies the rules must ensure all well drilling activities are done properly;
- Requires high pressure well stimulation to be monitored, inspected, and included in drilling reports;
- Requires notice be given to the DEP and a fee be paid prior to high pressure well stimulation activities;
- Prohibits high pressure well stimulation prior to permit issuance;
- Prohibits the DEP from issuing a permit for high pressure well stimulation until rulemaking is complete;
- Requires the DEP to consider groundwater contamination and public policy when reviewing a permit application for high pressure well stimulation;
- Specifies that a permit may be denied or specific permitting conditions applied based on the compliance history of the permit applicant or affiliated entity;
- Specifies the DEP has clear authority to inspect drilling activities;

- Prohibits local governments from establishing permitting programs for certain oil and gas activities;
- Requires the permit applicant to provide financial assurance to the DEP that high pressure well stimulation will be conducted in a safe and environmentally compatible manner;
- Increases the civil penalty from $10,000 per day to $25,000 per day for violations of the provisions found in Part I of chapter 377, Florida Statutes.
- Requires the DEP to conduct a study on high pressure well stimulations;
- Creates a high pressure well stimulation chemical disclosure registry and provides specific requirements for the registry;
- Requires the chemical ingredients used in high pressure well stimulation to be reported to the chemical disclosure registry, FracFocus; Exempts information considered proprietary business information as defined in sections 377.24075(1)(a) through (e), Florida Statutes, from the disclosure registry; and
- Provides an appropriation for the DEP to complete the study.

The bill provides a $1 million nonrecurring appropriation from the General Revenue Fund to DEP to conduct a study on high pressure well stimulations. According to the DEP, the increased workload related to the regulatory and rulemaking process can be handled within existing resources. The remaining fiscal impact of the bill is indeterminate.

The bill provides an effective date of July 1, 2015.

II. Present Situation:

Oil was first successfully extracted from the ground in large quantities in 1859 in Titusville, Pennsylvania. Prior to this, oil was collected through seeps in small quantities and skimmed from surface waters using blankets.[1] Since this time, the oil and gas industry has evolved to become one of the world's largest industries.[2]

Traditional Drilling and Hydraulic Fracturing

Traditional oil wells are drilled vertically to reach the oil and gas reservoir. A steel pipe, called a casing, is inserted into the wellbore and set in place using cement. Once the targeted area is reached, the well casing is perforated and the oil and gas immediately surrounding the well can be extracted.[3]

Hydraulic fracturing is a technique that involves stimulating the well to extract oil and gas. Large amounts of fluid under pressure are injected into a wellbore to create and extend fractures in the

[1] Business Reference Services, *History of Oil and Gas*, http://www.loc.gov/rr/business/BERA/issue5/history.html (last visited Mar. 29, 2015).
[2] American Petroleum Institute, *Industry Economics*, http://www.api.org/oil-and-natural-gas-overview/industry-economics (last visited Mar. 29, 2015).
[3] Drilling Waste Management Information System, *Fact Sheet-Drilling Practices That Minimize Generation of Drilling Wastes*, http://web.ead.anl.gov/dwm/techdesc/drilling/ (last visited Mar. 29, 2015).

rock formation. The fractures are held open by a slurry mixture which allows natural gas to flow from the fractures into the production well.[4]

The injected fluid is composed of water, proppants, and chemical additives. The composition of the injected fluid varies between rock formations but the majority of the fluid, 98 to 99.5 percent, is water. The proppants are made of sand, ceramic pellets, or other small incompressible particles that hold the fractures open. The chemical additives include bactericides, buffers, stabilizers, fluid-loss additives, and surfactants that improve the effectiveness of the fracturing process and prevent damage to the rock formation.[5]

The injection of the fracturing fluid is sequenced and the blend and proportions of the additives used vary depending on the characteristics of the rock formation. The acid stage consists of several thousand gallons of water mixed with hydrochloric acid or muriatic acid that work to clear cement debris and create an open path for the fracturing fluids. The pad stage consists of approximately 100,000 gallons of "slick-water," which is a friction reducing agent that reduces the pressure needed to pump fluid into the wellbore and facilitate the flow and placement of the proppant material. The prop sequence stage, which may include several sub-stages, uses several hundred thousand gallons of water mixed with varying sized particulates that keep the fractures open. Finally, there is a flushing stage that consists of enough water to adequately flush the excess proppant from the wellbore.[6]

Oil and Gas Production in Florida

There are two major oil producing areas in Florida: the Sunniland trend in South Florida and the western panhandle. The Sunniland trend is approximately 200 to 300 feet thick and the top of the formation is approximately 11,200 to 11,600 feet below sea level. This area has been in production since 1943. Oil production in north Florida began with the discovery of the Jay field in 1970, which is the largest oil field in the state. There are eight oil fields in this region that extend through Escambia and Santa Rosa Counties. The production area is 14,500 to 16,800 feet below the land surface and between 5 to 259 feet thick.[7] Production from both regions peaked at 100,000 barrels per day in 1978 and has since leveled off to approximately 6,000 barrels per day.[8]

Oil and Gas Regulation in Florida

The Oil and Gas program in the Department of Environmental Protection (DEP) is the permitting authority for oil and gas wells under Part I of ch. 377.01, F.S. Section 377.22, F.S., directs the DEP to establish rules for the oil and gas program that ensure human health, public safety, and

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[4]FracFocus Chemical Disclosure Registry, *Hydraulic Fracturing: The Process*, http://fracfocus.org/hydraulic-fracturing-how-it-works/hydraulic-fracturing-process. (last visited Mar. 27, 2013).
[5] *Id*.
[6] *Id*.
[7] Bureau of Land Management, *Florida, Reasonable Foreseeable Development Scenario for Fluid Minerals*, 18 (Apr. 2008), *available at* http://www.blm.gov/style/medialib/blm/es/jackson_field_office/planning/planning_pdf_florida.Par.65103.File.dat/Florida_RFDS_R1.pdf (last visited Mar. 29, 2015).
[8] EIA, Florida State Energy Profile, Florida Quick Facts, http://www.eia.gov/state/print.cfm?sid=FL (last visited Mar. 29, 2015).

the environment are protected from the exploration phase to well completion and abandonment phase. The DEP is also responsible for monitoring and reporting the well drilling and production activities from exploration to well abandonment.

The DEP adopted Rules 62C-25 through 30, Florida Administrative Code (F.A.C.), to implement Part I of ch. 377, F.S. The rules include permitting procedures, bonding requirements, well spacing, well construction, production, injection, workovers, and well abandonment. The rule also requires each operator to submit a spill prevention and cleanup plan pursuant to Rule 62C-28.004(2), F.A.C. The plan must include the potential spill source, the protective measures to prevent a spill, and the location of emergency equipment in the event of a spill.

The requirements and procedures for well stimulation technology is not provided for in rule or statute; however, hydraulic fracturing, acidizing, or other chemical treatments of a well are activities that may be approved in a workover. A workover includes a variety of remedial operations that are conducted in order to increase well production. Rule 62C-25.002(61), F.A.C., defines a "work over" as "an operation involving a deepening, plug back, repair, cement squeeze, perforation, hydraulic fracturing, acidizing, or other chemical treatment which is performed in a production, disposal, or injection well in order to restore, sustain, or increase production, disposal, or injection rates." An operator is required to notify the DEP prior to commencing a workover procedure, unless it is for an emergency operation in which case the operator must notify the DEP during the operation or immediately thereafter.[9] The operator must submit a revised Well Record to the DEP within 30 days of the workover.[10]

Emergency Planning and Community Right to Know Act

In 1986, Congress enacted the Emergency Planning and Community Right-to-Know Act (EPCRA), which requires federal, local, and state governments to report hazardous and toxic chemicals in order to increase the public's knowledge and access to information on chemicals at individual facilities. The EPCRA includes the Toxic Release Inventory (TRI), which is a publicly available database that contains information on chemical releases and waste management reported by certain industries. The U.S. Environmental Protection Agency (EPA) has not included oil and gas extraction as an industry that must report under the TRI because the EPA determined the oil and gas extraction industry is not a high priority for reporting. The decision is based on the fact that most of the information that the TRI requires is already reported by oil and gas providers to the individual state agencies and reporting for the hundreds and thousands of oil and gas sites would overwhelm the system.[11]

In March 2015, the Bureau of Land Management (BLM) published the final rule that would require companies that conduct hydraulic fracturing on lands managed by the BLM to disclose the composition of the fracturing fluid. Congress has also proposed legislation requiring the disclosure of chemicals under the Fracturing Responsibility and Awareness of Chemicals Act.[12]

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[9] Fla. Admin. Code R. 62C-29.006 (1996).
[10] The Well Record is the DEP Oil and Gas Form 8.
[11] *Id*.
[12] *Id*.

To date, federal legislation has not been implemented to require the disclosure of chemicals used in hydraulic fracturing; therefore, many states have taken steps to develop their own chemical disclosure laws. The disclosure requirements that have been established in certain states include the information about the chemical additives and whether the disclosures are made to state agencies or available to the public, the composition of the chemicals, the protections provided in trade secrets, and when the disclosure of the chemicals is to take place in relation to the fracturing process.[13]

FracFocus Chemical Disclosure Registry

FracFocus is a national hydraulic fracturing chemical registry operated by the Ground Water Protection Council and the Interstate Oil and Gas Compact Commission. The registry provides public access to reported chemicals used for hydraulic fracturing. FracFocus does not replace state governmental information systems but is used by ten states as the primary means of state chemical disclosure. Currently, there are 95,000 well sites registered with the database.[14]

Public Records Law

Article I, s. 24(a) of the Florida Constitution sets the state's public policy regarding access to government records. The section guarantees every person a right to inspect or copy any public record of the legislative, executive, and judicial branches of government. The Legislature may provide for the exemption of records from the requirements of the constitution; however, the Legislature must specify the public necessity to justify the exemption.

Access to public records is also addressed in the Open Government Sunset Review Act in s. 119.07(1), F.S., which guarantees every person the right to inspect and copy any state, county or municipal record. The Open Government Sunset Review Act provides that a public record or public meeting exemption may only be created or maintained if it serves a public purpose. The Legislature created a number of specific exemptions from the Open Government Sunset Review Act, including documents submitted by a private party that constitute trade secrets as defined in s. 812.081, F.S. and are stamped as confidential at the time of submission to an agency.

Proprietary Business Information

Section 377.24075, F.S., defines "proprietary business information," as information that:

- Is owned or controlled by the applicant or person affiliated with the applicant;
- Is intended to be private and is treated by the applicant as private;
- Has not been disclosed except as required by law or private agreement;
- Is not publicly available or otherwise readily ascertainable through proper means from another source in the same configuration as requested by the DEP;
- Includes trade secrets as defined in s. 688.002, F.S.;
- Includes leasing plans, real property acquisition plans, exploration budgets, or marketing studies; and

[13] Congressional Research Service, *Hydraulic Fracturing: Chemical Disclosure Requirements*, 2 (June 19, 2012), *available at* http://www.fas.org/sgp/crs/misc/R42461.pdf (last visited Mar. 29, 2015).
[14] *Supra* note 4.

- Includes well design, completion plans, geologic and engineering studies, utilization strategies or operating plans.

III. Effect of Proposed Changes:

Section 1 amends s. 377.19, F.S., to define "high pressure well stimulation" as "all stages of a well intervention performed by injecting more than 100,000 gallons total of fluids into a rock formation at high pressure that exceeds the fracture gradient of the rock formation in order to propagate fractures in such formation to increase production at an oil or gas well by improving flow of hydrocarbons from the formation into the wellbore."

Section 2 amends s. 377.22, F.S., to require the Department of Environmental Protection (DEP) to adopt rules for the regulation of high pressure well stimulation. The bill requires the permit applicant to provide a reasonable bond or other form of security acceptable to the DEP, which is conditioned on each well being properly drilled, cased, produced, operated, and plugged. It also includes high pressure well stimulation as an activity that is monitored and inspected.

The bill requires high pressure well stimulation to be to be included in drilling reports and the disclosure of chemicals and other materials used to stimulate the well to be reported to the chemical disclosure registry FracFocus. The bill exempts information considered proprietary business information as defined in ss. 377.24075(1)(a) through (e), F.S., from the disclosure registry.

The bill requires the DEP to consider the past history of violations on the part of the permit applicant and the applicant's affiliated entities in all permit reviews.

Section 3 amends s. 377.24, F.S., to require notice be given to the DEP and a fee be paid prior to high pressure well stimulation activities. The amount of fee will be determined through the rulemaking process. The bill prohibits high pressure well stimulation prior to permit issuance and prohibits the DEP from issuing a permit for high pressure well stimulation until rulemaking is complete.

Section 4 amends s. 377.241, F.S., to add criteria for issuing a permit for high pressure well stimulation. The DEP must consider whether the high pressure well stimulation is designed to ensure the groundwater through which the well is drilled is not contaminated and the high pressure well stimulation is consistent with the public policy stated in s. 377.06, F.S.

The bill specifies that a permit may be denied or require specific conditions of a permit, including increased bonding and monitoring, if the permit applicant or affiliated entity has a history of violations related to the regulation of oil and gas, including violations that occurred outside of Florida.

Section 5 amends s. 377.242, F.S., to specify that the DEP has the authority to inspect drilling activities, including installation and cementing of casing, testing of blowout preventers, pressure testing of casing and casing shoe, and testing of cement plug integrity during plugging and abandoning operations.

The bill prohibits a county, municipality, or other political subdivision from adopting or establishing permitting programs for drilling, exploring, and extracting oil and gas.

Section 6 amends s. 377.245, F.S., to require the permit applicant to provide surety to the DEP that high pressure well stimulation will be conducted in a safe and environmentally compatible manner. The bill specifies that the permit applicant must provide such surety consistent with existing law.

Section 7 creates s. 377.2436, F.S., to require the DEP to conduct a study on high pressure well stimulation. The study must include:

- An evaluation of the geologic features in the counties where oil wells have been permitted;
- An analysis of the potential impact of high pressure well stimulation and wellbore construction on the geologic features;
- An evaluation of the potential hazards and risks that high pressure well stimulation may pose to surface water and groundwater resources;
- An assessment of the potential impact to drinking water resources that:
  - Identifies the main factors affecting the severity and frequency of impacts; and
  - Analyzes the potential for the use or reuse of recycled water in high pressure well stimulation fluids while meeting water quality standards;
- A review and evaluation of the potential for high pressure well stimulation to cause groundwater contamination under or near wells that have been abandoned and plugged;
- An identification of a setback radius from plugged and abandoned wells that could be impacted by high pressure well stimulation; and
- Review and evaluate the disposition of high pressure well stimulation after the high pressure well stimulation process.

The bill specifies that the DEP shall continue conventional oil and gas business operations during the performance of study. The bill also prohibits a moratorium on the evaluation and issuance of permits for conventional drilling, exploration, conventional completions, or conventional workovers during the study.

The bill provides that the study is subject to an independent scientific peer review, and the findings of the study must be submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives by June 30, 2016. It also requires the results of the study to be posted to the DEP's website.

Section 8 amends s. 377.37, F.S., to increase the civil penalty from $10,000 per offense to $25,000 per offense.

Section 9 creates s. 377.45, F.S., to establish a high pressure well stimulation chemical disclosure registry. The bill requires the DEP to designate the national chemical registry, FracFocus, as the state's registry for chemical disclosure for all wells on which high pressure well stimulation is performed. A link to the FracFocus registry must be provided on the DEP's website. The service provider, vendor, well owner, or operator must report the following minimum information:

- The owner's or operator's name;

- The date of completion of the high pressure well stimulation;
- The county in which the well is located;
- The American Petroleum Institute (API) number for the well;
- The well name and number;
- The latitude and longitude of the wellhead;
- The total vertical depth of the well;
- The total volume of water used in the high pressure well stimulation; and
- Each chemical ingredient that is subject to the Occupational Safety and Health Administration (OSHA) regulations in 29 C.F.R. s. 1910.1200(g)(2) for each well that high pressure well stimulation is performed.[15]

In the event the chemical disclosure registry cannot accept or provide the information to the public, the service provider, vendor, well owner or operator must provide the required information to the DEP.

The service provider, vendor, well owner, or operator is required to report the chemical disclosure information within 60 days of the initiation of high pressure well stimulation. The service provider, vendor, well owner, or operator must also update the chemical disclosure registry and notify the DEP if any chemical ingredient not previously reported is used intentionally.

The bill exempts ingredients from the chemical disclosure registry if the ingredients are unintentionally added to the high pressure well stimulation, occur incidentally or are otherwise unintentionally present in the high pressure well stimulation, or are considered proprietary business information as defined in s. 377.24075(1)(a)-(e), F.S.

Section 10 appropriates $1,000,000 in nonrecurring funds from the General Revenue Fund for the 2015-2016 fiscal year to the DEP to conduct a study on high pressure well stimulations.

Section 11 provides an effective date of July 1, 2015.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

[15] See U.S. Department of Labor, *OSHA, Standards-29CFR*, https://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=standards&p_id=10099 (last visited Mar. 29, 2015).

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

CS/SB 1468 authorizes a new permit fee for high pressure well stimulations and increases fines from $10,000 per offense per day to $25,000 per offense per day.

B. Private Sector Impact:

The bill increases penalties from $10,000 to $25,000 per offense, which will have a negative fiscal impact on private companies that are found in violation of the law.

The bill protects proprietary business information which may provide a financial benefit to private companies engaged in high pressure well stimulation.

C. Government Sector Impact:

The Department of Environmental Protection (DEP) will incur additional costs associated with permitting high pressure well stimulation activities. The regulatory costs and permit fee(s) will be based on the permitting requirements that will be established through the rulemaking process. According to the DEP, existing staff is sufficient to handle the anticipated workload increases. The increased revenues associated with permit fees is indeterminate.

The bill increases the penalty for violations from $10,000 per offense to $25,000 per offense. Should violations occur, the increased revenue will have a positive fiscal impact to the Minerals Protection Trust Fund within the DEP.

The costs associated to amend Rules 62C-25 through 30, F.A.C., can be absorbed within the DEP's existing budget.

According to the DEP, the estimated cost for the study on high pressure well stimulations is $1 million. CS/SB 1468 provides the appropriation for the study.

VI. Technical Deficiencies:

In line 402 of the bill, the word "fluids" should be added to clarify that the study is to examine the disposition of high pressure well stimulation treatments after they have been used.

VII. Related Issues:

The bill defines a "high pressure well stimulation" as "all stages of a well intervention performed by injecting more than 100,000 gallons total of fluids into a rock formation at high pressure that exceeds the fracture gradient of the rock formation in order to propagate fractures in such formation to increase production at an oil or gas well by improving flow of hydrocarbons from the formation into the wellbore." The definition limits the high pressure well stimulation activities regulated by the bill to 100,000 gallons. It is not known if the definition will capture all hydraulic fracturing activities. In addition, the amount of pressure applied to a well during

stimulation activities varies, therefore, the use of "high pressure" is not clear as it may not be inclusive of the range of pressures that are used during well stimulation activities.[16]

The bill includes provisions related to conventional oil and gas business operations and conventional workovers. The term "conventional" as it relates to oil and gas business operations and the DEP workovers is not provided for in the bill; therefore, it is not clear what is considered "conventional." It is also unclear how the term "business operations" relates to the DEP as the DEP is the agency with regulatory authority over oil and gas operations.

The definition of "proprietary business information" in s. 377.24075(1) (a)-(e), F.S., relates to an application for a natural gas storage facility permit. The definition may not apply to proprietary business information with respect to high pressure well stimulation.

The submittal of the chemicals to the DEP is only mentioned in the bill in s. 377.45, F.S., which relates to the high pressure well stimulation chemical disclosure registry. This requirement is not specified in s. 377.22, F.S., related to rules and orders, therefore, it is not clear if the DEP will include this requirement in the rules.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 377.19, 377.22, 377.24, 377.241, 377.242, 377.2425, and 377.37.

The bill creates section 377.45 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

CS by Appropriations on April 21, 2015:
The committee substitute:

- Requires the DEP to conduct a study of the effects of high pressure well stimulation;
- Requires the DEP to submit the findings of the study to the Governor, President of the Senate, and the Speaker of the House of Representatives by June 30, 2016;
- Prohibits the DEP from approving a permit for high pressure well stimulation until rulemaking is complete;
- Prohibits a county, municipality or other political subdivision from adopting or establishing permitting programs for drilling, exploring, and extracting oil and gas;
- Provides an appropriation of $1,000,000 for the DEP to conduct a study on high pressure well stimulation; and
- Removes the requirement that the study include an analysis of the risk associated with the handling, treatment, and disposal of flowback fluids and any other material generated by the treatment. It also requires the DEP to review and evaluate the

[16] ALL Consulting, *Expert Evaluation of the D.A. Hughes Collier-Hogan 20-3H, Well Drilling and Workover*, 27 (Dec. 2014) (on file with the Senate Committee on Environmental Preservation and Conservation).

disposition of high pressure well stimulation (fluids) after the high pressure well stimulation process, which includes the review and assessment of the flowback fluids.

- Removes the requirement that the study include the review and evaluation of all known and potential environmental impacts of high pressure well stimulation treatments including: Harmful atmospheric emissions;
  - Greenhouse gas emissions;
  - Degradation of air quality;
  - Impacts to wildlife, native plants, and habitat;
  - Habitat fragmentation;
  - Groundwater and surface water contamination;
  - Noise pollution;
  - Fire and explosions; and
  - Induced seismicity.

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 Richter

23-00633C-15 20151468__

A bill to be entitled

An act relating to the regulation of oil and gas resources; amending s. 377.19, F.S.; applying the definitions of certain terms to additional sections of ch. 377, F.S.; conforming a cross-reference; defining the term "high pressure well stimulation"; amending s. 377.22, F.S.; revising the rulemaking authority of the Department of Environmental Protection; providing that certain information may be considered proprietary business information; amending s. 377.24, F.S.; requiring that a permit be obtained before the performance of any high pressure well stimulation; specifying that a permit may authorize single or multiple activities; amending s. 377.241, F.S.; requiring the Division of Resource Management to give consideration to and be guided by certain additional criteria when issuing permits; amending s. 377.242, F.S.; authorizing the department to issue permits for the performance of high pressure well stimulation; clarifying provisions relating to division inspection; amending s. 377.2425, F.S.; requiring an applicant or operator to provide surety that performance of a high pressure well stimulation will be conducted in a safe and environmentally compatible manner; amending s. 377.37, F.S.; increasing the maximum amount for civil penalties; creating s. 377.45, F.S.; requiring the department to designate the national chemical registry as the state's registry; requiring service providers, vendors, or well owners or operators to report certain

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information to the registry; providing applicability; providing an effective date.

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

Section 1. Subsection (5) of section 377.19, Florida Statutes, is amended, present subsections (6) through (32) of that section are redesignated as subsections (7) through (33), respectively, and a new subsection (6) is added to that section, to read:

377.19 Definitions.—As used in ss. 377.06, 377.07, and 377.10-377.45 ~~377.10-377.40~~, the term:

(5) "Gas" means all natural gas, including casinghead gas, and all other hydrocarbons not defined as oil in subsection (16) ~~(15)~~.

(6) "High pressure well stimulation" means a well intervention performed by injecting more than 100,000 gallons of fluids into a rock formation at high pressure that exceeds the fracture gradient of the rock formation in order to propagate fractures in such formation to increase production at an oil or gas well by improving flow of hydrocarbons from the formation into the wellbore.

Section 2. Subsection (2) of section 377.22, Florida Statutes, is amended to read:

377.22 Rules and orders.—

(2) The department shall issue orders and adopt rules pursuant to ss. 120.536 and 120.54 to implement and enforce the provisions of this chapter. Such rules and orders shall ensure that all precautions are taken to prevent the spillage of oil or

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any other pollutant in all phases of the drilling for, and extracting of, oil, gas, or other petroleum products, including high pressure well stimulations, or during the injection of gas into and recovery of gas from a natural gas storage reservoir. The department shall revise such rules from time to time as necessary for the proper administration and enforcement of this chapter. Rules adopted and orders issued in accordance with this section are for, but not limited to, the following purposes:

(a) To require the drilling, casing, and plugging of wells to be done in such a manner as to prevent the pollution of the fresh, salt, or brackish waters or the lands of the state and to protect the integrity of natural gas storage reservoirs.

(b) To prevent the alteration of the sheet flow of water in any area.

(c) To require that appropriate safety equipment be installed to minimize the possibility of an escape of oil or other petroleum products in the event of accident, human error, or a natural disaster during drilling, casing, or plugging of any well and during extraction operations.

(d) To require the drilling, casing, and plugging of wells to be done in such a manner as to prevent the escape of oil or other petroleum products from one stratum to another.

(e) To prevent the intrusion of water into an oil or gas stratum from a separate stratum, except as provided by rules of the division relating to the injection of water for proper reservoir conservation and brine disposal.

(f) To require a reasonable bond, or other form of security acceptable to the department, conditioned upon properly drilling, casing, producing, and operating each well, and

properly plugging ~~the performance of the duty to plug properly~~ each dry and abandoned well, and the full and complete restoration by the applicant of the area over which geophysical exploration, drilling, or production is conducted to the similar contour and general condition in existence prior to such operation.

(g) To require and carry out a reasonable program of monitoring and inspecting ~~or inspection of~~ all drilling operations, high pressure well stimulations, producing wells, ~~or~~ injecting wells, and well sites, including regular inspections by division personnel.

(h) To require the making of reports showing the location of all oil and gas wells; the making and filing of logs; the taking and filing of directional surveys; the filing of electrical, sonic, radioactive, and mechanical logs of oil and gas wells; if taken, the saving of cutting and cores, the cuts of which shall be given to the Bureau of Geology; and the making of reports with respect to drilling, ~~and~~ production, and high pressure well stimulations; and the disclosure of chemicals and other materials added during high pressure well stimulations to the chemical disclosure registry, known as FracFocus ~~records~~. However, such information, or any part thereof, at the request of the operator:~~,~~

1. Shall be exempt from ~~the provisions of~~ s. 119.07(1) and held confidential by the division for a period of 1 year after the completion of a well; or

2. May be considered proprietary business information, as defined in s. 377.24075(1)(a)-(e).

(i) To prevent wells from being drilled, operated, or

117 produced in such a manner as to cause injury to neighboring
118 leases, property, or natural gas storage reservoirs.
119 (j) To prevent the drowning by water of any stratum, or
120 part thereof, capable of producing oil or gas in paying
121 quantities and to prevent the premature and irregular
122 encroachment of water which reduces, or tends to reduce, the
123 total ultimate recovery of oil or gas from any pool.
124 (k) To require the operation of wells with efficient gas-
125 oil ratio, and to fix such ratios.
126 (l) To prevent "blowouts," "caving," and "seepage," in the
127 sense that conditions indicated by such terms are generally
128 understood in the oil and gas business.
129 (m) To prevent fires.
130 (n) To identify the ownership of all oil or gas wells,
131 producing leases, refineries, tanks, plants, structures, and
132 storage and transportation equipment and facilities.
133 (o) To regulate the "shooting," perforating, ~~and~~ chemical
134 treatment, and high pressure well stimulations of wells.
135 (p) To regulate secondary recovery methods, including the
136 introduction of gas, air, water, or other substance into
137 producing formations.
138 (q) To regulate gas cycling operations.
139 (r) To regulate the storage and recovery of gas injected
140 into natural gas storage facilities.
141 (s) If necessary for the prevention of waste, as herein
142 defined, to determine, limit, and prorate the production of oil
143 or gas, or both, from any pool or field in the state.
144 (t) To require, either generally or in or from particular
145 areas, certificates of clearance or tenders in connection with

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146 the transportation or delivery of oil or gas, or any product.
147 (u) To regulate the spacing of wells and to establish
148 drilling units.
149 (v) To prevent, so far as is practicable, reasonably
150 avoidable drainage from each developed unit which is not
151 equalized by counterdrainage.
152 (w) To require that geophysical operations requiring a
153 permit be conducted in a manner which will minimize the impact
154 on hydrology and biota of the area, especially environmentally
155 sensitive lands and coastal areas.
156 (x) To regulate aboveground crude oil storage tanks in a
157 manner which will protect the water resources of the state.
158 (y) To act in a receivership capacity for fractional
159 mineral interests for which the owners are unknown or unlocated
160 and to administratively designate the operator as the lessee.
161 (z) To evaluate the history of past adjudicated violations
162 of any substantive and material rule or statute pertaining to
163 the regulation of oil and gas of permit applicants and the
164 applicants' affiliated entities.
165 Section 3. Subsections (1), (2), and (4) of section 377.24,
166 Florida Statutes, are amended to read:
167 377.24 Notice of intention to drill well; permits;
168 abandoned wells and dry holes.—
169 (1) Before drilling a well in search of oil or gas, before
170 performing a high pressure well stimulation, or before storing
171 gas in or recovering gas from a natural gas storage reservoir,
172 the person who desires to drill for, store, or recover gas, ~~or~~
173 drill for oil or gas, or perform a high pressure well
174 stimulation shall notify the division upon such form as it may

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175 prescribe and shall pay a reasonable fee set by rule of the
176 department not to exceed the actual cost of processing and
177 inspecting for each well or reservoir. The drilling of any well,
178 the performance of any high pressure well stimulation, and the
179 storing and recovering of gas are prohibited until such notice
180 is given, the fee is paid, and a ~~the~~ permit is granted. A permit
181 may authorize a single activity or multiple activities.
182 (2) An application for the drilling of a well in search of
183 oil or gas, for the performance of a high pressure well
184 stimulation, or for the storing of gas in and recovering of gas
185 from a natural gas storage reservoir~~,~~ in this state must include
186 the address of the residence of the applicant, or applicants,
187 which must be the address of each person involved in accordance
188 with the records of the Division of Resource Management until
189 such address is changed on the records of the division after
190 written request.
191 (4) Application for permission to drill or abandon any well
192 or perform a high pressure well stimulation may be denied by the
193 division for only just and lawful cause.
194 Section 4. Subsections (5) and (6) are added to section
195 377.241, Florida Statutes, to read:
196 377.241 Criteria for issuance of permits.—The division, in
197 the exercise of its authority to issue permits as hereinafter
198 provided, shall give consideration to and be guided by the
199 following criteria:
200 (5) For high pressure well stimulations, whether the high
201 pressure well stimulation as proposed is designed to ensure
202 that:
203 (a) The groundwater through which the well will be or has

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204 been drilled is not contaminated by the high pressure well
205 stimulation; and
206 (b) The high pressure well stimulation is consistent with
207 the public policy of this state as specified in s. 377.06.
208 (6) As a basis for permit denial or imposition of specific
209 permit conditions, including increased bonding and monitoring,
210 the history of adjudicated violations of any substantive and
211 material rule or statute pertaining to the regulation of oil or
212 gas, including violations that occurred outside the state,
213 committed by the applicant or an affiliated entity of the
214 applicant.
215 Section 5. Section 377.242, Florida Statutes, is amended to
216 read:
217 377.242 Permits for drilling or exploring and extracting
218 through well holes or by other means.—The department is vested
219 with the power and authority:
220 (1)(a) To issue permits for the drilling for, exploring
221 for, performing a high pressure well stimulation, or production
222 of, oil, gas, or other petroleum products that ~~which~~ are to be
223 extracted from below the surface of the land, including
224 submerged land, only through the well hole drilled for oil, gas,
225 and other petroleum products.
226 1. No structure intended for the drilling for, or
227 production of, oil, gas, or other petroleum products may be
228 permitted or constructed on any submerged land within any bay or
229 estuary.
230 2. No structure intended for the drilling for, or
231 production of, oil, gas, or other petroleum products may be
232 permitted or constructed within 1 mile seaward of the coastline

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of the state.

3. No structure intended for the drilling for, or production of, oil, gas, or other petroleum products may be permitted or constructed within 1 mile of the seaward boundary of any state, local, or federal park or aquatic or wildlife preserve or on the surface of a freshwater lake, river, or stream.

4. No structure intended for the drilling for, or production of, oil, gas, or other petroleum products may be permitted or constructed within 1 mile inland from the shoreline of the Gulf of Mexico, the Atlantic Ocean, or any bay or estuary or within 1 mile of any freshwater lake, river, or stream unless the department is satisfied that the natural resources of such bodies of water and shore areas of the state will be adequately protected in the event of accident or blowout.

5. Without exception, after July 1, 1989, no structure intended for the drilling for, or production of, oil, gas, or other petroleum products may be permitted or constructed south of 26°00′00″ north latitude off Florida's west coast and south of 27°00′00″ north latitude off Florida's east coast, within the boundaries of Florida's territorial seas as defined in 43 U.S.C. s. 1301. After July 31, 1990, no structure intended for the drilling for, or production of, oil, gas, or other petroleum products may be permitted or constructed north of 26°00′00″ north latitude off Florida's west coast to the western boundary of the state bordering Alabama as set forth in s. 1, Art. II of the State Constitution, or located north of 27°00′00″ north latitude off Florida's east coast to the northern boundary of the state bordering Georgia as set forth in s. 1, Art. II of the

State Constitution, within the boundaries of Florida's territorial seas as defined in 43 U.S.C. s. 1301.

(b) Subparagraphs (a)1. and 4. do not apply to permitting or construction of structures intended for the drilling for, or production of, oil, gas, or other petroleum products pursuant to an oil, gas, or mineral lease of such lands by the state under which lease any valid drilling permits are in effect on the effective date of this act. In the event that such permits contain conditions or stipulations, such conditions and stipulations shall govern and supersede subparagraphs (a)1. and 4.

(c) The prohibitions of subparagraphs (a)1.-4. in this subsection do not include "infield gathering lines," provided no other placement is reasonably available and all other required permits have been obtained.

(2) To issue permits to explore for and extract minerals which are subject to extraction from the land by means other than through a well hole.

(3) To issue permits to establish natural gas storage facilities or construct wells for the injection and recovery of any natural gas for storage in natural gas storage reservoirs.

Each permit shall contain an agreement by the permitholder that the permitholder will not prevent inspection by division personnel at any time, including during installation and cementing of casing, testing of blowout preventers, pressure testing of casing and casing shoe, and testing of cement plug integrity during plugging and abandoning operations. The provisions of this section prohibiting permits for drilling or

291 exploring for oil in coastal waters do not apply to any leases
292 entered into before June 7, 1991.
293 Section 6. Subsection (1) of section 377.2425, Florida
294 Statutes, is amended to read:
295 377.2425 Manner of providing security for geophysical
296 exploration, drilling, and production.—
297 (1) Before ~~Prior to~~ granting a permit to conduct
298 geophysical operations; drilling of exploratory, injection, or
299 production wells; producing oil and gas from a wellhead;
300 performing a high pressure well stimulation; or transporting oil
301 and gas through a field-gathering system, the department shall
302 require the applicant or operator to provide surety that these
303 operations will be conducted in a safe and environmentally
304 compatible manner.
305 (a) The applicant for a drilling, production, high pressure
306 well stimulation, or injection well permit or a geophysical
307 permit may provide the following types of surety to the
308 department for this purpose:
309 1. A deposit of cash or other securities made payable to
310 the Minerals Trust Fund. Such cash or securities so deposited
311 shall be held at interest by the Chief Financial Officer to
312 satisfy safety and environmental performance provisions of this
313 chapter. The interest shall be credited to the Minerals Trust
314 Fund. Such cash or other securities shall be released by the
315 Chief Financial Officer upon request of the applicant and
316 certification by the department that all safety and
317 environmental performance provisions established by the
318 department for permitted activities have been fulfilled.
319 2. A bond of a surety company authorized to do business in

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

320 the state in an amount as provided by rule.
321 3. A surety in the form of an irrevocable letter of credit
322 in an amount as provided by rule guaranteed by an acceptable
323 financial institution.
324 (b) An applicant for a drilling, production, or injection
325 well permit, or a permittee who intends to continue
326 participating in long-term production activities of such wells,
327 has the option to provide surety to the department by paying an
328 annual fee to the Minerals Trust Fund. For an applicant or
329 permittee choosing this option the following shall apply:
330 1. For the first year, or part of a year, of a drilling,
331 production, or injection well permit, or change of operator, the
332 fee is $4,000 per permitted well.
333 2. For each subsequent year, or part of a year, the fee is
334 $1,500 per permitted well.
335 3. The maximum fee that an applicant or permittee may be
336 required to pay into the trust fund is $30,000 per calendar
337 year, regardless of the number of permits applied for or in
338 effect.
339 4. The fees set forth in subparagraphs 1., 2., and 3. shall
340 be reviewed by the department on a biennial basis and adjusted
341 for the cost of inflation. The department shall establish by
342 rule a suitable index for implementing such fee revisions.
343 (c) An applicant for a drilling or operating permit for
344 operations planned in coastal waters that by their nature
345 warrant greater surety shall provide surety only in accordance
346 with paragraph (a), or similar proof of financial responsibility
347 other than as provided in paragraph (b). For all such
348 applications, including applications pending at the effective

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349 date of this act and notwithstanding the provisions of paragraph
350 (b), the Governor and Cabinet in their capacity as the
351 Administration Commission, at the recommendation of the
352 Department of Environmental Protection, shall set a reasonable
353 amount of surety required under this subsection. The surety
354 amount shall be based on the projected cleanup costs and natural
355 resources damages resulting from a maximum oil spill and adverse
356 hydrographic and atmospheric conditions that would tend to
357 transport the oil into environmentally sensitive areas, as
358 determined by the Department of Environmental Protection.
359 Section 7. Paragraph (a) of subsection (1) of section
360 377.37, Florida Statutes, is amended to read:
361 377.37 Penalties.—
362 (1)(a) Any person who violates any provision of this law or
363 any rule, regulation, or order of the division made under this
364 chapter or who violates the terms of any permit to drill for or
365 produce oil, gas, or other petroleum products referred to in s.
366 377.242(1) or to store gas in a natural gas storage facility, or
367 any lessee, permitholder, or operator of equipment or facilities
368 used in the exploration for, drilling for, or production of oil,
369 gas, or other petroleum products, or storage of gas in a natural
370 gas storage facility, who refuses inspection by the division as
371 provided in this chapter, is liable to the state for any damage
372 caused to the air, waters, or property, including animal, plant,
373 or aquatic life, of the state and for reasonable costs and
374 expenses of the state in tracing the source of the discharge, in
375 controlling and abating the source and the pollutants, and in
376 restoring the air, waters, and property, including animal,
377 plant, and aquatic life, of the state. Furthermore, such person,

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378 lessee, permitholder, or operator is subject to the judicial
379 imposition of a civil penalty in an amount of not more than
380 $25,000 ~~$10,000~~ for each offense. However, the court may receive
381 evidence in mitigation. Each day during any portion of which
382 such violation occurs constitutes a separate offense. Nothing
383 herein shall give the department the right to bring an action on
384 behalf of any private person.
385 Section 8. Section 377.45, Florida Statutes, is created to
386 read:
387 377.45 High pressure well stimulation chemical disclosure
388 registry.—
389 (1)(a) The department shall designate the national chemical
390 registry, known as FracFocus, developed by the Ground Water
391 Protection Council and the Interstate Oil and Gas Compact
392 Commission, as the state's registry for chemical disclosure for
393 all wells on which high pressure well stimulations are
394 performed. The department shall provide a link to FracFocus
395 through the department's website.
396 (b) In addition to providing such information to the
397 department as part of the permitting process, a service
398 provider, vendor, or well owner or operator shall report, by
399 department rule, to the chemical disclosure registry, at a
400 minimum, the following information:
401 1. The owner's or operator's name;
402 2. The date of completion of the high pressure well
403 stimulation;
404 3. The county in which the well is located;
405 4. The API number for the well;
406 5. The well name and number;

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

407 6. The longitude and latitude of the wellhead;
408 7. The total vertical depth of the well;
409 8. The total volume of water used in the high pressure well
410 stimulation; and
411 9. Each chemical ingredient that is subject to 29 C.F.R. s.
412 1910.1200(g)(2) for each well on which a high pressure well
413 stimulation is performed.
414 (c) If the chemical disclosure registry cannot accept and
415 make publicly available any information specified in this
416 section, the service provider, vendor, or well owner or operator
417 shall submit the information required under paragraph (b) to the
418 department.
419 (2) A service provider, vendor, or well owner or operator
420 shall:
421 (a) Report the information required under subsection (1) to
422 the chemical disclosure registry within 60 days after the
423 initiation of the high pressure well stimulation for each well
424 on which such high pressure well stimulation is performed; and
425 (b) Update the chemical disclosure registry and notify the
426 department if any chemical ingredient not previously reported is
427 intentionally included and used for the purpose of performing a
428 high pressure well stimulation.
429 (3) This section does not apply to an ingredient that:
430 (a) Is not intentionally added to the high pressure well
431 stimulation;
432 (b) Occurs incidentally or is otherwise unintentionally
433 present in a high pressure well stimulation; or
434 (c) Is considered proprietary business information, as
435 defined in s. 377.24075(1)(a)-(e).

436 Section 9. This act shall take effect July 1, 2015.

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Ethics and Elections, *Chair*
Banking and Insurance, *Vice Chair*
Appropriations
Appropriations Subcommittee on Health and Human Services
Commerce and Tourism
Regulated Industries
Rules

SENATOR GARRETT RICHTER
President Pro Tempore
23rd District

April 15, 2015

The Honorable Tom Lee, Chair
Committee on Appropriations
201 The Capitol
404 South Monroe Street
Tallahassee, FL 32399

Dear Chairman Lee:

CS/Senate Bill 1468 relating to Oil and Gas and the linked Public Records bill, Senate Bill 1582 have been referred to your committee. I would appreciate your consideration to place these bills on your committee's next agenda.

Sincerely,

Garrett Richter

cc: Cindy Kynoch, 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*

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/21/15
Meeting Date

1408
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Oil & Gas Resources Regulation

Name Paula Cobb

Job Title Deputy Secretary of Regulatory Programs

Address 3700 Commonwealth Blvd.
Street

Tallahassee FL 32399
City State Zip

Phone

Email

Speaking: ☐ For ☐ Against ☑ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing DEP

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/21/15
Meeting Date

SB 1468
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic: Oil & Gas

Name: Brewster Bevis

Job Title: Senior VP

Address: 516 N Adams St
Street

Tally FL 32301
City State Zip

Phone: 224-7179

Email: bbevis@aifla

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☑ In Support ☐ Against
(The Chair will read this information into the record.)

Representing: Associated Industries of Florida

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

April 21, 2015
Meeting Date

1468
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic: Regulation of Oil and Gas Resources

Name: John Dickert

Job Title: Retired Engineer

Address: 193 NW Hamilton Ave.
Street

Madison, FL 32340
City *State* *Zip*

Phone: 850-973-3699

Email: johnw512@yahoo.com

Speaking: ☐ For ☑ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing: Madison County citizens who want clean water

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

April 21, 2015
Meeting Date

1468
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic: Regulation of Oil and Gas Resources

Name: Gale Dickert

Job Title: Children's Advocate

Address: 193 NW Hamilton Ave.
Street

Madison, FL 32340
City *State* *Zip*

Phone: 850-973-3699

Email: johnw512@yahoo.com

Speaking: ☐ For ☑ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing: Madison 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.

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/21/15
Meeting Date

1468
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic: REGULATION OF OIL & GAS

Name: DAVID CULLEN

Job Title:

Address: 1674 UNIVERSITY PKWY #286
Street

SARASOTA FL 34243
City State Zip

Phone: 941-323-2404

Email: cullenasea@aol.com

Speaking: ☐ For ☑ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing: SIERRA CLUB FLORIDA

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/21/15
Meeting Date

SB 1468
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic: Regulation of Oil + Gas

Name: Andrew Ketchel

Job Title: Director of Legislative Affairs - DEP

Address: 3900 commonwealth Blvd.
Street

Tallahassee, FL 32303
City, State, Zip

Phone

Email

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

Waive Speaking: [X] In Support [ ] Against
(The Chair will read this information into the record.)

Representing: The Florida Department of Environmental Protection

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

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/21/2015
Meeting Date

SB 1468
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic: Fracking Permitting

Name: Joy Bolton Herring

Job Title: Environmental Activist

Address: Post Office Box 13012
Street

Tallahassee, FL 32317
City State Zip

Phone: (850) 567-9566

Email: joybolton herring@gmail.com

Speaking: ☐ For ☑ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing: environmental lobby

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

Meeting Date: _____

Bill Number (if applicable): SB 1468

Amendment Barcode (if applicable): _____

Topic: _____

Name: Juan Pac

Job Title: Policy Coordinator

Address: 45 Whitehead Cir
Street

Weston, FL 33326
City, State, Zip

Phone: _____

Email: _____

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☑ Against
(The Chair will read this information into the record.)

Representing: Rethink Energy Florida

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/21/'15
Meeting Date

1468
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic: Regulation of Oil and Gas Resources

Name: Mary-Lynn Cullen

Job Title: Legislative Liaison

Address: 1674 University Pkwy
Street

Sarasota, Fl. 34243
City, State, Zip

Phone: 941-928-0278

Email: aichildren@aol.com

Speaking: ☐ For ☑ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing: Advocacy Institute For Children

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

SB

4-21-15
Meeting Date

1468
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic: Fracking - Permitting

Name: Amy Datz

Job Title: Retired State Environmental Planner

Address: 1130 Crestview Ave.
Street

Tallahassee FL. 32303
City State Zip

Phone: (850) 322-7589

Email: amaliedatz@mac.com

Speaking: ☐ For ☒ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing: Environmental Caucus of FL.

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4-21-15
Meeting Date

SB 1468
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic: REGULATION OF OIL + GAS

Name: RAY BELLAMY

Job Title: PHYSICIAN

Address: 509 VINNEGOE RIDE
Street

TALLAHASSEE FLA 32303
City State Zip

Phone: 850-668-7967

Email: RAY.BELLAMY@MED.FSU.EDU

Speaking: ☐ For ☒ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing: PHYSICIANS FOR SOCIAL RESPONSIBILITY

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/25/2015
Meeting Date

Topic _____ Bill Number 1468 *(if applicable)*

Name BRIAN PITTS Amendment Barcode _____ *(if applicable)*

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH
Street

SAINT PETERSBURG FLORIDA 33705
City *State* *Zip*

Phone 727-897-9291

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

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/21/15
Meeting Date

1468
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic SB 1468

Name Brian Lee

Job Title Leon Soil & Water Conservation District Supervisor

Address 1603 Sauls ST
Street

Tallahassee FL 32308
City State Zip

Phone 850-766-7309

Email

Speaking: ☐ For ☑ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Leon Soil & Water Conservation District

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/21/15
Meeting Date

1468
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic: Well Stimulation

Name: Kim Ross

Job Title: President, Rethink Energy Florida

Address: 565 E Tennessee St
Street

Tallahassee, FL 32308
City, State, Zip

Phone: 850-888-2565

Email:

Speaking: ☐ For ☑ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing: Rethink Energy Florida

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4-21-15
Meeting Date

1468
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic: Regulations on fracking

Name: Merrillee Malwitz-Jipson

Volunteer

Job Title: President for Our Santa fe River & Save Our Suwannee

Address: 2070 SW County Rd 138
Street

Fort White, FL 32038
City, State, Zip

Phone: 352-222-8893

Email: Merrillee@oursantariver.org

Speaking: ☐ For ☒ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing: Our Santa fe River & Save Our Suwannee

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4-21-15
Meeting Date

SB. 1468
Bill Number (if applicable)

936016
Amendment Barcode (if applicable)

Topic: Fracking Permitting

Name: Amy Datz

Job Title: Retired State Environmental Planner

Address: 1130 Crestview Ave.
Street

Tallahassee FL. 32303
City State Zip

Phone: 850 322-7599

Email: amaliedatz@mac.com

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

Waive Speaking: [ ] In Support [ ] Against
(The Chair will read this information into the record.)

Representing: Environmental Caucus of Fl.

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

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4-21-15
Meeting Date

SB 1468
Bill Number (if applicable)

936016
Amendment Barcode (if applicable)

Topic: AMENDMENT TO SB 1468

Name: RAY BELLAMY

Job Title: PHYSICIAN

Address: 509 VINNEDGE RIDE
Street

TALLAHASSEE FLA 32308
City State Zip

Phone: 850-668-7967

Email: RAY.BELLAMY@MED.FSU.EDU

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

Waive Speaking: [ ] In Support [ ] Against
(The Chair will read this information into the record.)

Representing: PHYSICIANS FOR SOCIAL RESPONSIBILITY

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

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

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4-21-15
Meeting Date

1468
Bill Number (if applicable)

936016
Amendment Barcode (if applicable)

Topic: Permits for Well Stimulation Close to Drinking Water Source

Name: Brian Lee

Job Title: Leon Soil and Water Conservation District Supervisor

Address: 1603 Sauls ST
Street

Tallahassee FL 32308
City State Zip

Phone: 850-766-7309

Email:

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

Waive Speaking: [ ] In Support [ ] Against
(The Chair will read this information into the record.)

Representing: Leon Soil and Water Conservation District

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

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

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4-21-15
Meeting Date

1468
Bill Number (if applicable)

936016
Amendment Barcode (if applicable)

Topic: Reg. on fracking

Name: Merrillee Malwitz-Jipson

Job Title: (Volunteer) President

Address: 2070 SW County Rd 138
Street

Fort White FL
City State Zip

Phone: 352-222-9831

Email: Merrillee@oursantaferiver.org

Speaking: ☐ For ☒ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing: Our Santa Fe River & Save Our Suwannee

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4-21-15
Meeting Date

SB 1468
Bill Number (if applicable)

936016
Amendment Barcode (if applicable)

margolis

Topic: Fracking - Permitting - 1 mile from Sensative areas

Name: Gale Dickert

Job Title: Retired

Address: 193 N
Street

Madison FL 32340
City State Zip

Phone: 850-973-3649

Email: johnw512@yahoo.com

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

Waive Speaking: [x] In Support [ ] Against
(The Chair will read this information into the record.)

Representing:

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

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

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

SB

4-21-15
Meeting Date

1468
Bill Number (if applicable)

936016
Amendment Barcode (if applicable)

Topic: Fracking-Permitting - 1 mile Limit

Name: DR Ron Saff

Job Title: Physician

Address: Street

Tallahassee FL 32316
City State Zip

Phone:

Email:

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing: Physicians for Social Responsibility

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4-21-15
Meeting Date

SB 1168
Bill Number (if applicable)

936016
Amendment Barcode (if applicable)

Topic: Fracking

Name: Debbie Harrison Rumberger

Job Title: Legislative Lobbyist

Address: 540 Beverly Court
Street

Tallahassee FL 32301
City State Zip

Phone: 850-224-2545

Email: luvfadvocacy@gmail.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing: Florida League of Women Voters

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4-21-15
Meeting Date

1468
Bill Number (if applicable)

340874
Amendment Barcode (if applicable)

Topic: Fracking

Name: Debbie Harrison Rumberger

Job Title: Legislative Liaison

Address: 540 Beverly Court
Street

Tallahassee FL 32301
City State Zip

Phone: 850-224-2545

Email: lwvfadvocacy@gmail.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing: Florida League of Women Voters

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/21/2015
Meeting Date

1468
Bill Number (if applicable)

800356
Amendment Barcode (if applicable)

Topic: REGULATION

Name: GAIL MARIE PERRY

Job Title: CHAIR

Address: PO BOX 1766
Street

POMPANO BCH, FLORIDA 33061
City, State, Zip

Phone: 954 850-4055

Email: workingfolks@hotmail.com

Speaking: ☐ For ☒ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing: COMMUNICATIONS WORKERS OF AMERICA

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4-21-15
Meeting Date

1468
Bill Number (if applicable)

800356
Amendment Barcode (if applicable)

Topic: Fracking

Name: Debbie Harrison Rumberger

Job Title: Legislative Liaison

Address: 540 Beverly Court
Street

Tallahassee FL 32301
City State Zip

Phone: 850-224-2545

Email: Luvfoodbcacy@gmail.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☒ Against
(The Chair will read this information into the record.)

Representing: Florida League of Women Voters

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4-21-15
Meeting Date

1468
Bill Number (if applicable)

800356
Amendment Barcode (if applicable)

Topic: Fracking Permitting

Name: Amy Datz

Job Title: Retired State Environmental Planner

Address: 1130 Crestview Ave.
Street

Tallahassee, FL. 32303
City, State, Zip

Phone: 850 322-7599

Email: amaliedatz@mac.com

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

Waive Speaking: [ ] In Support [ ] Against
(The Chair will read this information into the record.)

Representing: Environmental Caucus of FL.

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

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

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4-21-15
Meeting Date

SB 1468
Bill Number (if applicable)

Amend. 670082 800356
Amendment Barcode (if applicable)

Topic Fracking Permitting - After Study + Legislation Complete

Name John ~~Dick~~ Dickert

Joyner.

Job Title Prof. Engineer, retired

Address 193 NW Hamilton Ave.
Street

Madison, FL 32340
City State Zip

Phone 850-973-3699

Email johnw512@yahoo.com

Speaking: ☑ For ☐ Against ☐ Information

Waive Speaking: ☑ In Support ☐ Against
(The Chair will read this information into the record.)

Representing —

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4-2-15
Meeting Date

1468
Bill Number (if applicable)

670082
Amendment Barcode (if applicable)

Topic: Fracking

Name: Debbie Harrison Rumberger

Job Title: Legislative Liaison

Address: 540 Beverly Court
Street

Tallahassee FL 32301
City State Zip

Phone: 850-224-2454

Email: lwvfadvocacy@gmail.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing: Florida League of Women Voters

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4-21-15
Meeting Date

1468
Bill Number (if applicable)

670082
Amendment Barcode (if applicable)

Topic: Fracking Permitting - Study Completion + Legislation

Name: DR. Ron Saff

Job Title: Physician

Address: _____
Street

Tallahassee Fl.
City State Zip

Phone: _____

Email: _____

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing: Physicians for Social Responsibility

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4-21-15
Meeting Date

1468
Bill Number (if applicable)

571668
Amendment Barcode (if applicable)

Topic: Fracking Permitting.

Name: Amy Datz

Job Title: Retired State Environmental Planner

Address: 1130 Osceolaview Ave.
Street

Tallahassee FL 32303
City State Zip

Phone: 8503227599

Email: amaliedatz@mac.com

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

Waive Speaking: [ ] In Support [ ] Against
(The Chair will read this information into the record.)

Representing: Environmental Caucus of FL.

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

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

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4-21-15
Meeting Date

1468
Bill Number (if applicable)

571-668
Amendment Barcode (if applicable)

Joyner

Topic FRACKing - Permitting - incidental or unintentional

Name John Dickert

Job Title Professional Engineer

Address 193 NW Hamilton Ave
Street

Madison FL 32340
City State Zip

Phone 850-973-3699

Email johnw512@yahoo.com

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

Waive Speaking: [✓] In Support [ ] Against
(The Chair will read this information into the record.)

Representing myself

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

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

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4-21-15
Meeting Date

SB 1468
Bill Number (if applicable)

571668
Amendment Barcode (if applicable)

Topic Fracking - Permitting - incidental or Unintentional.

Name GALE DICKERT

Joyne C

Job Title —

Address 193 NW Hamilton Avenue
Street

Madison FL 32340
City State Zip

Phone 850-973-3699

Email johnw512@yahoo.com

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

Waive Speaking: [✓] In Support [ ] Against
(The Chair will read this information into the record.)

Representing —

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

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4-21-15
Meeting Date

1468
Bill Number (if applicable)

571 668
Amendment Barcode (if applicable)

Topic: Fracking

Name: Debbie Harrison Rumberger

Job Title: Legislative Liaison

Address: 540 Beverly Court
Street

Tallahassee, FL 32301
City State Zip

Phone: 850-576-0289

Email: lwvfadvocacy@gmail.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing: Florida League of Women Voters

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4-21-15
Meeting Date

1468
Bill Number (if applicable)

862490
Amendment Barcode (if applicable)

Topic: Fracking - Permitting

Name: Amy Datz

Job Title: Retired State Environmental Planner 850

Address: 1130 Crestview Ave.
Street

Tallahassee FL. 32303
City State Zip

Phone: 322-2599

Email: amaliedatz@mac.com

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

Waive Speaking: [ ] In Support [ ] Against
(The Chair will read this information into the record.)

Representing: Environmental Caucus of FL.

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

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/21/2015
Meeting Date

1468
Bill Number (if applicable)

862490
Amendment Barcode (if applicable)

Topic REGULATION

Name GAIL MARIE PERRY

Job Title CHAIR

Address PO BOX 1766
Street

POMPANO BEACH FLORIDA 33061
City State Zip

Phone 954 850-4055

Email workingjobs@hotmail.com

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

Waive Speaking: [ ] In Support [ ] Against
(The Chair will read this information into the record.)

Representing COMMUNICATIONS WORKERS of AMERICA

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

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

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4-21-15
Meeting Date

1468
Bill Number (if applicable)

862490
Amendment Barcode (if applicable)

Topic: Fracking

Name: Debbie Harrison Rumberger

Job Title: Legislative Liaison

Address: 540 Beverly Court
Street

Tallahassee, FL 32301
City State Zip

Phone: 850-[redacted] 224-2454

Email: lwvf@thegmail.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing: Florida League of Women Voters

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4-21-15
Meeting Date

1468
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic: Fracking

Name: Debbie Harrison Rumberger

Job Title: Legislative Liaison

Address: 540 Beverly Ct.
Street

Tallahassee FL 32301
City State Zip

Phone: 224-2545

Email: [illegible]@gmail.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☒ Against
(The Chair will read this information into the record.)

Representing: Florida League of Women Voters

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4-21-15
Meeting Date

SB 1468
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic: Fracking - Permitting

Name: DR. Ron Saff

Job Title: Physian

Address: Street

Tallahassee Fl.
City State Zip

Phone

Email

Speaking: ☐ For ☒ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing: Physicians for Social Responsibility

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

April 22, 2015
Meeting Date

1468
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Oil & Gas Exploration

Name David Mica

Job Title Director

Address 215 S. Monroe St
Street

Tallahassee FL 32301
City State Zip

Phone 561-6300

Email

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Florida Petroleum Council

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4-21-15
Meeting Date

1468
Bill Number (if applicable)

808418
Amendment Barcode (if applicable)

Topic: Fracking

Name: Debbie Harrison Rumberger

Job Title: Legislative Liaison

Address: 540 Beverly Court
Street

Tallahassee FL 32301
City State Zip

Phone: 850-224-2545

Email: lwvfadvocacy@gmail.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☒ Against
(The Chair will read this information into the record.)

Representing: Florida League of Women Voters

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4-21-15
Meeting Date

1468
Bill Number (if applicable)

808418
Amendment Barcode (if applicable)

Topic: Well Stimulation - Prohibiting Counties

Name: Kim Ross

Job Title: President, ReThink Energy Florida

Address: 565 E Tennessee St
Street

Tallahassee, FL 32308
City, State, Zip

Phone: 850-888-2565

Email:

Speaking: ☐ For ☑ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing:

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/21/15
Meeting Date

1468
Bill Number (if applicable)

808418
Amendment Barcode (if applicable)

Topic: Local Ordinances

Name: Brian Lee

Job Title: Leon Soil and Water Conservation District Supervisor

Address: 1603 Sauls St
Street

Tallahassee FL 32308
City State Zip

Phone: 850-766-7309

Email:

Speaking: ☐ For ☑ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing: Leon Soil and Water Conservation District

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4-21-15
Meeting Date

1468
Bill Number (if applicable)

808418
Amendment Barcode (if applicable)

Topic: Fracking - Permittins

Name: Amy Datz

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

Waive Speaking: [ ] In Support [ ] Against
(The Chair will read this information into the record.)

Representing: Environmental Caucus of FL.

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

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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4-21-15
Meeting Date

1468
Bill Number (if applicable)

747558
Amendment Barcode (if applicable)

Topic: Fracking

Name: Debbie Harrison Rumberger

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Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing: Florida League of Women Voters

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4-21-15
Meeting Date

1468
Bill Number (if applicable)

527918
Amendment Barcode (if applicable)

Topic Fracking

Name Debbie Harrison Rumberger

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Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Florida League of Women Voters

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)

Materials included at request of David Cullen, Sierra Club FL

1582 transcription of 150407 Senate Gov Oversight and Accountability Cmte mtg	Comments
Transcribed from Audio: https://www.flsenate.gov/Committees/Show/GO/	
SB 1582 starts at 23:14 **Sen. Richter:** Members, SB 1582 addresses... It's a public, public records exemption for oil and gas drilling. I just would like to point out right at the onset, I understand there's going to be a lot of discussion on this, and a lot of public speakers and I want to make it known to the membership on this specific committee, today, status quo, there is no disclosure requirement whatsoever. The substantive bill requires that there be disclosure of chemicals in this **high pressure well drilling**. Without this bill, status quo is no disclosure whatsoever. **So this bill provides for all chemicals to be disclosed to the Department of Environmental Protection and all chemicals to be disclosed to the public FracFocus. It requires the driller to apply for the confidentiality of any trade secrets, but those secrets - those, those chemical trade secrets are publicly disclosed**, and that's the bill.	DEFINITION 1 "[H]igh pressure well stimulation" (not "drilling") is defined in SB 1468: 45 (6) "High pressure well stimulation" means a well 46 intervention performed by injecting more than 100,000 gallons of 47 fluids into a rock formation at high pressure that exceeds the 48 fracture gradient of the rock formation in order to propagate 49 fractures in such formation to increase production at an oil or 50 gas well by improving flow of hydrocarbons from the formation 51 into the wellbore. This narrow definition excludes well stimulations using less fluid or less pressure. The Collier County Hogan well fracking would not have been covered by this definition and the permitting and regulations would not apply. The bill does provide for all chemicals to be disclosed to DEP. It does not require all chemicals to be disclosed to FracFocus: DISCLOSURE 1 SB 1468: 54 377.22 Rules and orders.— 55 (2) The department shall issue orders and adopt rules 56 pursuant to ss. 120.536 and 120.54 to implement and enforce the 57 provisions of this chapter. Such rules and orders shall ensure 58 that all precautions are taken to prevent the spillage of oil or 59 any other pollutant in all phases of the drilling for, and 60 extracting of, oil, gas, or other petroleum products, including 61 high pressure well stimulations, or during the injection of gas 62 into and recovery of gas from a natural gas storage reservoir. 63 The department shall revise such rules from time to time as 64 necessary for the proper administration and enforcement of this 65 chapter. Rules adopted and orders issued in accordance with this 66 section are for, but not limited to, the following purposes: 99 (h) To require the making of reports showing the location 100 of all oil and gas wells; the making and filing of logs; the 101 taking and filing of directional surveys; the filing of 102 electrical, sonic, radioactive, and mechanical logs of oil and 103 gas wells; if taken, the saving of cutting and cores, the cuts 104 of which shall be given to the Bureau of Geology; and the making 105 of reports with respect to drilling, ~~and~~ production, and high 106 pressure well stimulations; and the disclosure of chemicals and 107 other materials added during high pressure well stimulations to 108 the chemical disclosure registry, known as FracFocus ~~records~~. 109 However, such information, or any part thereof, at the request

110 of the operator;
111 1. Shall be exempt from ~~the provisions of~~ s. 119.07(1) and
112 held confidential by the division for a period of 1 year after
113 the completion of a well; or
114 2. May be considered proprietary business information, as
115 defined in s. 377.24075(1)(a)-(e).

(2)(h) grants the operator confidentiality for a year merely by his requesting it. The new subparagraph also gives him the opportunity to claim the information in paragraph (h) as proprietary business information which means it might never be disclosed, including on FracFocus.

DISCLOSURE 2

1468 387 377.45 High pressure well stimulation chemical disclosure
1468 388 registry.—
1468 396 (b) In addition to providing such information to the
1468 397 department as part of the permitting process, a service
1468 398 provider, vendor, or well owner or operator shall report, by
1468 399 department rule, to the chemical disclosure registry, at a
1468 400 minimum, the following information:
1468 411 9. Each chemical ingredient that is subject to 29 C.F.R. s.
1468 412 1910.1200(g)(2) for each well on which a high pressure well
1468 413 stimulation is performed.
1468 419 (2) A service provider, vendor, or well owner or operator
1468 420 shall:
1468 421 (a) Report the information required under subsection (1) to
1468 422 the chemical disclosure registry within 60 days after the
1468 423 initiation of the high pressure well stimulation for each well
1468 424 on which such high pressure well stimulation is performed; and
1468 429 (3) This section does not apply to an ingredient that:
1468 434 (c) Is considered proprietary business information, as
1468 435 defined in s. 377.24075(1)(a)-(e).

DISCLOSURE 3

The driller is not required to apply for confidentiality; the bill authorizes the driller to claim confidentiality:

1582 22 377.45 High pressure well stimulation chemical disclosure
1582 23 registry.—
1582 24 (4)(a) Proprietary business information, as defined in s.
1582 25 377.24075(1)(a)-(e) and relating to high pressure well
1582 26 stimulations, submitted to the department as part of a permit
1582 27 application or held by the department in connection with the
1582 28 online high pressure well stimulation chemical disclosure
1582 29 registry, is confidential and exempt from s. 119.07(1) and s.
1582 30 24(a), Art. I of the State Constitution if the person submitting
1582 31 such proprietary business information to the department:
1582 32 1. Requests that the proprietary business information be
1582 33 kept confidential and exempt;
1582 34 2. Informs the department of the basis for the claim of
1582 35 proprietary business information; and

1582 36 3. Clearly marks each page of a document or specific
1582 37 portion of a document containing information claimed to be
1582 38 proprietary business information as "proprietary business
1582 39 information."

DISCLOSURE 4

If the confidentiality is upheld, "those chemical trade secrets" are not publicly disclosed.

1582 40 (b) If the department receives a public records request for
1582 41 a document that is marked proprietary business information under
1582 42 this section, the department must promptly notify the person who
1582 43 submitted the information as proprietary business information.
1582 44 The notice must inform the person that he or she has 30 days
1582 45 after receipt of the notice to file an action in circuit court
1582 46 seeking a determination as to whether the document in question
1582 47 contains proprietary business information and an order barring
1582 48 public disclosure of the document. If the person files an action
1582 49 within 30 days after receipt of notice of the public records
1582 50 request, the department may not release the document pending the
1582 51 outcome of the legal action.

DISCLOSURE 5

Confidential Business Information. Operators can specify ingredients as confidential business information (CBI; also referred to as trade secret or proprietary) when submitting disclosures to FracFocus. As a result, the identity of a specific chemical may not be known for the analyses conducted in this report. Operators indicated CBI ingredients using 239 terms in the CASRN and chemical name fields that clearly indicate that the ingredients are considered a trade secret. Omission of the chemical name or CASRN from a CBI record disqualified that record for additive ingredient analyses. The CBI ingredient records in the project database were reviewed to assess the frequency at which operators claimed CBI status and the extent to which disclosures available for summary analyses would be reduced by the exclusion of CBI ingredient records. More than 70% of disclosures contained at least one ingredient identified as CBI, as shown in Table 4. Of the 25,796 disclosures that contained CBI ingredients (excluding duplicates and those that did not meet the date criterion), the average number of CBI ingredients per disclosure was five. The total number of ingredient records claimed as CBI or a related term was 129,311, or 11% of all ingredient records that were completely parsed from disclosures that met the primary QA criteria. Arthur et al. (2014) reported a similar proportion of CBI records in their study of FracFocus data (13% of ingredients; approximately 200,000 records). Although these ingredients are reported as proprietary, information on the general chemical class is frequently provided; related information is summarized in Appendix B. ***Analysis of Hydraulic Fracturing Fluid Data from the FracFocus Chemical Disclosure Registry 1.0; U.S. EPA March***

	2015; p. 17 DISCLOSURE 6 What chemicals are being disclosed on this website? All chemicals that would appear on a Material Safety Data Sheet (MSDS) that are used to hydraulically fracture a well except for those that can be kept proprietary based on the "Trade Secret" ‡ provisions related to MSDS found on the Trade Secret link at 1910.1200(i)(1). Read more... https://fracfocus.org/faq#t1n78 See also the separate 'Trade secrets portion of 29 CFR' DIISCLOSURE 7 This bill is not about "trade secrets" but "proprietary business information". 1582 24 (4)(a) **Proprietary business information**, as defined in s. 1582 25 377.24075(1)(a)-(e) and relating to high pressure well 1582 26 stimulations, submitted to the department as part of a permit 1582 27 application or held by the department in connection with the 1582 28 online high pressure well stimulation chemical disclosure 1582 29 registry, **is confidential and exempt from s. 119.07(1) and s.** **1582 30 24(a), Art. I of the State Constitution** if the person submitting 1582 31 such proprietary business information to the department: 1582 32 1. Requests that the proprietary business information be 1582 33 kept confidential and exempt; 1582 34 2. Informs the department of the basis for the claim of 1582 35 proprietary business information; and 1582 36 3. Clearly marks each page of a document or specific 1582 37 portion of a document containing information claimed to be 1582 38 proprietary business information as "proprietary business 1582 39 information."
Sen. Ring: OK, so, we've got a lot of speakers and I want to be sure we put this in the proper posture. This is the public records bill; this is not the substantive bill today.	
Sen. Richter: That is correct	
Sen. Ring: Correct. So as we go through all of the speaker cards, you know, I think it's important for , learning(?) what I need to know and the members up here, that this is not- we are not debating the substantive bill of fracking essentially. We're debating a public records. So with that I'll turn it over to Sen. Latvala - wanted to say something.	
25:01	

Sen. Latvala: Thank you, Mr. Chairman. I have a couple of questions about this bill, OK. My understanding, Sen. Richter, and, correct me if I'm wrong, is that the chemicals that, - you know, **if this bill is adopted, the chemicals, by name, individually, that are injected into any kind of underground operation - pressure, the fracking, would be available - would be listed. Is that correct?**	
Sen. Richter: Yes, Sen. Latvala, **that is correct.**	DEFINITION 1, DISCLOSURE 1, 2, 5, and 6
Sen. Latvala: Just not the recipe if you will for how they're put together in, in, in the concoction. So in other words, individual chemicals would be listed, **but if they were like um, put together in sodium chloride that can make salt, sodium chloride wouldn't be listed. It would be sodium and chloride individually, right?**	
Sen. Richter: Yes, that is correct. And to further illuminate that Senator, all the chemicals are disclosed on the public website the FracFocus - public website - the DEP has even, will receive even more detailed disclosure but all chemicals, the recipe as you put, say Coca-Cola, yeah, they're going to put on the website and publicly disclose all the ingredients that would go into, presumably, as an example, Coke, but not the recipe for how Coke's made.	See education piece re NOMENCLATURE and FracFocus 'CHEMICAL USE IN HYDRAULIC FRACTURING' DEFINITION 1, DISCLOSURE 1, 2, 5, and 6
Sen. Latvala: So what I want to focus on is the how it relates to the trade secret. You had... you mentioned at the end that you can apply for trade... if, if, .. Give me that in a little more layman's terms on how that works.	
Sen. Richter: Well with any other public records restrictions companies have, they use different techniques to extract the oil or natural gas from the ground to meet our energy needs. They have their own proprietary recipes if you will, the term that we've been using so far, and those recip... those recipes are considered trade secrets - the makeup and the foundation of that recipe because they are proprietary to the driller. One driller may do it one way - another driller may do it another way. One way may ... one way may be more effective than another way, and so companies [Sen. Latvala in background: process] Sen. Richter continues: ...want to protect [Sen. Latvala in background again: the process] Sen. Richter continues: the process, correct, they	

want to protect that trade secret.	
Sen. Latvala: OK, now my understanding is **that if we don't pass this bill, then.. or we don't pass it the way you've written it, then the chemicals themselves could be considered trade secrets and all the company would have to do would be to stamp trade secrets on the application and none of their information is available. Is that correct?**	
Sen. Richter: That is correct. Said simply, that is one way to describe that. As I said in my opening comments, Today, if we don't pass this bill there's no disclosure required whatsoever. So they wouldn't have to disclose, theoretically even to DEP. This bill provides responsible regulation so that there is disclosure so the Department of Environmental Protection, the regulators, are, are fully informed of of those chemicals in in the event that there is an issue... they're, they've got, they've got the list of chemicals. So today, without this bill, there's no disclosure required.	Saying "That is correct" implies that the bill as written *prevents* the chemicals themselves from being considered trade secrets (actually, proprietary business information) which is not the case: DISCLOSURE 3
Sen. Latvala: Thank you.	
Sen. Ring: Sen. Bullard	
Sen. Bullard: Thank you, Mr. Chair. Sen. Richter, when we talk about the notion of labeling something a trade secret and then you went through the process of them having to do with the financial aspect of it and giving a company an advantage - putting another company at a disadvantage from a, from a business standpoint which I understand ... that's why I voted for ... previous bills. My question is to specifically, **how much latitude does a company have when naming something describing something as a trade secret for the purposes of maybe keeping the public un-notified or in the dark on a particular issue?**	
Sen. Richter: Thank you Sen. Bullard. **As I've already indicated, the chemicals are fully disclosed.** It's ...It is that specific recipe... Right now confidential treatment of certain business information is not unique to the oil and gas program...The Department or Florida government agencies. Some states allow high pressure well stimulation or uh, that don't require any disclosure, or and that , so the company the company has to make that filing in order to have it approved, so how... how broad it gets, I'm not an expert in that. I don't fully understand the recipe... I'm, I'm a	DEFINITION 1, DISCLOSURE 1, 2, 5, and 6 If the purpose for which a member of the public seeks information from DEP about the chemicals used is to act to prevent their use, the bills' language that allows a period of up to 60 days from the initiation of the high pressure well stimulation before the chemicals are to be reported to FracFocus (if they are even disclosed there per DISCLOSURE 2) the disclosure happens after the fact and *frustrates* the citizen's purpose.

banker and a State Senator. I don't go out in the field developing chemi... developing solutions to drill for chemicals, so they just have to... It's pro-active in that it requires the company, which is even more restrictive **- it is easier for the public under the language in this bill, it will be easier for the public to get information that they're interested in finding out for whatever purposes.**	DISCLOSURE 8 Timeline: The company doesn't have to disclose the chemicals used to DEP for up to 60 days from the initiation of the high pressure well stimulation (which excludes all activities not included in that definition) 1468 419 (2) A service provider, vendor, or well owner or operator 1468 420 shall: 1468 421 (a) Report the information required under subsection (1) to 1468 422 the chemical disclosure registry within 60 days after the 1468 423 initiation of the high pressure well stimulation for each well 1468 424 on which such high pressure well stimulation is performed; and Further, a citizen seeking information is forced to wait for the process described in SB 1582 to play out: 40 (b) If the department receives a public records request for 41 a document that is marked proprietary business information under 42 this section, the department must promptly notify the person who 43 submitted the information as proprietary business information. 44 The notice must inform the person that he or she has 30 days 45 after receipt of the notice to file an action in circuit court 46 seeking a determination as to whether the document in question 47 contains proprietary business information and an order barring 48 public disclosure of the document. If the person files an action 49 within 30 days after receipt of notice of the public records 50 request, the department may not release the document pending the 51 outcome of the legal action. The failure to file an action 52 within 30 days constitutes a waiver of any claim of 53 confidentiality, and the department shall release the document 54 as requested. Finally, there is no requirement that the court proceeding be concluded by any time certain. Obtaining a court date, the possibility of continuances, or appeals could cause very significant delays during which DEP would be prevented (per lines 50-51) from releasing the information.
Sen. Bullard: I guess my question is specifically, OK, so, so the company would ultimately disclose all the sort of chemical compounds that are you know being utilized, but we also know that secondary chemicals are manufactured by combining a series of different chemicals So, you know, I'm a basic high school history teacher - I know the periodic table, right? And we know what is on the periodic table. And using Sen. Latvala's example of we know the compound of salt it's mixture of sodium and a mixture of chloride. So we know on the website, sodium being added and chloride be added, but let's say a combination of five	

or six different chemicals creates a... the potential for the creation of a hazardous material. Would the hazardous material be listed on the website? Or would the company be able to say we're not going to disclose that the compound we've created is potentially poisonous, but we will basically say that these items made up the chemical compound. Which ,... I guess what I'm trying to figure out... what's being disclosed? The sort of additives that make the poison, or the poison itself? [31:57]	
Sen. Richter: Well on the presumption that somebody that is not a high school teacher but is a chemist or a scientist because in... and let's suppose disclosures, they could draw those conclusions I would presume. It is my understanding the public disclosure on FracFocus is are all the chemicals and, and, and not the recipe. DEP, the regulators, have, my understanding, have detailed information relative to that recipe but they are kept confidential because of the trade secret nature of them. [32:27]	
Sen. Ring: Um OK, we'll go to public testimony, again I'll ask everyone that's gonna speak today to speak on the public records bill, and we're not hearing the substantive bill on fracking, so please ... please keep that in mind. Gail Marie Perry.	
Gail Perry ...	
Sen. Ring: [35:09] My question is, didn't Sen. Richter just say the chemicals will be listed?	
Gail Perry...	
Sen. Ring [38:26] David Mica	
David Mica: Mr. Chairman, I'm Dave Mica, I'm the Director of the Florida Petroleum Council. I'm speaking in support of the narrowly thing that is before you today - public records. Currently we're not required to disclose anything. Many of our exploratory operations do go voluntarily ... voluntarily to FracFocus across the country ... [unintelligible...] in their drilling operations. This bill will require that, it goes beyond that that if we do have a trade secret and if it is challenged, it is incumbent upon us to prove that protection is necessary. So the public is gonna get the full element of everything that is there in the hands of DEP. Anything that is is called a trade secret can easily be called out and challenged and the onus is on the operator to	

disclose and prove why that is a trade secret before a judge, and if not done then it's automatically released so I can't see why opponents would actually oppose this. I understand their not wanting my industry anywhere on the planet. I could understand that sort of thing. But I think this is incredibly protective type of public record type of requirement, more so than in any state in the country, probably anywhere on the planet where operations take place. And I appreciate those in the environmental community ... that recognized this as really to be ...(?)	
[40:20]	
Sen. Ring: Sen. Bullard	
Sen. Bullard: Thank you Mr. Chair. So going back to the original question I asked Sen. Richter and putting it in the wheelhouse of your industry...	
David Mica: Yes, sir.	
Sen. Bullard: So we know that when crude's extracted from the ground, before it becomes petroleum, there is a chemical process to create, you know, usable petroleum gas, if I'm not mistaken, yes? To change crude to the gas we put in our gas tanks.	
David Mica: That's in the refining process. [Sen. Bullard: Right.] That's all taking place outside of Florida.	
Sen. Bullard: So, so I understand that. So I'm just saying put it sort of in the wheelhouse ... the same framework of the question. If we're talking about listing of chemicals as it pertains to the injection process, but using the framework of the refining process, as the stepping stone, what then is considered a trade secret and what is listed on the website? Meaning if we know that for you all to get a Texaco brand of gas there needs to be a particular additive, a particular process, are we as the public going to be privy to what exactly those chemicals were that got us there? Or would it be the the purview of labeling a trade secret to say, we don't have to tell you how we got to where we got to. That's...I'm trying to figure out what's the trade secret versus what the public will actually see.	
David Mica: Mr. Chairman. If I may, I was meaning to go through the chair...	
Sen. Ring: OK... just back and forth..	

David Mica: Senator, you raise a question of what takes place and what we're going to be made aware of. Everything that is used in Florida in that extraction process associated with hydraulic fracturing which really takes place for just a couple of days as part of that, would now be required as part of the public requirement to be disclosed to the state and then online so that people all over the world can look at it. What would be deemed a ta...trade secret would be done so by the independent company - makes ... They could (?) decision. If they make that determination and you say "I don't know whether what this is, that they're doing a trade secret?" And you make a determination... They then have to make a case that it is justified in doing so as a legitimate trade secret. Otherwise, if you do nothing, it automatically does become public as I understand the way the statute is..is crafted by Sen. Richter. I hope that answers your question. [43:00]	
Sen. Bullard: It does, but can ...	
Sen. Ring: [allows Sen. Bullard to continue questions]	
Sen. Bullard: And I appreciate the answer, but ...(?) But where my concern lies - and tell me if this is a real possibility - that if one company using one extraction process and another company using another extraction process, in terms of the chemical makeup of their injection process, I mean, let's assume that people use various chemical makeups to do this fracturing process. **How easy is it for someone to then say because I'm using a different chemical compound than my competitor and it's in the best interest of my company to not disclose the variable differences between company A and company B's process**, so it's almost like basically, you're baking cookies and we can all assume cookies require flour, sugar, and chocolate chips. But what's the other stuff? That is making it better than good.(?)	
David Mica: Well, to begin with it's all ??? OK. And I should just , informationally share with you that the state of the industry practice now is just laying more and more... you're seeing ... I should say, you're seeing very few trade secrets being claimed each day in a smaller amount since the inception of some of these engineering technologies have been developed, because what's	Mr. Mica does not address Sen. Bullard's question in the least. He goes off on a tangent claiming fewer trade secrets protections are sought by his industry.

happened is word has gotten around and they're understood (?) So you just don't have that kind of confidence - you just see less and less of them. And it's going to be something that you think is legitimate to you as far as a capitalist and what you have compounded together that you would declare a trade secret for now. And I assert that with my reputation having looked at thousands of these, and you can do so yourself and seeing the trend lines that are out there, and how these are being declared fewer and fewer trade secrets now. I hope that's helpful, sir.	
Sen. Ring: OK ....(?) OK [pause] asking people who are against feel free to come up and speak, but also feel free not to say what the person before you says. Let's start with Ray Bellamy.	
Ray Bellamy:	
[48:30] Sen. Ring: Sen. Latvala	
Sen. Latvala: Could we have ... Can we have DEP come up here and ... you know I have, I mean I really would like to get to the bottom of this. When you look at the public records exemption bill which is what we have to vote on, it doesn't say anything about what's available and what's not available. It's a mechanism for someone to challenge what the department or what the vendor says is a trade secret. It doesn't say in this bill that the chemicals are listed anywhere, so then we have to go to the other bill, which we don't have in front of us, to figure that out. And then the ultimate question is: if they're not listed in the public records exemption, what prevails? The public records exemption? Or the other bill? So what I'm wondering is if we can get whoever the expert is from DEP to get up here and walk us through this.	
Sen. Ring: OK. Who's here from DEP?	
Sen. Latvala: And then when we're done with that I'm going to ask our staff to tell me what prevails, whether its... whether it's the public records exemption or the base bill.	
Sen. Ring: Sen. Richter	
Sen. Richter: Yeah, if I could begin to... I'm going to ask Paula to address that specific question. DEP is the regulators. Paula Cobb is the person who I've interfaced with directly as this legislation has been drafted for both the substantive bill and she is the	

expert. She represents the regulators. She can answer those questions for you Senator.	
Sen. Ring: You ... Do you have a card here?	
Paula Cobb: I think I've got one filled out in the event you guys wanted me to speak. So ... be happy to hand that to you.	
Sen. Ring: OK, well .. so you heard Sen. Latvala's preference... just respond to him.	
Sen. Latvala: Paula, just kind of walk me through how this works. And walk me through where these chemicals are listed. And is it they're automatically listed or does someone have to ask for them? And what happens if they don't list them? And just walk me through this whole thing.	Sen. Latvala's question about what happens if the chemicals are not listed is not answered in Ms. Cobb's remarks
Paula Cobb: OK, sure. And I think that's a very appropriate question for this bill because I think this bill is the process. And that's exactly what this bill does, is lay out the process for the department handling this information in the face of the public records request. It also lays out the process for the business to initially identify the information as trade secret. If that's not done appropriately then it's not considered a trade secret. So as Sen. Richter mentioned, all of the information is required to be submitted to the department as part of the permitting process. That's why this bill, in my opinion, is necessary. Because once that information is submitted to the department, this tells the department how it has to handle certain information that has been submitted to it.	
(Paula Cobb continues)The process set forth in this particular bill says, number one, when you're submitting that information to the department, you have to do X, Y, and Z. You've got to clearly mark it on every single page that you think that contains data specific information; you've got to mark it when you submit it. So now let's say the department has that information, it's using it in the permitting process. It's reviewing that information associated with the permit application. A member of the public submits a public records request, OK? At that point this bill tells the department that it has to reach out to that business, the person that provided the information. This bill tells the department, "All right department, you've got to go and you've got to notify the	Ms. Cobb omits completely the fact that the bill provides the standard against which a claim of confidentiality for proprietary business information will be measured by the court. She further fails to acknowledge that the standard sets a very low bar. DISCLOSURE 9 Standard to be used by the court in evaluating a claim that information is 'proprietary business information' 1582 22 377.45 High pressure well stimulation chemical disclosure 1582 23 registry.— 1582 24 (4)(a) Proprietary business information, as defined in s. 1582 25 377.24075(1)(a)-(e) and relating to high pressure well 1582 26 stimulations, submitted to the department as part of a permit 1582 27 application or held by the department in connection with the 1582 28 online high pressure well stimulation chemical disclosure

owner of that information that you've got this public records request. And you have to tell them that in order to protect that information, they have to file an action in court proving that information meets that criteria, meets the trade... trade secrets criteria." If they fail to do that, if the owner of the information fails to do that, the department releases that information to the person who requested it. If the owner of the information flies the action in court, proves to the court that information is indeed protected business information, then the department cannot release that information to that person who requested it.

1582 29 registry, is confidential and exempt from s. 119.07(1) and s.
1582 30 24(a), Art. I of the State Constitution if the person submitting
1582 31 such proprietary business information to the department:
1582 32 1. Requests that the proprietary business information be
1582 33 kept confidential and exempt;
1582 34 2. Informs the department of the basis for the claim of
1582 35 proprietary business information; and
1582 36 3. Clearly marks each page of a document or specific
1582 37 portion of a document containing information claimed to be
1582 38 proprietary business information as "proprietary business
1582 39 information."

Lines 24-25 of SB 1582 provide that the meaning of 'proprietary business information' is to be understood as it is defined in 377.24075 (1) (a)-(e). These qualifiers apply to just about anything a business makes an effort to keep secret because it gives them a competitive advantage. It does not appear to be a high bar to meet the qualifications of being 'proprietary business information.'

377.24075 Exemption from public records requirements.— Proprietary business information held by the Department of Environmental Protection in accordance with its statutory duties with respect to an application for a natural gas storage facility permit is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(1) As used in this section, the term "proprietary business information" means information that:

(a) Is owned or controlled by the applicant or a person affiliated with the applicant.

(b) Is intended to be private and is treated by the applicant as private because disclosure would harm the applicant or the applicant's business operations.

(c) Has not been disclosed except as required by law or a private agreement that provides that the information will not be released to the public.

(d) Is not publicly available or otherwise readily ascertainable through proper means from another source in the same configuration as requested by the department.

(e) Includes, but is not limited to:

1. Trade secrets as defined in s. 688.002.

2. Leasing plans, real property acquisition plans, exploration budgets, or marketing studies, the disclosure of which would impair the efforts of the applicant or its affiliates to contract for goods or services or to

	acquire real property interests on favorable terms. 3. Competitive interests, which may include well design or completion plans, geological or engineering studies related to storage reservoir performance characteristics, or field utilization strategies or operating plans, the disclosure of which would impair the competitive business of the applicant providing the information. Likewise, a high bar is not set by trade secrets as defined in 688.002 (Definitions of the Uniform Trade Secrets Act). : **688.002 Definitions.**—As used in ss. 688.001-688.009, unless the context requires otherwise: (4) "Trade secret" means information, including a formula, pattern, compilation, program, device, method, technique, or process that: (a) Derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and (b) Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.
(Paula Cobb continues) That's separate and apart from what also has to be submitted as part of the national registry, the national database. So the first time we see **the information** is when it's submitted to the department as part of the permitting process, and if someone requests it, it goes through that process that I've just described. However, and I'm going to speak to the substantive bill briefly, they're also required to **report the information** to this national database - that's, that's the database that the public has access to. That's the database that eighteen states currently require folks to submit information to.	Ms. Cobb asserts that "the information" is required to be reported to the national database. In point of fact, DEP is supposed to receive **all** the information while the national database (FracFocus) does not provide public access to confidential trade secrets. DISCLOSURE 5 and 6
Sen. Latvala: OK what's on that database? What do they put on that database?	
Paula Cobb: So that database is a list of... sorry, is that better? That database, **FracFocus is a list of all of the chemicals used in the particular action.** It also lists things like hydrochloric acid. I actually have...	FracFocus does not display confidential trade secrets. DISCLOSURE 5 and 6

Sen. Latvala: So they're the, they're the compounds, the finished compounds?	
Paula Cobb: Yes, sir, it can be. It can be Mmm hmm.	
Sen. Latvala: ... the elements...	
Paula Cobb: I think it can be both. So you've got things like hydrochloric acid, you have things like sodium chloride, magnesium chloride, those sorts of things listed specifically on the registry. And that is for public consumption. You can go on your phone; you can go on your computer. You pull it up. You can choose your state. Click on Florida or wherever it is that already has it...	
Sen. Latvala: Is there a mechanism in the base bill that allows that any of that kind of information to be marked as trade secrets? Any of the chemicals to be marked as trade secrets?	
Paula Cobb: Yes, that is what is... so everything is disclosed to the department, even if you consider it a trade secret. All of the information is ...	
Sen. Latvala: I'm talking about the website	
Paula Cobb: Right, so all of the information, all of the information is submitted to the department. Where the handling of the proprietary business information comes in is what is reported to FracFocus. **So that public registry, the trade secret information is not reported to the registry.**	Ms. Cobb admits the registry does not receive the trade secret information (contradicting her earlier statement.) Note that per DISCLOSURE 3 and 9, an operator can claim the chemicals used are proprietary business information
Sen. Latvala: OK. So that means there may be chemicals that are used if they're considered to be trade secrets they aren't put on the registry?	
Paula Cobb: I'd say it would be the formula - the formulation of that - so, not the... not the individual components, but the formula.	Ms. Cobb either does not understand the implications of DISCLOSURES 3 and 9 or she is trying to avoid acknowledging them
Sen. Latvala: You would say that. That's nice. But how do we know that? I mean... **is there something in the bill that specifies what has to be listed on that, on that website, and what can be marked a trade secret?**	
Paula Cobb: It does and even goes beyond chemical ingredients. It goes to location of the well, and not just the county, it talks about the latitude and the longitude the well. It talks about the depth of the well. Talks about the volume of fluid injected into	Ms. Cobb answers Sen. Latvala's question incompletely by limiting her reply to "It does" with respect to his question about whether there's something specific in the bill about what has to be listed on the website and what can be marked a trade secret. She does not address which chemicals have to be listed.

the well.	DISCLOSURE 10 The chemicals that are to be reported to the national registry are found in SB 1468: 396 (b) In addition to providing such information to the 397 department as part of the permitting process, a service 398 provider, vendor, or well owner or operator shall report, by 399 department rule, to the chemical disclosure registry, at a 400 minimum, the following information: 401 1. The owner's or operator's name; 402 2. The date of completion of the high pressure well 403 stimulation; 404 3. The county in which the well is located; 405 4. The API number for the well; 406 5. The well name and number; 407 6. The longitude and latitude of the wellhead; 408 7. The total vertical depth of the well; 409 8. The total volume of water used in the high pressure well 410 stimulation; and 411 9. Each chemical ingredient that is subject to 29 C.F.R. s. 412 1910.1200(g)(2) for each well on which a high pressure well 413 stimulation is performed. (29 C.F.R. s. 1910.1200 is the OSHA regulation dealing with Material Safety Data Sheets) What can be listed as a trade secret is explainend in DISCLOSURE 9
Sen. Latvala: Can you?... can? ... You can put the location of a well a trade secret?	
Paula Cobb: No, no, no. I'm saying that's reported to the registry. That's a requirement that you report to the registry, to the department and to the registry, **so that the public not only just knows what was injected,** but where it was injected. So you put the, again, the county where the activity occurs, but then you have to get even more specific with that, the location of the wellhead, the depth, because what you're talking about is, these, these oil and gas formations are not just below the surface, they're, you know, twelve, 12,000 feet, 14,000 feet below, 17,000 feet below land surface. And so you talk about the vertical depth of the well, because that's where the formation is.	If the injected chemicals are classified as proprietary business information by the operator, they are not displayed on FracFocus (DISCLOSURE 5 and 6) and the public does **not** know what was injected.

We're talking about a couple of miles below the earth. That's where the oil and gas formations are. So you give the location, you give the depth, **you give the chemical ingredients you use.** There's a suite of information that the companies have to report, not just to the department, but also to the registry.	But any chemical ingredient claimed as proprietary business information is not displayed for public consumption per DISCLOSURE 5 and 6
[56:44]	
Sen. Latvala: And the public records exemption doesn't apply to any of that? It goes on and it can't be questioned or it can't be restricted by the company?	
Paula Cobb: No sir, I don't believe so. I think that's the information that has... that explicitly under the base bill has to be reported to the department and to the registry.	This is inaccurate. DISCLOSURE 2 exempts proprietary business information from the entire section requiring disclosure
Sen. Latvala: So what kinds of things can be classified as trade secrets?	
Paula Cobb: The formula, So I think... what Sen. Richter was mentioning before, the recipe I guess was another word that was being used for it. Because it's not necessarily the, the, the chemical ingredient... it's how, it's how those chemical ingredients.... The, the recipe of it. Some folks may not use one chemical that another company used...uses. I also think that what we've seen though, in reporting is there has been a trend to report more than what used to be reported. Because though this is a modern technology it's not something that's, that is brand new. And so over time things become, things don't - they're not a trade secret anymore if it becomes the business or industry standard. That being said, that's not the department making that decision whether something is a trade secret or not, that's a court of law making that decision. And the owner of the information has to go to a court of law and prove that that information qualifies as a trade secret. That's not me sitting in my office and saying "Wooo, that looks like a trade secret to me." That is something that has to be proven in a court of law, and that burden is upon the business owner, not the member of the public requesting that information.	
Sen. Latvala: OK. Then, Mr. Chairman. That's a pretty good explanation of that. What then I'd like to ask ... who the appropriate staff person here is to ask ...	

Sen. Ring: We have somebody from Environmental Protection we asked to come down ... here yet?	
Sen. Latvala: No, no, no. I'm talking... my question , my next question... She's answered that ... I've never seen a public records exemption bill written as a mechanism before. I mean they're written as, you know: this is exempt, boom, boom, boom. Like mine was, has a list of things that are exempt. Is Joe or whoever our staff is.	
Sen. Ring: Staff attorney	
Sen. Latvala: Is ... has this been done before? Where a public records exemption is used to create a mechanism to get a court as opposed to listing out what's exempt?	
Sen. Ring: Grace	
Grace (staff): Yes	
Sen. Latvala: It has.	
Grace: Yes.	
Sen. Latvala: Can you give me maybe an example of another time it's been done this way?	
Grace: Not off the top of my head. I can do some research and get back to you though.	
Sen. Latvala: OK	
Paula Cobb: May I add just one proof thing?	
Sen. Ring: Yes.	
Paula Cobb: As to the process, I think the intent here, it's... my understanding was that the process be clear so that the burden, ... many, many cases for public records the burden falls upon the requestor to present a court order and say this isn't a trade secret. But in this case the burden was flipped to the person who owns the information to the business.	
Sen. Ring: Sen. Hays	
Sen. Hays: Thank you. Miss Cobb, correct me if I'm wrong, but as I understand this thing. I'm the driller. I present the list of chemicals to you, the department, that says these are the chemicals that I'm going to be using. **And if a certain portion of that is considered trade secret, I will also present to you a certification from the court that this has been deemed a trade secret, this small part of the long list of chemicals has been**	

deemed by the court to be a trade secret. Does you the department know from the very beginning this, if we pass this bill, that that small part right there that the court has already determined is a trade secret is protected from the public records request, but all the rest of the stuff in that list is subject to the public records disclosure. **Is that correct?**	
Paula Cobb: Mr. Chairman? You are correct that the owner of the information, the driller, has to upfront identify that information that it thinks is a trade secret. The... That has to be marked on every single page of the document submitted to the department that it is a trade secret. If they do not do that up front, if they do not mark it, then they've essentially waived their rights to claim a trade secret.	The clear answer to this question is, "No, sir. That is not correct." Followed by an explanation of the facts in DISCLOSURE 4 which she subsequently acknowledges, but only because Sen. Hays pushes for the truth.
Sen. Hays: And also before they can label it as a trade secret, it has to be certified as such by the court, does it not?	
Paula Cobb: Well, Mr. Chairman (Sen. Ring: Yes) the court process actually comes after that point, Sen. Hays, that the court process is only triggered only in the event that a person seeks that information. **And the burden is on the owner of the information, the driller, to go and prove that up, which it's my understanding is not a simple process.**	Ms. Cobb acknowledges the facts in DISCLOSURE 4. The requirement to meet the definition and to qualify for proprietary business information posed by SB 1582 and 377.24075 does not appear to set a high bar. DISCLOSURE 9
Sen. Hays: And perhaps the prudent driller would do that first I would think.	
Paula Cobb: I would think so or just waive or waive the information to let it be released which we see as well.	
Sen. Hays: I see, thank you.	
Sen. Ring: Sen. Latvala, we're researching the... your question. So we will come back to that, OK? Are there any other questions? OK. We'll keep going and come back to Sen. Latvala in a moment. Herb Shelton	
Herb Shelton.	
Edith Corcher(SP?)	
Vera David	
Merilee Malwich Jipson	
Dr. Ronald Saff	
Kim Ross	
Brian Lee	

Jennifer Hecker	
Donna MacGiver	
John Dicker	
Mary-Lynn Cullen	
David Cullen	
Gail Dicker	
Debbie Rumberger	
Series of names waiving - mostly against	
Deate: Sen. Latvala: I very likely will vote against ... the base bill when it's presented on the floor which I guess probably will be the first opportunity I'll have to vote on it. But I think as we look here today at what we have to vote on today - it's the public records bill that's in the jurisdiction of this committee. And I think that we have here a mechanism where if it's gonna be, the burden is gonna be on the vendor to prove that these ... is proprietary business information. They're going to have to go to court. And I have a little bit of angst still with regard to if a chemical is listed as proprietary business information it doesn't wind up on the website, and Sen. Richter are going to work on that. Based on his assurances we're going to work on that, I'm going to vote in favor of the bill today.	
Sen. Ring: So I have , I have more angst on the bill now than I had prior to the meeting, tell you that. But that said I agree with Sen. Latvala this is a public records bill. It is, and Sen. Richter in his closing is going to talk about how he's going to work because he's heard a lot of this and when the discussion was on the public records part of the bill - what needs to be done to help some of the legitimate concerns that were there. A lot of the discussion today was on fracking. That is a different bill. Very different bill. I make no commitment to vote for a fracking bill. I don't make a commitment past this committee to vote for the public records bill -... for the changes that'll be made. But I want to just say thank you to those people who got up today who spoke on the bill itself. We are the Government Oversight Committee. This committee is on the public records side. We're not Environmental Protection . This is not the committee that looks at	

fracking as policy. I know , I don't know if anyone else does, Sen. Latvala says he doesn't, I don't sit on that committee. I'll hear it on the floor as well. But our role here is to look specifically at public records, and I'm sure as I said that I have more angst now than I had prior to the meeting. Sen. Richter probably learned of lot of parts of that maybe we could work on to make this more palatable, Again, very specific to the public records side of the bill. So with that I'll turn it over to Sen. Richter to close.	
Sen. Richter: Thank you very much Mr. Chairman. I'd like to extend my appreciation to every member who came up to this podium and expressed their concerns. The concerns that this committee just listened to weaved themselves in and out of the subject matter of the bill and the subject matter of fracking. And I respect that. It's a subject that is passionate among people. There's one reason that I'm passionate about this is, is, is, is just our entire country's need for energy. And that need becomes very highlighted when I see a Wounded Warrior commercial and I see people coming home with their arms and legs blown off. But beside that, on the public records bill, Sen. Latvala, yes, you and I spoke about about the clarity, or lack of clarity and what is disclosed and what isn't disclosed, and the difference between trade secrets and proprietary information, and you have my commitment to follow up on that to make sure that what we've suggested, what I've suggested here today is in fact what the language results in... results of those language. You have that pledge. Members and Sen. Bullard I know that you're in opposition and feel the wrong(?) way on fracking. On this particular bill, I would even ask for your vote, and the reason for that quite frankly, the real debate will come on the substantive bill. Without this bill, a No vote on this bill, is no disclosure whatsoever. This disclosure may not go as far as some of the people that commented on it would like, but I can guarantee to this committee and every member of this committee it goes a lot further than a No vote. A No vote is status quo. There is no disclosure. And I want... We can't stop technology. We can regulate it. And that's what this is intended to do is responsibly regulate it. I appreciate all the conversation, all the points that were made, by people that I don't necessarily agree with on the	

subject matter, but I certainly respect them and I appreciate their coming before this committee to voice their opinion, and with that I ask for your positive vote on the public records bill.	
Bullard NO	
Latvala - Yes	
Hays - Yes	
Ring - Yes	

DEFINITION 1

"[H]igh pressure well stimulation" (not "drilling") is defined in SB 1468:

45 (6) "High pressure well stimulation" means a well
46 intervention performed by injecting more than 100,000 gallons of
47 fluids into a rock formation at high pressure that exceeds the
48 fracture gradient of the rock formation in order to propagate
49 fractures in such formation to increase production at an oil or
50 gas well by improving flow of hydrocarbons from the formation
51 into the wellbore.

This narrow definition excludes well stimulations using less fluid or less pressure. The Collier County Hogan well fracking would not have been covered by this definition and the permitting and regulations would not apply.

The bill does provide for all chemicals to be disclosed to DEP. It does not require all chemicals to be disclosed to FracFocus:

DISCLOSURE 1

SB 1468:

54 377.22 Rules and orders.—
55 (2) The department shall issue orders and adopt rules
56 pursuant to ss. 120.536 and 120.54 to implement and enforce the
57 provisions of this chapter. Such rules and orders shall ensure
58 that all precautions are taken to prevent the spillage of oil or
59 any other pollutant in all phases of the drilling for, and
60 extracting of, oil, gas, or other petroleum products, including
61 high pressure well stimulations, or during the injection of gas
62 into and recovery of gas from a natural gas storage reservoir.
63 The department shall revise such rules from time to time as
64 necessary for the proper administration and enforcement of this
65 chapter. Rules adopted and orders issued in accordance with this
66 section are for, but not limited to, the following purposes:

99 (h) To require the making of reports showing the location
100 of all oil and gas wells; the making and filing of logs; the
101 taking and filing of directional surveys; the filing of
102 electrical, sonic, radioactive, and mechanical logs of oil and
103 gas wells; if taken, the saving of cutting and cores, the cuts
104 of which shall be given to the Bureau of Geology; and the making
105 of reports with respect to drilling, ~~and~~ production, and high
106 pressure well stimulations; and the disclosure of chemicals and
107 other materials added during high pressure well stimulations to
108 the chemical disclosure registry, known as FracFocus ~~records~~.
109 However, such information, or any part thereof, at the request
110 of the operator:~~,~~
111 1. Shall be exempt from ~~the provisions of~~ s. 119.07(1) and
112 held confidential by the division for a period of 1 year after
113 the completion of a well; or
114 2. May be considered proprietary business information, as
115 defined in s. 377.24075(1)(a)-(e).

(2)(h) grants the operator confidentiality for a year merely by his requesting it. The new subparagraph also gives an operator the opportunity to claim the information in paragraph (h) as proprietary business information which means it might never be disclosed, including on FracFocus.

DISCLOSURE 2

1468 387 377.45 High pressure well stimulation chemical disclosure
1468 388 registry.—
1468 396 (b) In addition to providing such information to the
1468 397 department as part of the permitting process, a service

1468 398 provider, vendor, or well owner or operator shall report, by
1468 399 department rule, to the chemical disclosure registry, at a
1468 400 minimum, the following information:
1468 411 9. Each chemical ingredient that is subject to 29 C.F.R. s.
1468 412 1910.1200(g)(2) for each well on which a high pressure well
1468 413 stimulation is performed.
1468 419 (2) A service provider, vendor, or well owner or operator
1468 420 shall:
1468 421 (a) Report the information required under subsection (1) to
1468 422 the chemical disclosure registry within 60 days after the
1468 423 initiation of the high pressure well stimulation for each well
1468 424 on which such high pressure well stimulation is performed; and
1468 429 **(3) This section does not apply to an ingredient that:**
1468 434 (c) Is considered proprietary business information, as
1468 435 defined in s. 377.24075(1)(a)-(e).

DISCLOSURE 3

The driller is not required to apply for confidentiality; the bill authorizes the driller to claim confidentiality:

1582 22 377.45 High pressure well stimulation chemical disclosure
1582 23 registry.—
1582 24 (4)(a) Proprietary business information, as defined in s.
1582 25 377.24075(1)(a)-(e) and relating to high pressure well
1582 26 stimulations, submitted to the department as part of a permit
1582 27 application or held by the department in connection with the
1582 28 online high pressure well stimulation chemical disclosure
1582 29 registry, **is confidential and exempt from s. 119.07(1) and s.**
1582 30 24(a), Art. I of the State Constitution if the person submitting
1582 31 such proprietary business information to the department:
1582 **32 1. Requests that the proprietary business information be**
1582 33 kept confidential and exempt;
1582 34 2. Informs the department of the basis for the claim of
1582 35 proprietary business information; and
1582 36 3. Clearly marks each page of a document or specific
1582 37 portion of a document containing information claimed to be
1582 38 proprietary business information as "proprietary business
1582 39 information."

DISCLOSURE 4

If the confidentiality is upheld, "those chemical trade secrets" are not publicly disclosed.

1582 40 (b) If the department receives a public records request for
1582 41 a document that is marked proprietary business information under
1582 42 this section, the department must promptly notify the person who
1582 43 submitted the information as proprietary business information.
1582 44 The notice must inform the person that he or she has 30 days
1582 45 after receipt of the notice to file an action in circuit court
1582 46 seeking a determination as to whether the document in question
1582 47 contains proprietary business information and **an order barring**
1582 48 public disclosure of the document. If the person files an action
1582 49 within 30 days after receipt of notice of the public records
1582 50 request, the department may not release the document pending the
1582 51 outcome of the legal action.

DISCLOSURE 5

Confidential Business Information. Operators can specify ingredients as confidential business information (CBI; also referred to as trade secret or proprietary) when submitting disclosures to FracFocus. As a result, the identity of a specific chemical may not be known for the analyses conducted in this report. Operators indicated CBI ingredients using 239 terms in the CASRN and chemical name fields that clearly indicate that the ingredients are considered a trade secret. Omission of the chemical name or CASRN from a CBI record disqualified that record for additive ingredient analyses. The CBI ingredient records in the project database were reviewed to assess the frequency at which operators claimed CBI status and the extent to which disclosures available for summary analyses would be reduced

by the exclusion of CBI ingredient records. More than 70% of disclosures contained at least one ingredient identified as CBI, as shown in Table 4. Of the 25,796 disclosures that contained CBI ingredients (excluding duplicates and those that did not meet the date criterion), the average number of CBI ingredients per disclosure was five. The total number of ingredient records claimed as CBI or a related term was 129,311, or 11% of all ingredient records that were completely parsed from disclosures that met the primary QA criteria. Arthur et al. (2014) reported a similar proportion of CBI records in their study of FracFocus data (13% of ingredients; approximately 200,000 records). Although these ingredients are reported as proprietary, information on the general chemical class is frequently provided; related information is summarized in Appendix B. ***Analysis of Hydraulic Fracturing Fluid Data from the FracFocus Chemical Disclosure Registry 1.0; U.S. EPA March 2015; p. 17***

DISCLOSURE 6

What chemicals are being disclosed on this website? All chemicals that would appear on a Material Safety Data Sheet (MSDS) that are used to hydraulically fracture a well except for those that can be kept proprietary based on the "Trade Secret" ‡ provisions related to MSDS found on the Trade Secret link at 1910.1200(i)(1). Read more... https://fracfocus.org/faq#t1n78

See also the separate 'Trade secrets portion of 29 CFR'

DIISCLOSURE 7

This bill is not about "trade secrets" but "proprietary business information".

1582 24 (4)(a) **Proprietary business information**, as defined in s.
1582 25 377.24075(1)(a)-(e) and relating to high pressure well
1582 26 stimulations, submitted to the department as part of a permit
1582 27 application or held by the department in connection with the
1582 28 online high pressure well stimulation chemical disclosure
1582 29 registry, **is confidential and exempt from s. 119.07(1) and s.**
1582 30 24(a), Art. I of the State Constitution if the person submitting
1582 31 such proprietary business information to the department:
1582 32 1. Requests that the proprietary business information be
1582 33 kept confidential and exempt;
1582 34 2. Informs the department of the basis for the claim of
1582 35 proprietary business information; and
1582 36 3. Clearly marks each page of a document or specific
1582 37 portion of a document containing information claimed to be
1582 38 proprietary business information as "proprietary business
1582 39 information."

DISCLOSURE 8

Timeline: The company doesn't have to disclose the chemicals used to DEP for up to 60 days from the initiation of the high pressure well stimulation (which excludes all activities not included in that definition)

1468 419 (2) A service provider, vendor, or well owner or operator
1468 420 shall:
1468 421 (a) Report the information required under subsection (1) to
1468 422 the chemical disclosure registry within 60 days after the
1468 423 initiation of the high pressure well stimulation for each well
1468 424 on which such high pressure well stimulation is performed; and

Further, a citizen seeking information is forced to wait for the process described in SB 1582 to play out:

40 (b) If the department receives a public records request for
41 a document that is marked proprietary business information under
42 this section, the department must promptly notify the person who
43 submitted the information as proprietary business information.
44 The notice must inform the person that he or she has 30 days
45 after receipt of the notice to file an action in circuit court
46 seeking a determination as to whether the document in question

47 contains proprietary business information and an order barring
48 public disclosure of the document. If the person files an action
49 within 30 days after receipt of notice of the public records
50 request, the department may not release the document pending the
51 outcome of the legal action. The failure to file an action
52 within 30 days constitutes a waiver of any claim of
53 confidentiality, and the department shall release the document
54 as requested.

Finally, there is no requirement that the court proceeding be concluded by any time certain. Obtaining a court date, the possibility of continuances, or appeals could cause very significant delays during which DEP would be prevented (per lines 50-51) from releasing the information.

DISCLOSURE 9

Standard to be used by the court in evaluating a claim that information is 'proprietary business information'

1582 22 377.45 High pressure well stimulation chemical disclosure
1582 23 registry.—
1582 24 (4)(a) Proprietary business information, as defined in s.
1582 25 377.24075(1)(a)-(e) and relating to high pressure well
1582 26 stimulations, submitted to the department as part of a permit
1582 27 application or held by the department in connection with the
1582 28 online high pressure well stimulation chemical disclosure
1582 29 registry, **is confidential and exempt from s. 119.07(1) and s.**
1582 30 **24(a), Art. I of the State Constitution** if the person submitting
1582 31 such proprietary business information to the department:
1582 32 1. Requests that the proprietary business information be
1582 33 kept confidential and exempt;
1582 34 2. Informs the department of the basis for the claim of
1582 35 proprietary business information; and
1582 36 3. Clearly marks each page of a document or specific
1582 37 portion of a document containing information claimed to be
1582 38 proprietary business information as "proprietary business
1582 39 information."

Lines 24-25 of SB 1582 provide that the meaning of 'proprietary business information' is to be understood as it is defined in 377.24075 (1) (a)-(e). These qualifiers apply to just about anything a business makes an effort to keep secret because it gives them a competitive advantage. It does not appear to be a high bar to meet the qualifications of being 'proprietary business information.'

377.24075 Exemption from public records requirements.—Proprietary business information held by the Department of Environmental Protection in accordance with its statutory duties with respect to an application for a natural gas storage facility permit is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(1) As used in this section, the term "proprietary business information" means information that:

(a) Is owned or controlled by the applicant or a person affiliated with the applicant.

(b) Is intended to be private and is treated by the applicant as private because disclosure would harm the applicant or the applicant's business operations.

(c) Has not been disclosed except as required by law or a private agreement that provides that the information will not be released to the public.

(d) Is not publicly available or otherwise readily ascertainable through proper means from another source in the same configuration as requested by the department.

(e) Includes, but is not limited to:

1. Trade secrets as defined in s. 688.002.

2. Leasing plans, real property acquisition plans, exploration budgets, or marketing studies, the disclosure of which would impair the efforts of the applicant or its affiliates to contract for goods or services or to acquire real property interests on favorable terms.
3. Competitive interests, which may include well design or completion plans, geological or engineering studies related to storage reservoir performance characteristics, or field utilization strategies or operating plans, the disclosure of which would impair the competitive business of the applicant providing the information.

Likewise, a high bar is not set by trade secrets as defined in 688.002 (Definitions of the Uniform Trade Secrets Act).

:

688.002 Definitions.—As used in ss. 688.001-688.009, unless the context requires otherwise:
(4) "Trade secret" means information, including a formula, pattern, compilation, program, device, method, technique, or process that:
(a) Derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and
(b) Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

DISCLOSURE 10

The chemicals that are to be reported to the national registry are found in SB 1468:

396 (b) In addition to providing such information to the
397 department as part of the permitting process, a service
398 provider, vendor, or well owner or operator shall report, by
399 department rule, to the chemical disclosure registry, at a
400 minimum, the following information:
401 1. The owner's or operator's name;
402 2. The date of completion of the high pressure well
403 stimulation;
404 3. The county in which the well is located;
405 4. The API number for the well;
406 5. The well name and number;
407 6. The longitude and latitude of the wellhead;
408 7. The total vertical depth of the well;
409 8. The total volume of water used in the high pressure well
410 stimulation; and
411 9. Each chemical ingredient that is subject to 29 C.F.R. s.
412 1910.1200(g)(2) for each well on which a high pressure well
413 stimulation is performed.

(29 C.F.R. s. 1910.1200 is the OSHA regulation dealing with Material Safety Data Sheets)

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 Appropriations

BILL: PCS/SB 1522 (309968)

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Education); and Senator Detert

SUBJECT: Workforce Training

DATE: April 20, 2015 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Graf	Klebacha	HE	**Favorable**
2.	Sikes	Elwell	AED	**Recommend: Fav/CS**
3.	Sikes	Kynoch	AP	**Pre-meeting**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/SB 1522 requires the Department of Education (DOE) and the Department of Economic Opportunity (DEO) to collaborate to improve preapprenticeship and apprenticeship programs; and requires the DOE to submit to the Governor, President of the Senate, Speaker of the House of Representatives, and the Higher Education Coordinating Council, program accountability and operational reports.

Specifically, the bill:

- Revises the definition of "journeyman" to "journeyworker" and associated responsibilities.
- Adds industry certifications as an organized course of instruction in preapprenticeship and apprenticeship programs.
- Requires the DOE and the DEO to identify and recommend apprenticeship and preapprenticeship programs that are aligned with the state and regional workforce needs.

The bill has no fiscal impact on state funds.

The bill provides an effective date of July 1, 2015.

II. Present Situation:

Registered Apprenticeship (RA) "connects job seekers looking to learn new skills with employers looking for qualified workers, resulting in a workforce with industry-driven training and employers with a competitive edge."[1]

Federal Law

The United States Congress enacted the National Apprenticeship Act (also known as the Fitzgerald Act in honor of its author, Congressman William J. Fitzgerald)[2] in 1937.[3] Following the passage of the act, RA programs consisted mainly of manufacturing, construction, and utilities industries.[4] Since 1937, RA programs have grown to 24,000 programs providing education and training to approximately 400,000 apprentices in emerging and high-growth sectors such as energy conservation, health care, and information technology, in addition to traditional industries such as manufacturing and construction.[5] "As the need for skilled workers increases and our economy faces greater global competition, RA continues to be a competitive advantage for all parties-individuals, businesses, labor management organizations, education, the workforce investment system and government. For these reasons, [the Employment and Training Administration, U.S. Department of Labor] issued revised regulations that increase program flexibility to better serve the needs of today's apprentices and program sponsors."[6]

For apprentices and program sponsors, the regulations:[7]

- Incorporate technology-based learning;
- Provide additional pathways to certification;
- Introduce interim credentials;
- Improve registration and review process;
- Update the reciprocal registration provision; and
- Introduce provisional registration.

For State Apprenticeship Agencies (SSAs), the regulations:[8]

- Increase linkages with the workforce investment system;
- Redefine the roles and responsibilities of SSAs and State Apprenticeship Councils (SACs);
- Establish a process for continued recognition; and
- Increase flexibility for location of an SSA.

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[1] U.S. Department of Labor, *Apprentices*, http://www.doleta.gov/oa/apprentices.cfm (last visited March 2, 2015).
[2] U.S. Department of Labor, *Workforce System Results* (Sep. 30, 2012), *available at* http://www.doleta.gov/Farmworker/pdf/workforceSystemResultsSept2012.pdf, at 4 of 38.
[3] U.S. Department of Labor, *Registered Apprenticeship*, http://www.doleta.gov/oa/history.cfm (last visited March 2, 2015); *see* 29 U.S.C., s. 50.
[4] U.S. Department of Labor, *Registered Apprenticeship*, http://www.doleta.gov/oa/history.cfm (last visited March 2, 2015).
[5] *Id*.
[6] *Id*. "These revised regulations published, on October 29, 2008, update Title 29 CFR, part 29 and provide a framework that supports an enhanced, modernized apprenticeship system." U.S. Department of Labor, *Regulations*, http://www.doleta.gov/oa/regulations.cfm (last visited March 2, 2015).
[7] U.S. Department of Labor, *Apprenticeship Final Rule Fact Sheet*, *available at* http://www.doleta.gov/oa/pdf/Apprenticeship_Final_Fact_Sheet.pdf, at 1-2 of 4.
[8] U.S. Department of Labor, *Apprenticeship Final Rule Fact Sheet*, *available at* http://www.doleta.gov/oa/pdf/Apprenticeship_Final_Fact_Sheet.pdf, at 2-3 of 4.

For the U.S. Department of Labor, the regulations:[9]

- Enhance program accountability; and
- Ensure national conformity with federal apprenticeship legislation and regulations.

Eligibility and Requirements

Registered apprenticeship program sponsors (i.e., employers, employer associations, and labor management organizations)[10] identify the minimum qualifications to apply into their apprenticeship program.[11] An individual must be at least 16 years of age to be an apprentice.[12] In hazardous occupations, individuals must usually be 18 years of age.[13] Program sponsors may also identify additional minimum qualifications and credentials to apply (e.g., education, ability to physically perform the essential functions of the occupation, and proof of age). All applicants are required to meet the minimum qualifications. Based on the selection method utilized by the sponsor, additional qualification standards, such as fair aptitude tests and interviews, school grades, and previous work experience may be identified.[14]

Program Length

Apprenticeship programs range from 1 year to 6 years, but the majority are 4 years in length.[15] During the program, the apprentice receives both structured, on-the-job learning (OJL) and related classroom instruction (RTI).[16] For each year of the apprenticeship, the apprentice typically receives 2,000 hours of on-the-job training and a recommended minimum of 144 hours of related classroom instruction.[17]

State Law

Florida law provides educational and training opportunities, in the form of apprenticeship and preapprenticeship programs, to prepare individuals in the state for trades, occupations, and professions suited to their abilities.[18]

An apprenticeship program means "an organized course of instruction, registered and approved by the department, which course shall contain all terms and conditions for the qualifications, recruitment, selection, employment, and training of apprentices[19] including such matters as the

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[9] U.S. Department of Labor, *Apprenticeship Final Rule Fact Sheet*, *available at* http://www.doleta.gov/oa/pdf/Apprenticeship_Final_Fact_Sheet.pdf, at 3 of 4.

[10] Registered Apprenticeship program sponsors vary from small, privately owned businesses to national employer and industry associations. There are nearly 29,000 sponsors representing more than 250,000 employers, such as UPS, the United States Military Apprenticeship Program, Werner Enterprises, and CVS/pharmacy. U.S. Department of Labor, *Apprentices*, http://www.doleta.gov/oa/apprentices.cfm (last visited March 2, 2015).

[11] U.S. Department of Labor, *Apprentices*, http://www.doleta.gov/oa/apprentices.cfm (last visited March 2, 2015).

[12] *Id*.

[13] U.S. Department of Labor, *Apprentices*, http://www.doleta.gov/oa/apprentices.cfm (last visited March 2, 2015).

[14] *Id*.

[15] U.S. Department of Labor, *Apprentices*, http://www.doleta.gov/oa/apprentices.cfm (last visited March 2, 2015).

[16] *Id*.

[17] *Id*.

[18] Section 446.011(1), F.S.

[19] An apprentice means "a person at least 16 years of age who is engaged in learning a recognized skilled trade through actual work experience under the supervision of journeyman craftsmen, which training should be combined with properly

requirements for a written apprenticeship agreement."[20] A preapprenticeship program means "an organized course of instruction in the public school system or elsewhere, which course is designed to prepare a person 16 years of age or older to become an apprentice and which course is approved by and registered with the department and sponsored by a registered apprenticeship program."[21]

Duties of the Department of Education

The Department of Education (DOE or department) is responsible for administering, facilitating, and supervising registered apprenticeship programs (e.g., developing and encouraging apprenticeship programs, cooperating with and assisting apprenticeship sponsors to develop apprenticeship standards and training requirements, monitoring RA programs, investigating complaints regarding failure to meet the standards[22] established by the department, and canceling registration of programs that fail to comply with the standards and policies of the department).[23]

Additionally, the department, the district school boards, and the community college district boards of trustees must work together with existing apprenticeship programs so that individuals completing the preapprenticeship programs may be able to receive credit towards completing a registered apprenticeship program.[24]

The Commissioner of Education (commissioner) must recommend, at least annually, the CAPE Postsecondary Industry Certification Funding List to the State Board of Education (SBE or state board) and may at any time recommend adding industry certifications.[25] The Chancellor of the State University System, the Chancellor of the Florida College System, and the Chancellor of Career and Adult Education must work with local workforce boards, other postsecondary institutions, businesses, and industry to identify, create, and recommend to the commissioner industry certifications to be placed on the funding list.[26]

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coordinated studies of technical and supplementary subjects, and who has entered into a written agreement, which may be cited as an apprentice agreement, with a registered apprenticeship sponsor who may be either an employer, an association of employers, or a local joint apprenticeship committee." Section 446.021(2), F.S. A journeyman means "a person working in an apprenticeable occupation who has successfully completed a registered apprenticeship program or who has worked the number of years required by established industry practices for the particular trade or occupation." Section 446.021(4), F.S. An apprenticeable occupation is a skilled trade which possesses all of the characteristics that are specified in law (e.g., customarily learned in a practical way through a structures, systemic program of on-the-job, supervised training and involves manual, mechanical, or technical skills and knowledge which require a minimum of 2,000 hours of work and training, which hours are excluded from the time spent at related instruction). Section 446.092, F.S.

[20] Section 446.021(6), F.S.

[21] Section 446.021(5), F.S.

[22] The Department of Education (DOE or department) is responsible for developing apprenticeship and preapprenticeship uniform minimum standards for the apprenticeable trades and assisting district school boards and community college district boards of trustees in developing preapprenticeship programs. Sections 446.011(2), 446.032, and 446.052, F.S. Uniform minimum preapprenticeship standards means "the minimum requirements established uniformly for each craft under which a preapprenticeship program is administered and includes standards for admission, training goals, training objectives, curriculum outlines, objective standards to measure successful completion of the preapprenticeship program, and the percentage of credit which may be given to preapprenticeship graduates upon acceptance into the apprenticeship program." Section 446.021(8), F.S.

[23] Section 446.041, F.S.

[24] Section 446.052(3), F.S.

[25] Section 1008.44(2), F.S.

[26] *Id*.

State Apprenticeship Advisory Council

The purpose of the State Apprenticeship Advisory Council (Council) is to advise the department on matters related to apprenticeship.[27] The Council is comprised of 10 voting members appointed by the Governor and two ex officio nonvoting members.[28] The Commissioner of Education or the commissioner's designee must serve ex officio as chair of the Council, but may not vote.[29]

III. Effect of Proposed Changes:

The bill primarily fosters collaboration between the Department of Education (DOE) and the Department of Economic Opportunity (DEO) to identify and recommend apprenticeship and preapprenticeship programs that are aligned with the state and regional workforce needs and requires the DOE to submit to the Governor, President of the Senate, Speaker of the House of Representatives, and the Higher Education Coordinating Council, program accountability and operational reports. This provision will facilitate the engagement of both the educational entities and the business community, as partners, in preparing individuals with the necessary skills to secure gainful employment and meet the workforce needs of the state. In addition, the bill also amends definition of apprenticeship and preapprenticeship programs and journeyworker.

The bill specifies accountability and operational reporting requirements for the DOE and the DEO regarding preapprenticeship and apprenticeship programs.

Annual Accountability Report

The bill requires the DOE to collaborate with the DEO to identify, develop, and register apprenticeship and preapprenticeship programs that are aligned with the statewide demand for a skilled labor force in high-demand occupations and to regional workforce needs. Beginning with the 2015-2016 fiscal year, annually by December 31, the DOE must, in collaboration with the DEO, submit to the Governor, President of the Senate, Speaker of the House of Representatives, and the Higher Education Coordinating Council, an accountability report on program usage, student demographics and performance outcomes, and program requirements for existing and new programs. The accountability report must also include regional information regarding program and student performance outcomes. The accountability report may assist with creating a purposeful approach for the state to strategically invest in apprenticeship and preapprenticeship programs based on employers' needs.

In addition, the DOE must post on the department website, program information which, at a minimum, must include program admission requirements, program standards and training requirements, and a summary of program and student performance outcomes. Such information may create public awareness about the apprenticeship and preapprenticeship programs which could boost program enrollment and sponsorship.

[27] Section 446.045(2)(a), F.S.
[28] *Id*.
[29] Section 446.045(2)(b), F.S.

Operational Report

The bill requires the DOE, in collaboration with the DEO and CareerSource Florida, Inc., to submit to the Governor, President of the Senate, Speaker of the House of Representatives, and the Higher Education Coordinating Council, an operational report by December 31, 2015. The operational report must summarize:

- The activities and coordination between the DOE and the DEO to identify, develop, register, and administer preapprenticeship and apprenticeship programs over the last five years.
- The strategies employed by the DOE and the DEO to engage school districts, Florida College System institutions, technical centers, and businesses as partners in the workforce system to expand employment opportunities for individuals including, but not limited to, individuals with unique abilities, which must include work-based learning experiences such as apprenticeships and preapprenticeships. The partnership may facilitate the consolidation of efforts to educate and train individuals to meet workforce needs of the state.
- Recommendations made by the DOE and the DEO to gain efficiency in program funding and make program governance changes to improve the delivery and management of apprenticeship and preapprenticeship programs based on workforce needs.
- Recommendations and strategies for the DEO to ensure that employers in the state have access to information and consultative services, at no cost to the employers, regarding sponsorship of demand-driven registered apprenticeship and preapprenticeship programs. This provision is similar to the mission of South Carolina's Apprenticeship Carolina™ program which is to make "certain all employers in South Carolina have access to information and consultative services, at no charge, regarding sponsorship of a demand-driven registered apprenticeship program."[30] The goal of the provision is that businesses in Florida be able to access the necessary information to start or continue sponsoring apprenticeship and preapprenticeship programs.
- An evaluation of the feasibility of linking or incorporating, and of the resources necessary to link or incorporate, the Department of Education's website information on preapprenticeship and apprenticeship programs with the Department of Economic Opportunity and CareerSource Florida, Inc., workforce information system required under chapter 445, Florida Statutes.

Additionally, the bill modifies the definition of preapprenticeship and apprenticeship programs and journeyworker. The bill:

- Expands the definitions of apprenticeship and preapprenticeship programs by specifying that the organized course of instruction associated with the two programs include, but not be limited to, industry certifications that are identified on the industry certification funding list and adopted in rule by the State Board of Education. Industry certifications demonstrate to potential employers, mastery of specific skills, abilities, and competencies associated with such industry-approved certifications.
- Clarifies, in its definition, that a journeyworker is a mentor, technician, specialist, or other skilled worker who has documented attainment of skills and knowledge of an occupation, through formal apprenticeship, attainment of a nationally-recognized industry certification,

[30] Apprenticeship Carolina™ SC Technical College System, *About Us*, http://www.apprenticeshipcarolina.com/about.html (last visited March 2, 2015).

or practical, on-the-job experience or formal training. The bill also makes conforming changes to relevant statutes to reflect the change to the definition of a journeyworker.

The bill provides an effective date of July 1, 2015.

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:

PCS/SB 1522 requires the preparation of reports, revision of the Department of Education's web-based application to include information on apprenticeship and preapprenticeship programs, and staff time for collaboration between the Department of Education and the Department of Economic Opportunity; however, it is assumed that these efforts can be accomplished within existing agency resources. The bill has no fiscal impact.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 446.021, 446.032, 446.052, and 446.091.

This bill creates an undesignated section of Florida law.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

Recommended CS by Appropriations Subcommittee on Education on April 8, 2015:
The committee substitute:

- Clarifies the responsibilities of the Department of Education regarding collaboration with the Department of Economic Opportunity to identify, develop, and register apprenticeship and preapprenticeship programs.
- Clarifies that the annual accountability report must include regional information related to program usage, student demographics and performance outcomes, and program requirements for existing and new programs.
- Requires the DOE to collaborate with CareerSource Florida, Inc., in addition to the DEO, to prepare an operational report which must also include:
  - A summary of activities and coordination between the DOE and the DEO to identify, develop, register, and administer apprenticeship and preapprenticeship programs over the last five years.
  - Recommendations to maximize resources of the DOE and the DEO to gain efficiencies in program development, administration, and funding.
  - An evaluation of the feasibility of linking the DOE's information on apprenticeship and preapprenticeship programs with the DEO and CareerSource Florida, Inc. workforce information system.
- Establishes July 1, 2016 as the expiration date for the provisions related to the operational report.
- Amends the definition of "journeyworker" to include the attainment of nationally-recognized industry certifications as a way to demonstrate mastery of skills and competencies required for an occupation.

B. Amendments:

None.

309968

576-03707-15

Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on Education)

A bill to be entitled

An act relating to workforce training; amending s. 446.021, F.S.; redefining terms; amending s. 446.032, F.S.; conforming a provision to changes made by the act; requiring the Department of Education, in collaboration with the Department of Economic Opportunity, to identify and recommend specified apprenticeship programs; requiring the department to annually submit an accountability report with specified requirements to the Governor, the Legislature, and the Higher Education Coordinating Council; requiring the department to post on its Internet website specified information regarding apprenticeship programs; amending s. 446.052, F.S.; requiring the Department of Education, in collaboration with the Department of Economic Opportunity, to identify and recommend specified preapprenticeship programs; requiring the department to annually submit an accountability report with specified content to the Governor, the Legislature, and the Higher Education Coordinating Council; requiring the department to post on its Internet website specified information regarding preapprenticeship programs; requiring the Department of Education, in collaboration with the Department of Economic Opportunity to submit an operational report to the Governor, the Legislature, and the Higher

309968

576-03707-15

Education Coordinating Council with specified information; amending s. 446.091, F.S.; conforming a provision to changes made by the act; providing an effective date.

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

Section 1. Subsections (2), (4), (5), and (6) of section 446.021, Florida Statutes, are amended to read:

446.021 Definitions of terms used in ss. 446.011-446.092.—As used in ss. 446.011-446.092, the term:

(2) "Apprentice" means a person at least 16 years of age who is engaged in learning a recognized skilled trade through actual work experience under the supervision of journeyworker ~~journeymen~~ craftsmen, which training should be combined with properly coordinated studies of related technical and supplementary subjects, and who has entered into a written agreement, which may be cited as an apprentice agreement, with a registered apprenticeship sponsor who may be ~~either~~ an employer, an association of employers, or a local joint apprenticeship committee.

(4) "Journeyworker" ~~"Journeyman"~~ means a worker who has attained certain skills, abilities, and competencies and who is recognized within an industry as having mastered the skills and competencies required for the occupation, including, but not limited to, attainment of a nationally recognized industry certification. The term includes a mentor, technician, specialist, or other skilled worker who has documented sufficient skills and knowledge of an occupation, through formal

apprenticeship, attainment of a nationally recognized industry certification, or through practical, on-the-job experience or formal training ~~a person working in an apprenticeable occupation who has successfully completed a registered apprenticeship program or who has worked the number of years required by established industry practices for the particular trade or occupation~~.

(5) "Preapprenticeship program" means an organized course of instruction, including, but not limited to, industry certifications identified under s. 1008.44, in the public school system or elsewhere, which course is designed to prepare a person 16 years of age or older to become an apprentice and which course is approved by and registered with the department and sponsored by a registered apprenticeship program.

(6) "Apprenticeship program" means an organized course of instruction, including, but not limited to, industry certifications identified under s. 1008.44, registered and approved by the department, which course shall contain all terms and conditions for the qualifications, recruitment, selection, employment, and training of apprentices including such matters as the requirements for a written apprenticeship agreement.

Section 2. Section 446.032, Florida Statutes, is amended to read:

446.032 General duties of the department for apprenticeship training.—The department shall:

(1) Establish uniform minimum standards and policies governing apprentice programs and agreements. The standards and policies shall govern the terms and conditions of the apprentice's employment and training, including the quality

training of the apprentice for, but not limited to, such matters as ratios of apprentices to journeyworkers ~~journeymen~~, safety, related instruction, and on-the-job training; but these standards and policies may not include rules, standards, or guidelines that require the use of apprentices and job trainees on state, county, or municipal contracts. The department may adopt rules necessary to administer the standards and policies.

(2) Establish procedures to be used by the State Apprenticeship Advisory Council.

(3) Collaborate with the Department of Economic Opportunity to identify, develop, and register apprenticeship programs that are aligned with statewide demand for a skilled labor force in high-demand occupations and with regional workforce needs. Beginning in the 2015-2016 fiscal year, the department shall annually, by December 31, submit an accountability report, which must include information related to program usage, student demographics and performance outcomes, and program requirements for the existing apprenticeship and preapprenticeship programs and the development of new programs. The report must include regional information about program and student performance outcomes. The report must be submitted to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Higher Education Coordinating Council.

(4) Post on its Internet website information regarding apprenticeship programs, which must, at a minimum, include:

(a) Program admission requirements;

(b) Program standards and training requirements; and

(c) A summary of program and student performance outcomes.

Section 3. Subsections (5) and (6) are added to section

446.052, Florida Statutes, to read:

446.052 Preapprenticeship program.—

(5) The department shall collaborate with the Department of Economic Opportunity to identify, develop, and register preapprenticeship programs that are aligned with statewide demand for a skilled labor force in high-demand occupations and with regional workforce needs. Beginning in the 2015-2016 fiscal year, the department shall annually, by December 31, submit an accountability report, which must include information related to program usage, student demographics and performance outcomes, and program requirements for the existing apprenticeship and preapprenticeship programs and the development of new programs. The report must include regional information about program and student performance outcomes. The report must be submitted to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Higher Education Coordinating Council.

(6) The department shall post on its Internet website information regarding preapprenticeship programs, which must, at a minimum, include:

(a) Program admission requirements;

(b) Program standards and training requirements; and

(c) A summary of program and student performance outcomes.

Section 4. Preapprenticeship and apprenticeship operational report.—(1) By December 31, 2015, the Department of Education, in collaboration with the Department of Economic Opportunity and CareerSource Florida, Inc., shall submit an operational report to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Higher Education Coordinating

Council providing:

(a) A summary of the activities and coordination between the two agencies to identify, develop, register, and administer preapprenticeship and apprenticeship programs over the last 5 years.

(b) The strategies employed by the two agencies to engage school districts, Florida College System institutions, technical centers, businesses, and other stakeholders as partners in the workforce system to expand employment opportunities for individuals, including, but not limited to, those individuals with unique abilities, which must include work-based learning experiences, such as preapprenticeships and apprenticeships.

(c) Recommendations to maximize the resources of the two agencies to gain efficiency in program development, administration, and funding and make program governance changes to improve the delivery and management of preapprenticeship and apprenticeship programs based on workforce demands. These recommendations must take into account federal resources and must include any necessary or suggested changes to the programs ensuing from implementation of the Workforce Innovation and Opportunity Act of 2014 and related regulations.

(d) Recommendations and strategies for the two agencies to communicate effectively with employers in this state and ensure that employers have access to information and consultative services, at no cost to the employers, regarding sponsorship of demand-driven, registered preapprenticeship and apprenticeship programs and information about the availability of program students for employment.

(e) An evaluation of the feasibility of linking or

173 incorporating, and of the resources necessary to link or
174 incorporate, the Department of Education's website information
175 on preapprenticeship and apprenticeship programs with the
176 Department of Economic Opportunity and CareerSource Florida,
177 Inc., workforce information system required under chapter 445,
178 Florida Statutes.
179 (2) This section expires on July 1, 2016.
180 Section 5. Section 446.091, Florida Statutes, is amended to
181 read:
182 446.091 On-the-job training program.—All provisions of ss.
183 446.011-446.092 relating to apprenticeship and
184 preapprenticeship, including, but not limited to, programs,
185 agreements, standards, administration, procedures, definitions,
186 expenditures, local committees, powers and duties, limitations,
187 grievances, and ratios of apprentices and job trainees to
188 journeyworkers ~~journeymen~~ on state, county, and municipal
189 contracts, shall be appropriately adapted and made applicable to
190 a program of on-the-job training authorized under those
191 provisions for persons other than apprentices.
192 Section 6. This act shall take effect July 1, 2015.

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 Appropriations

BILL: CS/SB 1522

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Education); and Senator Detert

SUBJECT: Workforce Training

DATE: April 23, 2015 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Graf	Klebacha	HE	**Favorable**
2.	Sikes	Elwell	AED	**Recommend: Fav/CS**
3.	Sikes	Kynoch	AP	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1522 requires the Department of Education (DOE) and the Department of Economic Opportunity (DEO) to collaborate to improve preapprenticeship and apprenticeship programs; and requires the DOE to submit to the Governor, President of the Senate, Speaker of the House of Representatives, and the Higher Education Coordinating Council, program accountability and operational reports.

Specifically, the bill:

- Revises the definition of "journeyman" to "journeyworker" and associated responsibilities.
- Adds industry certifications as an organized course of instruction in preapprenticeship and apprenticeship programs.
- Requires the DOE and the DEO to identify and recommend apprenticeship and preapprenticeship programs that are aligned with the state and regional workforce needs.

The bill has no fiscal impact on state funds.

The bill provides an effective date of July 1, 2015.

II. Present Situation:

Registered Apprenticeship (RA) "connects job seekers looking to learn new skills with employers looking for qualified workers, resulting in a workforce with industry-driven training and employers with a competitive edge."[1]

Federal Law

The United States Congress enacted the National Apprenticeship Act (also known as the Fitzgerald Act in honor of its author, Congressman William J. Fitzgerald)[2] in 1937.[3] Following the passage of the act, RA programs consisted mainly of manufacturing, construction, and utilities industries.[4] Since 1937, RA programs have grown to 24,000 programs providing education and training to approximately 400,000 apprentices in emerging and high-growth sectors such as energy conservation, health care, and information technology, in addition to traditional industries such as manufacturing and construction.[5] "As the need for skilled workers increases and our economy faces greater global competition, RA continues to be a competitive advantage for all parties-individuals, businesses, labor management organizations, education, the workforce investment system and government. For these reasons, [the Employment and Training Administration, U.S. Department of Labor] issued revised regulations that increase program flexibility to better serve the needs of today's apprentices and program sponsors."[6]

For apprentices and program sponsors, the regulations:[7]

- Incorporate technology-based learning;
- Provide additional pathways to certification;
- Introduce interim credentials;
- Improve registration and review process;
- Update the reciprocal registration provision; and
- Introduce provisional registration.

For State Apprenticeship Agencies (SSAs), the regulations:[8]

- Increase linkages with the workforce investment system;
- Redefine the roles and responsibilities of SSAs and State Apprenticeship Councils (SACs);
- Establish a process for continued recognition; and
- Increase flexibility for location of an SSA.

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[1] U.S. Department of Labor, *Apprentices*, http://www.doleta.gov/oa/apprentices.cfm (last visited March 2, 2015).
[2] U.S. Department of Labor, *Workforce System Results* (Sep. 30, 2012), *available at* http://www.doleta.gov/Farmworker/pdf/workforceSystemResultsSept2012.pdf, at 4 of 38.
[3] U.S. Department of Labor, *Registered Apprenticeship*, http://www.doleta.gov/oa/history.cfm (last visited March 2, 2015); *see* 29 U.S.C., s. 50.
[4] U.S. Department of Labor, *Registered Apprenticeship*, http://www.doleta.gov/oa/history.cfm (last visited March 2, 2015).
[5] *Id*.
[6] *Id*. "These revised regulations published, on October 29, 2008, update Title 29 CFR, part 29 and provide a framework that supports an enhanced, modernized apprenticeship system." U.S. Department of Labor, *Regulations*, http://www.doleta.gov/oa/regulations.cfm (last visited March 2, 2015).
[7] U.S. Department of Labor, *Apprenticeship Final Rule Fact Sheet*, *available at* http://www.doleta.gov/oa/pdf/Apprenticeship_Final_Fact_Sheet.pdf, at 1-2 of 4.
[8] U.S. Department of Labor, *Apprenticeship Final Rule Fact Sheet*, *available at* http://www.doleta.gov/oa/pdf/Apprenticeship_Final_Fact_Sheet.pdf, at 2-3 of 4.

For the U.S. Department of Labor, the regulations:[9]

- Enhance program accountability; and
- Ensure national conformity with federal apprenticeship legislation and regulations.

Eligibility and Requirements

Registered apprenticeship program sponsors (i.e., employers, employer associations, and labor management organizations)[10] identify the minimum qualifications to apply into their apprenticeship program.[11] An individual must be at least 16 years of age to be an apprentice.[12] In hazardous occupations, individuals must usually be 18 years of age.[13] Program sponsors may also identify additional minimum qualifications and credentials to apply (e.g., education, ability to physically perform the essential functions of the occupation, and proof of age). All applicants are required to meet the minimum qualifications. Based on the selection method utilized by the sponsor, additional qualification standards, such as fair aptitude tests and interviews, school grades, and previous work experience may be identified.[14]

Program Length

Apprenticeship programs range from 1 year to 6 years, but the majority are 4 years in length.[15] During the program, the apprentice receives both structured, on-the-job learning (OJL) and related classroom instruction (RTI).[16] For each year of the apprenticeship, the apprentice typically receives 2,000 hours of on-the-job training and a recommended minimum of 144 hours of related classroom instruction.[17]

State Law

Florida law provides educational and training opportunities, in the form of apprenticeship and preapprenticeship programs, to prepare individuals in the state for trades, occupations, and professions suited to their abilities.[18]

An apprenticeship program means "an organized course of instruction, registered and approved by the department, which course shall contain all terms and conditions for the qualifications, recruitment, selection, employment, and training of apprentices[19] including such matters as the

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[9] U.S. Department of Labor, *Apprenticeship Final Rule Fact Sheet*, *available at* http://www.doleta.gov/oa/pdf/Apprenticeship_Final_Fact_Sheet.pdf, at 3 of 4.

[10] Registered Apprenticeship program sponsors vary from small, privately owned businesses to national employer and industry associations. There are nearly 29,000 sponsors representing more than 250,000 employers, such as UPS, the United States Military Apprenticeship Program, Werner Enterprises, and CVS/pharmacy. U.S. Department of Labor, *Apprentices*, http://www.doleta.gov/oa/apprentices.cfm (last visited March 2, 2015).

[11] U.S. Department of Labor, *Apprentices*, http://www.doleta.gov/oa/apprentices.cfm (last visited March 2, 2015).

[12] *Id*.

[13] U.S. Department of Labor, *Apprentices*, http://www.doleta.gov/oa/apprentices.cfm (last visited March 2, 2015).

[14] *Id*.

[15] U.S. Department of Labor, *Apprentices*, http://www.doleta.gov/oa/apprentices.cfm (last visited March 2, 2015).

[16] *Id*.

[17] *Id*.

[18] Section 446.011(1), F.S.

[19] An apprentice means "a person at least 16 years of age who is engaged in learning a recognized skilled trade through actual work experience under the supervision of journeyman craftsmen, which training should be combined with properly

requirements for a written apprenticeship agreement."[20] A preapprenticeship program means "an organized course of instruction in the public school system or elsewhere, which course is designed to prepare a person 16 years of age or older to become an apprentice and which course is approved by and registered with the department and sponsored by a registered apprenticeship program."[21]

Duties of the Department of Education

The Department of Education (DOE or department) is responsible for administering, facilitating, and supervising registered apprenticeship programs (e.g., developing and encouraging apprenticeship programs, cooperating with and assisting apprenticeship sponsors to develop apprenticeship standards and training requirements, monitoring RA programs, investigating complaints regarding failure to meet the standards[22] established by the department, and canceling registration of programs that fail to comply with the standards and policies of the department).[23]

Additionally, the department, the district school boards, and the community college district boards of trustees must work together with existing apprenticeship programs so that individuals completing the preapprenticeship programs may be able to receive credit towards completing a registered apprenticeship program.[24]

The Commissioner of Education (commissioner) must recommend, at least annually, the CAPE Postsecondary Industry Certification Funding List to the State Board of Education (SBE or state board) and may at any time recommend adding industry certifications.[25] The Chancellor of the State University System, the Chancellor of the Florida College System, and the Chancellor of Career and Adult Education must work with local workforce boards, other postsecondary institutions, businesses, and industry to identify, create, and recommend to the commissioner industry certifications to be placed on the funding list.[26]

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coordinated studies of technical and supplementary subjects, and who has entered into a written agreement, which may be cited as an apprentice agreement, with a registered apprenticeship sponsor who may be either an employer, an association of employers, or a local joint apprenticeship committee." Section 446.021(2), F.S. A journeyman means "a person working in an apprenticeable occupation who has successfully completed a registered apprenticeship program or who has worked the number of years required by established industry practices for the particular trade or occupation." Section 446.021(4), F.S. An apprenticeable occupation is a skilled trade which possesses all of the characteristics that are specified in law (e.g., customarily learned in a practical way through a structures, systemic program of on-the-job, supervised training and involves manual, mechanical, or technical skills and knowledge which require a minimum of 2,000 hours of work and training, which hours are excluded from the time spent at related instruction). Section 446.092, F.S.

[20] Section 446.021(6), F.S.

[21] Section 446.021(5), F.S.

[22] The Department of Education (DOE or department) is responsible for developing apprenticeship and preapprenticeship uniform minimum standards for the apprenticeable trades and assisting district school boards and community college district boards of trustees in developing preapprenticeship programs. Sections 446.011(2), 446.032, and 446.052, F.S. Uniform minimum preapprenticeship standards means "the minimum requirements established uniformly for each craft under which a preapprenticeship program is administered and includes standards for admission, training goals, training objectives, curriculum outlines, objective standards to measure successful completion of the preapprenticeship program, and the percentage of credit which may be given to preapprenticeship graduates upon acceptance into the apprenticeship program." Section 446.021(8), F.S.

[23] Section 446.041, F.S.

[24] Section 446.052(3), F.S.

[25] Section 1008.44(2), F.S.

[26] *Id*.

State Apprenticeship Advisory Council

The purpose of the State Apprenticeship Advisory Council (Council) is to advise the department on matters related to apprenticeship.[27] The Council is comprised of 10 voting members appointed by the Governor and two ex officio nonvoting members.[28] The Commissioner of Education or the commissioner's designee must serve ex officio as chair of the Council, but may not vote.[29]

III. Effect of Proposed Changes:

The bill primarily fosters collaboration between the Department of Education (DOE) and the Department of Economic Opportunity (DEO) to identify and recommend apprenticeship and preapprenticeship programs that are aligned with the state and regional workforce needs and requires the DOE to submit to the Governor, President of the Senate, Speaker of the House of Representatives, and the Higher Education Coordinating Council, program accountability and operational reports. This provision will facilitate the engagement of both the educational entities and the business community, as partners, in preparing individuals with the necessary skills to secure gainful employment and meet the workforce needs of the state. In addition, the bill also amends definition of apprenticeship and preapprenticeship programs and journeyworker.

The bill specifies accountability and operational reporting requirements for the DOE and the DEO regarding preapprenticeship and apprenticeship programs.

Annual Accountability Report

The bill requires the DOE to collaborate with the DEO to identify, develop, and register apprenticeship and preapprenticeship programs that are aligned with the statewide demand for a skilled labor force in high-demand occupations and to regional workforce needs. Beginning with the 2015-2016 fiscal year, annually by December 31, the DOE must, in collaboration with the DEO, submit to the Governor, President of the Senate, Speaker of the House of Representatives, and the Higher Education Coordinating Council, an accountability report on program usage, student demographics and performance outcomes, and program requirements for existing and new programs. The accountability report must also include regional information regarding program and student performance outcomes. The accountability report may assist with creating a purposeful approach for the state to strategically invest in apprenticeship and preapprenticeship programs based on employers' needs.

In addition, the DOE must post on the department website, program information which, at a minimum, must include program admission requirements, program standards and training requirements, and a summary of program and student performance outcomes. Such information may create public awareness about the apprenticeship and preapprenticeship programs which could boost program enrollment and sponsorship.

[27] Section 446.045(2)(a), F.S.
[28] *Id*.
[29] Section 446.045(2)(b), F.S.

Operational Report

The bill requires the DOE, in collaboration with the DEO and CareerSource Florida, Inc., to submit to the Governor, President of the Senate, Speaker of the House of Representatives, and the Higher Education Coordinating Council, an operational report by December 31, 2015. The operational report must summarize:

- The activities and coordination between the DOE and the DEO to identify, develop, register, and administer preapprenticeship and apprenticeship programs over the last five years.
- The strategies employed by the DOE and the DEO to engage school districts, Florida College System institutions, technical centers, and businesses as partners in the workforce system to expand employment opportunities for individuals including, but not limited to, individuals with unique abilities, which must include work-based learning experiences such as apprenticeships and preapprenticeships. The partnership may facilitate the consolidation of efforts to educate and train individuals to meet workforce needs of the state.
- Recommendations made by the DOE and the DEO to gain efficiency in program funding and make program governance changes to improve the delivery and management of apprenticeship and preapprenticeship programs based on workforce needs.
- Recommendations and strategies for the DEO to ensure that employers in the state have access to information and consultative services, at no cost to the employers, regarding sponsorship of demand-driven registered apprenticeship and preapprenticeship programs. This provision is similar to the mission of South Carolina's Apprenticeship Carolina™ program which is to make "certain all employers in South Carolina have access to information and consultative services, at no charge, regarding sponsorship of a demand-driven registered apprenticeship program."[30] The goal of the provision is that businesses in Florida be able to access the necessary information to start or continue sponsoring apprenticeship and preapprenticeship programs.
- An evaluation of the feasibility of linking or incorporating, and of the resources necessary to link or incorporate, the Department of Education's website information on preapprenticeship and apprenticeship programs with the Department of Economic Opportunity and CareerSource Florida, Inc., workforce information system required under chapter 445, Florida Statutes.

Additionally, the bill modifies the definition of preapprenticeship and apprenticeship programs and journeyworker. The bill:

- Expands the definitions of apprenticeship and preapprenticeship programs by specifying that the organized course of instruction associated with the two programs include, but not be limited to, industry certifications that are identified on the industry certification funding list and adopted in rule by the State Board of Education. Industry certifications demonstrate to potential employers, mastery of specific skills, abilities, and competencies associated with such industry-approved certifications.
- Clarifies, in its definition, that a journeyworker is a mentor, technician, specialist, or other skilled worker who has documented attainment of skills and knowledge of an occupation, through formal apprenticeship, attainment of a nationally-recognized industry certification,

[30] Apprenticeship Carolina™ SC Technical College System, *About Us*, http://www.apprenticeshipcarolina.com/about.html (last visited March 2, 2015).

or practical, on-the-job experience or formal training. The bill also makes conforming changes to relevant statutes to reflect the change to the definition of a journeyworker.

The bill provides an effective date of July 1, 2015.

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:

CS/SB 1522 requires the preparation of reports, revision of the Department of Education's web-based application to include information on apprenticeship and preapprenticeship programs, and staff time for collaboration between the Department of Education and the Department of Economic Opportunity; however, it is assumed that these efforts can be accomplished within existing agency resources. The bill has no fiscal impact.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 446.021, 446.032, 446.052, and 446.091.

This bill creates an undesignated section of Florida law.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

CS by Appropriations on April 21, 2015:
The committee substitute:

- Clarifies the responsibilities of the Department of Education regarding collaboration with the Department of Economic Opportunity to identify, develop, and register apprenticeship and preapprenticeship programs.
- Clarifies that the annual accountability report must include regional information related to program usage, student demographics and performance outcomes, and program requirements for existing and new programs.
- Requires the DOE to collaborate with CareerSource Florida, Inc., in addition to the DEO, to prepare an operational report which must also include:
  - A summary of activities and coordination between the DOE and the DEO to identify, develop, register, and administer apprenticeship and preapprenticeship programs over the last five years.
  - Recommendations to maximize resources of the DOE and the DEO to gain efficiencies in program development, administration, and funding.
  - An evaluation of the feasibility of linking the DOE's information on apprenticeship and preapprenticeship programs with the DEO and CareerSource Florida, Inc. workforce information system.
- Establishes July 1, 2016 as the expiration date for the provisions related to the operational report.
- Amends the definition of "journeyworker" to include the attainment of nationally-recognized industry certifications as a way to demonstrate mastery of skills and competencies required for an occupation.

B. Amendments:

None.

By Senator Detert

28-00993A-15 20151522__

A bill to be entitled

An act relating to workforce training; amending s. 446.021, F.S.; redefining terms; amending s. 446.032, F.S.; conforming a provision to changes made by the act; requiring the Department of Education, in collaboration with the Department of Economic Opportunity, to identify and recommend specified apprenticeship programs; requiring the department to annually submit an accountability report with specified requirements to the Governor, the Legislature, and the Higher Education Coordinating Council; requiring the department to post on its Internet website specified information regarding apprenticeship programs; amending s. 446.052, F.S.; requiring the Department of Education, in collaboration with the Department of Economic Opportunity, to identify and recommend specified preapprenticeship programs; requiring the department to annually submit an accountability report with specified requirements to the Governor, the Legislature, and the Higher Education Coordinating Council; requiring the department to post on its Internet website specified information regarding preapprenticeship programs; requiring the Department of Education, in collaboration with the Department of Economic Opportunity to submit an operational report to the Governor, the Legislature, and the Higher Education Coordinating Council with specified information; amending s. 446.091, F.S.; conforming a

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

28-00993A-15 20151522__

provision to changes made by the act; providing an effective date.

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

Section 1. Subsections (2), (4), (5), and (6) of section 446.021, Florida Statutes, are amended to read:

446.021 Definitions of terms used in ss. 446.011-446.092.—As used in ss. 446.011-446.092, the term:

(2) "Apprentice" means a person at least 16 years of age who is engaged in learning a recognized skilled trade through actual work experience under the supervision of journeyworker ~~journeymen~~ craftsmen, which training should be combined with properly coordinated studies of related technical and supplementary subjects, and who has entered into a written agreement, which may be cited as an apprentice agreement, with a registered apprenticeship sponsor who may be ~~either~~ an employer, an association of employers, or a local joint apprenticeship committee.

(4) "Journeyworker" ~~"Journeyman"~~ means a worker who has attained certain skills, abilities, and competencies and who is recognized within an industry as having mastered the skills and competencies required for the occupation. The term includes a mentor, technician, or specialist or any other skilled worker who has documented sufficient skills and knowledge of an occupation, through formal apprenticeship or through practical, on-the-job experience or formal training ~~a person working in an apprenticeable occupation who has successfully completed a registered apprenticeship program or who has worked the number~~

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59 ~~of years required by established industry practices for the~~
60 ~~particular trade or occupation~~.
61 (5) "Preapprenticeship program" means an organized course
62 of instruction, including, but not limited to, industry
63 certifications identified under s. 1008.44, in the public school
64 system or elsewhere, which course is designed to prepare a
65 person 16 years of age or older to become an apprentice and
66 which course is approved by and registered with the department
67 and sponsored by a registered apprenticeship program.
68 (6) "Apprenticeship program" means an organized course of
69 instruction, including, but not limited to, industry
70 certifications identified under s. 1008.44, registered and
71 approved by the department, which course shall contain all terms
72 and conditions for the qualifications, recruitment, selection,
73 employment, and training of apprentices including such matters
74 as the requirements for a written apprenticeship agreement.
75 Section 2. Section 446.032, Florida Statutes, is amended to
76 read:
77 446.032 General duties of the department for apprenticeship
78 training.—The department shall:
79 (1) Establish uniform minimum standards and policies
80 governing apprentice programs and agreements. The standards and
81 policies shall govern the terms and conditions of the
82 apprentice's employment and training, including the quality
83 training of the apprentice for, but not limited to, such matters
84 as ratios of apprentices to journeyworkers ~~journeymen~~, safety,
85 related instruction, and on-the-job training; but these
86 standards and policies may not include rules, standards, or
87 guidelines that require the use of apprentices and job trainees

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88 on state, county, or municipal contracts. The department may
89 adopt rules necessary to administer the standards and policies.
90 (2) Establish procedures to be used by the State
91 Apprenticeship Advisory Council.
92 (3) Collaborate with the Department of Economic Opportunity
93 to identify and recommend apprenticeship programs that are
94 aligned with statewide demand for a skilled labor force in high-
95 demand occupations and to regional workforce needs. Beginning in
96 the 2015-2016 fiscal year, the department must annually, by
97 December 31, submit an accountability report, which must include
98 the status and summary information regarding program and student
99 performance outcomes and requirements associated with
100 apprenticeship programs, to the Governor, the President of the
101 Senate, the Speaker of the House of Representatives, and the
102 Higher Education Coordinating Council.
103 (4) Post on its Internet website information regarding
104 apprenticeship programs, which must, at a minimum, include:
105 (a) Program admission requirements;
106 (b) Program standards and training requirements; and
107 (c) A summary of program and student performance outcomes.
108 Section 3. Subsections (5) and (6) are added to section
109 446.052, Florida Statutes, to read:
110 446.052 Preapprenticeship program.—
111 (5) The department shall collaborate with the Department of
112 Economic Opportunity to identify and recommend preapprenticeship
113 programs that are aligned with statewide demand for a skilled
114 labor force in high-demand occupations and to regional workforce
115 needs. Beginning in the 2015-2016 fiscal year, the department
116 must annually, by December 31, submit an accountability report,

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

which must include the status and summary information regarding program and student performance outcomes and requirements associated with preapprenticeship programs, to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Higher Education Coordinating Council.

(6) The department shall post on its Internet website information regarding preapprenticeship programs, which must, at a minimum, include:

(a) Program admission requirements;

(b) Program standards and training requirements; and

(c) A summary of program and student performance outcomes.

Section 4. Preapprenticeship and apprenticeship operational report.—By December 31, 2015, the Department of Education, in collaboration with the Department of Economic Opportunity, shall submit an operational report to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Higher Education Coordinating Council summarizing:

(1) The strategies employed by the Department of Education and the Department of Economic Opportunity to engage school districts, Florida College System institutions, technical centers, and businesses as partners in the workforce system to expand employment opportunities for individuals, including, but not limited to, those individuals with unique abilities, which must include work-based learning experiences, such as preapprenticeships and apprenticeships.

(2) Recommendations made by the Department of Education and the Department of Economic Opportunity to gain efficiency in program funding and make program governance changes to improve the delivery and management of preapprenticeship and

apprenticeship programs based on workforce needs.

(3) Recommendations and strategies for the Department of Economic Opportunity to ensure that employers in the state have access to information and consultative services, at no cost to the employers, regarding sponsorship of demand-driven, registered preapprenticeship and apprenticeship programs.

Section 5. Section 446.091, Florida Statutes, is amended to read:

446.091 On-the-job training program.—All provisions of ss. 446.011-446.092 relating to apprenticeship and preapprenticeship, including, but not limited to, programs, agreements, standards, administration, procedures, definitions, expenditures, local committees, powers and duties, limitations, grievances, and ratios of apprentices and job trainees to journeyworkers ~~journeymen~~ on state, county, and municipal contracts, shall be appropriately adapted and made applicable to a program of on-the-job training authorized under those provisions for persons other than apprentices.

Section 6. This act shall take effect July 1, 2015.

The Florida Senate

Committee Agenda Request

To: Senator Tom Lee, Chair
Committee on Appropriations

Subject: Committee Agenda Request

Date: April 8, 2015

I respectfully request that **Senate Bill #1522**, relating to Workforce Training, be placed on the:

☐ committee agenda at your earliest possible convenience.

☒ next committee agenda.

Senator Nancy C. Detert
Florida Senate, District 28

File signed original with committee office

S-020 (03/2004)

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 Appropriations

BILL: PCS/CS/SB 1538 (135364)

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on General Government); Communications, Energy, and Public Utilities Committee; and Senator Simpson

SUBJECT: Natural Gas Rebate Program

DATE: April 20, 2015 REVISED: _____ _____ _____ _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wiehle	Caldwell	CU	**Fav/CS**
2.	Blizzard	DeLoach	AGG	**Recommend: Fav/CS**
3.	Blizzard	Kynoch	AP	**Pre-meeting**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/CS/SB 1538 amends section 377.810, Florida Statutes, to authorize the Department of Agriculture and Consumer Services (DACS) to use unencumbered funds from the natural gas fuel fleet vehicle rebate program for additional or new rebates.

The bill also creates a heavy transportation industry natural gas rebate program within the DACS. The DACS is authorized to award rebates for "eligible costs," a term defined to mean the cost of conversion, purchase, or lease of a locomotive, ship, or high horsepower engines which use natural gas fuel and which is placed into service on or after January 1, 2015.

The rebate:

- May not exceed 50 percent of the eligible costs of a natural gas locomotive or ship with a dedicated or bi-fuel natural gas fuel operating system placed into service on or after January 1, 2015;
- Is limited to a maximum of $500,000 per vehicle;
- Is limited to a total of $1,000,000 per applicant per fiscal year; and
- Is limited to fuel powered natural gas locomotives and ships that comply with applicable United States Environmental Protection Agency emission standards.

To receive a rebate, an applicant must submit to the DACS an application which meets specified requirements as to content. The total amount of rebates in each fiscal year may not exceed the amount appropriated for the program in that fiscal year. Rebates are to be allocated to eligible applicants on a first-come, first-served basis, determined by the date the application is received, until all appropriated funds for the fiscal year are expended or the program ends, whichever comes first. Incomplete applications will not be accepted and do not secure a place in the first-come, first-served application process. The bill requires the DACS to determine and publish on its website, on a continuing basis, the amount of available funding for rebates remaining in each fiscal year.

The bill authorizes the DACS to adopt rules to implement and administer this section by January 1, 2016. By December 1, 2016, and each subsequent year of the rebate program, the DACS must provide an assessment of the program to the Executive Office of the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Office of Program Policy Analysis and Government Accountability.

The bill authorizes an appropriation to the DACS from the General Revenue Fund beginning in the 2015-2016 fiscal year through the 2019-2020 fiscal year, for the heavy transportation industry natural gas rebate program, but does not provide a specific amount of funding. The DACS has indicated it will require one position and $67,131 from the General Revenue Fund to implement the provisions in this bill.

The bill provides an effective date of July 1, 2015.

II. Present Situation:

Section 377.810, F.S., creates the natural gas fuel fleet vehicle rebate program within the DACS for the purpose of helping to reduce transportation costs in this state and encourage freight mobility investments that contribute to the economic growth of the state.

Forty percent of the annual refund allocation is reserved for governmental applicants, with the remaining funds allocated for commercial applicants. A rebate may not exceed 50 percent of the eligible costs of a natural gas fuel fleet vehicle with a dedicated or bi-fuel natural gas fuel operating system placed into service on or after July 1, 2013. An applicant is eligible to receive a maximum rebate of $25,000 per vehicle up to a total of $250,000 per fiscal year. All natural gas fuel fleet vehicles eligible for the rebate must comply with applicable United States Environmental Protection Agency emission standards.

An applicant seeking to obtain a rebate must submit an application to the DACS by a specified date each year as established by department rule. The application must include:

- A complete description of all eligible costs,
- Proof of purchase or lease of the vehicle for which the applicant is seeking a rebate,
- A copy of the vehicle registration certificate,
- A description of the total rebate sought by the applicant,
- An affidavit from the applicant certifying that all information contained in the application is true and correct; and
- Any other information deemed necessary by the DACS.

The total amount of rebates allocated to certified applicants in each fiscal year may not exceed the amount appropriated for the program in the fiscal year. Rebates are allocated to eligible applicants on a first-come, first-served basis, determined by the date the application is received, until all appropriated funds for the fiscal year are expended or the program ends, whichever comes first. Incomplete applications submitted to the DACS are not accepted and do not secure a place in the first-come, first-served application process.

The DACS is required to determine and publish on its website, on an ongoing basis, the amount of available funding for rebates remaining in each fiscal year.

By October 1 of each year that the program is funded, the DACS must provide an annual assessment of the use of the rebate program during the previous fiscal year to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Office of Program Policy Analysis and Government Accountability. The assessment must include, at a minimum, the following information:

- The name of each applicant awarded a rebate;
- The amount of the rebates awarded to each applicant;
- The type and description of each eligible vehicle for which each applicant applied for a rebate; and
- The aggregate amount of funding awarded for all applicants claiming rebates.

By January 31, 2016, the Office of Program Policy Analysis and Government Accountability must release a report reviewing the rebate program to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The review must include an analysis of the economic benefits resulting to the state from the program.

Currently, there is no state incentive for the conversion to, purchase, or lease of natural gas fuel powered heavy transportation assets such as locomotives, waterborne ships, and high horsepower transportation engines.

III. Effect of Proposed Changes:

The bill amends s. 377.810, F.S., to authorize the DACS to use unencumbered natural gas fuel fleet vehicle rebate program funds for additional or new rebates. The DACS is authorized to receive additional applications between June 1 and June 30 from applicants that have reached the program maximum of $250,000 per fiscal year. The bill authorizes the DACS to expend unencumbered funds remaining after June 30 of each fiscal year to award additional or new rebates, with preference given to governmental applicants. Any remaining unencumbered funds may be expended for commercial applicant rebates. Applicants are eligible to receive rebates on a first-come, first-served basis, until all funds for the fiscal year are expended or the program ends, whichever comes first.

The bill creates a heavy transportation industry natural gas rebate program within the DACS for the purpose of helping to reduce transportation costs in this state, encouraging the use of a domestic fuel source, and encouraging freight mobility investments that contribute to the economic growth of the state. The DACS is to award rebates for “eligible costs,” a term defined

to mean the cost of conversion[1] or the incremental cost[2] incurred by an applicant in connection with an investment in the conversion, purchase, or lease lasting at least ten years, of a locomotive, ship, or other high horsepower engine placed into service on or after July 1, 2015.[3]

The rebate:

- May not exceed 50 percent of the eligible costs of a natural gas locomotive or ship with a dedicated or bi-fuel natural gas fuel[4] operating system placed into service on or after January 1, 2015;
- Is limited to a maximum of $500,000 per vehicle;
- Is limited to a total of $1,000,000 per applicant per fiscal year; and
- Is limited to fuel powered natural gas locomotives and ships that comply with applicable United States Environmental Protection Agency emission standards.

To receive a rebate, an applicant must submit an application to the DACS by a date established by department rule. The application must include:

- A complete description of all eligible costs;
- Proof of purchase or lease of the locomotive or ship for which the applicant is seeking a rebate;
- A copy of the vehicle registration certificate;
- A description of the total rebate sought by the applicant;
- An affidavit from the applicant certifying that all information contained in the application is true and correct; and
- Any other information deemed necessary by the DACS and set forth in department rule.

The bill requires the DACS to determine the rebate eligibility of each applicant in accordance with the requirements of this section and department rule. The total amount of rebates allocated to certified applicants in each fiscal year may not exceed the amount appropriated for the program in the fiscal year. Rebates are to be allocated to eligible applicants on a first-come, first-served basis, determined by the date the application is received, until all appropriated funds for the fiscal year are expended or the program ends, whichever comes first. Incomplete applications submitted to the DACS will not be accepted and do not secure a place in the first-come, first-served application process. The DACS is required to determine and publish on its website on an ongoing basis, the amount of available funding for rebates remaining in each fiscal year.

The bill authorizes the DACS to adopt rules to implement and administer this section by December 31, 2015, including rules relating to the forms required to claim a rebate, the required

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[1] The bill defines the term "conversion costs" to mean the excess cost associated with retrofitting a diesel or gasoline powered locomotive or ship to a natural gas fuel powered motor vehicle.
[2] The bill defines the term "incremental costs" to mean the excess costs associated with the purchase or lease of a natural gas fuel powered locomotive or ship as compared to an equivalent diesel- or gasoline-powered locomotive or ship.
[3] The definition expressly excludes costs relating to fueling infrastructure.
[4] The bill defines the term "natural gas fuel" to mean any liquefied petroleum gas product, compressed natural gas product, or combination thereof used in a motor vehicle as defined in s. 206.01(23). This term includes, but is not limited to, all forms of fuel commonly or commercially known or sold as natural gasoline, butane gas, propane gas, or any other form of liquefied petroleum gas, natural gas, or liquefied natural gas. This term does not include natural gas or liquefied petroleum placed in a separate tank of a motor vehicle for cooking, heating, water heating, or electric generation.

documentation and basis for establishing eligibility for a rebate, procedures and guidelines for claiming a rebate, and the collection of economic impact data from applicants.

By December 1, 2016, and each year thereafter that the program is funded, the DACS must provide an annual assessment of the use of the rebate program during the previous fiscal year. The report must be provided to the Executive Office of the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Office of Program Policy Analysis and Government Accountability. The assessment must include, at a minimum:

- The name of each applicant awarded a rebate under this section;
- The amount of the rebates awarded to each applicant;
- The type and description of each eligible locomotive or ship for which each applicant applied for a rebate; and
- The aggregate amount of funding awarded for all applicants claiming rebates under this section.

Beginning in the 2015-2016 fiscal year, and each year thereafter through the 2019-2020 fiscal year, the bill authorizes that the General Appropriations Act may provide a specific appropriation in each fiscal year from the General Revenue Fund to the DACS, for the purpose of funding the heavy transportation industry natural gas rebate program.

The bill takes effect July 1, 2015.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

The bill provides that:

- Rebates are to be awarded for “eligible costs,” a term defined to mean the cost of conversion or the incremental cost incurred by an applicant in connection with an investment in the conversion, purchase, or lease lasting at least 5 years, of a locomotive or ship placed into service on or after January 1, 2015;
- Rebates are to be limited by four express restrictions or conditions;
- To receive a rebate, an application meeting specified requirements must be submitted to the DACS;

- The DACS is authorized to adopt rules to implement and administer the bill's provisions, including rules relating to the basis for establishing eligibility for a rebate; and
- The DACS is required to determine the rebate eligibility of each applicant in accordance with the requirements in the bill and department rule.

It is unclear what additional eligibility requirements the bill contemplates will be established by department rule, and what legislative guidance the bill provides for crafting such rules. Dependent upon how the DACS implements the eligibility provisions, the uncertainty of legislative direction may raise issues of unlawful delegation of legislative authority. For example, the bill's provisions requiring that a vehicle have sufficient usage in Florida to be eligible for a rebate do not appear to apply to a vehicle used for nonhighway transportation purposes that has a high horsepower engine. If the rules created such a requirement, it may be subject to challenge.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

PCS/CS/SB 1538 may provide a rebate to those who own a locomotive or ship and convert it to natural gas fuel, or who purchase or lease a locomotive or ship that uses natural gas fuel.

The bill may benefit importers and suppliers of natural gas fuel, and, to the extent that it creates additional demand for natural gas fuel, may encourage investments in fueling infrastructure in Florida.

C. Government Sector Impact:

Natural Gas Fuel Fleet Vehicle Rebate Program

The bill authorizes the DACS to receive additional applications between June 1 and June 30 of each fiscal year from applicants that have reached the program maximum of $250,000. The DACS is authorized to use unencumbered funds remaining after June 30 of each fiscal year to award additional or new rebates of up to $250,000, with preference given to governmental applicants. Any remaining, unencumbered funds may be expended for commercial applicant rebates. In Fiscal Year 2013-2014, $2,128,397 from the General Revenue Fund was unencumbered and reverted from the natural gas fuel fleet vehicle rebate program.

Heavy Transportation Industry Natural Gas Rebate Program

For the 2015-2016 fiscal year through the 2019-2020 fiscal year, the bill authorizes an appropriation to the DACS from the General Revenue Fund for the heavy transportation

industry natural gas rebate program, but does not provide a specific amount of funding. The DACS advises it will require one position and $61,146 in recurring funds and $5,985 in nonrecurring funds from the General Revenue Fund to implement the provisions in this bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 377.810 of the Florida Statutes.

This bill creates section 377.811 of the Florida Statutes.

IX. Additional Information:

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

Recommended CS/CS by Appropriations Subcommittee on General Government on April 14, 2015:
The committee substitute:

- Authorizes the DACS to expend unencumbered natural gas fuel fleet vehicle rebate program funds on additional applications received between June 1 and June 30 that have met the program maximum of $250,000 per fiscal year; and
- Authorizes the DACS to use unencumbered funds remaining after June 30 each fiscal year to award additional rebates, giving preference to governmental applicants.

CS by Communications, Energy, and Public Utilities on March 24, 2015:

- Amends s. 377.810, F.S., to authorize DACS to use unencumbered natural gas fuel fleet vehicle rebate program funds for additional or new rebates;
- Amends the newly created new heavy transportation industry natural gas rebate program, including:
  - Requiring in the definition of "eligible costs" a lease be for at least 10 years (5 years in the original bill);
  - Adding to the definition of "eligible vehicle" any vehicle with a "high horsepower engine";
  - Defining "high horsepower engine" as one providing more than 1,000 horsepower and used for nonhighway transportation purposes;
  - Deleting the requirement that OPPAGA do an annual report analyzing the benefits to the state resulting from the program; and
  - Inserting an appropriation section that states that, beginning in the 2015-2016 fiscal year and continuing through the 2019-2020 fiscal year, the General

Appropriations Act may provide a specific appropriation from the General Revenue Fund to DACS for funding of this rebate program.

B. Amendments:

None.

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

543050

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/22/2015	.	
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The Committee on Appropriations (Grimsley) recommended the following:

Senate Amendment (with title amendment)

Delete lines 54 - 174.

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

And the title is amended as follows:

Delete lines 8 - 21

and insert:

providing an effective date.

135364

576-04116-15

Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on General Government)

A bill to be entitled

An act relating to a natural gas rebate program; amending s. 377.810, F.S.; authorizing the Department of Agriculture and Consumer Services to receive additional applications from certain applicants; authorizing any remaining unencumbered funds to be used by the department to award additional rebates; creating s. 377.811, F.S.; creating the heavy transportation industry natural gas rebate program within the department; defining terms; prescribing powers and duties of the department with respect to the program; prescribing limits on rebate awards; providing policies and procedures for application approval; authorizing the department to adopt rules by a specified date; requiring the department to publish on its website the availability of rebate funds; requiring the department to submit an annual assessment to the Governor, the Legislature, and the Office of Program Policy Analysis and Government Accountability by a specified date; authorizing an appropriation; providing an effective date.

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

Section 1. Subsection (3) of section 377.810, Florida Statutes, is amended to read:

377.810 Natural gas fuel fleet vehicle rebate program.—

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576-04116-15

(3) NATURAL GAS FUEL FLEET VEHICLE REBATE.—The department shall award rebates for eligible costs as defined in this section. Forty percent of the annual allocation shall be reserved for governmental applicants, with the remaining funds allocated for commercial applicants. A rebate may not exceed 50 percent of the eligible costs of a natural gas fuel fleet vehicle with a dedicated or bi-fuel natural gas fuel operating system placed into service on or after July 1, 2013. An applicant is eligible to receive a maximum rebate of $25,000 per vehicle up to a total of $250,000 per fiscal year. Between June 1 and June 30 of each fiscal year the department may receive additional applications from applicants that have met the program maximum of $250,000 per fiscal year. Those applicants may apply for additional funds for vehicles that have not received a rebate, a maximum rebate of $25,000 per vehicle up to a total of $250,000. Any unencumbered funds remaining after June 30 of each fiscal year may be used by the department to award the additional rebates. Governmental applicants shall have preference and all remaining unencumbered funds may be used by commercial applicants. Rebates shall be allocated to eligible applicants on a first-come, first-served basis, determined by the date the application is received, until all appropriated funds for the fiscal year are expended or the program ends, whichever comes first. All natural gas fuel fleet vehicles eligible for the rebate must comply with applicable United States Environmental Protection Agency emission standards.

Section 2. Section 377.811, Florida Statutes, is created to read:

377.811 Heavy transportation industry natural gas rebate

program.—

(1) CREATION AND PURPOSE OF PROGRAM.—There is created within the Department of Agriculture and Consumer Services a heavy transportation industry natural gas rebate program. The purpose of this program is to help reduce transportation costs in this state, encourage the use of a domestic fuel source, and encourage heavy transportation industry investments that contribute to the economic growth of the state.

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

(a) "Conversion costs" means the costs associated with retrofitting a diesel-, gasoline-, or heavy fuel oil- powered locomotive, waterborne ship, or other high horsepower engine to a natural gas powered eligible vehicle.

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

(c) "Eligible costs" means the conversion costs or the incremental costs incurred by an applicant in connection with an investment in the conversion, purchase, or lease lasting at least 10 years of a natural gas-powered eligible vehicle. The term does not include costs for project development, fueling stations, or other fueling infrastructure.

(d) "Eligible vehicle" means one or more locomotives, waterborne ships, or other high horsepower engines used for transportation purposes registered or licensed in this state and used for commercial business or governmental purposes. Eligible vehicles must be newly constructed or repowered and placed into service on or after July 1, 2015. Waterborne ships must be built and documented in the United States with a coastwise endorsement under the Jones Act, 46 U.S.C. s. 55102, and used to provide

regular transportation of merchandise between one or more ports in this state and other domestic ports. If the eligible vehicle is registered with a federal regulatory body, the owner must certify in writing that the eligible vehicle will be used the majority of the time in this state or a waterborne ship that uses a port in this state in its rotation, subject to department review.

(e) "High horsepower engine" means any engine that provides more than 1,000 horsepower and is used for nonhighway transportation purposes.

(f) "Incremental costs" means the excess costs associated with the purchase or lease of a natural gas-powered eligible vehicle as compared to an equivalent diesel-, gasoline-, or heavy fuel oil- powered eligible vehicle.

(g) "Natural gas fuel" means any liquefied petroleum gas product, compressed natural gas product, or combination thereof used in an eligible vehicle. This term includes, but is not limited to, all forms of fuel commonly or commercially known or sold as natural gasoline, butane gas, propane gas, or any other form of liquefied petroleum gas, compressed natural gas, or liquefied natural gas. The term does not include natural gas or liquefied petroleum placed in a separate tank for cooking, heating, water heating, or electric generation.

(3) HEAVY TRANSPORTATION INDUSTRY NATURAL GAS REBATE.—The department shall award rebates for eligible costs. A rebate may not exceed 50 percent of the eligible costs of a natural gas eligible vehicle with a dedicated or bi-fuel natural gas fuel operating system placed into service on or after July 1, 2015. An applicant is eligible to receive a maximum rebate of $500,000

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115 per eligible vehicle up to a total of $1 million per fiscal
116 year. All eligible vehicles must comply with applicable United
117 States Environmental Protection Agency emission standards.
118 (4) APPLICATION PROCESS.—
119 (a) An applicant seeking to obtain a rebate shall submit an
120 application to the department by a specified date each year as
121 established by department rule. The application must require a
122 complete description of all eligible costs, proof of purchase or
123 lease of the eligible vehicle for which the applicant is seeking
124 a rebate, a copy of the vehicle registration certificate or
125 equivalent documentation, a description of the total rebate
126 sought by the applicant, and any other information deemed
127 necessary by the department. The application form adopted by
128 department rule must include an affidavit from the applicant
129 certifying that all information contained in the application is
130 true and correct.
131 (b) The department shall determine the rebate eligibility
132 of each applicant in accordance with the requirements of this
133 section and department rule. The total amount of rebates
134 allocated to certified applicants in each fiscal year may not
135 exceed the amount appropriated for the program in a fiscal year.
136 Rebates shall be allocated to eligible applicants on a first-
137 come, first-served basis, determined by the date and time the
138 application is received, until all appropriated funds for the
139 fiscal year are expended or the program ends, whichever comes
140 first. Incomplete applications submitted to the department may
141 not be accepted and do not secure a place in the first-come,
142 first-served application process.
143 (5) RULES.—The department may adopt rules to implement and

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144 administer this section by December 31, 2015, including rules
145 relating to the forms required to claim a rebate under this
146 section, the required documentation and basis for establishing
147 eligibility for a rebate, procedures and guidelines for claiming
148 a rebate, and the collection of economic impact data from
149 applicants.
150 (6) PUBLICATION.—The department shall determine and publish
151 on its website on an ongoing basis the amount of available
152 funding for rebates remaining in each fiscal year.
153 (7) ANNUAL ASSESSMENT.—By December 1, 2016, and each year
154 thereafter that the program is funded, the department shall
155 provide an annual assessment of the use of the rebate program
156 during the previous fiscal year to the Governor, the President
157 of the Senate, the Speaker of the House of Representatives, and
158 the Office of Program Policy Analysis and Government
159 Accountability. The assessment shall include, at a minimum, the
160 following information:
161 (a) The name of each applicant awarded a rebate under this
162 section;
163 (b) The amount of the rebates awarded to each applicant;
164 (c) The type and description of each eligible vehicle for
165 which each applicant applied for a rebate; and
166 (d) The aggregate amount of funding awarded for all
167 applicants claiming rebates under this section.
168 (8) APPROPRIATION.—Beginning in the 2015-2016 fiscal year
169 and each year thereafter through the 2019-2020 fiscal year, the
170 General Appropriations Act may provide a specific appropriation
171 in each fiscal year from the General Revenue Fund to the
172 Department of Agriculture and Consumer Services for the purpose

173 of funding the heavy transportation industry natural gas rebate
174 program.
175 Section 3. This act shall take effect July 1, 2015.

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 Appropriations

BILL: CS/CS/SB 1538

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on General Government); Communications, Energy, and Public Utilities Committee; and Senator Simpson

SUBJECT: Natural Gas Rebate Program

DATE: April 23, 2015 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wiehle	Caldwell	CU	**Fav/CS**
2.	Blizzard	DeLoach	AGG	**Recommend: Fav/CS**
3.	Blizzard	Kynoch	AP	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1538 amends section 377.810, Florida Statutes, to authorize the Department of Agriculture and Consumer Services (DACS) to use unencumbered funds from the natural gas fuel fleet vehicle rebate program for additional or new rebates, giving preference to governmental applicants. Any remaining, unencumbered funds may be expended for commercial applicant rebates.

The DACS will not require additional resources to implement the provisions in this bill.

The bill provides an effective date of July 1, 2015.

II. Present Situation:

Section 377.810, F.S., creates the natural gas fuel fleet vehicle rebate program within the DACS for the purpose of helping to reduce transportation costs in this state and encourage freight mobility investments that contribute to the economic growth of the state.

Forty percent of the annual refund allocation is reserved for governmental applicants, with the remaining funds allocated for commercial applicants. A rebate may not exceed 50 percent of the eligible costs of a natural gas fuel fleet vehicle with a dedicated or bi-fuel natural gas fuel

operating system placed into service on or after July 1, 2013. An applicant is eligible to receive a maximum rebate of $25,000 per vehicle up to a total of $250,000 per fiscal year. All natural gas fuel fleet vehicles eligible for the rebate must comply with applicable United States Environmental Protection Agency emission standards.

An applicant seeking to obtain a rebate must submit an application to the DACS by a specified date each year as established by department rule. The application must include:

- A complete description of all eligible costs,
- Proof of purchase or lease of the vehicle for which the applicant is seeking a rebate,
- A copy of the vehicle registration certificate,
- A description of the total rebate sought by the applicant,
- An affidavit from the applicant certifying that all information contained in the application is true and correct; and
- Any other information deemed necessary by the DACS.

The total amount of rebates allocated to certified applicants in each fiscal year may not exceed the amount appropriated for the program in the fiscal year. Rebates are allocated to eligible applicants on a first-come, first-served basis, determined by the date the application is received, until all appropriated funds for the fiscal year are expended or the program ends, whichever comes first. Incomplete applications submitted to the DACS are not accepted and do not secure a place in the first-come, first-served application process.

The DACS is required to determine and publish on its website, on an ongoing basis, the amount of available funding for rebates remaining in each fiscal year.

By October 1 of each year that the program is funded, the DACS must provide an annual assessment of the use of the rebate program during the previous fiscal year to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Office of Program Policy Analysis and Government Accountability. The assessment must include, at a minimum, the following information:

- The name of each applicant awarded a rebate;
- The amount of the rebates awarded to each applicant;
- The type and description of each eligible vehicle for which each applicant applied for a rebate; and
- The aggregate amount of funding awarded for all applicants claiming rebates.

By January 31, 2016, the Office of Program Policy Analysis and Government Accountability must release a report reviewing the rebate program to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The review must include an analysis of the economic benefits resulting to the state from the program.

III. Effect of Proposed Changes:

The bill amends s. 377.810, F.S., to authorize the DACS to use unencumbered natural gas fuel fleet vehicle rebate program funds for additional or new rebates. The DACS is authorized to receive additional applications between June 1 and June 30 from applicants that have reached the program maximum of $250,000 per fiscal year. The bill authorizes the DACS to expend

unencumbered funds remaining after June 30 of each fiscal year to award additional or new rebates, with preference given to governmental applicants. Any remaining unencumbered funds may be expended for commercial applicant rebates. Applicants are eligible to receive rebates on a first-come, first-served basis, until all funds for the fiscal year are expended or the program ends, whichever comes first.

The bill provides an effective date of July 1, 2015.

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:

CS/CS/SB 1538 may have a positive fiscal impact on commercial applicants, should unencumbered funds be available to award additional rebates.

C. Government Sector Impact:

Natural Gas Fuel Fleet Vehicle Rebate Program

The bill authorizes the DACS to receive additional applications between June 1 and June 30 of each fiscal year from applicants that have reached the program maximum of $250,000. The DACS is authorized to use unencumbered funds remaining after June 30 of each fiscal year to award additional or new rebates of up to $250,000, with preference given to governmental applicants. Any remaining, unencumbered funds may be expended for commercial applicant rebates. In Fiscal Year 2013-2014, $2,128,397 from the General Revenue Fund was unencumbered and reverted from the natural gas fuel fleet vehicle rebate program. Under the provisions of the bill, unencumbered funds appropriated for the program will not revert to the General Revenue Fund.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The committee substitute authorizes DACS, after June 30 each year, to use unencumbered funds to award additional rebates for certain purposes under the Natural Gas Fuel Fleet Vehicle Rebate program. Section 216.301, F.S., requires that "any appropriation not identified as an incurred obligation effective June 30th shall revert to the fund from which it was appropriated and shall be available for reappropriation by the Legislature." Additionally, s. 216.351, F.S., provides that subsequent inconsistent laws supersede chapter 216, F.S., "only to the extent that they do so by express reference to this section." Accordingly, consideration should be given to amending the sentence beginning at line 30 of the committee substitute to read: "Notwithstanding ss. 216.301 and 216.351, F.S., any unencumbered funds remaining after June 30 of each fiscal year shall not revert and may be used by the department to award the additional rebates." (Suggested new text is underlined for emphasis.) Nevertheless, if it becomes law, the committee substitute clearly authorizes the DACS to award rebates from the unencumbered funds after June 30 for certain purposes and, as a later in time enactment by the Legislature, would appear to be an exception to the requirements of ss. 216.301 and 216.351, F.S.

VIII. Statutes Affected:

This bill substantially amends section 377.810 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS/CS by Appropriations on April 21, 2015:
The committee substitute:

- Authorizes the DACS to expend unencumbered natural gas fuel fleet vehicle rebate program funds on additional applications received between June 1 and June 30 that have met the program maximum of $250,000 per fiscal year;
- Authorizes the DACS to use unencumbered funds remaining after June 30 each fiscal year to award additional rebates, giving preference to governmental applicants;
- Eliminates the creation of the heavy transportation industry natural gas rebate program within the DACS; and
- Removes the appropriation authorizing general revenue to fund the rebate program.

CS by Communications, Energy, and Public Utilities on March 24, 2015:

- Amends s. 377.810, F.S., to authorize the DACS to use unencumbered natural gas fuel fleet vehicle rebate program funds for additional or new rebates;
- Amends the newly created new heavy transportation industry natural gas rebate program, including:
  - Requiring in the definition of "eligible costs" a lease be for at least 10 years (5 years in the original bill);

- Adding to the definition of "eligible vehicle" any vehicle with a "high horsepower engine";
- Defining "high horsepower engine" as one providing more than 1,000 horsepower and used for nonhighway transportation purposes;
- Deleting the requirement that OPPAGA do an annual report analyzing the benefits to the state resulting from the program; and
- Inserting an appropriation section that states that, beginning in the 2015-2016 fiscal year and continuing through the 2019-2020 fiscal year, the General Appropriations Act may provide a specific appropriation from the General Revenue Fund to the DACS for funding of this rebate program.

B. Amendments:

None.

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

By the Committee on Communications, Energy, and Public Utilities; and Senator Simpson

A bill to be entitled

An act relating to a natural gas rebate program; amending s. 377.810, F.S.; authorizing the Department of Agriculture and Consumer Services to award additional rebates for certain applicants using unencumbered funds; creating s. 377.811, F.S.; creating the heavy transportation industry natural gas rebate program within the department; defining terms; prescribing powers and duties of the department with respect to the program; prescribing limits on rebate awards; providing policies and procedures for application approval; authorizing the department to adopt rules by a specified date; requiring the department to publish on its website the availability of rebate funds; requiring the department to submit an annual assessment to the Governor, the Legislature, and the Office of Program Policy Analysis and Government Accountability by a specified date; authorizing an appropriation; providing an effective date.

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

Section 1. Subsection (3) of section 377.810, Florida Statutes, is amended to read:

377.810 Natural gas fuel fleet vehicle rebate program.—

(3) NATURAL GAS FUEL FLEET VEHICLE REBATE.—The department shall award rebates for eligible costs as defined in this section. Forty percent of the annual allocation shall be

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

reserved for governmental applicants, with the remaining funds allocated for commercial applicants. A rebate may not exceed 50 percent of the eligible costs of a natural gas fuel fleet vehicle with a dedicated or bi-fuel natural gas fuel operating system placed into service on or after July 1, 2013. An applicant is eligible to receive a maximum rebate of $25,000 per vehicle up to a total of $250,000 per fiscal year. Any unencumbered funds remaining after May 1 of each fiscal year may be used by the department to award an additional rebate of up to $250,000 for a governmental applicant. Any unencumbered funds remaining after June 1 of each fiscal year may be used by the department to award an additional or new rebate of up to $250,000 for a governmental or commercial applicant. All natural gas fuel fleet vehicles eligible for the rebate must comply with applicable United States Environmental Protection Agency emission standards.

Section 2. Section 377.811, Florida Statutes, is created to read:

377.811 Heavy transportation industry natural gas rebate program.—

(1) CREATION AND PURPOSE OF PROGRAM.—There is created within the Department of Agriculture and Consumer Services a heavy transportation industry natural gas rebate program. The purpose of this program is to help reduce transportation costs in this state, encourage the use of a domestic fuel source, and encourage heavy transportation industry investments that contribute to the economic growth of the state.

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

(a) "Conversion costs" means the costs associated with

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59 retrofitting a diesel-, gasoline-, or heavy fuel oil- powered
60 locomotive, waterborne ship, or other high horsepower engine to
61 a natural gas powered eligible vehicle.
62 (b) "Department" means the Department of Agriculture and
63 Consumer Services.
64 (c) "Eligible costs" means the conversion costs or the
65 incremental costs incurred by an applicant in connection with an
66 investment in the conversion, purchase, or lease lasting at
67 least 10 years of a natural gas-powered eligible vehicle. The
68 term does not include costs for project development, fueling
69 stations, or other fueling infrastructure.
70 (d) "Eligible vehicle" means one or more locomotives,
71 waterborne ships, or other high horsepower engines used for
72 transportation purposes registered or licensed in this state and
73 used for commercial business or governmental purposes. Eligible
74 vehicles must be newly constructed or repowered and placed into
75 service on or after July 1, 2015. Waterborne ships must be built
76 and documented in the United States with a coastwise endorsement
77 under the Jones Act, 46 U.S.C. s. 55102, and used to provide
78 regular transportation of merchandise between one or more ports
79 in this state and other domestic ports. If the eligible vehicle
80 is registered with a federal regulatory body, the owner must
81 certify in writing that the eligible vehicle will be used the
82 majority of the time in this state or a waterborne ship that
83 uses a port in this state in its rotation, subject to department
84 review.
85 (e) "High horsepower engine" means any engine that provides
86 more than 1,000 horsepower and is used for nonhighway
87 transportation purposes.

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88 (f) "Incremental costs" means the excess costs associated
89 with the purchase or lease of a natural gas-powered eligible
90 vehicle as compared to an equivalent diesel-, gasoline-, or
91 heavy fuel oil- powered eligible vehicle.
92 (g) "Natural gas fuel" means any liquefied petroleum gas
93 product, compressed natural gas product, or combination thereof
94 used in an eligible vehicle. This term includes, but is not
95 limited to, all forms of fuel commonly or commercially known or
96 sold as natural gasoline, butane gas, propane gas, or any other
97 form of liquefied petroleum gas, compressed natural gas, or
98 liquefied natural gas. The term does not include natural gas or
99 liquefied petroleum placed in a separate tank for cooking,
100 heating, water heating, or electric generation.
101 (3) HEAVY TRANSPORTATION INDUSTRY NATURAL GAS REBATE.—The
102 department shall award rebates for eligible costs. A rebate may
103 not exceed 50 percent of the eligible costs of a natural gas
104 eligible vehicle with a dedicated or bi-fuel natural gas fuel
105 operating system placed into service on or after July 1, 2015.
106 An applicant is eligible to receive a maximum rebate of $500,000
107 per eligible vehicle up to a total of $1 million per fiscal
108 year. All eligible vehicles must comply with applicable United
109 States Environmental Protection Agency emission standards.
110 (4) APPLICATION PROCESS.—
111 (a) An applicant seeking to obtain a rebate shall submit an
112 application to the department by a specified date each year as
113 established by department rule. The application must require a
114 complete description of all eligible costs, proof of purchase or
115 lease of the eligible vehicle for which the applicant is seeking
116 a rebate, a copy of the vehicle registration certificate or

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117 equivalent documentation, a description of the total rebate
118 sought by the applicant, and any other information deemed
119 necessary by the department. The application form adopted by
120 department rule must include an affidavit from the applicant
121 certifying that all information contained in the application is
122 true and correct.
123 (b) The department shall determine the rebate eligibility
124 of each applicant in accordance with the requirements of this
125 section and department rule. The total amount of rebates
126 allocated to certified applicants in each fiscal year may not
127 exceed the amount appropriated for the program in a fiscal year.
128 Rebates shall be allocated to eligible applicants on a first-
129 come, first-served basis, determined by the date and time the
130 application is received, until all appropriated funds for the
131 fiscal year are expended or the program ends, whichever comes
132 first. Incomplete applications submitted to the department may
133 not be accepted and do not secure a place in the first-come,
134 first-served application process.
135 (5) RULES.—The department may adopt rules to implement and
136 administer this section by December 31, 2015, including rules
137 relating to the forms required to claim a rebate under this
138 section, the required documentation and basis for establishing
139 eligibility for a rebate, procedures and guidelines for claiming
140 a rebate, and the collection of economic impact data from
141 applicants.
142 (6) PUBLICATION.—The department shall determine and publish
143 on its website on an ongoing basis the amount of available
144 funding for rebates remaining in each fiscal year.
145 (7) ANNUAL ASSESSMENT.—By December 1, 2016, and each year

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146 thereafter that the program is funded, the department shall
147 provide an annual assessment of the use of the rebate program
148 during the previous fiscal year to the Governor, the President
149 of the Senate, the Speaker of the House of Representatives, and
150 the Office of Program Policy Analysis and Government
151 Accountability. The assessment shall include, at a minimum, the
152 following information:
153 (a) The name of each applicant awarded a rebate under this
154 section;
155 (b) The amount of the rebates awarded to each applicant;
156 (c) The type and description of each eligible vehicle for
157 which each applicant applied for a rebate; and
158 (d) The aggregate amount of funding awarded for all
159 applicants claiming rebates under this section.
160 (8) APPROPRIATION.—Beginning in the 2015-2016 fiscal year
161 and each year thereafter through the 2019-2020 fiscal year, the
162 General Appropriations Act may provide a specific appropriation
163 in each fiscal year from the General Revenue Fund to the
164 Department of Agriculture and Consumer Services for the purpose
165 of funding the heavy transportation industry natural gas rebate
166 program.
167 Section 3. This act shall take effect July 1, 2015.

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THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Community Affairs, *Chair*
Environmental Preservation and Conservation, *Vice Chair*
Appropriations Subcommittee on General Government
Finance and Tax
Judiciary
Transportation

JOINT COMMITTEE:
Joint Legislative Auditing Committee

SENATOR WILTON SIMPSON
18th District

April 14, 2015

Honorable Tom Lee
Committee on Appropriation
201 The Capitol
404 S. Monroe Street
Tallahassee, FL 32399-1100

Chairman Lee,

Please place Senate Bill 1538 relating to the Natural Gas Rebate Program, on the next Committee on Appropriation agenda.

Please contact my office with any questions. Thank you.

Wilton Simpson
Senator, 18th District

CC: Cindy Kynoch, Staff Director

REPLY TO:
❒ 322 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5018
❒ Post Office Box 938, Brooksville, Florida 34605
❒ Post Office Box 787, New Port Richey, Florida 34656-0787 (727) 816-1120 FAX: (888) 263-4821

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

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

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

4-21-15
Meeting Date

1538
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic

Name Dale Calhoun

Job Title

Address PO Box 11026
Street

Tallahassee FL 32302
City State Zip

Phone 8506810496

Email

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

Waive Speaking: [x] In Support [ ] Against
(The Chair will read this information into the record.)

Representing Florida Natural Gas Association

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 (10/14/14)

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 Appropriations

BILL: PCS/CS/SB 1552 (137566)

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Education); Education Pre-K - 12 Committee; and Senator Benacquisto

SUBJECT: Student Choice

DATE: April 20, 2015 REVISED: _____ _____ _____ _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hand	Klebacha	ED	**Fav/CS**
2.	Sikes	Elwell	AED	**Recommend: Fav/CS**
3.	Sikes	Kynoch	AP	**Pre-meeting**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/CS/SB 1552 requires the disclosure of financial information to parents regarding costs associated with the education of their children, expands K-12 public school choice enrollment options, and modifies charter school requirements and options.

Specifically, the bill:

- Requires school districts to provide parents with the total expenditures on a per FTE basis, as reported in the school district's annual financial report.
- Expands the scope of controlled open enrollment public school choice options available to parents:
  - Authorizes school and classroom choice options beyond school district boundaries, provided the receiving district or school has not reached capacity and the parent provides transportation.
  - Allows a student to transfer to another classroom teacher, in specified circumstances.
  - Creates options for students to receive customized instruction while receiving health care services in children's hospitals.
- Specifies charter school requirements and options:
  - Modifies charter school requirements related to application processes, contract renewal and termination, operations, performance and fiscal accountability, student reporting, and governing board conflict of interest disclosure and reporting.

- Authorizes the replication of high performing charter school in the attendance zone of a school in need of intervention, to meet capacity needs, or to meet district identified innovative choice options.
- Creates the Principal Autonomy Pilot Program Initiative authorizing the State Board of Education to enter into a performance contract with district school boards to provide principals of participating schools with increased autonomy and authority.
- Creates the Florida Institute for Charter School Innovation at the Florida State University to provide technical assistance to charter school applicants and improve charter school accountability, quality, and innovation.

The bill establishes the Florida Institute for Charter School Innovation, which does not have funds appropriated in SB 2500, the Senate's Fiscal Year 2015-2016 proposed General Appropriations Bill. The bill has other requirements which may increase administrative costs for school districts. The fiscal impact of these administrative costs should be minimal and absorbed within existing resources.

The bill provides an effective date of July 1, 2015.

II. Present Situation:

There is a range of information and school choice options available to parents, from academic progress information, multiple school choice options, and notifications about and limits to certain types of teachers that may be assigned a student.[1] Charter schools are public schools of choice available to serve the unique needs of students.[2]

Educational Transparency

Parents of public school students must receive accurate and timely information regarding their child's academic progress and must be informed about ways that the parents can help their child to succeed in school.[3]

For purposes of exceptional student education (ESE), district school boards must provide parents, at the initial individual education plan (IEP) team meeting, the amount of state appropriations that the school district receives for each of the five ESE support levels for a full-time student.[4]

Controlled Open Enrollment Public School Choice Options

Parents of public school students may seek school choice options such as controlled open enrollment, lab schools, virtual instruction programs, charter schools, charter technical career centers, magnet schools, alternative schools, special programs, auditory-oral education programs, advanced placement, dual enrollment, International Baccalaureate, Advanced International Certificate of Education, credit by examination or demonstration of competency, the School for

[1] Section 1002.20(6), F.S.
[2] Section 1002.33, F.S.
[3] Section 1002.20, F.S.
[4] Section 1003.57(1)(j), F.S.

Deaf and the Blind, the Florida Virtual School, and the public school options for the Opportunity Scholarship Program and the McKay Scholarships for Students with Disabilities Program.[5]

Controlled Open Enrollment

Controlled open enrollment is a public education delivery system that gives school districts the option of making student school assignments using a parent's indicated preferential public school choice as a significant factor.[6]

Each district school board offering the controlled open enrollment must to adopt by rule a controlled open enrollment plan (plan) and post the plan on the district's website.[7] The plan must:[8]

- Adhere to federal desegregation requirements.
- Include an application process required to participate in controlled open enrollment that allows parents to declare school preferences, including placement of siblings within the same school.
- Provide a lottery procedure to determine student assignment and establish an appeals process for hardship cases.
- Afford parents of students in multiple session schools preferred access to controlled open enrollment.
- Maintain socioeconomic, demographic, and racial balance.
- Address the availability of transportation.

Notification and Ability to Change Teachers

Each district school board must adopt and implement a plan to assist teachers who teach out-of-field and prioritize professional development activities for such teachers.[9] If a teacher is assigned a class that is outside the field in which the teacher is certified or has demonstrated sufficient subject matter expertise, parents of all students in that class must be notified, in writing, of such assignment.[10]

Public school students are prohibited from being taught by a classroom teacher who received a performance evaluation rating of "needs improvement" or "unsatisfactory" if the student was taught by a classroom teacher that received a performance rating of "needs improvement" or "unsatisfactory" in the previous school year.[11]

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[5] Section 1002.20(6), F.S.
[6] Section 1002.31(1), F.S.; Implementation of the plan by a district school board is optional. Section 1002.31(2), F.S.
[7] Section 1002.31(3), F.S.
[8] Section 1002.31(3), F.S.
[9] Section 1012.42(1), F.S. The district school board must require the teacher to participate in a certification or staff development program that is designed to provide the teacher with the necessary competencies to perform assigned duties. *Id*.
[10] Section 1012.42(2), F.S.
[11] Section 1012.2315(6), F.S. For elementary school students, this probation applies to any subject, while the prohibition for middle school and high school students are limited to teachers who receive the performance evaluations in the same subject area. *Id.* A parent may provide written consent to exempt extracurricular courses from this prohibition. *Id.*

Charter Schools

Charter schools are nonsectarian, public schools that operate under a performance contract with a sponsor, which is typically a school district.[12] Charter schools are exempt from many laws and regulations applicable to traditional public schools to encourage the use of innovative learning methods.[13] One of the guiding principles of charter schools is to "meet high standards of student achievement while providing parents flexibility to choose among diverse educational opportunities within the state's public school system."[14] The terms and conditions for the operation of the school are set forth in a performance contract or "charter."[15]

Florida law tasks sponsors with authorizing new charter schools and providing continuing oversight of each charter school in the school district.[16] The law establishes several processes designed to enable the sponsor to perform these roles, including:

- Authority to review and approve or deny charter school applications.[17]
- Authority to enforce the terms and conditions of the charter agreement.[18]
- Annual reporting of student achievement and financial information by each charter school to the sponsor.[19]
- Sponsor monitoring of annual financial audits[20] and monthly financial statements submitted by charter schools in the school district.[21]
- Interventions for remedying unsatisfactory academic performance and financial instability.[22]
- Authority to close charter schools for academic or financial failure; poor management; violations of law; or child health, safety, and welfare violations.[23]

The law establishes an application process for establishing a new charter school.[24] An applicant must submit a charter school application to the sponsor.[25] The sponsor must review and approve or deny the application.[26] The law requires sponsors and applicants to use a standard charter school application and application evaluation instrument.[27] The standard application is designed to enable the sponsor to evaluate the applicant's educational plan, organizational plan, financial viability, and business plan.[28]

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[12] Section 1002.33(5)(a), (6)(h), (7) and (9)(a), F.S.
[13] Section 1002.33(2)(b)3, and (16), F.S.
[14] Section 1002.33(2)(a)1, F.S.
[15] Section 1002.33(6)(h), F.S.
[16] Section 1002.33(6), F.S.
[17] Section 1002.33(6), F.S.
[18] Section 1002.33(6)(h) and (7), F.S.
[19] Section 1002.33(9)(k), F.S.
[20] Sections 218.39(1)(e) and (f), 1002.33(9)(j)1. and 2., F.S.
[21] Section 1002.33(9)(g), F.S.
[22] Section 1002.33(9)(n), F.S.
[23] Section 1002.33(8), F.S.
[24] Section 1002.33(6)(a), F.S.
[25] *Id.*
[26] *Id.*
[27] *Id.*
[28] *Id.*

Charter school sponsors evaluate a variety of factors when considering an application to open a charter school.[29] The standard application requires the applicant to:[30]

- List each proposed member of the charter school's governing board and his or her background and qualifications.
- Indicate whether the governing board will contract with a management company, summarize the company's history operating charter schools, and list other charter schools managed by the company along with student achievement and financial performance data of such schools.

Among other oversight processes, charter schools must submit monthly financial statements for review by the sponsor.[31] If a financial statement reveals a deteriorating financial condition, the sponsor and charter school governing board must develop a corrective action plan.[32] The sponsor may choose to terminate or not renew the charter school's charter if financial deficiencies noted in the corrective action plan are not corrected within one year or if the school exhibits one or more financial emergency conditions for two consecutive years.[33]

High-Performing Charter Schools

A charter school is a high-performing charter school if it:[34]

- Received at least two school grades of "A" and no school grade below "B," during each of the previous three school years.
- Received an unqualified opinion on each annual financial audit in the most recent three fiscal years for which such audits are available.
- Did not receive a financial audit that revealed one or more of the financial emergency conditions in the most recent three fiscal years for which such audits are available. However, this requirement is deemed met for a charter school-in-the-workplace if there is a finding in an audit that the school has the monetary resources available to cover any reported deficiency or that the deficiency does not result in a deteriorating financial condition.

A high-performing charter school is authorized to:[35]

- Increase its student enrollment once per school year to more than the capacity identified in the charter, but student enrollment may not exceed the current facility capacity.
- Expand grade levels within kindergarten through grade 12 to add grade levels not already served if any annual enrollment increase resulting from grade level expansion is within the limit established its contract.
- Submit a quarterly, rather than a monthly, financial statement to the sponsor.
- Consolidate under a single charter the charters of multiple high-performing charter schools operated in the same school district by the charter schools' governing board regardless of the renewal cycle.

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[29] Section 1002.33(6)(a), (7), (8), (9), F.S.
[30] *Id.*
[31] Sections 1002.33(9)(g)3, and 1002.345(1)(b)-(f), F.S.; rule 6A-10081, F.A.C. A high-performing charter school may submit quarterly rather than monthly financial statements. Section 1002.331(2)(c), F.S.
[32] *Id.*
[33] Section 1002.345(5), F.S.
[34] Section 1002.331(1), F.S.
[35] Section 1002.331(2), F.S.

- Receive a modification of its charter to a term of 15 years or a 15-year charter renewal. The charter may be modified or renewed for a shorter term at the option of the high-performing charter school.

A virtual charter school is not eligible for designation as a high-performing charter school, nor may a high-performing charter school be replicated as a virtual charter school.[36]

High Performing Charter School Systems

A high-performing charter school system means an entity[37] that:[38]

- Operated at least three high-performing charter schools in the state during each of the previous three school years.
- Operated a system of charter schools in which at least 50 percent of the charter schools were high-performing charter schools pursuant to s. 1002.331, F.S., and no charter school earned a school grade of "D" or "F" in any of the previous three school years, regardless of whether the entity currently operates the charter school.[39]
- Did not receive a financial audit that revealed one or more emergency conditions set forth in s. 218.503(1), F.S., for any charter school assumed or established by the entity in the most recent three fiscal years for which such audits are available.[40]

A high performing charter school system may replicate its high-performing charter schools pursuant to s. 1002.331(3), F.S.[41]

III. Effect of Proposed Changes:

The bill requires the disclosure of financial information to parents regarding costs associated with the education of their children, expands K-12 controlled open enrollment public school choice options, and modifies charter school requirements and options.

Educational Transparency

The bill requires a school district to provide a fiscal transparency notification in the parent guide that contains, at a minimum, the total expenditures on a per FTE basis, as reported in the school district's annual financial report.

Controlled Open Enrollment Public School Choice Options

The bill expands controlled open enrollment school choice options to authorize a parent to choose to enroll his or her child in and transport his or her child to any public school that has not

[36] Sections 1002.331(1)(c) and (6), F.S.
[37] Entity means a municipality or other public entity that is authorized by law to operate a charter school; a private, nonprofit corporation with tax-exempt status under s. 501(c)(3) of the Internal Revenue Code; or a private, for-profit education management corporation. Section 1002.332(1)(a), F.S.
[38] Section 1002.332(1)(b), F.S.
[39] Limited exceptions exist, such as if the entity assumed operating a charter school with a school grade of "F." Section 1002.332(1)(b).
[40] Section 218.503(1), F.S., relates to a determination of a financial emergency for charter schools, among other entities.
[41] Section 1002.332(2)(b), F.S.

reached capacity, including charter schools, in the school district or state. The controlled open enrollment process retains the current lottery procedure for determining student assignment, but adds a preference process for dependent children of active duty military personnel in districts with a military base.
The bill defines capacity to be as determined by the school district. When determining the capacity of each school in the district, the school district must incorporate the specifications, plans, elements, and commitments contained in the school district educational facilities plan and the long-term work programs.

The bill requires each district school board to establish a transfer process for a parent to request his or child be transferred to another classroom teacher, if the receiving teacher has unfilled classroom capacity. An explanation of the transfer process must be made available in the student handbook or a similar publication.

The bill allows a parent that receives notification that his or her student is being taught by an out of field classroom teacher to request that the child be transferred to another classroom teacher. The school district must grant the request, if an in-field teacher has available space.

Students Receiving Hospitalized Program Services

The bill enables customized instruction for students receiving hospitalized program services in children's hospitals. The bill requires a student who is receiving hospitalized program services to receive the following considerations:

- A public school student in prekindergarten through grade 12 who is deemed eligible for hospitalized program services is considered a student with a disability, and provides for:
  - Adherence to the student's individual education plan (IEP) requirements, if applicable, but upon request of the student's parent, the IEP may be modified to accommodate the student's use of hospitalized program services in a children's hospital.
  - Modification of the student's IEP to reduce the course load to core courses,[42] and allow the student to receive instruction beyond the normal school hours, school day, or school year of the school district.
  - Exemption from physical education classes or instruction based on the IEP or orders from the student's medical doctor.
- A student admitted to a children's hospital for hospitalized program services must continue to receive education instruction, including being provided with
  - Access to certified teacher from the district or the Florida Virtual School.
  - Adequate educational space for the student.

Charter Schools

The bill modifies charter school requirements related to application processes, contract renewal and termination, operations, performance and fiscal accountability, student reporting, governing board conflict of interest disclosure and reporting, and high performing charter school replication. The bill creates a Principal Autonomy Pilot Program Initiative, and the Florida Institute for Charter School Innovation at the Florida State University.

[42] Section 1002.20(19)(a), F.S.

Charter School Applications and Contracts

The bill modifies charter school accountability provisions to require:

- Each charter school to disclose in the application the name of each applicant, governing board member, and proposed management company, if any; the name and sponsor of any charter school currently or previously operated by such parties; and the academic and financial history of such charter schools.
- A sponsor to consider the past history in deciding to approve or deny the application.
- A charter school governing board to be independent of any management company.
- A charter school to submit quarterly financial statements for the first year of operation and include a full accounting of the costs of operation and sources of income that will enable the sponsor to begin monitoring the school's financial health earlier in time.
- A charter school to prepare and submit a plan with the specific actions the school will take if the school's financial statement indicates that the school is not financially viable.
- Background screening[43] for a person, or an officer of an entity who submits a charter school application. A person may not receive approval of a charter application until the person's screening is completed and the results have been submitted to the sponsor.
- A charter school to have a certificate of occupancy or a temporary certificate of occupancy for such a facility no later than 30 calendar days before the first day of school.
- A sponsor to automatically renew a high-performing charter contract for the same terms and length of the current term if the charter school governing board and sponsor have not executed the renewal before the term of the charter agreement is scheduled to expire.
- The charter school's reading curriculum be specified in the charter contract to be eligible to receive the research-based reading instruction allocation.

Charter Termination or Nonrenewal

The bill clarifies that a charter school that is closed voluntarily by the operator is subject to the dissolution requirements of a school whose charter is not renewed or is terminated. Specifically, the bill requires the governing board of a charter school that closes voluntarily to notify the sponsor and the Department of Education in writing within seven calendar days of its decision to cease operations. The notice must state the reasons for the closure and acknowledge that the governing board agrees to follow the procedures for dissolution and the reversion of public funds specified in law.

Charter School Performance Accountability

The bill delays a charter school's termination if the school earns two consecutive grades of "F" until all school grade appeals are final, unless an exception applies. The sponsor must notify in writing the charter school's governing board, the charter school principal, and the department when a charter is terminated. The bill specifies that procedures regarding reversion of public funds and property purchased with public funds apply to "double F" terminations, as well as, voluntary closures.

[43] A background check similar to an instructional or noninstructional personnel hired or contracted to fill positions. Section 1012.32, F.S.

Student Reporting

The bill aligns charter school and district reporting requirements regarding student suspensions and withdrawals, including the involuntary withdrawal of a student.

Charter School Governing Board Independence

The bill establishes that an individual may not serve as a member of a governing board of a charter school or charter school cooperative organization if he or she or an immediate family member receives a pension or any compensation from the charter school, or if the individual's partner is an owner or principal with an entity or independent contractor with whom the charter school does business or contracts, for professional services, goods, or facilities. Members of the governing board of a charter school may not be appointed, removed, or replaced by an entity or component unit of an entity, with which the charter school has entered into any contract.

High Performing Charter Schools

The bill removes the restriction on replication of high performing charter schools in the attendance zone of a school in need of intervention or to meet district identified innovative choice options.

Principal Autonomy Pilot Program Initiative

The bill creates a program within the Department of Education to provide the principal of a participating school with increased autonomy and authority to operate his or her school in a way that produces significant improvements in student achievement and school management while complying with constitutional requirements. The State Board of Education may, upon approval of a charter proposal, enter into a performance contract with up to six district school boards to establish such districts as charter school districts.

Professional Development

The principal at each school must complete the professional development offered through the William Cecil Golden Professional Development Program for School Leaders.[44] This training must be completed before a school may participate in the Principal Autonomy Pilot Program Initiative.

Terms of Charter and Reporting

The state board authorizes a charter school district's charter for a period of 3 years commencing with the award of the charter which may be renewed upon action of the state board. The charter school district must submit an annual report to the state board and the state board will annually report on the implementation of the Principal Autonomy Pilot Program Initiative. After completion of the program's first 3-year term, the Commissioner of Education will submit to the President of the Senate, and the Speaker of the House of Representatives, by December 1, a full evaluation of the effectiveness of the program.

[44] Section 1013.21, F.S.

Florida Institute for Charter School Innovation

The bill establishes the Florida Institute for Charter School Innovation at Florida State University in order to:

- Advance charter school accountability, quality, and innovation;
- Provide support and technical assistance to charter school applicants;
- Connect aspiring teachers to opportunities to experience teaching in schools of choice; and
- To conduct research and develop and promote best practices for charter school authorization, financing, management, operations, and instructional practices.

The institute is responsible for providing technical assistance and support to charter school applicants with innovative charter school concepts. In effect, an applicant would be supported by the institute by acquiring the financial and operational knowledge and skills needed to operate a charter school.

The bill requires the President of Florida State University to appoint a director for the institute to be responsible for the management, development, and executing of the Institute's mission. The institute must submit a written report to the Governor, the President of the Senate, and the Speaker of the House of Representatives. Among other things, the report must include research findings, expenditures of state funds, and recommendations for improving the institute's ability to fulfill its mission and changes to statewide charter school policy. The bill requires the institute to provide an annual financial audit conducted by an independent certified public accountant to the Auditor General, the Board of Governors of the State University System, and the State Board of Education.

The bill takes effect July 1, 2015.

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:

PCS/CS/SB1552 establishes the Florida Institute for Charter School Innovation, which does not have funds appropriated in SB 2500, the Senate's Fiscal Year 2015-2016 proposed General Appropriations Bill. The bill has other requirements which may increase administrative costs for school districts. The fiscal impact of these administrative costs should be minimal and absorbed within existing resources.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 1002.20, 1002.31, 1002.33, 1002.331, 1002.332, 1002.451, 1006.15, 1011.61, 1011.69, 1012.28, 1012.42, 1012.986, and 1013.62.

The bill creates the following sections of the Florida Statutes: 1003.3101, 1003.5711, 1004.6491, and 1011.6202.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

Recommended CS/CS by Appropriations Subcommittee on Education on April 2, 2015:

The committee substitute:

- Includes options under the Florida Personal Learning Scholarship Accounts Program as a private educational choice available to parents of public school students.
- Clarifies that school districts must provide in the parent guide the total expenditures from the district's annual financial report on a per FTE basis, rather than estimated allocation per student based on grade level and level of support.
- Returns to current statutory language regarding "controlled open enrollment," rather than "public school parental choice."
- Replaces the first-come, first-served provision for student assignment in schools of choice with a lottery and preference process for dependent children of active duty military personnel in districts with a military base.

- Removes the provision allowing an entity that successfully operates a system of charter schools outside the state to apply to the State Board of Education for status as a high-performing charter school system.
- Removes authorization for a charter schools operate double sessions, that when combined, provide the equivalent of 810 hours of instruction.
- Renames the Charter School District Pilot Program as the Principal Autonomy Pilot Program Initiative.

CS by Education Pre-K-12 on March 18, 2015:
The committee substitute retains the following provisions of SB 1552:
- Authorizes parents to choose to enroll and transport child to any school in the district or state that has not reached capacity.
- Authorizes parents to request different classroom teachers.
- Requires districts to notify parents of the cost of a child's education.

The committee substitute adds the following language related to public school choice options to SB 1552.
- Enables customized instruction for students receiving hospitalized program services in children's hospitals.

The committee substitute adds the following language related to charter schools to SB 1552:
- Specifies charter school requirements related to the following areas:
  - Changes the definition of "capacity" for purposes of the public school parental choice policy from a school in which the capital outlay FTE enrollment exceeds 95 percent of the space and occupant design capacity to allow the school district to determine capacity based on the district's educational facilities plan and long-term work programs.
  - Requires applications to contain names and historical performance of charter schools, and documentation of adequate financial resources, which may constitute grounds for denial.
  - Allows renewing charter schools to have a 15-year term, by removing the limitation in current law that limits such terms to purposes of facilitating access to long-term financial resources.
  - Requires background checks, documentation of adequate financial resources, and moves up deadline to obtain a certificate of occupancy from 15 to 30 days.
  - Requires monthly financial statements during first year.
  - Prohibits districts from delaying payments of local funds to charter schools.
  - Requires sponsor to review monthly or quarterly financial statements to identify deteriorating financial conditions.
  - Requires a charter school governing board to be independent of a management company by prohibiting board members from being appointed, replaced, or fired by any entity that contracts with the charter school.
  - Requires charter schools and traditional public schools to be subject to the same reporting requirements when students withdraw from the school.

  - Allows the approval of a charter school's reading curriculum to deem the charter school eligible for the reading allocation.
  - Updates capital outlay requirements to replace undefined language (financial stability) with statutorily defined language (financial emergency).
  - Allows alternative charter schools to have double-sessions if providing the equivalent of 810 hours and approved by the district school board in the charter agreement.
  - Prohibits a sponsor from requiring a charter school to implement any curriculum adopted by the district school board.
  - Clarifies that notice and dissolution requirement in current law apply if charter school voluntarily closes, and adds additional notice requirements.
  - Requires a high-performing charter school whose contract expires during renewal negotiations to automatically renew the contract according to the same terms, conditions, and length as the expiring charter.
  - Delays automatic termination of a double-F charter school until after all school grade appeals are final.
- Expands replication of high performing charter schools in certain instances, and allows out-of-state entities to apply for status as a high-performing charter school system.
  - Removes the restriction on replication of high performing charter schools in the attendance zone of a school in need of intervention or to meet district identified innovative choice options.
  - Authorizes an entity that successfully operates a system of charter schools to apply to the State Board of Education for status as a high-performing charter school system.
- Authorizes the State Board of Education create the Charter School District Pilot Program and enter into performance contracts with 6 district school boards to provide principals of participating schools with increased autonomy and authority.
- Establishes a charter institute at Florida State University to conduct research to inform policy and practice, provide technical assistance to charter applicants, and partner with state-approved teacher preparation programs.

B. Amendments:

None.

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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/21/2015	.	
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The Committee on Appropriations (Montford) recommended the following:

Senate Amendment

Delete lines 264 - 277
and insert:
(5) For a school or program that is a public school of choice under this section, the calculation for compliance with maximum class size pursuant to s. 1003.03 is the average number of students at the school level.
(6) A parent may enroll his or her child in and transport his or her child to any public school that has not reached

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11 capacity in any school district in the state. The school
12 district shall accept the student, pursuant to that district's
13 controlled open enrollment participation process, and report the
14 student for purposes of the school district's funding pursuant
15 to the Florida Education Finance Program. For purposes of
16 continuity of educational choice, the student shall remain at
17 the school chosen by the parent until the student completes the
18 highest grade level at the school.
19 (7) Each district school board shall establish a transfer

905356

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/21/2015	.	
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The Committee on Appropriations (Montford) recommended the following:

Senate Amendment

Delete lines 1297 - 1429
and insert:
authorized prekindergarten exceptional program; or
~~2. Instruction in a double-session school or a school utilizing an experimental school calendar approved by the Department of Education, comprising not less than the equivalent of 810 net hours in grades 4 through 12 or not less than 630 net hours in kindergarten through grade 3; or~~

905356

2.~~3.~~ Instruction comprising the appropriate number of net hours set forth in subparagraph 1. ~~or subparagraph 2.~~ for students who, within the past year, have moved with their parents for the purpose of engaging in the farm labor or fish industries, if a plan furnishing such an extended school day or week, or a combination thereof, has been approved by the commissioner. Such plan may be approved to accommodate the needs of migrant students only or may serve all students in schools having a high percentage of migrant students. The plan described in this subparagraph is optional for any school district and is not mandated by the state.

(b) A "part-time student" is a student on the active membership roll of a school program or combination of school programs listed in s. 1011.62(1)(c) who is less than a full-time student.

(c)1. A "full-time equivalent student" is:

a. A full-time student in any one of the programs listed in s. 1011.62(1)(c); or

b. A combination of full-time or part-time students in any one of the programs listed in s. 1011.62(1)(c) which is the equivalent of one full-time student based on the following calculations:

(I) A full-time student in a combination of programs listed in s. 1011.62(1)(c) shall be a fraction of a full-time equivalent membership in each special program equal to the number of net hours per school year for which he or she is a member, divided by the appropriate number of hours set forth in subparagraph (a)1. ~~or subparagraph (a)2.~~ The difference between that fraction or sum of fractions and the maximum value as set

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40 forth in subsection (4) for each full-time student is presumed
41 to be the balance of the student's time not spent in a special
42 program and shall be recorded as time in the appropriate basic
43 program.
44 (II) A prekindergarten student with a disability shall meet
45 the requirements specified for kindergarten students.
46 (III) A full-time equivalent student for students in
47 kindergarten through grade 12 in a full-time virtual instruction
48 program under s. 1002.45 or a virtual charter school under s.
49 1002.33 shall consist of six full-credit completions or the
50 prescribed level of content that counts toward promotion to the
51 next grade in programs listed in s. 1011.62(1)(c). Credit
52 completions may be a combination of full-credit courses or half-
53 credit courses. Beginning in the 2016-2017 fiscal year, the
54 reported full-time equivalent students and associated funding of
55 students enrolled in courses requiring passage of an end-of-
56 course assessment under s. 1003.4282 to earn a standard high
57 school diploma shall be adjusted if the student does not pass
58 the end-of-course assessment. However, no adjustment shall be
59 made for a student who enrolls in a segmented remedial course
60 delivered online.
61 (IV) A full-time equivalent student for students in
62 kindergarten through grade 12 in a part-time virtual instruction
63 program under s. 1002.45 shall consist of six full-credit
64 completions in programs listed in s. 1011.62(1)(c)1. and 3.
65 Credit completions may be a combination of full-credit courses
66 or half-credit courses. Beginning in the 2016-2017 fiscal year,
67 the reported full-time equivalent students and associated
68 funding of students enrolled in courses requiring passage of an

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69 end-of-course assessment under s. 1003.4282 to earn a standard
70 high school diploma shall be adjusted if the student does not
71 pass the end-of-course assessment. However, no adjustment shall
72 be made for a student who enrolls in a segmented remedial course
73 delivered online.
74 (V) A Florida Virtual School full-time equivalent student
75 shall consist of six full-credit completions or the prescribed
76 level of content that counts toward promotion to the next grade
77 in the programs listed in s. 1011.62(1)(c)1. and 3. for students
78 participating in kindergarten through grade 12 part-time virtual
79 instruction and the programs listed in s. 1011.62(1)(c) for
80 students participating in kindergarten through grade 12 full-
81 time virtual instruction. Credit completions may be a
82 combination of full-credit courses or half-credit courses.
83 Beginning in the 2016-2017 fiscal year, the reported full-time
84 equivalent students and associated funding of students enrolled
85 in courses requiring passage of an end-of-course assessment
86 under s. 1003.4282 to earn a standard high school diploma shall
87 be adjusted if the student does not pass the end-of-course
88 assessment. However, no adjustment shall be made for a student
89 who enrolls in a segmented remedial course delivered online.
90 (VI) Each successfully completed full-credit course earned
91 through an online course delivered by a district other than the
92 one in which the student resides shall be calculated as 1/6 FTE.
93 (VII) A full-time equivalent student for courses requiring
94 passage of a statewide, standardized end-of-course assessment
95 under s. 1003.4282 to earn a standard high school diploma shall
96 be defined and reported based on the number of instructional
97 hours as provided in this subsection until the 2016-2017 fiscal

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98 year. Beginning in the 2016-2017 fiscal year, the FTE for the
99 course shall be assessment-based and shall be equal to 1/6 FTE.
100 The reported FTE shall be adjusted if the student does not pass
101 the end-of-course assessment. However, no adjustment shall be
102 made for a student who enrolls in a segmented remedial course
103 delivered online.
104 (VIII) For students enrolled in a school district as a
105 full-time student, the district may report 1/6 FTE for each
106 student who passes a statewide, standardized end-of-course
107 assessment without being enrolled in the corresponding course.
108 2. A student in membership in a program scheduled for more
109 or less than 180 school days or the equivalent on an hourly
110 basis as specified by rules of the State Board of Education is a
111 fraction of a full-time equivalent membership equal to the
112 number of instructional hours in membership divided by the
113 appropriate number of hours set forth in subparagraph (a)1.;
114 however, for the purposes of this subparagraph, membership in
115 programs scheduled for more than 180 days is limited to students
116 enrolled in:
117 a. Juvenile justice education programs.
118 b. The Florida Virtual School.
119 c. Virtual instruction programs and virtual charter schools
120 for the purpose of course completion and credit recovery
121 pursuant to ss. 1002.45 and 1003.498. Course completion applies
122 only to a student who is reported during the second or third
123 membership surveys and who does not complete a virtual education
124 course by the end of the regular school year. The course must be
125 completed no later than the deadline for amending the final
126 student enrollment survey for that year. Credit recovery applies

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127 only to a student who has unsuccessfully completed a traditional
128 or virtual education course during the regular school year and
129 must re-take the course in order to be eligible to graduate with
130 the student's class.
131
132 The full-time equivalent student enrollment calculated under
133 this subsection is subject to the requirements in subsection
134 (4).
135
136 The department shall determine and implement an equitable method
137 of equivalent funding for ~~experimental schools and for~~ schools

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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/22/2015	.	
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The Committee on Appropriations (Benacquisto) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Paragraphs (a) and (b) of subsection (6) and subsection (16) of section 1002.20, Florida Statutes, are amended to read:

1002.20 K-12 student and parent rights.—Parents of public school students must receive accurate and timely information regarding their child’s academic progress and must be informed

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11 of ways they can help their child to succeed in school. K-12
12 students and their parents are afforded numerous statutory
13 rights including, but not limited to, the following:
14 (6) EDUCATIONAL CHOICE.—
15 (a) *Public school choices.*—Parents of public school
16 students may seek whatever public school choice options that are
17 applicable and available to students in their school districts.
18 These options may include controlled open enrollment, single-
19 gender programs, lab schools, virtual instruction programs,
20 charter schools, charter technical career centers, magnet
21 schools, alternative schools, special programs, auditory-oral
22 education programs, advanced placement, dual enrollment,
23 International Baccalaureate, International General Certificate
24 of Secondary Education (pre-AICE), Advanced International
25 Certificate of Education, CAPE digital tools, CAPE industry
26 certifications, collegiate high school programs, early
27 admissions, credit by examination or demonstration of
28 competency, the New World School of the Arts, the Florida School
29 for the Deaf and the Blind, and the Florida Virtual School.
30 These options may also include the public educational ~~school~~
31 choice options of the Opportunity Scholarship Program and the
32 McKay Scholarships for Students with Disabilities Program.
33 (b) *Private educational ~~school~~ choices.*—Parents of public
34 school students may seek private educational ~~school~~ choice
35 options under certain programs.
36 1. Under the McKay Scholarships for Students with
37 Disabilities Program, the parent of a public school student with
38 a disability may request and receive a McKay Scholarship for the
39 student to attend a private school in accordance with s.

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40 1002.39.
41 2. Under the Florida Tax Credit Scholarship Program, the
42 parent of a student who qualifies for free or reduced-price
43 school lunch or who is currently placed, or during the previous
44 state fiscal year was placed, in foster care as defined in s.
45 39.01 may seek a scholarship from an eligible nonprofit
46 scholarship-funding organization in accordance with s. 1002.395.
47 3. Under the Florida Personal Learning Scholarship Accounts
48 Program, the parent of a student with a qualifying disability
49 may apply for a personal learning scholarship to be used for
50 educational purposes pursuant to s. 1002.385.
51 (16) SCHOOL ACCOUNTABILITY AND SCHOOL IMPROVEMENT RATING
52 REPORTS; FISCAL TRANSPARENCY.—Parents of public school students
53 have the right ~~are entitled~~ to an easy-to-read report card about
54 the school's grade designation or, if applicable under s.
55 1008.341, the school's improvement rating, and the school's
56 accountability report, including the school financial report as
57 required under s. 1010.215 and the school district's annual
58 financial report, including the expenditures on a per FTE basis
59 for the following fund types: general funds, special revenue
60 funds, debt service funds, and capital project fund. Fiduciary
61 funds, enterprise funds, and internal service funds may not be
62 included. At minimum, the total expenditures on a per FTE basis,
63 as reported in the school district's annual financial report,
64 must be included in the parent guide.
65 Section 2. Section 1002.31, Florida Statutes, is amended to
66 read:
67 1002.31 Controlled open enrollment; Public school parental
68 choice.—

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69 (1) As used in this section, “controlled open enrollment”
70 means a public education delivery system that allows school
71 districts to make student school assignments using parents’
72 indicated preferential school choice as a significant factor.
73 (2) As part of a district’s controlled open enrollment, and
74 in addition to the existing choice programs provided in s.
75 1002.20(6)(a), each district school board shall allow a parent
76 to enroll his or her child in and transport his or her child to
77 any public school that has not reached capacity in the district.
78 However, a district may provide transportation to students at
79 the district’s discretion. For purposes of continuity of
80 educational choice, the student may remain at the school chosen
81 by the parent until the student completes the highest grade
82 level at the school ~~may offer controlled open enrollment within~~
83 ~~the public schools which is in addition to the existing choice~~
84 ~~programs such as virtual instruction programs, magnet schools,~~
85 ~~alternative schools, special programs, advanced placement, and~~
86 ~~dual enrollment~~.
87 (3) Each district school board ~~offering controlled open~~
88 ~~enrollment~~ shall ~~adopt by rule and~~ post on its website the
89 process required to participate in controlled open enrollment.
90 The process ~~a controlled open enrollment plan which~~ must:
91 (a) Adhere to federal desegregation requirements.
92 (b) Allow ~~Include an application process required to~~
93 ~~participate in controlled open enrollment that allows~~ parents to
94 declare school preferences, including placement of siblings
95 within the same school.
96 (c) Provide a lottery procedure to determine student
97 assignment and establish an appeals process for hardship cases.

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98 (d) Afford parents of students in multiple session schools
99 preferred access to controlled open enrollment.
100 (e) Maintain socioeconomic, demographic, and racial
101 balance.
102 (f) Address the availability of transportation.
103 (g) Maintain existing academic eligibility criteria for
104 schools of choice, pursuant to s. 1002.20(6)(a).
105 (h) Identify schools that have not reached capacity, as
106 determined by the school district. When determining capacity of
107 each school in the district, the school district shall
108 incorporate the specifications, plans, elements, and commitments
109 contained in the school district educational facilities plan and
110 the long-term work programs required under s. 1013.35 in its
111 determination.
112 (i) Create a preference process for dependent children of
113 active duty military personnel for every county.
114 (j) Provide a preference for placement of students residing
115 in the school district.
116 (4) In accordance with the reporting requirements of s.
117 1011.62, each district school board shall annually report the
118 number of students exercising public school choice, by type of
119 choice ~~attending the various types of public schools of choice~~
120 ~~in the district~~, in accordance with ~~including schools such as~~
121 ~~virtual instruction programs, magnet schools, and public charter~~
122 ~~schools, according to~~ rules adopted by the State Board of
123 Education.
124 (5)(a) Beginning in the 2016-2017 school year, a parent may
125 enroll his or her child in and transport his or her child to any
126 public school that has not reached capacity in any school

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127 district in the state. The school district shall accept the
128 student, pursuant to that district's controlled open enrollment
129 participation process, and report the student for purposes of
130 the school district's funding pursuant to the Florida Education
131 Finance Program.
132 (b) If a parent chooses to enroll his or her child in a
133 school in another school district pursuant to paragraph (a), the
134 parent shall notify the district of residence and the district
135 of choice within 60 days beginning no earlier than March 1. For
136 purposes of continuity of educational choice, the student shall
137 remain at the school chosen by the parent until the student
138 completes the highest grade level at the school.
139 (6) For a school or program that is a public school of
140 choice under this section, the calculation for compliance with
141 maximum class size pursuant to s. 1003.03 is the average number
142 of students at the school level.
143 (7) Each district school board shall establish a transfer
144 process for a parent to request that his or her child be
145 transferred to another classroom teacher. This subsection does
146 not give a parent the right to choose a specific classroom
147 teacher. A school must grant or deny the transfer within 2 weeks
148 after receiving the request. If a request for transfer is
149 denied, the school shall notify the parent and specify the
150 reasons for the denial. An explanation of the transfer process
151 must be made available in the parent guide or a similar
152 publication.
153 Section 3. Paragraphs (a), (b), and (c) of subsection (6),
154 paragraphs (a), (b), and (d) of subsection (7), paragraphs (e),
155 (f), and (g) of subsection (8), paragraphs (g), (n), and (p) of

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156 subsection (9), paragraph (a) of subsection (10), subsection
157 (13), paragraphs (b) and (e) of subsection (17), subsection
158 (21), and paragraph (c) of subsection (26) of section 1002.33,
159 Florida Statutes, are amended, paragraphs (h) and (i) are added
160 to subsection (8) of that section, a new subsection (27) is
161 added to that section, and present subsections (27) and (28) are
162 redesignated as subsections (28) and (29), respectively, to
163 read:
164 1002.33 Charter schools.—
165 (6) APPLICATION PROCESS AND REVIEW.—Charter school
166 applications are subject to the following requirements:
167 (a) A person or entity wishing to open a charter school
168 shall prepare and submit an application on a model application
169 form prepared by the Department of Education which:
170 1. Demonstrates how the school will use the guiding
171 principles and meet the statutorily defined purpose of a charter
172 school.
173 2. Provides a detailed curriculum plan that illustrates how
174 students will be provided services to attain the Sunshine State
175 Standards.
176 3. Contains goals and objectives for improving student
177 learning and measuring that improvement. These goals and
178 objectives must indicate how much academic improvement students
179 are expected to show each year, how success will be evaluated,
180 and the specific results to be attained through instruction.
181 4. Describes the reading curriculum and differentiated
182 strategies that will be used for students reading at grade level
183 or higher and a separate curriculum and strategies for students
184 who are reading below grade level. A sponsor shall deny an

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185 application ~~a charter~~ if the school does not propose a reading
186 curriculum that is consistent with effective teaching strategies
187 that are grounded in scientifically based reading research, but
188 the sponsor may not require the school to implement any
189 curriculum adopted by the school district.
190 5. Contains an annual financial plan for each year
191 requested by the charter for operation of the school for up to 5
192 years. This plan must contain anticipated fund balances based on
193 revenue projections, a spending plan based on projected revenues
194 and expenses, and a description of controls that will safeguard
195 finances and projected enrollment trends.
196 6. Discloses the name of each applicant, governing board
197 member, and proposed management company or cooperative, if any;
198 the name and sponsor of any charter school currently operated or
199 previously operated by such parties; and the academic and
200 financial history of such charter schools, which the sponsor
201 shall consider in deciding to approve or deny the application.
202 7. Documents that the governing board is independent of any
203 management company or cooperative and may, at its sole
204 discretion, terminate a contract with the management company or
205 cooperative at any time.
206 8.~~6.~~ Contains additional information a sponsor may require,
207 which shall be attached as an addendum to the charter school
208 application described in this paragraph.
209 9.~~7.~~ For the establishment of a virtual charter school,
210 documents that the applicant has contracted with a provider of
211 virtual instruction services pursuant to s. 1002.45(1)(d).
212 (b) A sponsor shall receive and review all applications for
213 a charter school using an evaluation instrument developed by the

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214 Department of Education. A sponsor shall receive and consider
215 charter school applications received on or before August 1 of
216 each calendar year for charter schools to be opened at the
217 beginning of the school district's next school year, or to be
218 opened at a time agreed to by the applicant and the sponsor. A
219 sponsor may not refuse to receive a charter school application
220 submitted before August 1 and may receive an application
221 submitted later than August 1 if it chooses. In order to
222 facilitate greater collaboration in the application process, an
223 applicant may submit a draft charter school application on or
224 before May 1 with an application fee of $500. If a draft
225 application is timely submitted, the sponsor shall review and
226 provide feedback as to material deficiencies in the application
227 by July 1. The applicant shall then have until August 1 to
228 resubmit a revised and final application. The sponsor may
229 approve the draft application. Except as provided for a draft
230 application, a sponsor may not charge an applicant for a charter
231 any fee for the processing or consideration of an application,
232 and a sponsor may not base its consideration or approval of a
233 final application upon the promise of future payment of any
234 kind. Before approving or denying any final application, the
235 sponsor shall allow the applicant, upon receipt of written
236 notification, at least 7 calendar days to make technical or
237 nonsubstantive corrections and clarifications, including, but
238 not limited to, corrections of grammatical, typographical, and
239 like errors or missing signatures, if such errors are identified
240 by the sponsor as cause to deny the final application.
241 1. In order to facilitate an accurate budget projection
242 process, a sponsor shall be held harmless for FTE students who

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243 are not included in the FTE projection due to approval of
244 charter school applications after the FTE projection deadline.
245 In a further effort to facilitate an accurate budget projection,
246 within 15 calendar days after receipt of a charter school
247 application, a sponsor shall report to the Department of
248 Education the name of the applicant entity, the proposed charter
249 school location, and its projected FTE.
250 2. In order to ensure fiscal responsibility, an application
251 for a charter school shall include a full accounting of expected
252 assets, a projection of expected sources and amounts of income,
253 including income derived from projected student enrollments and
254 from community support, and an expense projection that includes
255 full accounting of the costs of operation, including start-up
256 costs.
257 3.a. A sponsor shall by a majority vote approve or deny an
258 application no later than 60 calendar days after the application
259 is received, unless the sponsor and the applicant mutually agree
260 in writing to temporarily postpone the vote to a specific date,
261 at which time the sponsor shall by a majority vote approve or
262 deny the application. If the sponsor fails to act on the
263 application, an applicant may appeal to the State Board of
264 Education as provided in paragraph (c). If an application is
265 denied, the sponsor shall, within 10 calendar days after such
266 denial, articulate in writing the specific reasons, based upon
267 good cause, supporting its denial of the charter application and
268 shall provide the letter of denial and supporting documentation
269 to the applicant and to the Department of Education.
270 b. An application submitted by a high-performing charter
271 school identified pursuant to s. 1002.331 may be denied by the

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272 sponsor only if the sponsor demonstrates by clear and convincing
273 evidence that:
274 (I) The application does not materially comply with the
275 requirements in paragraph (a);
276 (II) The charter school proposed in the application does
277 not materially comply with the requirements in paragraphs
278 (9)(a)-(f);
279 (III) The proposed charter school's educational program
280 does not substantially replicate that of the applicant or one of
281 the applicant's high-performing charter schools;
282 (IV) The applicant has made a material misrepresentation or
283 false statement or concealed an essential or material fact
284 during the application process; or
285 (V) The proposed charter school's educational program and
286 financial management practices do not materially comply with the
287 requirements of this section.
288
289 Material noncompliance is a failure to follow requirements or a
290 violation of prohibitions applicable to charter school
291 applications, which failure is quantitatively or qualitatively
292 significant either individually or when aggregated with other
293 noncompliance. An applicant is considered to be replicating a
294 high-performing charter school if the proposed school is
295 substantially similar to at least one of the applicant's high-
296 performing charter schools and the organization or individuals
297 involved in the establishment and operation of the proposed
298 school are significantly involved in the operation of replicated
299 schools.
300 c. If the sponsor denies an application submitted by a

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301 high-performing charter school, the sponsor must, within 10
302 calendar days after such denial, state in writing the specific
303 reasons, based upon the criteria in sub-subparagraph b.,
304 supporting its denial of the application and must provide the
305 letter of denial and supporting documentation to the applicant
306 and to the Department of Education. The applicant may appeal the
307 sponsor's denial of the application ~~directly~~ to the State Board
308 of Education pursuant to paragraph (c) and must provide the
309 sponsor with a copy of the appeal ~~sub-subparagraph (c)3.b~~.
310 4. For budget projection purposes, the sponsor shall report
311 to the Department of Education the approval or denial of a
312 charter application within 10 calendar days after such approval
313 or denial. In the event of approval, the report to the
314 Department of Education shall include the final projected FTE
315 for the approved charter school.
316 5. Upon approval of a charter application, the initial
317 startup shall commence with the beginning of the public school
318 calendar for the district in which the charter is granted unless
319 the sponsor allows a waiver of this subparagraph for good cause.
320 6. A person, or an officer of an entity, who submits an
321 application pursuant to this subsection must undergo background
322 screening in the same manner as instructional and
323 noninstructional personnel hired or contracted to fill positions
324 in a charter school or as members of the governing board of a
325 charter school undergo background screening under s. 1012.32.
326 Notwithstanding any other provision of this subsection, a person
327 may not receive approval of a charter application until the
328 person's screening is completed and the results have been
329 submitted to, and reviewed by, the sponsor.

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330 (c)1. An applicant may appeal any denial of that
331 applicant's application or failure to act on an application to
332 the State Board of Education within ~~no later than~~ 30 calendar
333 days after receipt of the sponsor's decision or failure to act
334 and shall notify the sponsor of its appeal. Any response of the
335 sponsor shall be submitted to the State Board of Education
336 within 30 calendar days after notification of the appeal. Upon
337 receipt of notification from the State Board of Education that a
338 charter school applicant is filing an appeal, the Commissioner
339 of Education shall convene a meeting of the Charter School
340 Appeal Commission to study and make recommendations to the State
341 Board of Education regarding its pending decision about the
342 appeal. The commission shall forward its recommendation to the
343 state board at least 7 calendar days before the date on which
344 the appeal is to be heard. An appeal regarding the denial of an
345 application submitted by a high-performing charter school
346 pursuant to s. 1002.331 shall be conducted by the State Board of
347 Education in accordance with this paragraph, except that the
348 commission shall not convene to make recommendations regarding
349 the appeal. However, the Commissioner of Education shall review
350 the appeal and make a recommendation to the state board.
351 2. The Charter School Appeal Commission or, in the case of
352 an appeal regarding an application submitted by a high-
353 performing charter school, the State Board of Education may
354 reject an appeal submission for failure to comply with
355 procedural rules governing the appeals process. The rejection
356 shall describe the submission errors. The appellant shall have
357 15 calendar days after notice of rejection in which to resubmit
358 an appeal that meets the requirements set forth in State Board

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359 of Education rule. An appeal submitted subsequent to such
360 rejection is considered timely if the original appeal was filed
361 within 30 calendar days after receipt of notice of the specific
362 reasons for the sponsor's denial of the ~~charter~~ application.
363 3.a. The State Board of Education shall by majority vote
364 accept or reject the decision of the sponsor no later than 90
365 calendar days after an appeal is filed in accordance with State
366 Board of Education rule. The State Board of Education shall
367 remand the application to the sponsor with its written decision
368 that the sponsor approve or deny the application. The sponsor
369 shall implement the decision of the State Board of Education.
370 The decision of the State Board of Education is not subject to
371 the provisions of the Administrative Procedure Act, chapter 120.
372 b. If an appeal concerns an application submitted by a
373 high-performing charter school identified pursuant to s.
374 1002.331, the State Board of Education shall determine whether
375 the sponsor's denial of the application complies with the
376 requirements in sub-subparagraph (b)3.b. ~~sponsor has shown, by~~
377 ~~clear and convincing evidence, that:~~
378 ~~(I) The application does not materially comply with the~~
379 ~~requirements in paragraph (a);~~
380 ~~(II) The charter school proposed in the application does~~
381 ~~not materially comply with the requirements in paragraphs~~
382 ~~(9)(a)-(f);~~
383 ~~(III) The proposed charter school's educational program~~
384 ~~does not substantially replicate that of the applicant or one of~~
385 ~~the applicant's high-performing charter schools;~~
386 ~~(IV) The applicant has made a material misrepresentation or~~
387 ~~false statement or concealed an essential or material fact~~

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388 ~~during the application process; or~~
389 ~~(V) The proposed charter school's educational program and~~
390 ~~financial management practices do not materially comply with the~~
391 ~~requirements of this section.~~
392
393 The State Board of Education shall approve or reject the
394 sponsor's denial of an application no later than 90 calendar
395 days after an appeal is filed in accordance with State Board of
396 Education rule. The State Board of Education shall remand the
397 application to the sponsor with its written decision that the
398 sponsor approve or deny the application. The sponsor shall
399 implement the decision of the State Board of Education. The
400 decision of the State Board of Education is not subject to the
401 Administrative Procedure Act, chapter 120.
402 (7) CHARTER.—The major issues involving the operation of a
403 charter school shall be considered in advance and written into
404 the charter. The charter shall be signed by the governing board
405 of the charter school and the sponsor, following a public
406 hearing to ensure community input.
407 (a) The charter shall address and criteria for approval of
408 the charter shall be based on:
409 1. The school's mission, the students to be served, and the
410 ages and grades to be included.
411 2. The focus of the curriculum, the instructional methods
412 to be used, any distinctive instructional techniques to be
413 employed, and identification and acquisition of appropriate
414 technologies needed to improve educational and administrative
415 performance which include a means for promoting safe, ethical,
416 and appropriate uses of technology which comply with legal and

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417 professional standards.
418 a. The charter shall ensure that reading is a primary focus
419 of the curriculum and that resources are provided to identify
420 and provide specialized instruction for students who are reading
421 below grade level. The curriculum and instructional strategies
422 for reading must be consistent with the Next Generation Sunshine
423 State Standards and grounded in scientifically based reading
424 research. For purposes of determining eligibility for the
425 research-based reading instruction allocation, the reading
426 curriculum and instructional strategies specified in the charter
427 satisfy the research-based reading plan requirement under s.
428 1011.62(9).
429 b. In order to provide students with access to diverse
430 instructional delivery models, to facilitate the integration of
431 technology within traditional classroom instruction, and to
432 provide students with the skills they need to compete in the
433 21st century economy, the Legislature encourages instructional
434 methods for blended learning courses consisting of both
435 traditional classroom and online instructional techniques.
436 Charter schools may implement blended learning courses which
437 combine traditional classroom instruction and virtual
438 instruction. Students in a blended learning course must be full-
439 time students of the charter school and receive the online
440 instruction in a classroom setting at the charter school.
441 Instructional personnel certified pursuant to s. 1012.55 who
442 provide virtual instruction for blended learning courses may be
443 employees of the charter school or may be under contract to
444 provide instructional services to charter school students. At a
445 minimum, such instructional personnel must hold an active state

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446 or school district adjunct certification under s. 1012.57 for
447 the subject area of the blended learning course. The funding and
448 performance accountability requirements for blended learning
449 courses are the same as those for traditional courses.
450 3. The current incoming baseline standard of student
451 academic achievement, the outcomes to be achieved, and the
452 method of measurement that will be used. The criteria listed in
453 this subparagraph shall include a detailed description of:
454 a. How the baseline student academic achievement levels and
455 prior rates of academic progress will be established.
456 b. How these baseline rates will be compared to rates of
457 academic progress achieved by these same students while
458 attending the charter school.
459 c. To the extent possible, how these rates of progress will
460 be evaluated and compared with rates of progress of other
461 closely comparable student populations.
462
463 The district school board is required to provide academic
464 student performance data to charter schools for each of their
465 students coming from the district school system, as well as
466 rates of academic progress of comparable student populations in
467 the district school system.
468 4. The methods used to identify the educational strengths
469 and needs of students and how well educational goals and
470 performance standards are met by students attending the charter
471 school. The methods shall provide a means for the charter school
472 to ensure accountability to its constituents by analyzing
473 student performance data and by evaluating the effectiveness and
474 efficiency of its major educational programs. Students in

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475 charter schools shall, at a minimum, participate in the
476 statewide assessment program created under s. 1008.22.
477 5. In secondary charter schools, a method for determining
478 that a student has satisfied the requirements for graduation in
479 s. 1002.3105(5), s. 1003.4281, or s. 1003.4282.
480 6. A method for resolving conflicts between the governing
481 board of the charter school and the sponsor.
482 7. The admissions procedures and dismissal procedures,
483 including the school's code of student conduct.
484 8. The ways by which the school will achieve a
485 racial/ethnic balance reflective of the community it serves or
486 within the racial/ethnic range of other public schools in the
487 same school district.
488 9. The financial and administrative management of the
489 school, including a reasonable demonstration of the professional
490 experience or competence of those individuals or organizations
491 applying to operate the charter school or those hired or
492 retained to perform such professional services and the
493 description of clearly delineated responsibilities and the
494 policies and practices needed to effectively manage the charter
495 school. A description of internal audit procedures and
496 establishment of controls to ensure that financial resources are
497 properly managed must be included. Both public sector and
498 private sector professional experience shall be equally valid in
499 such a consideration. <u>The charter must document that the</u>
500 <u>governing board is independent of any management company or</u>
501 <u>cooperative and may, at its sole discretion, terminate the</u>
502 <u>contract with the management company or cooperative at any time.</u>
503 10. The asset and liability projections required in the

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application which are incorporated into the charter and shall be compared with information provided in the annual report of the charter school.

11. A description of procedures that identify various risks and provide for a comprehensive approach to reduce the impact of losses; plans to ensure the safety and security of students and staff; plans to identify, minimize, and protect others from violent or disruptive student behavior; and the manner in which the school will be insured, including whether or not the school will be required to have liability insurance, and, if so, the terms and conditions thereof and the amounts of coverage.

12. ~~The term of the charter which shall provide for cancellation of the charter if insufficient progress has been made in attaining the student achievement objectives of the charter and if it is not likely that such objectives can be achieved before expiration of the charter.~~ The initial term of the ~~a~~ charter is either ~~shall be for~~ 4 years or 5 years. ~~In order to facilitate access to long-term financial resources for charter school construction,~~ Charter schools that are operated by a municipality or other public entity, as provided by law, or a private, not-for-profit corporation granted 501(c)(3) status by the Internal Revenue Service are eligible for up to a 15-year charter, subject to approval by the district school board. A charter lab school is also eligible for a charter for a term of up to 15 years. ~~In addition, to facilitate access to long-term financial resources for charter school construction, charter schools that are operated by a private, not-for-profit, s. 501(c)(3) status corporation are eligible for up to a 15-year charter, subject to approval by the district school board.~~ Such

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533 long-term charters remain subject to annual review and may be
534 terminated during the term of the charter, but only according to
535 ~~the provisions set forth in~~ subsection (8) or paragraph (9)(n).
536 13. Termination or nonrenewal of the charter pursuant to
537 subsection (8) or paragraph (9)(n).
538 14.~~13.~~ The facilities to be used and their location. The
539 sponsor shall ~~may not~~ require a charter school to have a
540 certificate of occupancy or a temporary certificate of occupancy
541 for such a facility no later than 30 ~~earlier than 15~~ calendar
542 days before the first day of school.
543 15.~~14.~~ The qualifications to be required of the teachers
544 and the potential strategies used to recruit, hire, train, and
545 retain qualified staff to achieve best value.
546 16.~~15.~~ The governance structure of the school, including
547 the status of the charter school as a public or private employer
548 as required in paragraph (12)(i).
549 17.~~16.~~ A timetable for implementing the charter which
550 addresses the implementation of each element thereof and the
551 date by which the charter shall be awarded in order to meet this
552 timetable.
553 18.~~17.~~ In the case of an existing public school that is
554 being converted to charter status, alternative arrangements for
555 current students who choose not to attend the charter school and
556 for current teachers who choose not to teach in the charter
557 school after conversion in accordance with the existing
558 collective bargaining agreement or district school board rule in
559 the absence of a collective bargaining agreement. However,
560 alternative arrangements shall not be required for current
561 teachers who choose not to teach in a charter lab school, except

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562 as authorized by the employment policies of the state university
563 which grants the charter to the lab school.
564 19.~~18.~~ Full disclosure of the identity of all relatives
565 employed by the charter school who are related to the charter
566 school owner, president, chairperson of the governing board of
567 directors, superintendent, governing board member, principal,
568 assistant principal, or any other person employed by the charter
569 school who has equivalent decisionmaking authority. For the
570 purpose of this subparagraph, the term "relative" means father,
571 mother, son, daughter, brother, sister, uncle, aunt, first
572 cousin, nephew, niece, husband, wife, father-in-law, mother-in-
573 law, son-in-law, daughter-in-law, brother-in-law, sister-in-law,
574 stepfather, stepmother, stepson, stepdaughter, stepbrother,
575 stepsister, half brother, or half sister.
576 20.~~19.~~ Implementation of the activities authorized under s.
577 1002.331 by the charter school when it satisfies the eligibility
578 requirements for a high-performing charter school. A high-
579 performing charter school shall notify its sponsor in writing by
580 March 1 if it intends to increase enrollment or expand grade
581 levels the following school year. The written notice shall
582 specify the amount of the enrollment increase and the grade
583 levels that will be added, as applicable.
584 (b)1. A charter may be renewed provided that a program
585 review demonstrates that the criteria in paragraph (a) have been
586 successfully accomplished and that none of the grounds for
587 nonrenewal established by paragraph (8)(a) has been documented.
588 ~~In order to facilitate long-term financing for charter school~~
589 ~~construction,~~ Charter schools operating for a minimum of 3 years
590 and demonstrating exemplary academic programming and fiscal

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591 management are eligible for a 15-year charter renewal. Such
592 long-term charter is subject to annual review and may be
593 terminated during the term of the charter.
594 2. The 15-year charter renewal that may be granted pursuant
595 to subparagraph 1. shall be granted to a charter school that has
596 received a school grade of “A” or “B” pursuant to s. 1008.34 in
597 3 of the past 4 years and is not in a state of financial
598 emergency or deficit position as defined by this section. Such
599 long-term charter is subject to annual review and may be
600 terminated during the term of the charter pursuant to subsection
601 (8).
602 ~~(d)1. Each charter school’s governing board must appoint a~~
603 ~~representative to facilitate parental involvement, provide~~
604 ~~access to information, assist parents and others with questions~~
605 ~~and concerns, and resolve disputes. The representative must~~
606 ~~reside in the school district in which the charter school is~~
607 ~~located and may be a governing board member, charter school~~
608 ~~employee, or individual contracted to represent the governing~~
609 ~~board. If the governing board oversees multiple charter schools~~
610 ~~in the same school district, the governing board must appoint a~~
611 ~~separate individual representative for each charter school in~~
612 ~~the district. The representative’s contact information must be~~
613 ~~provided annually in writing to parents and posted prominently~~
614 ~~on the charter school’s website if a website is maintained by~~
615 ~~the school. The sponsor may not require that governing board~~
616 ~~members reside in the school district in which the charter~~
617 ~~school is located if the charter school complies with this~~
618 ~~paragraph.~~
619 ~~2. Each charter school’s governing board must hold at least~~

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620 ~~two public meetings per school year in the school district. The~~
621 ~~meetings must be noticed, open, and accessible to the public,~~
622 ~~and attendees must be provided an opportunity to receive~~
623 ~~information and provide input regarding the charter school's~~
624 ~~operations. The appointed representative and charter school~~
625 ~~principal or director, or his or her equivalent, must be~~
626 ~~physically present at each meeting.~~
627 (8) CAUSES FOR NONRENEWAL OR TERMINATION OF CHARTER.—
628 (e) When a charter is not renewed or is terminated or when
629 a charter school is closed voluntarily by the operator, the
630 school shall be dissolved under the provisions of law under
631 which the school was organized, and any unencumbered public
632 funds, except for capital outlay funds and federal charter
633 school program grant funds, from the charter school shall revert
634 to the sponsor. Capital outlay funds provided pursuant to s.
635 1013.62 and federal charter school program grant funds that are
636 unencumbered shall revert to the department to be redistributed
637 among eligible charter schools. In the event a charter school is
638 dissolved or is otherwise terminated, all district school board
639 property and improvements, furnishings, and equipment purchased
640 with public funds shall automatically revert to full ownership
641 by the district school board, subject to complete satisfaction
642 of any lawful liens or encumbrances. Any unencumbered public
643 funds from the charter school, district school board property
644 and improvements, furnishings, and equipment purchased with
645 public funds, or financial or other records pertaining to the
646 charter school, in the possession of any person, entity, or
647 holding company, other than the charter school, shall be held in
648 trust upon the district school board's request, until any appeal

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649 status is resolved.
650 (f) If a charter is not renewed or is terminated or a
651 charter school is closed voluntarily by the operator, the
652 charter school is responsible for all debts of the charter
653 school. The district may not assume the debt from any contract
654 made between the governing body of the school and a third party,
655 except for a debt that is previously detailed and agreed upon in
656 writing by both the district and the governing body of the
657 school and that may not reasonably be assumed to have been
658 satisfied by the district.
659 (g) If a charter is not renewed or is terminated, a student
660 who attended the school may apply to, and shall be enrolled in,
661 another public school. Normal application deadlines shall be
662 disregarded under such circumstances.
663 (h) The governing board of a charter school that closes
664 voluntarily shall notify the sponsor and the department in
665 writing within 7 calendar days of its decision to cease
666 operations. The notice must state the reasons for the closure
667 and acknowledge that the governing board agrees to follow the
668 procedures for dissolution and reversion of public funds
669 specified in this subsection and paragraph (9)(o).
670 (i) For a high-performing charter school that is having the
671 charter agreement renewed, the charter contract, as that
672 contract exists on the day the term of the contract is to
673 terminate, must be automatically renewed for the length of the
674 current term if the charter school governing board and sponsor
675 have not executed the renewal before the term of the charter
676 agreement is scheduled to expire.
677 (9) CHARTER SCHOOL REQUIREMENTS.—

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678 (g)1. In order to provide financial information that is
679 comparable to that reported for other public schools, charter
680 schools are to maintain all financial records that constitute
681 their accounting system:
682 a. In accordance with the accounts and codes prescribed in
683 the most recent issuance of the publication titled "Financial
684 and Program Cost Accounting and Reporting for Florida Schools";
685 or
686 b. At the discretion of the charter school's governing
687 board, a charter school may elect to follow generally accepted
688 accounting standards for not-for-profit organizations, but must
689 reformat this information for reporting according to this
690 paragraph.
691 2. Charter schools shall provide annual financial report
692 and program cost report information in the state-required
693 formats for inclusion in district reporting in compliance with
694 s. 1011.60(1). Charter schools that are operated by a
695 municipality or are a component unit of a parent nonprofit
696 organization may use the accounting system of the municipality
697 or the parent but must reformat this information for reporting
698 according to this paragraph.
699 3. A charter school shall, upon execution of the contract,
700 provide the sponsor with a concise, uniform, monthly financial
701 statement summary sheet that contains a balance sheet and a
702 statement of revenue, expenditures, and changes in fund balance.
703 The balance sheet and the statement of revenue, expenditures,
704 and changes in fund balance shall be in the governmental funds
705 format prescribed by the Governmental Accounting Standards
706 Board. A high-performing charter school pursuant to s. 1002.331

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707 may provide a quarterly financial statement in the same format
708 and requirements as the uniform monthly financial statement
709 summary sheet. The sponsor shall review each monthly financial
710 statement, to identify the existence of any conditions
711 identified in s. 1002.345(1)(a).
712 4. A charter school shall maintain and provide financial
713 information as required in this paragraph. The financial
714 statement required in subparagraph 3. must be in a form
715 prescribed by the Department of Education.
716 (n)1. The director and a representative of the governing
717 board of a charter school that has earned a grade of "D" or "F"
718 pursuant to s. 1008.34 shall appear before the sponsor to
719 present information concerning each contract component having
720 noted deficiencies. The director and a representative of the
721 governing board shall submit to the sponsor for approval a
722 school improvement plan to raise student performance. Upon
723 approval by the sponsor, the charter school shall begin
724 implementation of the school improvement plan. The department
725 shall offer technical assistance and training to the charter
726 school and its governing board and establish guidelines for
727 developing, submitting, and approving such plans.
728 2.a. If a charter school earns three consecutive grades of
729 "D," two consecutive grades of "D" followed by a grade of "F,"
730 or two nonconsecutive grades of "F" within a 3-year period, the
731 charter school governing board shall choose one of the following
732 corrective actions:
733 (I) Contract for educational services to be provided
734 directly to students, instructional personnel, and school
735 administrators, as prescribed in state board rule;

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736 (II) Contract with an outside entity that has a
737 demonstrated record of effectiveness to operate the school;
738 (III) Reorganize the school under a new director or
739 principal who is authorized to hire new staff; or
740 (IV) Voluntarily close the charter school.
741 b. The charter school must implement the corrective action
742 in the school year following receipt of a third consecutive
743 grade of "D," a grade of "F" following two consecutive grades of
744 "D," or a second nonconsecutive grade of "F" within a 3-year
745 period.
746 c. The sponsor may annually waive a corrective action if it
747 determines that the charter school is likely to improve a letter
748 grade if additional time is provided to implement the
749 intervention and support strategies prescribed by the school
750 improvement plan. Notwithstanding this sub-subparagraph, a
751 charter school that earns a second consecutive grade of "F" is
752 subject to subparagraph 4.
753 d. A charter school is no longer required to implement a
754 corrective action if it improves by at least one letter grade.
755 However, the charter school must continue to implement
756 strategies identified in the school improvement plan. The
757 sponsor must annually review implementation of the school
758 improvement plan to monitor the school's continued improvement
759 pursuant to subparagraph 5.
760 e. A charter school implementing a corrective action that
761 does not improve by at least one letter grade after 2 full
762 school years of implementing the corrective action must select a
763 different corrective action. Implementation of the new
764 corrective action must begin in the school year following the

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765 implementation period of the existing corrective action, unless
766 the sponsor determines that the charter school is likely to
767 improve a letter grade if additional time is provided to
768 implement the existing corrective action. Notwithstanding this
769 sub-subparagraph, a charter school that earns a second
770 consecutive grade of "F" while implementing a corrective action
771 is subject to subparagraph 4.
772 3. A charter school with a grade of "D" or "F" that
773 improves by at least one letter grade must continue to implement
774 the strategies identified in the school improvement plan. The
775 sponsor must annually review implementation of the school
776 improvement plan to monitor the school's continued improvement
777 pursuant to subparagraph 5.
778 4. A charter school's charter is automatically terminated
779 if the school earns two consecutive grades of "F" after all
780 school grade appeals are final ~~The sponsor shall terminate a~~
781 ~~charter if the charter school earns two consecutive grades of~~
782 ~~"F"~~ unless:
783 a. The charter school is established to turn around the
784 performance of a district public school pursuant to s.
785 1008.33(4)(b)3. Such charter schools shall be governed by s.
786 1008.33;
787 b. The charter school serves a student population the
788 majority of which resides in a school zone served by a district
789 public school that earned a grade of "F" in the year before the
790 charter school opened and the charter school earns at least a
791 grade of "D" in its third year of operation. The exception
792 provided under this sub-subparagraph does not apply to a charter
793 school in its fourth year of operation and thereafter; or

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794 c. The state board grants the charter school a waiver of
795 termination. The charter school must request the waiver within
796 15 days after the department's official release of school
797 grades. The state board may waive termination if the charter
798 school demonstrates that the Learning Gains of its students on
799 statewide assessments are comparable to or better than the
800 Learning Gains of similarly situated students enrolled in nearby
801 district public schools. The waiver is valid for 1 year and may
802 only be granted once. Charter schools that have been in
803 operation for more than 5 years are not eligible for a waiver
804 under this sub-subparagraph.
805
806 The sponsor shall notify in writing the charter school's
807 governing board, the charter school principal, and the
808 department when a charter is terminated under this subparagraph.
809 A charter terminated under this subparagraph is governed by the
810 requirements of paragraphs (8)(e)-(g) and paragraph (o) of this
811 subsection.
812 5. The director and a representative of the governing board
813 of a graded charter school that has implemented a school
814 improvement plan under this paragraph shall appear before the
815 sponsor at least once a year to present information regarding
816 the progress of intervention and support strategies implemented
817 by the school pursuant to the school improvement plan and
818 corrective actions, if applicable. The sponsor shall communicate
819 at the meeting, and in writing to the director, the services
820 provided to the school to help the school address its
821 deficiencies.
822 6. Notwithstanding any provision of this paragraph except

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823 sub-subparagraphs 4.a.-c., the sponsor may terminate the charter
824 at any time pursuant to subsection (8).
825 (p)1. Each charter school shall maintain a website that
826 enables the public to obtain information regarding the school;
827 the school's academic performance; the names of the governing
828 board members; the programs at the school; any management
829 companies, cooperatives, service providers, or education
830 management corporations associated with the school; the school's
831 annual budget and its annual independent fiscal audit; the
832 school's grade pursuant to s. 1008.34; and, on a quarterly
833 basis, the minutes of governing board meetings.
834 2. Each charter school's governing board shall appoint a
835 representative to facilitate parental involvement, provide
836 access to information, assist parents and others with questions
837 and concerns, and resolve disputes. The representative must
838 reside in the school district in which the charter school is
839 located and may be a governing board member, charter school
840 employee, or individual contracted to represent the governing
841 board. If the governing board oversees multiple charter schools
842 in the same school district, the governing board must appoint a
843 separate individual representative for each charter school in
844 the district. The representative's contact information must be
845 provided annually, in writing, to parents and posted prominently
846 on the charter school's website. The sponsor may not require
847 that governing board members reside in the school district in
848 which the charter school is located if the charter school
849 complies with this paragraph.
850 3. Each charter school's governing board must hold at least
851 two public meetings per school year in the school district where

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852 the charter school is located. The meetings must be noticed,
853 open, and accessible to the public, and attendees must be
854 provided an opportunity to receive information and provide input
855 regarding the charter school's operations. The appointed
856 representative and charter school principal or director, or his
857 or her equivalent, must be physically present at each meeting.
858 (10) ELIGIBLE STUDENTS.—
859 (a) A charter school shall be open to any student covered
860 in an interdistrict agreement or residing in the school district
861 in which the charter school is located; however, in the case of
862 a charter lab school, the charter lab school shall be open to
863 any student eligible to attend the lab school as provided in s.
864 1002.32 or who resides in the school district in which the
865 charter lab school is located. Any eligible student shall be
866 allowed interdistrict transfer to attend a charter school when
867 based on good cause. Good cause shall include, but is not
868 limited to, geographic proximity to a charter school in a
869 neighboring school district. A charter school that has not
870 reached capacity, as provided in s. 1002.31(3)(h), may be open
871 to any student in the state.
872 (13) CHARTER SCHOOL COOPERATIVES.—Charter schools may enter
873 into cooperative agreements to form charter school cooperative
874 organizations that may provide ~~the following~~ services to further
875 educational, operational, and administrative initiatives in
876 which the participating charter schools share common interests~~:~~
877 ~~charter school planning and development, direct instructional~~
878 ~~services, and contracts with charter school governing boards to~~
879 ~~provide personnel administrative services, payroll services,~~
880 ~~human resource management, evaluation and assessment services,~~

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881 ~~teacher preparation, and professional development~~.
882 (17) FUNDING.—Students enrolled in a charter school,
883 regardless of the sponsorship, shall be funded as if they are in
884 a basic program or a special program, the same as students
885 enrolled in other public schools in the school district. Funding
886 for a charter lab school shall be as provided in s. 1002.32.
887 (b) The basis for the agreement for funding students
888 enrolled in a charter school shall be the sum of the school
889 district's operating funds from the Florida Education Finance
890 Program as provided in s. 1011.62 and the General Appropriations
891 Act, including gross state and local funds, discretionary
892 lottery funds, and funds from the school district's current
893 operating discretionary millage levy; divided by total funded
894 weighted full-time equivalent students in the school district;
895 multiplied by the weighted full-time equivalent students for the
896 charter school. Charter schools whose students or programs meet
897 the eligibility criteria in law are entitled to their
898 proportionate share of categorical program funds included in the
899 total funds available in the Florida Education Finance Program
900 by the Legislature, including transportation, the research-based
901 reading allocation, and the Florida digital classrooms
902 allocation. Total funding for each charter school shall be
903 recalculated during the year to reflect the revised calculations
904 under the Florida Education Finance Program by the state and the
905 actual weighted full-time equivalent students reported by the
906 charter school during the full-time equivalent student survey
907 periods designated by the Commissioner of Education.
908 (e) District school boards shall make timely and efficient
909 payment and reimbursement to charter schools, including

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910 processing paperwork required to access special state and
911 federal funding for which they may be eligible. The district
912 school board may distribute funds to a charter school for up to
913 3 months based on the projected full-time equivalent student
914 membership of the charter school. Thereafter, the results of
915 full-time equivalent student membership surveys shall be used in
916 adjusting the amount of funds distributed monthly to the charter
917 school for the remainder of the fiscal year. The payment shall
918 be issued no later than 10 working days after the district
919 school board receives a distribution of state or federal funds.
920 If a warrant for payment is not issued within 10 working days
921 after receipt of funding by the district school board, the
922 school district shall pay to the charter school, in addition to
923 the amount of the scheduled disbursement, interest at a rate of
924 1 percent per month calculated on a daily basis on the unpaid
925 balance from the expiration of the 10 working days until such
926 time as the warrant is issued. The district school board may not
927 delay payment to a charter school of any portion of the funds
928 provided in paragraph (b) based on the timing of receipt of
929 local funds by the district school board.
930 (21) PUBLIC INFORMATION ON CHARTER SCHOOLS.—
931 (a) The Department of Education shall provide information
932 to the public, directly and through sponsors, on how to form and
933 operate a charter school and how to enroll in a charter school
934 once it is created. This information shall include a standard
935 ~~model~~ application form, standard charter contract, standard
936 application evaluation instrument, and standard charter renewal
937 contract, which shall include the information specified in
938 subsection (7) and shall be developed by consulting and

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939 negotiating with both school districts and charter schools
940 before implementation. The charter and charter renewal contracts
941 shall be used by charter school sponsors.
942 (26) STANDARDS OF CONDUCT AND FINANCIAL DISCLOSURE.—
943 (c) An employee of the charter school, or his or her
944 spouse, or an employee of a management company, cooperative, or
945 charter management organization, or his or her spouse, may not
946 be a member of the governing board of the charter school.
947 (27) CONFLICTS OF INTEREST AND ETHICS.—An individual may
948 not serve as a member of a governing board of a charter school,
949 an education management corporation, or charter school
950 cooperative organization if he or she or an immediate family
951 member receives a pension or any compensation from the charter
952 school, or if the individual's partner is an owner or principal
953 with an entity or independent contractor with whom the charter
954 school does business or contracts, directly or indirectly, for
955 professional services, goods, or facilities. An individual may
956 not serve as a governing board member if an immediate family
957 member is an employee of the school. Members of the governing
958 board of a charter school may not be appointed, removed, or
959 replaced by an entity or component unit of an entity with which
960 the charter school has entered into any contract.
961 Section 4. Paragraph (e) of subsection (2), paragraph (b)
962 of subsection (3), and subsections (4) through (6) of section
963 1002.331, Florida Statutes, are amended to read:
964 1002.331 High-performing charter schools.—
965 (2) A high-performing charter school is authorized to:
966 (e) Receive a modification of its charter to a term of 15
967 years or a 15-year charter renewal. The charter may be modified

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968 or renewed for a shorter term at the option of the high-
969 performing charter school. The charter must be consistent with
970 s. 1002.33(7)(a)20. ~~s. 1002.33(7)(a)19.~~ and (10)(h) and (i), is
971 subject to annual review by the sponsor, and may be terminated
972 during its term pursuant to s. 1002.33(8).
973
974 A high-performing charter school shall notify its sponsor in
975 writing by May 1 ~~March 1~~ if it intends to increase enrollment or
976 expand grade levels the following school year. The written
977 notice shall specify the amount of the enrollment increase and
978 the grade levels that will be added, as applicable. If a charter
979 school notifies the sponsor of its intent to expand, the sponsor
980 shall modify the charter within 90 days to include the new
981 enrollment maximum and may not make any other changes. The
982 sponsor may deny a request to increase the enrollment of a high-
983 performing charter school if the commissioner has declassified
984 the charter school as high-performing. If a high-performing
985 charter school requests to consolidate multiple charters, the
986 sponsor shall have 40 days after receipt of that request to
987 provide an initial draft charter to the charter school. The
988 sponsor and charter school shall have 50 days thereafter to
989 negotiate and notice the charter contract for final approval by
990 the sponsor.
991 (3)
992 (b) A high-performing charter school may not establish more
993 than one charter school within the state under paragraph (a) in
994 any year. A subsequent application to establish a charter school
995 under paragraph (a) may not be submitted unless each charter
996 school established in this manner achieves high-performing

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997 charter school status. The limits set forth in this paragraph do
998 not apply to charter schools established by a high-performing
999 charter school in the attendance zone of a school identified as
1000 in need of intervention and support pursuant to s. 1008.33(3)(b)
1001 or to meet needs for innovative choice options identified by the
1002 district school board.
1003 ~~(4) A high-performing charter school may not increase~~
1004 ~~enrollment or expand grade levels following any school year in~~
1005 ~~which it receives a school grade of "C" or below. If the charter~~
1006 ~~school receives a school grade of "C" or below in any 2 years~~
1007 ~~during the term of the charter awarded under subsection (2), the~~
1008 ~~term of the charter may be modified by the sponsor and the~~
1009 ~~charter school loses its high-performing charter school status~~
1010 ~~until it regains that status under subsection (1).~~
1011 (4) ~~(5)~~ The Commissioner of Education, upon request by a
1012 charter school, shall verify that the charter school meets the
1013 criteria in subsection (1) and provide a letter to the charter
1014 school and the sponsor stating that the charter school is a
1015 high-performing charter school pursuant to this section. The
1016 commissioner shall annually determine whether a high-performing
1017 charter school under subsection (1) continues to meet the
1018 criteria in that subsection. Such high-performing charter school
1019 shall maintain its high-performing status unless the
1020 commissioner determines that the charter school no longer meets
1021 the criteria in subsection (1), at which time the commissioner
1022 shall send a letter to the charter school and its sponsor
1023 providing notification that the charter school has been
1024 declassified ~~of its declassification~~ as a high-performing
1025 charter school.

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1026 (5) ~~(6)~~ A high-performing charter school replicated under
1027 this section may not be replicated as a virtual charter school.
1028 Section 5. Section 1003.3101, Florida Statutes, is created
1029 to read:
1030 1003.3101 Additional school choice options.—Each district
1031 school board shall establish a transfer process for a parent to
1032 request his or her child be transferred to another classroom
1033 teacher. A school must grant or deny the transfer within 2 weeks
1034 after receiving a request. If a request for transfer is denied,
1035 the school shall notify the parent and specify the reasons for a
1036 denial. An explanation of the transfer process must be made
1037 available in the student handbook or a similar publication.
1038 Section 6. Paragraph (b) of subsection (1) of section
1039 1003.57, Florida Statutes, is amended to read:
1040 1003.57 Exceptional students instruction.—
1041 (1)
1042 (b) Each district school board shall provide for an
1043 appropriate program of special instruction, facilities, and
1044 services for exceptional students as prescribed by the State
1045 Board of Education as acceptable. Each district program must~~,~~
1046 ~~including provisions that~~:
1047 1. ~~The district school board~~ Provide the necessary
1048 professional services for diagnosis and evaluation of
1049 exceptional students. At least once every 3 years, the district
1050 school board must submit to the department its proposed
1051 procedures for the provision of special instruction and services
1052 for exceptional students.
1053 2. ~~The district school board~~ Provide the special
1054 instruction, classes, and services, either within the district

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1055 school system, in cooperation with other district school
1056 systems, or through contractual arrangements with approved
1057 private schools or community facilities that meet standards
1058 established by the commissioner.
1059 3. ~~The district school board~~ Annually provide information
1060 describing the Florida School for the Deaf and the Blind and all
1061 other programs and methods of instruction available to the
1062 parent of a sensory-impaired student.
1063 4. Provide instruction to homebound or hospitalized
1064 students in accordance with this section and rules adopted by
1065 the state board, which must establish, at a minimum, the
1066 following:
1067 a. Criteria for the eligibility of K-12 homebound or
1068 hospitalized students for specially designed instruction.
1069 b. Procedures for determining student eligibility.
1070 c. A list of appropriate methods for providing instruction
1071 to homebound or hospitalized students.
1072 d. Requirements for initiating instructional services for a
1073 homebound or hospitalized student once the student is determined
1074 to be eligible. An eligible student receiving treatment in a
1075 children’s specialty hospital licensed under part I of chapter
1076 395 must be provided educational instruction from the school
1077 district in which the hospital is located until the school
1078 district enters into an agreement with the school district in
1079 which the student resides. The department shall develop a
1080 standard agreement for use by school districts to provide
1081 seamless educational instruction to students who transition
1082 between school districts while receiving treatment in specialty
1083 hospitals for children.

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1084
1085 No later than August 15, 2015, each school district in which a
1086 children's specialty hospital licensed under part I of chapter
1087 395 is located shall enter into an agreement with the hospital
1088 to establish a process by which the hospital must notify the
1089 school district of any student who may be eligible for
1090 educational instruction consistent with this subparagraph and
1091 the timelines for determining such eligibility and providing
1092 such instruction ~~The district school board, once every 3 years,~~
1093 ~~submit to the department its proposed procedures for the~~
1094 ~~provision of special instruction and services for exceptional~~
1095 ~~students~~.
1096 Section 7. Section 1004.6491, Florida Statutes, is created
1097 to read:
1098 1004.6491 Florida Institute for Charter School Innovation.—
1099 (1) There is established the Florida Institute for Charter
1100 School Innovation within the Florida State University. The
1101 purpose of the institute is to advance charter school
1102 accountability, quality, and innovation; provide support and
1103 technical assistance to charter school applicants; connect
1104 aspiring teachers to opportunities to experience teaching in
1105 schools of choice; and conduct research and develop and promote
1106 best practices for charter school authorization, financing,
1107 management, operations, and instructional practices.
1108 (2) The institute shall:
1109 (a) Conduct research to inform both policy and practice
1110 related to charter school accountability, financing, management,
1111 operations, and instructional practices.
1112 (b) Partner with state-approved teacher preparation

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1113 programs in this state to provide opportunities for aspiring
1114 teachers to experience teaching in schools of choice.
1115 (c) Provide technical assistance and support to charter
1116 school applicants with innovative charter school concepts.
1117 (3) The President of the Florida State University shall
1118 appoint a director of the institute. The director is responsible
1119 for overall management of the institute and for developing and
1120 executing the work of the institute consistent with this
1121 section. The director may engage individuals in other state
1122 universities with accredited colleges of education to
1123 participate in the institute.
1124 (4) By each October 1, the institute shall provide a
1125 written report to the Governor, the President of the Senate, and
1126 the Speaker of the House of Representatives which outlines its
1127 activities in the preceding year, reports significant research
1128 findings, details expenditures of state funds, and provides
1129 specific recommendations for improving the institute's ability
1130 to fulfil its mission and for changes to statewide charter
1131 school policy.
1132 (5) Within 180 days after completion of the institute's
1133 fiscal year, the institute shall provide to the Auditor General,
1134 the Board of Governors of the State University System, and the
1135 State Board of Education a report on the results of an annual
1136 financial audit conducted by an independent certified public
1137 accountant in accordance with s. 11.45.
1138 Section 8. Section 1011.6202, Florida Statutes, is created
1139 to read:
1140 1011.6202 Principal Autonomy Pilot Program Initiative.—The
1141 Principal Autonomy Pilot Program Initiative is created within

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1142 the Department of Education. The purpose of the pilot program is
1143 to provide the principal of a participating school with
1144 increased autonomy and authority to operate his or her school in
1145 a way that produces significant improvements in student
1146 achievement and school management while complying with
1147 constitutional requirements. The State Board of Education may,
1148 upon approval of a principal autonomy proposal, enter into a
1149 performance contract with up to six district school boards for
1150 participation in the program.
1151 (1) PARTICIPATING SCHOOL DISTRICTS.—A Florida district
1152 school board may submit to the state board for approval a
1153 principal autonomy proposal that exchanges statutory and rule
1154 exemptions for an agreement to meet performance goals
1155 established in the proposal. If approved by the state board, the
1156 school district shall be eligible to participate in the program
1157 for 3 years. At the end of the 3 years, the performance of all
1158 participating schools in the school district shall be evaluated.
1159 (2) PRINCIPAL AUTONOMY PROPOSAL.—
1160 (a) To participate in the program, a school district must:
1161 1. Identify three middle or high schools whose principals
1162 will have fiscal and administrative autonomy.
1163 2. Describe the current financial and administrative
1164 management of each participating school; identify the areas in
1165 which each school principal will have increased fiscal and
1166 administrative autonomy, including the authority and
1167 responsibilities provided in s. 1012.28(8); and identify the
1168 areas in which each participating school will continue to follow
1169 district school board fiscal and administrative policies.
1170 3. Explain the methods used to identify the educational

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1171 strengths and needs of the participating school's students and
1172 identify how student achievement can be improved.
1173 4. Establish performance goals for student achievement, as
1174 defined in s. 1008.34(1), and explain how the increased autonomy
1175 of principals will help participating schools improve student
1176 achievement and school management.
1177 5. Provide each participating school's mission and a
1178 description of its student population.
1179 (b) The state board shall establish criteria, which must
1180 include the criteria listed in paragraph (a), for the approval
1181 of a principal autonomy proposal.
1182 (c) A district school board must submit its principal
1183 autonomy proposal to the state board for approval by December 1
1184 in order to begin participation in the subsequent school year.
1185 By February 28 of the school year in which the proposal is
1186 submitted, the state board shall notify the district school
1187 board in writing whether the proposal is approved.
1188 (3) EXEMPTION FROM LAWS.—
1189 (a) With the exception of those laws listed in paragraph
1190 (b), a participating school district is exempt from the
1191 provisions of chapters 1000-1013 and rules of the state board
1192 which implement those exempt provisions.
1193 (b) A participating school district shall comply with the
1194 provisions of chapters 1000-1013, and rules of the state board
1195 which implement those provisions, pertaining to the following:
1196 1. Those laws relating to the election and compensation of
1197 district school board members, the election or appointment and
1198 compensation of district school superintendents, public meetings
1199 and public records requirements, financial disclosure, and

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1200 conflicts of interest.
1201 2. Those laws relating to the student assessment program
1202 and school grading system, including chapter 1008.
1203 3. Those laws relating to the provision of services to
1204 students with disabilities.
1205 4. Those laws relating to civil rights, including s.
1206 1000.05, relating to discrimination.
1207 5. Those laws relating to student health, safety, and
1208 welfare.
1209 6. Section 1001.42(4)(f), relating to the uniform opening
1210 and closing date for public schools.
1211 7. Section 1003.03, governing maximum class size, except
1212 that the calculation for compliance pursuant to s. 1003.03 is
1213 the average at the school level for a participating school.
1214 8. Sections 1012.22(1)(c) and 1012.27(2), relating to
1215 compensation and salary schedules.
1216 9. Section 1012.33(5), relating to workforce reductions for
1217 annual contracts for instructional personnel. This subparagraph
1218 does not apply to at-will employees.
1219 10. Section 1012.335, relating to annual contracts for
1220 instructional personnel hired on or after July 1, 2011. This
1221 subparagraph does not apply to at-will employees.
1222 11. Section 1012.34, relating to personnel evaluation
1223 procedures and criteria.
1224 12. Those laws pertaining to educational facilities,
1225 including chapter 1013, except that s. 1013.20, relating to
1226 covered walkways for relocatables, and s. 1013.21, relating to
1227 the use of relocatable facilities exceeding 20 years of age, are
1228 eligible for exemption.

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1229 13. Those laws pertaining to participating school
1230 districts, including this section and ss. 1011.64(2)(b),
1231 1011.69(2), 1012.28(8), and 1012.986(1)(e).
1232 (4) PROFESSIONAL DEVELOPMENT.—Each participating school
1233 district shall require that the principal of each participating
1234 school complete professional development provided through the
1235 William Cecil Golden Professional Development Program for School
1236 Leaders under s. 1012.986. The professional development must be
1237 completed before a school may participate in the Principal
1238 Autonomy Pilot Program Initiative.
1239 (5) TERM OF PARTICIPATION.—The state board shall authorize
1240 a school district to participate in the program for a period of
1241 3 years commencing with approval of the principal autonomy
1242 proposal. Authorization to participate in the program may be
1243 renewed upon action of the state board. The state board may
1244 revoke authorization to participate in the program if the school
1245 district fails to meet the requirements of this section during
1246 the 3-year period.
1247 (6) REPORTING.—Each participating school district shall
1248 submit an annual report to the state board. The state board
1249 shall annually report on the implementation of the Principal
1250 Autonomy Pilot Program Initiative. Upon completion of the
1251 program's first 3-year term, the Commissioner of Education shall
1252 submit to the President of the Senate and the Speaker of the
1253 House of Representatives by December 1 a full evaluation of the
1254 effectiveness of the program.
1255 (7) RULEMAKING.—The State Board of Education shall adopt
1256 rules to administer this section.
1257 Section 9. Paragraph (b) of subsection (2) of section

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1258 1011.64, Florida Statutes, is amended to read:
1259 1011.64 School district minimum classroom expenditure
1260 requirements.—
1261 (2) For the purpose of implementing the provisions of this
1262 section, the Legislature shall prescribe minimum academic
1263 performance standards and minimum classroom expenditure
1264 requirements for districts not meeting such minimum academic
1265 performance standards in the General Appropriations Act.
1266 (b) School district minimum classroom expenditure
1267 requirements shall be calculated pursuant to subsection (3) and
1268 may include training pursuant to s. 1012.986(1)(e).
1269 Section 10. Subsection (2) of section 1011.69, Florida
1270 Statutes, is amended to read:
1271 1011.69 Equity in School-Level Funding Act.—
1272 (2) Beginning in the 2003-2004 fiscal year, district school
1273 boards shall allocate to schools within the district an average
1274 of 90 percent of the funds generated by all schools and
1275 guarantee that each school receives at least 80 percent, except
1276 that a school participating in the Principal Autonomy Pilot
1277 Program Initiative under s. 1011.6202 is guaranteed to receive
1278 at least 90 percent, of the funds generated by that school based
1279 upon the Florida Education Finance Program as provided in s.
1280 1011.62 and the General Appropriations Act, including gross
1281 state and local funds, discretionary lottery funds, and funds
1282 from the school district's current operating discretionary
1283 millage levy. Total funding for each school shall be
1284 recalculated during the year to reflect the revised calculations
1285 under the Florida Education Finance Program by the state and the
1286 actual weighted full-time equivalent students reported by the

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1287 school during the full-time equivalent student survey periods
1288 designated by the Commissioner of Education. If the district
1289 school board is providing programs or services to students
1290 funded by federal funds, any eligible students enrolled in the
1291 schools in the district shall be provided federal funds.
1292 Section 11. Subsection (8) is added to section 1012.28,
1293 Florida Statutes, to read:
1294 1012.28 Public school personnel; duties of school
1295 principals.—
1296 (8) The principal of a participating school in a
1297 participating school district approved under s. 1011.6202 has
1298 the following additional authority and responsibilities:
1299 (a) In addition to the authority provided in subsection
1300 (6), the authority to select qualified instructional personnel
1301 for placement or to refuse to accept the placement or transfer
1302 of instructional personnel by the district school
1303 superintendent. Placement of instructional personnel at a
1304 participating school in a participating school district does not
1305 affect the employee’s status as a school district employee.
1306 (b) The authority to deploy financial resources to school
1307 programs at the principal’s discretion to help improve student
1308 achievement, as defined in s. 1008.34(1), and meet performance
1309 goals identified in the principal autonomy proposal submitted
1310 pursuant to s. 1011.6202.
1311 (c) The responsibility to annually provide to the district
1312 school superintendent and the district school board a budget for
1313 the operation of the participating school which identifies how
1314 funds provided pursuant to s. 1011.69(2) are allocated. The
1315 school district shall include the budget in the annual report

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1316 provided to the State Board of Education pursuant to s.
1317 1011.6202(6).
1318 Section 12. Subsection (2) of section 1012.42, Florida
1319 Statutes, is amended to read:
1320 1012.42 Teacher teaching out-of-field.—
1321 (2) NOTIFICATION REQUIREMENTS.—When a teacher in a district
1322 school system is assigned teaching duties in a class dealing
1323 with subject matter that is outside the field in which the
1324 teacher is certified, outside the field that was the applicant's
1325 minor field of study, or outside the field in which the
1326 applicant has demonstrated sufficient subject area expertise, as
1327 determined by district school board policy in the subject area
1328 to be taught, the parents of all students in the class shall be
1329 notified in writing of such assignment. A parent who receives
1330 this notification may, after the October student membership
1331 survey, request that his or her child be transferred to another
1332 classroom teacher within the school and grade in which the child
1333 is currently enrolled. If space is available in a classroom
1334 taught by an in-field teacher, the school district shall grant
1335 the parent's request and transfer the student to the in-field
1336 classroom teacher within a reasonable period, not to exceed 2
1337 weeks. An explanation of the transfer process must be made
1338 available in the student handbook or a similar publication. This
1339 does not provide a parent the right to choose a specific
1340 teacher.
1341 Section 13. Paragraph (e) is added to subsection (1) of
1342 section 1012.986, Florida Statutes, to read:
1343 1012.986 William Cecil Golden Professional Development
1344 Program for School Leaders.—

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1345 (1) There is established the William Cecil Golden
1346 Professional Development Program for School Leaders to provide
1347 high standards and sustained support for principals as
1348 instructional leaders. The program shall consist of a
1349 collaborative network of state and national professional
1350 leadership organizations to respond to instructional leadership
1351 needs throughout the state. The network shall support the human-
1352 resource development needs of principals, principal leadership
1353 teams, and candidates for principal leadership positions using
1354 the framework of leadership standards adopted by the State Board
1355 of Education, the Southern Regional Education Board, and the
1356 National Staff Development Council. The goal of the network
1357 leadership program is to:
1358 (e) For principals of schools participating in the
1359 Principal Autonomy Pilot Program Initiative under s. 1011.6202,
1360 provide training on the following:
1361 1. Managing instructional personnel, including developing a
1362 high-performing instructional leadership team.
1363 2. Public school budgeting, financial management, and human
1364 resources policies and procedures.
1365 3. Best practices for the effective exercise of increased
1366 budgetary and staffing flexibility to improve student
1367 achievement and operational efficiency.
1368 Section 14. Paragraph (a) of subsection (1) of section
1369 1013.62, Florida Statutes, is amended to read:
1370 1013.62 Charter schools capital outlay funding.—
1371 (1) In each year in which funds are appropriated for
1372 charter school capital outlay purposes, the Commissioner of
1373 Education shall allocate the funds among eligible charter

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1374 schools.
1375 (a) To be eligible for a funding allocation, a charter
1376 school must:
1377 1.a. Have been in operation for 3 or more years;
1378 b. Be governed by a governing board established in the
1379 state for 3 or more years which operates both charter schools
1380 and conversion charter schools within the state;
1381 c. Be an expanded feeder chain of a charter school within
1382 the same school district that is currently receiving charter
1383 school capital outlay funds;
1384 d. Have been accredited by the Commission on Schools of the
1385 Southern Association of Colleges and Schools; or
1386 e. Serve students in facilities that are provided by a
1387 business partner for a charter school-in-the-workplace pursuant
1388 to s. 1002.33(15)(b).
1389 2. Have an annual audit that does not reveal any of the
1390 financial emergency conditions provided in s. 218.503(1) for the
1391 most recent fiscal year for which such audit results are
1392 available ~~stability for future operation as a charter school~~.
1393 3. Have satisfactory student achievement based on state
1394 accountability standards applicable to the charter school.
1395 4. Have received final approval from its sponsor pursuant
1396 to s. 1002.33 for operation during that fiscal year.
1397 5. Serve students in facilities that are not provided by
1398 the charter school's sponsor.
1399 Section 15. Notwithstanding any other provision of law,
1400 student reporting requirements related to withdrawals,
1401 suspensions, expulsions, and other related instances where
1402 students are no longer enrolled in a school must be the same for

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1403 public schools, including charter schools. Thus, charter school
1404 reporting requirements for these instances apply to all public
1405 schools, and public school reporting requirements apply to all
1406 charter schools.
1407 Section 16. This act shall take effect July 1, 2015.
1408
1409 ========== T I T L E A M E N D M E N T ==========
1410 And the title is amended as follows:
1411 Delete everything before the enacting clause
1412 and insert:
1413 A bill to be entitled
1414 An act relating to student choice; amending s.
1415 1002.20, F.S.; conforming a provision to changes made
1416 by the act; authorizing parents of public school
1417 students to seek private educational choice options
1418 through the Florida Personal Learning Scholarship
1419 Accounts Program under certain circumstances;
1420 providing that a parent has the right to know certain
1421 financial information; requiring the information to be
1422 published in a parent guide; amending s. 1002.31,
1423 F.S.; requiring each district school board to allow a
1424 parent to enroll his or her child in and transport his
1425 or her child to any public school that has not reached
1426 capacity in the district; authorizing a school
1427 district to provide transportation to such students at
1428 the district’s discretion; requiring the student to
1429 remain at such school for a specified timeframe;
1430 revising requirements for the controlled open
1431 enrollment process; authorizing a parent to enroll his

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1432 or her child in and transport his or her child to any
1433 public school that has not reached capacity in the
1434 state; requiring each district school board to
1435 establish a transfer process to another classroom
1436 teacher; providing that a parent is not given the
1437 right to choose a specific classroom teacher;
1438 providing requirements for the transfer process;
1439 amending s. 1002.33, F.S.; revising required contents
1440 of charter school applications; requiring a charter
1441 school to submit quarterly financial statements for
1442 the first year of operation with specified information
1443 included; requiring a charter school to submit a plan
1444 to become financially viable under certain
1445 circumstances; conforming provisions regarding the
1446 appeal process for denial of a high-performing charter
1447 school application; specifying that the reading
1448 curriculum and instructional strategies in a charter
1449 school’s charter satisfy the research-based reading
1450 plan requirement and that charter schools are eligible
1451 for the research-based reading allocation; requiring a
1452 person or officer of an entity who submits a charter
1453 school application to undergo background screening;
1454 prohibiting a sponsor from approving a charter school
1455 application until completion, receipt, and review of
1456 the results of such screening; requiring a charter to
1457 document that the governing board is independent of a
1458 management company or cooperative; revising charter
1459 provisions relating to long-term charters and charter
1460 terminations; revising the deadline by which a charter

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1461 school must have a certificate of occupancy or
1462 temporary certificate of occupancy; revising
1463 conditions for nonrenewal or termination of a charter;
1464 requiring the sponsor to review monthly financial
1465 statements; requiring the sponsor to notify specified
1466 parties of a charter’s termination under certain
1467 circumstances; requiring a charter school’s governing
1468 board to appoint a representative to provide
1469 information and assistance to parents; requiring the
1470 governing board to hold a certain number of meetings
1471 that are noticed, open, and accessible to the public
1472 per school year; authorizing a charter school that has
1473 not reached capacity to be open to any student in the
1474 state; revising requirements for the funding of
1475 charter schools; prohibiting the district school board
1476 from delaying payment to a charter school under
1477 specified circumstances; requiring the Department of
1478 Education to include a standard application form when
1479 providing information to the public on how to form,
1480 operate, and enroll in a charter school; prohibiting
1481 an employee of a management company or cooperative
1482 from being a member of a charter school governing
1483 board; prohibiting specified conflicts of interests on
1484 the part of members of the governing board of a
1485 charter school or charter school cooperative
1486 organization; amending s. 1002.331, F.S.; providing an
1487 exception to the prohibition on a high-performing
1488 charter school establishing more than one charter
1489 school in this state under specified circumstances;

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1490 conforming provisions and a cross-reference to changes
1491 made by the act; deleting obsolete provisions;
1492 creating s. 1003.3101, F.S.; requiring each district
1493 school board to establish a classroom teacher transfer
1494 process for parents, approve or deny a request within
1495 a certain timeframe, and post an explanation of the
1496 transfer process in the student handbook or a similar
1497 publication; amending s. 1003.57, F.S.; revising
1498 program requirements for exceptional students
1499 instruction; requiring each school district to enter
1500 into an agreement with a hospital by a specified date;
1501 creating s. 1004.6491, F.S.; establishing the Florida
1502 Institute for Charter School Innovation; specifying
1503 requirements for the institute; requiring an annual
1504 report to the Governor and the Legislature; requiring
1505 a report on the institute’s annual financial audit to
1506 the Auditor General, the Board of Governors of the
1507 State University System, and the State Board of
1508 Education; creating s. 1011.6202, F.S.; creating the
1509 Principal Autonomy Pilot Program Initiative; providing
1510 a procedure for a school district to participate in
1511 the program; providing requirements for participating
1512 school districts and schools; exempting participating
1513 school districts from certain laws and rules;
1514 requiring principals of participating schools to
1515 complete a specific professional development program;
1516 providing for the term of participation in the
1517 program; providing for renewal or revocation of
1518 authorization to participate in the program; providing

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1519 for reporting and rulemaking; amending s. 1011.64,
1520 F.S.; providing that certain training may be included
1521 in school district minimum classroom expenditure
1522 requirements; amending s. 1011.69, F.S.; requiring
1523 participating district school boards to allocate a
1524 specified percentage of certain funds to participating
1525 schools; amending s. 1012.28, F.S.; providing
1526 additional authority and responsibilities of the
1527 principal of a participating school in a charter
1528 school district; amending s. 1012.42, F.S.;
1529 authorizing a parent who receives notification that a
1530 teacher is teaching outside his or her field to
1531 request that his or her child be transferred to
1532 another classroom teacher within the school and grade
1533 in which the child is currently enrolled; amending s.
1534 1012.986, F.S.; specifying the contents of a specific
1535 professional development program for certain school
1536 principals; amending s. 1013.62, F.S.; revising
1537 eligibility requirements for charter school capital
1538 outlay funding; specifying applicability of certain
1539 reporting requirements to charter schools and public
1540 schools; providing an effective date.

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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/22/2015	.	
	.	
	.	
	.	

The Committee on Appropriations (Montford) recommended the following:

1 **Senate Amendment to Amendment (798694) (with title**
2 **amendment)**
3
4 Between lines 1137 and 1138
5 insert:
6 Section 8. Subsection (1) of section 1011.61, Florida
7 Statutes, is amended to read:
8 1011.61 Definitions.—Notwithstanding the provisions of s.
9 1000.21, the following terms are defined as follows for the
10 purposes of the Florida Education Finance Program:

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11 (1) A "full-time equivalent student" in each program of the
12 district is defined in terms of full-time students and part-time
13 students as follows:
14 (a) A "full-time student" is one student on the membership
15 roll of one school program or a combination of school programs
16 listed in s. 1011.62(1)(c) for the school year or the equivalent
17 for:
18 1. Instruction in a standard school, comprising not less
19 than 900 net hours for a student in or at the grade level of 4
20 through 12, or not less than 720 net hours for a student in or
21 at the grade level of kindergarten through grade 3 or in an
22 authorized prekindergarten exceptional program; or
23 ~~2. Instruction in a double-session school or a school~~
24 ~~utilizing an experimental school calendar approved by the~~
25 ~~Department of Education, comprising not less than the equivalent~~
26 ~~of 810 net hours in grades 4 through 12 or not less than 630 net~~
27 ~~hours in kindergarten through grade 3; or~~
28 2.~~3.~~ Instruction comprising the appropriate number of net
29 hours set forth in subparagraph 1. ~~or subparagraph 2.~~ for
30 students who, within the past year, have moved with their
31 parents for the purpose of engaging in the farm labor or fish
32 industries, if a plan furnishing such an extended school day or
33 week, or a combination thereof, has been approved by the
34 commissioner. Such plan may be approved to accommodate the needs
35 of migrant students only or may serve all students in schools
36 having a high percentage of migrant students. The plan described
37 in this subparagraph is optional for any school district and is
38 not mandated by the state.
39 (b) A "part-time student" is a student on the active

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40 membership roll of a school program or combination of school
41 programs listed in s. 1011.62(1)(c) who is less than a full-time
42 student.
43 (c)1. A “full-time equivalent student” is:
44 a. A full-time student in any one of the programs listed in
45 s. 1011.62(1)(c); or
46 b. A combination of full-time or part-time students in any
47 one of the programs listed in s. 1011.62(1)(c) which is the
48 equivalent of one full-time student based on the following
49 calculations:
50 (I) A full-time student in a combination of programs listed
51 in s. 1011.62(1)(c) shall be a fraction of a full-time
52 equivalent membership in each special program equal to the
53 number of net hours per school year for which he or she is a
54 member, divided by the appropriate number of hours set forth in
55 subparagraph (a)1. ~~or subparagraph (a)2.~~ The difference between
56 that fraction or sum of fractions and the maximum value as set
57 forth in subsection (4) for each full-time student is presumed
58 to be the balance of the student’s time not spent in a special
59 program and shall be recorded as time in the appropriate basic
60 program.
61 (II) A prekindergarten student with a disability shall meet
62 the requirements specified for kindergarten students.
63 (III) A full-time equivalent student for students in
64 kindergarten through grade 12 in a full-time virtual instruction
65 program under s. 1002.45 or a virtual charter school under s.
66 1002.33 shall consist of six full-credit completions or the
67 prescribed level of content that counts toward promotion to the
68 next grade in programs listed in s. 1011.62(1)(c). Credit

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69 completions may be a combination of full-credit courses or half-
70 credit courses. Beginning in the 2016-2017 fiscal year, the
71 reported full-time equivalent students and associated funding of
72 students enrolled in courses requiring passage of an end-of-
73 course assessment under s. 1003.4282 to earn a standard high
74 school diploma shall be adjusted if the student does not pass
75 the end-of-course assessment. However, no adjustment shall be
76 made for a student who enrolls in a segmented remedial course
77 delivered online.
78 (IV) A full-time equivalent student for students in
79 kindergarten through grade 12 in a part-time virtual instruction
80 program under s. 1002.45 shall consist of six full-credit
81 completions in programs listed in s. 1011.62(1)(c)1. and 3.
82 Credit completions may be a combination of full-credit courses
83 or half-credit courses. Beginning in the 2016-2017 fiscal year,
84 the reported full-time equivalent students and associated
85 funding of students enrolled in courses requiring passage of an
86 end-of-course assessment under s. 1003.4282 to earn a standard
87 high school diploma shall be adjusted if the student does not
88 pass the end-of-course assessment. However, no adjustment shall
89 be made for a student who enrolls in a segmented remedial course
90 delivered online.
91 (V) A Florida Virtual School full-time equivalent student
92 shall consist of six full-credit completions or the prescribed
93 level of content that counts toward promotion to the next grade
94 in the programs listed in s. 1011.62(1)(c)1. and 3. for students
95 participating in kindergarten through grade 12 part-time virtual
96 instruction and the programs listed in s. 1011.62(1)(c) for
97 students participating in kindergarten through grade 12 full-

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98 time virtual instruction. Credit completions may be a
99 combination of full-credit courses or half-credit courses.
100 Beginning in the 2016-2017 fiscal year, the reported full-time
101 equivalent students and associated funding of students enrolled
102 in courses requiring passage of an end-of-course assessment
103 under s. 1003.4282 to earn a standard high school diploma shall
104 be adjusted if the student does not pass the end-of-course
105 assessment. However, no adjustment shall be made for a student
106 who enrolls in a segmented remedial course delivered online.
107 (VI) Each successfully completed full-credit course earned
108 through an online course delivered by a district other than the
109 one in which the student resides shall be calculated as 1/6 FTE.
110 (VII) A full-time equivalent student for courses requiring
111 passage of a statewide, standardized end-of-course assessment
112 under s. 1003.4282 to earn a standard high school diploma shall
113 be defined and reported based on the number of instructional
114 hours as provided in this subsection until the 2016-2017 fiscal
115 year. Beginning in the 2016-2017 fiscal year, the FTE for the
116 course shall be assessment-based and shall be equal to 1/6 FTE.
117 The reported FTE shall be adjusted if the student does not pass
118 the end-of-course assessment. However, no adjustment shall be
119 made for a student who enrolls in a segmented remedial course
120 delivered online.
121 (VIII) For students enrolled in a school district as a
122 full-time student, the district may report 1/6 FTE for each
123 student who passes a statewide, standardized end-of-course
124 assessment without being enrolled in the corresponding course.
125 2. A student in membership in a program scheduled for more
126 or less than 180 school days or the equivalent on an hourly

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127 basis as specified by rules of the State Board of Education is a
128 fraction of a full-time equivalent membership equal to the
129 number of instructional hours in membership divided by the
130 appropriate number of hours set forth in subparagraph (a)1.;
131 however, for the purposes of this subparagraph, membership in
132 programs scheduled for more than 180 days is limited to students
133 enrolled in:
134 a. Juvenile justice education programs.
135 b. The Florida Virtual School.
136 c. Virtual instruction programs and virtual charter schools
137 for the purpose of course completion and credit recovery
138 pursuant to ss. 1002.45 and 1003.498. Course completion applies
139 only to a student who is reported during the second or third
140 membership surveys and who does not complete a virtual education
141 course by the end of the regular school year. The course must be
142 completed no later than the deadline for amending the final
143 student enrollment survey for that year. Credit recovery applies
144 only to a student who has unsuccessfully completed a traditional
145 or virtual education course during the regular school year and
146 must re-take the course in order to be eligible to graduate with
147 the student’s class.
148
149 The full-time equivalent student enrollment calculated under
150 this subsection is subject to the requirements in subsection
151 (4).
152
153 The department shall determine and implement an equitable method
154 of equivalent funding for ~~experimental schools and for~~ schools
155 operating under emergency conditions, which schools have been

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156 approved by the department to operate for less than the minimum
157 school day.
158
159 ========== T I T L E A M E N D M E N T ==========
160 And the title is amended as follows:
161 Delete line 1508
162 and insert:
163 Education; amending s. 1011.61, F.S.; revising the
164 definition of the term “full-time student” for the
165 purposes of the Florida Education Finance Program;
166 creating s. 1011.6202, F.S.; creating the

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576-03377-15

Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on Education)

A bill to be entitled

An act relating to student choice; amending s. 1002.20, F.S.; conforming a provision to changes made by the act; authorizing parents of public school students to seek private educational choice options through the Florida Personal Learning Scholarship Accounts Program under certain circumstances; providing that a parent has the right to know certain financial information; requiring the information to be published in a parent guide; amending s. 1002.31, F.S.; requiring each district school board to allow a parent to enroll his or her child in and transport his or her child to any public school that has not reached capacity in the district; authorizing a school district to provide transportation to such students at the district's discretion; requiring the student to remain at such school for a specified timeframe; revising requirements for the controlled open enrollment process; authorizing a parent to enroll his or her child in and transport his or her child to any public school that has not reached capacity in the state; requiring each district school board to establish a transfer process to another classroom teacher; providing that a parent is not given the right to choose a specific classroom teacher; providing requirements for the transfer process; amending s. 1002.33, F.S.; revising required contents

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of charter school applications; requiring a charter school to submit quarterly financial statements for the first year of operation with specified information included; requiring a charter school to submit a plan to become financially viable under certain circumstances; conforming provisions regarding the appeal process for denial of a high-performing charter school application; specifying that the reading curriculum and instructional strategies in a charter school's charter satisfy the research-based reading plan requirement and that charter schools are eligible for the research-based reading allocation; requiring a person or officer of an entity who submits a charter school application to undergo background screening; prohibiting a sponsor from approving a charter school application until completion, receipt, and review of the results of such screening; requiring a charter to document that the governing board is independent of a management company or cooperative; revising charter provisions relating to long-term charters; revising the deadline by which a charter school must have a certificate of occupancy or temporary certificate of occupancy; revising conditions for nonrenewal or termination of a charter; requiring the sponsor to review monthly financial statements; requiring the sponsor to notify specified parties of a charter's termination under certain circumstances; requiring a charter school's governing board to appoint a representative to provide information and assistance

to parents; requiring the governing board to hold a certain number of meetings that are noticed, open, and accessible to the public per school year; authorizing a charter school that has not reached capacity to be open to any student in the state; revising requirements for the funding of charter schools; prohibiting the district school board from delaying payment to a charter school under specified circumstances; requiring the Department of Education to include a standard application form when providing information to the public on how to form, operate, and enroll in a charter school; prohibiting an employee of a management company or cooperative from being a member of a charter school governing board; prohibiting specified conflicts of interests on the part of members of the governing board of a charter school or charter school cooperative organization; amending s. 1002.331, F.S.; providing an exception to the prohibition on a high-performing charter school establishing more than one charter school in this state under specified circumstances; conforming provisions and a cross-reference to changes made by the act; amending s. 1002.451, F.S.; conforming a provision to changes made by the act; creating s. 1003.3101, F.S.; requiring each district school board to establish a classroom teacher transfer process for parents, approve or deny a request within a certain timeframe, and post an explanation of the transfer process in the student handbook or a similar

publication; creating s. 1003.5711, F.S.; providing that certain students who are deemed eligible for hospitalized program services are considered students with a disability; authorizing an individual education plan to be modified to accommodate such services; requiring the student to continue to receive educational instruction; requiring a school district to provide the student with a certified teacher or to partner with the Florida Virtual School or an approved provider for instructional services under certain circumstances; requiring the department to transfer funds for the student; requiring a children's hospital to provide adequate educational space for each student; requiring the hospital and school district to enter in an agreement; creating s. 1004.6491, F.S.; establishing the Florida Institute for Charter School Innovation; specifying requirements for the institute; requiring an annual report to the Governor and the Legislature; requiring a report on the institute's annual financial audit to the Auditor General, the Board of Governors of the State University System, and the State Board of Education; amending s. 1011.61, F.S.; revising the definition of the term "full-time student" for the purposes of the Florida Education Finance Program; creating s. 1011.6202, F.S.; creating the Principal Autonomy Pilot Program Initiative; providing a procedure for a school district to participate in the program; providing requirements for participating school districts and schools; exempting

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115 participating school districts from certain laws and
116 rules; requiring principals of participating schools
117 to complete a specific professional development
118 program; providing for the term of participation in
119 the program; providing for renewal or revocation of
120 authorization to participate in the program; providing
121 for reporting and rulemaking; amending s. 1011.64,
122 F.S.; providing that certain training may be included
123 in school district minimum classroom expenditure
124 requirements; amending s. 1011.69, F.S.; requiring
125 participating district school boards to allocate a
126 specified percentage of certain funds to participating
127 schools; amending s. 1012.28, F.S.; providing
128 additional authority and responsibilities of the
129 principal of a participating school in a charter
130 school district; amending s. 1012.42, F.S.;
131 authorizing a parent who receives notification that a
132 teacher is teaching outside his or her field to
133 request that his or her child be transferred to
134 another classroom teacher within the school and grade
135 in which the child is currently enrolled; amending s.
136 1012.986, F.S.; specifying the contents of a specific
137 professional development program for certain school
138 principals; amending s. 1013.62, F.S.; revising
139 eligibility requirements for charter school capital
140 outlay funding; specifying applicability of certain
141 reporting requirements to charter schools and public
142 schools; providing an effective date.
143

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144 Be It Enacted by the Legislature of the State of Florida:
145
146 Section 1. Paragraphs (a) and (b) of subsection (6) and
147 subsection (16) of section 1002.20, Florida Statutes, are
148 amended to read:
149 1002.20 K-12 student and parent rights.—Parents of public
150 school students must receive accurate and timely information
151 regarding their child's academic progress and must be informed
152 of ways they can help their child to succeed in school. K-12
153 students and their parents are afforded numerous statutory
154 rights including, but not limited to, the following:
155 (6) EDUCATIONAL CHOICE.—
156 (a) *Public school choices.*—Parents of public school
157 students may seek whatever public school choice options that are
158 applicable and available to students in their school districts.
159 These options may include controlled open enrollment, single-
160 gender programs, lab schools, virtual instruction programs,
161 charter schools, charter technical career centers, magnet
162 schools, alternative schools, special programs, auditory-oral
163 education programs, advanced placement, dual enrollment,
164 International Baccalaureate, International General Certificate
165 of Secondary Education (pre-AICE), Advanced International
166 Certificate of Education, CAPE digital tools, CAPE industry
167 certifications, collegiate high school programs, early
168 admissions, credit by examination or demonstration of
169 competency, the New World School of the Arts, the Florida School
170 for the Deaf and the Blind, and the Florida Virtual School.
171 These options may also include the public educational ~~school~~
172 choice options of the Opportunity Scholarship Program and the

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173 McKay Scholarships for Students with Disabilities Program.
174 (b) *Private educational ~~school~~ choices.*—Parents of public
175 school students may seek private educational ~~school~~ choice
176 options under certain programs.
177 1. Under the McKay Scholarships for Students with
178 Disabilities Program, the parent of a public school student with
179 a disability may request and receive a McKay Scholarship for the
180 student to attend a private school in accordance with s.
181 1002.39.
182 2. Under the Florida Tax Credit Scholarship Program, the
183 parent of a student who qualifies for free or reduced-price
184 school lunch or who is currently placed, or during the previous
185 state fiscal year was placed, in foster care as defined in s.
186 39.01 may seek a scholarship from an eligible nonprofit
187 scholarship-funding organization in accordance with s. 1002.395.
188 3. Under the Florida Personal Learning Scholarship Accounts
189 Program, the parent of a student with a qualifying disability
190 may apply for a personal learning scholarship to be used for
191 educational purposes pursuant to s. 1002.385.
192 (16) SCHOOL ACCOUNTABILITY AND SCHOOL IMPROVEMENT RATING
193 REPORTS; FISCAL TRANSPARENCY.—Parents of public school students
194 have the right ~~are entitled~~ to an easy-to-read report card about
195 the school's grade designation or, if applicable under s.
196 1008.341, the school's improvement rating, and the school's
197 accountability report, including the school financial report as
198 required under s. 1010.215 and the school district's annual
199 financial report, including the expenditures on a per FTE basis
200 for the following fund types: general funds, special revenue
201 funds, debt service funds, and capital project fund. Fiduciary

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202 funds, enterprise funds, and internal service funds may not be
203 included. At minimum, the total expenditures on a per FTE basis,
204 as reported in the school district's annual financial report,
205 must be included in the parent guide.
206 Section 2. Section 1002.31, Florida Statutes, is amended to
207 read:
208 1002.31 Controlled open enrollment; Public school parental
209 choice.—
210 (1) As used in this section, "controlled open enrollment"
211 means a public education delivery system that allows school
212 districts to make student school assignments using parents'
213 indicated preferential school choice as a significant factor.
214 (2) As part of a district's controlled open enrollment, and
215 in addition to the existing choice programs provided in s.
216 1002.20(6)(a), each district school board shall allow a parent
217 to enroll his or her child in and transport his or her child to
218 any public school that has not reached capacity in the district.
219 However, a district may provide transportation to students at
220 the district's discretion. For purposes of continuity of
221 educational choice, the student shall remain at the school
222 chosen by the parent until the student completes the highest
223 grade level at the school ~~may offer controlled open enrollment~~
224 ~~within the public schools which is in addition to the existing~~
225 ~~choice programs such as virtual instruction programs, magnet~~
226 ~~schools, alternative schools, special programs, advanced~~
227 ~~placement, and dual enrollment~~.
228 (3) Each district school board ~~offering controlled open~~
229 ~~enrollment~~ shall ~~adopt by rule and~~ post on its website the
230 process required to participate in controlled open enrollment.

The process ~~a controlled open enrollment plan which~~ must:

(a) Adhere to federal desegregation requirements.

~~(b) Include an application process required to participate in controlled open enrollment that allows parents to declare school preferences, including placement of siblings within the same school.~~

(b) ~~(c)~~ Provide a lottery procedure to determine student assignment and establish an appeals process for hardship cases.

(c) ~~(d)~~ Afford parents of students in multiple session schools preferred access to controlled open enrollment.

(d) ~~(e)~~ Maintain socioeconomic, demographic, and racial balance.

(e) ~~(f)~~ Address the availability of transportation.

(f) Maintain existing academic eligibility criteria for schools of choice, pursuant to s. 1002.20(6)(a).

(g) Identify schools that have not reached capacity, as determined by the school district. When determining capacity of each school in the district, the school district shall incorporate the specifications, plans, elements, and commitments contained in the school district educational facilities plan and the long-term work programs required under s. 1013.35 in its determination.

(h) For any county with a military base, create a preference process for dependent children of active duty military personnel.

(4) In accordance with the reporting requirements of s. 1011.62, each district school board shall annually report the number of students exercising public school choice, by type of choice ~~attending the various types of public schools of choice~~

~~in the district~~, in accordance with ~~including schools such as virtual instruction programs, magnet schools, and public charter schools, according to~~ rules adopted by the State Board of Education.

(5) A parent may enroll his or her child in and transport his or her child to any public school that has not reached capacity in any school district in the state. The school district shall accept the student, pursuant to that district's controlled open enrollment participation process, and report the student for purposes of the school district's funding pursuant to the Florida Education Finance Program. For purposes of continuity of educational choice, the student shall remain at the school chosen by the parent until the student completes the highest grade level at the school ~~For a school or program that is a public school of choice under this section, the calculation for compliance with maximum class size pursuant to s. 1003.03 is the average number of students at the school level~~.

(6) Each district school board shall establish a transfer process for a parent to request that his or her child be transferred to another classroom teacher. This subsection does not give a parent the right to choose a specific classroom teacher. A school must grant or deny the transfer within 2 weeks after receiving the request. If a request for transfer is denied, the school shall notify the parent and specify the reasons for the denial. An explanation of the transfer process must be made available in the parent guide or a similar publication.

Section 3. Paragraphs (a), (b), and (c) of subsection (6), paragraphs (a), (b), and (d) of subsection (7), paragraphs (e),

289 (f), and (g) of subsection (8), paragraphs (g), (n), and (p) of
290 subsection (9), paragraph (a) of subsection (10), paragraphs (b)
291 and (e) of subsection (17), subsection (21), and paragraph (c)
292 of subsection (26) of section 1002.33, Florida Statutes, are
293 amended, paragraphs (h) and (i) are added to subsection (8) of
294 that section, a new subsection (27) is added to that section,
295 and present subsections (27) and (28) are redesignated as
296 subsections (28) and (29), respectively, to read:
297 1002.33 Charter schools.—
298 (6) APPLICATION PROCESS AND REVIEW.—Charter school
299 applications are subject to the following requirements:
300 (a) A person or entity wishing to open a charter school
301 shall prepare and submit an application on a model application
302 form prepared by the Department of Education which:
303 1. Demonstrates how the school will use the guiding
304 principles and meet the statutorily defined purpose of a charter
305 school.
306 2. Provides a detailed curriculum plan that illustrates how
307 students will be provided services to attain the Sunshine State
308 Standards.
309 3. Contains goals and objectives for improving student
310 learning and measuring that improvement. These goals and
311 objectives must indicate how much academic improvement students
312 are expected to show each year, how success will be evaluated,
313 and the specific results to be attained through instruction.
314 4. Describes the reading curriculum and differentiated
315 strategies that will be used for students reading at grade level
316 or higher and a separate curriculum and strategies for students
317 who are reading below grade level. A sponsor shall deny an

318 application ~~a charter~~ if the school does not propose a reading
319 curriculum that is consistent with effective teaching strategies
320 that are grounded in scientifically based reading research, but
321 the sponsor may not require the school to implement any
322 curriculum adopted by the school district.
323 5. Contains an annual financial plan for each year
324 requested by the charter for operation of the school for up to 5
325 years. This plan must contain anticipated fund balances based on
326 revenue projections, a spending plan based on projected revenues
327 and expenses, and a description of controls that will safeguard
328 finances and projected enrollment trends.
329 6. Discloses the name of each applicant, governing board
330 member, and proposed management company or cooperative, if any;
331 the name and sponsor of any charter school currently operated or
332 previously operated by such parties; and the academic and
333 financial history of such charter schools, which the sponsor
334 shall consider in deciding to approve or deny the application.
335 7. Documents that the governing board is independent of any
336 management company or cooperative and may, at its sole
337 discretion, terminate a contract with the management company or
338 cooperative at any time.
339 8.~~6.~~ Contains additional information a sponsor may require,
340 which shall be attached as an addendum to the charter school
341 application described in this paragraph.
342 9.~~7.~~ For the establishment of a virtual charter school,
343 documents that the applicant has contracted with a provider of
344 virtual instruction services pursuant to s. 1002.45(1)(d).
345 (b) A sponsor shall receive and review all applications for
346 a charter school using an evaluation instrument developed by the

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347 Department of Education. A sponsor shall receive and consider
348 charter school applications received on or before August 1 of
349 each calendar year for charter schools to be opened at the
350 beginning of the school district's next school year, or to be
351 opened at a time agreed to by the applicant and the sponsor. A
352 sponsor may not refuse to receive a charter school application
353 submitted before August 1 and may receive an application
354 submitted later than August 1 if it chooses. In order to
355 facilitate greater collaboration in the application process, an
356 applicant may submit a draft charter school application on or
357 before May 1 with an application fee of $500. If a draft
358 application is timely submitted, the sponsor shall review and
359 provide feedback as to material deficiencies in the application
360 by July 1. The applicant shall then have until August 1 to
361 resubmit a revised and final application. The sponsor may
362 approve the draft application. Except as provided for a draft
363 application, a sponsor may not charge an applicant for a charter
364 any fee for the processing or consideration of an application,
365 and a sponsor may not base its consideration or approval of a
366 final application upon the promise of future payment of any
367 kind. Before approving or denying any final application, the
368 sponsor shall allow the applicant, upon receipt of written
369 notification, at least 7 calendar days to make technical or
370 nonsubstantive corrections and clarifications, including, but
371 not limited to, corrections of grammatical, typographical, and
372 like errors or missing signatures, if such errors are identified
373 by the sponsor as cause to deny the final application.
374 1. In order to facilitate an accurate budget projection
375 process, a sponsor shall be held harmless for FTE students who

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376 are not included in the FTE projection due to approval of
377 charter school applications after the FTE projection deadline.
378 In a further effort to facilitate an accurate budget projection,
379 within 15 calendar days after receipt of a charter school
380 application, a sponsor shall report to the Department of
381 Education the name of the applicant entity, the proposed charter
382 school location, and its projected FTE.
383 2. In order to ensure fiscal responsibility, an application
384 for a charter school shall include a full accounting of expected
385 assets, a projection of expected sources and amounts of income,
386 including income derived from projected student enrollments and
387 from community support, and an expense projection that includes
388 full accounting of the costs of operation, including start-up
389 costs. To ensure continued financial responsibility, a charter
390 school shall submit quarterly financial statements for the first
391 year of operation which include a full accounting of the costs
392 of operation and sources of income. If a school's financial
393 statement indicates that the school is not financially viable,
394 the school must also prepare and submit a plan that describes
395 specific actions the school will take to become viable.
396 3.a. A sponsor shall by a majority vote approve or deny an
397 application no later than 60 calendar days after the application
398 is received, unless the sponsor and the applicant mutually agree
399 in writing to temporarily postpone the vote to a specific date,
400 at which time the sponsor shall by a majority vote approve or
401 deny the application. If the sponsor fails to act on the
402 application, an applicant may appeal to the State Board of
403 Education as provided in paragraph (c). If an application is
404 denied, the sponsor shall, within 10 calendar days after such

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denial, articulate in writing the specific reasons, based upon good cause, supporting its denial of the charter application and shall provide the letter of denial and supporting documentation to the applicant and to the Department of Education.

b. An application submitted by a high-performing charter school identified pursuant to s. 1002.331 may be denied by the sponsor only if the sponsor demonstrates by clear and convincing evidence that:

(I) The application does not materially comply with the requirements in paragraph (a);

(II) The charter school proposed in the application does not materially comply with the requirements in paragraphs (9)(a)-(f);

(III) The proposed charter school's educational program does not substantially replicate that of the applicant or one of the applicant's high-performing charter schools;

(IV) The applicant has made a material misrepresentation or false statement or concealed an essential or material fact during the application process; or

(V) The proposed charter school's educational program and financial management practices do not materially comply with the requirements of this section.

Material noncompliance is a failure to follow requirements or a violation of prohibitions applicable to charter school applications, which failure is quantitatively or qualitatively significant either individually or when aggregated with other noncompliance. An applicant is considered to be replicating a high-performing charter school if the proposed school is

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substantially similar to at least one of the applicant's high-performing charter schools and the organization or individuals involved in the establishment and operation of the proposed school are significantly involved in the operation of replicated schools.

c. If the sponsor denies an application submitted by a high-performing charter school, the sponsor must, within 10 calendar days after such denial, state in writing the specific reasons, based upon the criteria in sub-subparagraph b., supporting its denial of the application and must provide the letter of denial and supporting documentation to the applicant and to the Department of Education. The applicant may appeal the sponsor's denial of the application ~~directly~~ to the State Board of Education pursuant to paragraph (c) and must provide the sponsor with a copy of the appeal ~~sub-subparagraph (c)3.b~~.

4. For budget projection purposes, the sponsor shall report to the Department of Education the approval or denial of a charter application within 10 calendar days after such approval or denial. In the event of approval, the report to the Department of Education shall include the final projected FTE for the approved charter school.

5. Upon approval of a charter application, the initial startup shall commence with the beginning of the public school calendar for the district in which the charter is granted unless the sponsor allows a waiver of this subparagraph for good cause.

6. A person, or an officer of an entity, who submits an application pursuant to this subsection must undergo background screening in the same manner as instructional and noninstructional personnel hired or contracted to fill positions

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463 in a charter school or as members of the governing board of a
464 charter school undergo background screening under s. 1012.32.
465 Notwithstanding any other provision of this subsection, a person
466 may not receive approval of a charter application until the
467 person's screening is completed and the results have been
468 submitted to, and reviewed by, the sponsor.
469 (c)1. An applicant may appeal any denial of that
470 applicant's application or failure to act on an application to
471 the State Board of Education within ~~no later than~~ 30 calendar
472 days after receipt of the sponsor's decision or failure to act
473 and shall notify the sponsor of its appeal. Any response of the
474 sponsor shall be submitted to the State Board of Education
475 within 30 calendar days after notification of the appeal. Upon
476 receipt of notification from the State Board of Education that a
477 charter school applicant is filing an appeal, the Commissioner
478 of Education shall convene a meeting of the Charter School
479 Appeal Commission to study and make recommendations to the State
480 Board of Education regarding its pending decision about the
481 appeal. The commission shall forward its recommendation to the
482 state board at least 7 calendar days before the date on which
483 the appeal is to be heard. An appeal regarding the denial of an
484 application submitted by a high-performing charter school
485 pursuant to s. 1002.331 shall be conducted by the State Board of
486 Education in accordance with this paragraph, except that the
487 commission shall not convene to make recommendations regarding
488 the appeal. However, the Commissioner of Education shall review
489 the appeal and make a recommendation to the state board.
490 2. The Charter School Appeal Commission or, in the case of
491 an appeal regarding an application submitted by a high-

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492 performing charter school, the State Board of Education may
493 reject an appeal submission for failure to comply with
494 procedural rules governing the appeals process. The rejection
495 shall describe the submission errors. The appellant shall have
496 15 calendar days after notice of rejection in which to resubmit
497 an appeal that meets the requirements set forth in State Board
498 of Education rule. An appeal submitted subsequent to such
499 rejection is considered timely if the original appeal was filed
500 within 30 calendar days after receipt of notice of the specific
501 reasons for the sponsor's denial of the ~~charter~~ application.
502 3.a. The State Board of Education shall by majority vote
503 accept or reject the decision of the sponsor no later than 90
504 calendar days after an appeal is filed in accordance with State
505 Board of Education rule. The State Board of Education shall
506 remand the application to the sponsor with its written decision
507 that the sponsor approve or deny the application. The sponsor
508 shall implement the decision of the State Board of Education.
509 The decision of the State Board of Education is not subject to
510 the provisions of the Administrative Procedure Act, chapter 120.
511 b. If an appeal concerns an application submitted by a
512 high-performing charter school identified pursuant to s.
513 1002.331, the State Board of Education shall determine whether
514 the sponsor's denial of the application complies with the
515 requirements in sub-subparagraph (b)3.b. ~~sponsor has shown, by~~
516 ~~clear and convincing evidence, that:~~
517 ~~(I) The application does not materially comply with the~~
518 ~~requirements in paragraph (a);~~
519 ~~(II) The charter school proposed in the application does~~
520 ~~not materially comply with the requirements in paragraphs~~

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521 ~~(9)(a)-(f);~~
522 ~~(III) The proposed charter school's educational program~~
523 ~~does not substantially replicate that of the applicant or one of~~
524 ~~the applicant's high-performing charter schools;~~
525 ~~(IV) The applicant has made a material misrepresentation or~~
526 ~~false statement or concealed an essential or material fact~~
527 ~~during the application process; or~~
528 ~~(V) The proposed charter school's educational program and~~
529 ~~financial management practices do not materially comply with the~~
530 ~~requirements of this section.~~
531
532 The State Board of Education shall approve or reject the
533 sponsor's denial of an application no later than 90 calendar
534 days after an appeal is filed in accordance with State Board of
535 Education rule. The State Board of Education shall remand the
536 application to the sponsor with its written decision that the
537 sponsor approve or deny the application. The sponsor shall
538 implement the decision of the State Board of Education. The
539 decision of the State Board of Education is not subject to the
540 Administrative Procedure Act, chapter 120.
541 (7) CHARTER.—The major issues involving the operation of a
542 charter school shall be considered in advance and written into
543 the charter. The charter shall be signed by the governing board
544 of the charter school and the sponsor, following a public
545 hearing to ensure community input.
546 (a) The charter shall address and criteria for approval of
547 the charter shall be based on:
548 1. The school's mission, the students to be served, and the
549 ages and grades to be included.

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550 2. The focus of the curriculum, the instructional methods
551 to be used, any distinctive instructional techniques to be
552 employed, and identification and acquisition of appropriate
553 technologies needed to improve educational and administrative
554 performance which include a means for promoting safe, ethical,
555 and appropriate uses of technology which comply with legal and
556 professional standards.
557 a. The charter shall ensure that reading is a primary focus
558 of the curriculum and that resources are provided to identify
559 and provide specialized instruction for students who are reading
560 below grade level. The curriculum and instructional strategies
561 for reading must be consistent with the Next Generation Sunshine
562 State Standards and grounded in scientifically based reading
563 research. For purposes of determining eligibility for the
564 research-based reading instruction allocation, the reading
565 curriculum and instructional strategies specified in the charter
566 satisfy the research-based reading plan requirement under s.
567 1011.62(9).
568 b. In order to provide students with access to diverse
569 instructional delivery models, to facilitate the integration of
570 technology within traditional classroom instruction, and to
571 provide students with the skills they need to compete in the
572 21st century economy, the Legislature encourages instructional
573 methods for blended learning courses consisting of both
574 traditional classroom and online instructional techniques.
575 Charter schools may implement blended learning courses which
576 combine traditional classroom instruction and virtual
577 instruction. Students in a blended learning course must be full-
578 time students of the charter school and receive the online

579 instruction in a classroom setting at the charter school.
580 Instructional personnel certified pursuant to s. 1012.55 who
581 provide virtual instruction for blended learning courses may be
582 employees of the charter school or may be under contract to
583 provide instructional services to charter school students. At a
584 minimum, such instructional personnel must hold an active state
585 or school district adjunct certification under s. 1012.57 for
586 the subject area of the blended learning course. The funding and
587 performance accountability requirements for blended learning
588 courses are the same as those for traditional courses.
589 3. The current incoming baseline standard of student
590 academic achievement, the outcomes to be achieved, and the
591 method of measurement that will be used. The criteria listed in
592 this subparagraph shall include a detailed description of:
593 a. How the baseline student academic achievement levels and
594 prior rates of academic progress will be established.
595 b. How these baseline rates will be compared to rates of
596 academic progress achieved by these same students while
597 attending the charter school.
598 c. To the extent possible, how these rates of progress will
599 be evaluated and compared with rates of progress of other
600 closely comparable student populations.
601
602 The district school board is required to provide academic
603 student performance data to charter schools for each of their
604 students coming from the district school system, as well as
605 rates of academic progress of comparable student populations in
606 the district school system.
607 4. The methods used to identify the educational strengths

608 and needs of students and how well educational goals and
609 performance standards are met by students attending the charter
610 school. The methods shall provide a means for the charter school
611 to ensure accountability to its constituents by analyzing
612 student performance data and by evaluating the effectiveness and
613 efficiency of its major educational programs. Students in
614 charter schools shall, at a minimum, participate in the
615 statewide assessment program created under s. 1008.22.
616 5. In secondary charter schools, a method for determining
617 that a student has satisfied the requirements for graduation in
618 s. 1002.3105(5), s. 1003.4281, or s. 1003.4282.
619 6. A method for resolving conflicts between the governing
620 board of the charter school and the sponsor.
621 7. The admissions procedures and dismissal procedures,
622 including the school’s code of student conduct.
623 8. The ways by which the school will achieve a
624 racial/ethnic balance reflective of the community it serves or
625 within the racial/ethnic range of other public schools in the
626 same school district.
627 9. The financial and administrative management of the
628 school, including a reasonable demonstration of the professional
629 experience or competence of those individuals or organizations
630 applying to operate the charter school or those hired or
631 retained to perform such professional services and the
632 description of clearly delineated responsibilities and the
633 policies and practices needed to effectively manage the charter
634 school. A description of internal audit procedures and
635 establishment of controls to ensure that financial resources are
636 properly managed must be included. Both public sector and

private sector professional experience shall be equally valid in such a consideration. The charter must document that the governing board is independent of any management company or cooperative and may, at its sole discretion, terminate the contract with the management company or cooperative at any time.

10. The asset and liability projections required in the application which are incorporated into the charter and shall be compared with information provided in the annual report of the charter school.

11. A description of procedures that identify various risks and provide for a comprehensive approach to reduce the impact of losses; plans to ensure the safety and security of students and staff; plans to identify, minimize, and protect others from violent or disruptive student behavior; and the manner in which the school will be insured, including whether or not the school will be required to have liability insurance, and, if so, the terms and conditions thereof and the amounts of coverage.

12. The term of the charter which shall provide for cancellation of the charter if insufficient progress has been made in attaining the student achievement objectives of the charter and if it is not likely that such objectives can be achieved before expiration of the charter. The initial term of the ~~a~~ charter is either ~~shall be for~~ 4 years or 5 years. ~~In order to facilitate access to long-term financial resources for charter school construction,~~ Charter schools that are operated by a municipality or other public entity, as provided by law, or a private, not-for-profit corporation granted 501(c)(3) status by the Internal Revenue Service are eligible for up to a 15-year charter, subject to approval by the district school board. A

charter lab school is also eligible for a charter for a term of up to 15 years. ~~In addition, to facilitate access to long-term financial resources for charter school construction, charter schools that are operated by a private, not-for-profit, s. 501(c)(3) status corporation are eligible for up to a 15-year charter, subject to approval by the district school board.~~ Such long-term charters remain subject to annual review and may be terminated during the term of the charter, but only according to ~~the provisions set forth in~~ subsection (8) or paragraph (9)(n).

13. Termination or nonrenewal of the charter pursuant to subsection (8) or paragraph (9)(n).

14.~~13.~~ The facilities to be used and their location. The sponsor shall ~~may not~~ require a charter school to have a certificate of occupancy or a temporary certificate of occupancy for such a facility no later than 30 ~~earlier than 15~~ calendar days before the first day of school.

15.~~14.~~ The qualifications to be required of the teachers and the potential strategies used to recruit, hire, train, and retain qualified staff to achieve best value.

16.~~15.~~ The governance structure of the school, including the status of the charter school as a public or private employer as required in paragraph (12)(i).

17.~~16.~~ A timetable for implementing the charter which addresses the implementation of each element thereof and the date by which the charter shall be awarded in order to meet this timetable.

18.~~17.~~ In the case of an existing public school that is being converted to charter status, alternative arrangements for current students who choose not to attend the charter school and

695 for current teachers who choose not to teach in the charter
696 school after conversion in accordance with the existing
697 collective bargaining agreement or district school board rule in
698 the absence of a collective bargaining agreement. However,
699 alternative arrangements shall not be required for current
700 teachers who choose not to teach in a charter lab school, except
701 as authorized by the employment policies of the state university
702 which grants the charter to the lab school.
703 19.~~18.~~ Full disclosure of the identity of all relatives
704 employed by the charter school who are related to the charter
705 school owner, president, chairperson of the governing board of
706 directors, superintendent, governing board member, principal,
707 assistant principal, or any other person employed by the charter
708 school who has equivalent decisionmaking authority. For the
709 purpose of this subparagraph, the term "relative" means father,
710 mother, son, daughter, brother, sister, uncle, aunt, first
711 cousin, nephew, niece, husband, wife, father-in-law, mother-in-
712 law, son-in-law, daughter-in-law, brother-in-law, sister-in-law,
713 stepfather, stepmother, stepson, stepdaughter, stepbrother,
714 stepsister, half brother, or half sister.
715 20.~~19.~~ Implementation of the activities authorized under s.
716 1002.331 by the charter school when it satisfies the eligibility
717 requirements for a high-performing charter school. A high-
718 performing charter school shall notify its sponsor in writing by
719 March 1 if it intends to increase enrollment or expand grade
720 levels the following school year. The written notice shall
721 specify the amount of the enrollment increase and the grade
722 levels that will be added, as applicable.
723 (b)1. A charter may be renewed provided that a program

724 review demonstrates that the criteria in paragraph (a) have been
725 successfully accomplished and that none of the grounds for
726 nonrenewal established by paragraph (8)(a) has been documented.
727 ~~In order to facilitate long-term financing for charter school~~
728 ~~construction,~~ Charter schools operating for a minimum of 3 years
729 and demonstrating exemplary academic programming and fiscal
730 management are eligible for a 15-year charter renewal. Such
731 long-term charter is subject to annual review and may be
732 terminated during the term of the charter.
733 2. The 15-year charter renewal that may be granted pursuant
734 to subparagraph 1. shall be granted to a charter school that has
735 received a school grade of "A" or "B" pursuant to s. 1008.34 in
736 3 of the past 4 years and is not in a state of financial
737 emergency or deficit position as defined by this section. Such
738 long-term charter is subject to annual review and may be
739 terminated during the term of the charter pursuant to subsection
740 (8).
741 ~~(d)1. Each charter school's governing board must appoint a~~
742 ~~representative to facilitate parental involvement, provide~~
743 ~~access to information, assist parents and others with questions~~
744 ~~and concerns, and resolve disputes. The representative must~~
745 ~~reside in the school district in which the charter school is~~
746 ~~located and may be a governing board member, charter school~~
747 ~~employee, or individual contracted to represent the governing~~
748 ~~board. If the governing board oversees multiple charter schools~~
749 ~~in the same school district, the governing board must appoint a~~
750 ~~separate individual representative for each charter school in~~
751 ~~the district. The representative's contact information must be~~
752 ~~provided annually in writing to parents and posted prominently~~

753 ~~on the charter school's website if a website is maintained by~~
754 ~~the school. The sponsor may not require that governing board~~
755 ~~members reside in the school district in which the charter~~
756 ~~school is located if the charter school complies with this~~
757 ~~paragraph.~~
758 ~~2. Each charter school's governing board must hold at least~~
759 ~~two public meetings per school year in the school district. The~~
760 ~~meetings must be noticed, open, and accessible to the public,~~
761 ~~and attendees must be provided an opportunity to receive~~
762 ~~information and provide input regarding the charter school's~~
763 ~~operations. The appointed representative and charter school~~
764 ~~principal or director, or his or her equivalent, must be~~
765 ~~physically present at each meeting.~~
766 (8) CAUSES FOR NONRENEWAL OR TERMINATION OF CHARTER.—
767 (e) When a charter is not renewed or is terminated or when
768 a charter school is closed voluntarily by the operator, the
769 school shall be dissolved under the provisions of law under
770 which the school was organized, and any unencumbered public
771 funds, except for capital outlay funds and federal charter
772 school program grant funds, from the charter school shall revert
773 to the sponsor. Capital outlay funds provided pursuant to s.
774 1013.62 and federal charter school program grant funds that are
775 unencumbered shall revert to the department to be redistributed
776 among eligible charter schools. In the event a charter school is
777 dissolved or is otherwise terminated, all district school board
778 property and improvements, furnishings, and equipment purchased
779 with public funds shall automatically revert to full ownership
780 by the district school board, subject to complete satisfaction
781 of any lawful liens or encumbrances. Any unencumbered public

782 funds from the charter school, district school board property
783 and improvements, furnishings, and equipment purchased with
784 public funds, or financial or other records pertaining to the
785 charter school, in the possession of any person, entity, or
786 holding company, other than the charter school, shall be held in
787 trust upon the district school board's request, until any appeal
788 status is resolved.
789 (f) If a charter is not renewed or is terminated or a
790 charter school is closed voluntarily by the operator, the
791 charter school is responsible for all debts of the charter
792 school. The district may not assume the debt from any contract
793 made between the governing body of the school and a third party,
794 except for a debt that is previously detailed and agreed upon in
795 writing by both the district and the governing body of the
796 school and that may not reasonably be assumed to have been
797 satisfied by the district.
798 (g) If a charter is not renewed or is terminated, a student
799 who attended the school may apply to, and shall be enrolled in,
800 another public school. Normal application deadlines shall be
801 disregarded under such circumstances.
802 (h) The governing board of a charter school that closes
803 voluntarily shall notify the sponsor and the department in
804 writing within 7 calendar days of its decision to cease
805 operations. The notice must state the reasons for the closure
806 and acknowledge that the governing board agrees to follow the
807 procedures for dissolution and reversion of public funds
808 specified in this subsection and paragraph (9)(o).
809 (i) For a high-performing charter school that is having the
810 charter agreement renewed, the charter contract, as that

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811 contract exists on the day the term of the contract is to
812 terminate, must be automatically renewed for the length of the
813 current term if the charter school governing board and sponsor
814 have not executed the renewal before the term of the charter
815 agreement is scheduled to expire.
816 (9) CHARTER SCHOOL REQUIREMENTS.—
817 (g)1. In order to provide financial information that is
818 comparable to that reported for other public schools, charter
819 schools are to maintain all financial records that constitute
820 their accounting system:
821 a. In accordance with the accounts and codes prescribed in
822 the most recent issuance of the publication titled "Financial
823 and Program Cost Accounting and Reporting for Florida Schools";
824 or
825 b. At the discretion of the charter school's governing
826 board, a charter school may elect to follow generally accepted
827 accounting standards for not-for-profit organizations, but must
828 reformat this information for reporting according to this
829 paragraph.
830 2. Charter schools shall provide annual financial report
831 and program cost report information in the state-required
832 formats for inclusion in district reporting in compliance with
833 s. 1011.60(1). Charter schools that are operated by a
834 municipality or are a component unit of a parent nonprofit
835 organization may use the accounting system of the municipality
836 or the parent but must reformat this information for reporting
837 according to this paragraph.
838 3. A charter school shall, upon execution of the contract,
839 provide the sponsor with a concise, uniform, monthly financial

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840 statement summary sheet that contains a balance sheet and a
841 statement of revenue, expenditures, and changes in fund balance.
842 The balance sheet and the statement of revenue, expenditures,
843 and changes in fund balance shall be in the governmental funds
844 format prescribed by the Governmental Accounting Standards
845 Board. A high-performing charter school pursuant to s. 1002.331
846 may provide a quarterly financial statement in the same format
847 and requirements as the uniform monthly financial statement
848 summary sheet. The sponsor shall review each monthly financial
849 statement, to identify the existence of any conditions
850 identified in s. 1002.345(1)(a).
851 4. A charter school shall maintain and provide financial
852 information as required in this paragraph. The financial
853 statement required in subparagraph 3. must be in a form
854 prescribed by the Department of Education.
855 (n)1. The director and a representative of the governing
856 board of a charter school that has earned a grade of "D" or "F"
857 pursuant to s. 1008.34 shall appear before the sponsor to
858 present information concerning each contract component having
859 noted deficiencies. The director and a representative of the
860 governing board shall submit to the sponsor for approval a
861 school improvement plan to raise student performance. Upon
862 approval by the sponsor, the charter school shall begin
863 implementation of the school improvement plan. The department
864 shall offer technical assistance and training to the charter
865 school and its governing board and establish guidelines for
866 developing, submitting, and approving such plans.
867 2.a. If a charter school earns three consecutive grades of
868 "D," two consecutive grades of "D" followed by a grade of "F,"

869 or two nonconsecutive grades of "F" within a 3-year period, the
870 charter school governing board shall choose one of the following
871 corrective actions:
872 (I) Contract for educational services to be provided
873 directly to students, instructional personnel, and school
874 administrators, as prescribed in state board rule;
875 (II) Contract with an outside entity that has a
876 demonstrated record of effectiveness to operate the school;
877 (III) Reorganize the school under a new director or
878 principal who is authorized to hire new staff; or
879 (IV) Voluntarily close the charter school.
880 b. The charter school must implement the corrective action
881 in the school year following receipt of a third consecutive
882 grade of "D," a grade of "F" following two consecutive grades of
883 "D," or a second nonconsecutive grade of "F" within a 3-year
884 period.
885 c. The sponsor may annually waive a corrective action if it
886 determines that the charter school is likely to improve a letter
887 grade if additional time is provided to implement the
888 intervention and support strategies prescribed by the school
889 improvement plan. Notwithstanding this sub-subparagraph, a
890 charter school that earns a second consecutive grade of "F" is
891 subject to subparagraph 4.
892 d. A charter school is no longer required to implement a
893 corrective action if it improves by at least one letter grade.
894 However, the charter school must continue to implement
895 strategies identified in the school improvement plan. The
896 sponsor must annually review implementation of the school
897 improvement plan to monitor the school's continued improvement

898 pursuant to subparagraph 5.
899 e. A charter school implementing a corrective action that
900 does not improve by at least one letter grade after 2 full
901 school years of implementing the corrective action must select a
902 different corrective action. Implementation of the new
903 corrective action must begin in the school year following the
904 implementation period of the existing corrective action, unless
905 the sponsor determines that the charter school is likely to
906 improve a letter grade if additional time is provided to
907 implement the existing corrective action. Notwithstanding this
908 sub-subparagraph, a charter school that earns a second
909 consecutive grade of "F" while implementing a corrective action
910 is subject to subparagraph 4.
911 3. A charter school with a grade of "D" or "F" that
912 improves by at least one letter grade must continue to implement
913 the strategies identified in the school improvement plan. The
914 sponsor must annually review implementation of the school
915 improvement plan to monitor the school's continued improvement
916 pursuant to subparagraph 5.
917 4. A charter school's charter is automatically terminated
918 if the school earns two consecutive grades of "F" after all
919 school grade appeals are final ~~The sponsor shall terminate a~~
920 ~~charter if the charter school earns two consecutive grades of~~
921 ~~"F"~~ unless:
922 a. The charter school is established to turn around the
923 performance of a district public school pursuant to s.
924 1008.33(4)(b)3. Such charter schools shall be governed by s.
925 1008.33;
926 b. The charter school serves a student population the

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927 majority of which resides in a school zone served by a district
928 public school that earned a grade of "F" in the year before the
929 charter school opened and the charter school earns at least a
930 grade of "D" in its third year of operation. The exception
931 provided under this sub-subparagraph does not apply to a charter
932 school in its fourth year of operation and thereafter; or
933 c. The state board grants the charter school a waiver of
934 termination. The charter school must request the waiver within
935 15 days after the department's official release of school
936 grades. The state board may waive termination if the charter
937 school demonstrates that the Learning Gains of its students on
938 statewide assessments are comparable to or better than the
939 Learning Gains of similarly situated students enrolled in nearby
940 district public schools. The waiver is valid for 1 year and may
941 only be granted once. Charter schools that have been in
942 operation for more than 5 years are not eligible for a waiver
943 under this sub-subparagraph.
944
945 The sponsor shall notify in writing the charter school's
946 governing board, the charter school principal, and the
947 department when a charter is terminated under this subparagraph.
948 A charter terminated under this subparagraph is governed by the
949 requirements of paragraphs (8)(e)-(g) and paragraph (o) of this
950 subsection.
951 5. The director and a representative of the governing board
952 of a graded charter school that has implemented a school
953 improvement plan under this paragraph shall appear before the
954 sponsor at least once a year to present information regarding
955 the progress of intervention and support strategies implemented

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956 by the school pursuant to the school improvement plan and
957 corrective actions, if applicable. The sponsor shall communicate
958 at the meeting, and in writing to the director, the services
959 provided to the school to help the school address its
960 deficiencies.
961 6. Notwithstanding any provision of this paragraph except
962 sub-subparagraphs 4.a.-c., the sponsor may terminate the charter
963 at any time pursuant to subsection (8).
964 (p)1. Each charter school shall maintain a website that
965 enables the public to obtain information regarding the school;
966 the school's academic performance; the names of the governing
967 board members; the programs at the school; any management
968 companies, cooperatives, service providers, or education
969 management corporations associated with the school; the school's
970 annual budget and its annual independent fiscal audit; the
971 school's grade pursuant to s. 1008.34; and, on a quarterly
972 basis, the minutes of governing board meetings.
973 2. Each charter school's governing board shall appoint a
974 representative to facilitate parental involvement, provide
975 access to information, assist parents and others with questions
976 and concerns, and resolve disputes. The representative must
977 reside in the school district in which the charter school is
978 located and may be a governing board member, charter school
979 employee, or individual contracted to represent the governing
980 board. If the governing board oversees multiple charter schools
981 in the same school district, the governing board must appoint a
982 separate individual representative for each charter school in
983 the district. The representative's contact information must be
984 provided annually, in writing, to parents and posted prominently

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985 on the charter school's website. The sponsor may not require
986 that governing board members reside in the school district in
987 which the charter school is located if the charter school
988 complies with this paragraph.
989 3. Each charter school's governing board must hold at least
990 two public meetings per school year in the school district where
991 the charter school is located. The meetings must be noticed,
992 open, and accessible to the public, and attendees must be
993 provided an opportunity to receive information and provide input
994 regarding the charter school's operations. The appointed
995 representative and charter school principal or director, or his
996 or her equivalent, must be physically present at each meeting.
997 (10) ELIGIBLE STUDENTS.—
998 (a) A charter school shall be open to any student covered
999 in an interdistrict agreement or residing in the school district
1000 in which the charter school is located; however, in the case of
1001 a charter lab school, the charter lab school shall be open to
1002 any student eligible to attend the lab school as provided in s.
1003 1002.32 or who resides in the school district in which the
1004 charter lab school is located. Any eligible student shall be
1005 allowed interdistrict transfer to attend a charter school when
1006 based on good cause. Good cause shall include, but is not
1007 limited to, geographic proximity to a charter school in a
1008 neighboring school district. A charter school that has not
1009 reached capacity, as provided in s. 1002.31(3)(g), may be open
1010 to any student in the state.
1011 (17) FUNDING.—Students enrolled in a charter school,
1012 regardless of the sponsorship, shall be funded as if they are in
1013 a basic program or a special program, the same as students

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1014 enrolled in other public schools in the school district. Funding
1015 for a charter lab school shall be as provided in s. 1002.32.
1016 (b) The basis for the agreement for funding students
1017 enrolled in a charter school shall be the sum of the school
1018 district's operating funds from the Florida Education Finance
1019 Program as provided in s. 1011.62 and the General Appropriations
1020 Act, including gross state and local funds, discretionary
1021 lottery funds, and funds from the school district's current
1022 operating discretionary millage levy; divided by total funded
1023 weighted full-time equivalent students in the school district;
1024 multiplied by the weighted full-time equivalent students for the
1025 charter school. Charter schools whose students or programs meet
1026 the eligibility criteria in law are entitled to their
1027 proportionate share of categorical program funds included in the
1028 total funds available in the Florida Education Finance Program
1029 by the Legislature, including transportation, the research-based
1030 reading allocation, and the Florida digital classrooms
1031 allocation. Total funding for each charter school shall be
1032 recalculated during the year to reflect the revised calculations
1033 under the Florida Education Finance Program by the state and the
1034 actual weighted full-time equivalent students reported by the
1035 charter school during the full-time equivalent student survey
1036 periods designated by the Commissioner of Education.
1037 (e) District school boards shall make timely and efficient
1038 payment and reimbursement to charter schools, including
1039 processing paperwork required to access special state and
1040 federal funding for which they may be eligible. The district
1041 school board may distribute funds to a charter school for up to
1042 3 months based on the projected full-time equivalent student

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1043 membership of the charter school. Thereafter, the results of
1044 full-time equivalent student membership surveys shall be used in
1045 adjusting the amount of funds distributed monthly to the charter
1046 school for the remainder of the fiscal year. The payment shall
1047 be issued no later than 10 working days after the district
1048 school board receives a distribution of state or federal funds.
1049 If a warrant for payment is not issued within 10 working days
1050 after receipt of funding by the district school board, the
1051 school district shall pay to the charter school, in addition to
1052 the amount of the scheduled disbursement, interest at a rate of
1053 1 percent per month calculated on a daily basis on the unpaid
1054 balance from the expiration of the 10 working days until such
1055 time as the warrant is issued. The district school board may not
1056 delay payment to a charter school of any portion of the funds
1057 provided in paragraph (b) based on the timing of receipt of
1058 local funds by the district school board.
1059 (21) PUBLIC INFORMATION ON CHARTER SCHOOLS.—
1060 (a) The Department of Education shall provide information
1061 to the public, directly and through sponsors, on how to form and
1062 operate a charter school and how to enroll in a charter school
1063 once it is created. This information shall include a standard
1064 ~~model~~ application form, standard charter contract, standard
1065 application evaluation instrument, and standard charter renewal
1066 contract, which shall include the information specified in
1067 subsection (7) and shall be developed by consulting and
1068 negotiating with both school districts and charter schools
1069 before implementation. The charter and charter renewal contracts
1070 shall be used by charter school sponsors.
1071 (26) STANDARDS OF CONDUCT AND FINANCIAL DISCLOSURE.—

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1072 (c) An employee of the charter school, or his or her
1073 spouse, or an employee of a management company, cooperative, or
1074 charter management organization, or his or her spouse, may not
1075 be a member of the governing board of the charter school.
1076 (27) CONFLICTS OF INTEREST AND ETHICS.—An individual may
1077 not serve as a member of a governing board of a charter school,
1078 an education management corporation, or charter school
1079 cooperative organization if he or she or an immediate family
1080 member receives a pension or any compensation from the charter
1081 school, or if the individual's partner is an owner or principal
1082 with an entity or independent contractor with whom the charter
1083 school does business or contracts, directly or indirectly, for
1084 professional services, goods, or facilities. An individual may
1085 not serve as a governing board member if an immediate family
1086 member is an employee of the school. Members of the governing
1087 board of a charter school may not be appointed, removed, or
1088 replaced by an entity or component unit of an entity, which the
1089 charter school has entered into any contract with.
1090 Section 4. Paragraph (e) of subsection (2), paragraph (b)
1091 of subsection (3), and subsection (5) of section 1002.331,
1092 Florida Statutes, are amended to read:
1093 1002.331 High-performing charter schools.—
1094 (2) A high-performing charter school is authorized to:
1095 (e) Receive a modification of its charter to a term of 15
1096 years or a 15-year charter renewal. The charter may be modified
1097 or renewed for a shorter term at the option of the high-
1098 performing charter school. The charter must be consistent with
1099 s. 1002.33(7)(a)20. ~~s. 1002.33(7)(a)19.~~ and (10)(h) and (i), is
1100 subject to annual review by the sponsor, and may be terminated

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1101 during its term pursuant to s. 1002.33(8).
1102
1103 A high-performing charter school shall notify its sponsor in
1104 writing by March 1 if it intends to increase enrollment or
1105 expand grade levels the following school year. The written
1106 notice shall specify the amount of the enrollment increase and
1107 the grade levels that will be added, as applicable. If a charter
1108 school notifies the sponsor of its intent to expand, the sponsor
1109 shall modify the charter within 90 days to include the new
1110 enrollment maximum and may not make any other changes. The
1111 sponsor may deny a request to increase the enrollment of a high-
1112 performing charter school if the commissioner has declassified
1113 the charter school as high-performing. If a high-performing
1114 charter school requests to consolidate multiple charters, the
1115 sponsor shall have 40 days after receipt of that request to
1116 provide an initial draft charter to the charter school. The
1117 sponsor and charter school shall have 50 days thereafter to
1118 negotiate and notice the charter contract for final approval by
1119 the sponsor.
1120 (3)
1121 (b) A high-performing charter school may not establish more
1122 than one charter school within the state under paragraph (a) in
1123 any year. A subsequent application to establish a charter school
1124 under paragraph (a) may not be submitted unless each charter
1125 school established in this manner achieves high-performing
1126 charter school status. The limits set forth in this paragraph do
1127 not apply to charter schools established by a high-performing
1128 charter school in the attendance zone of a school identified as
1129 in need of intervention and support pursuant to s. 1008.33(3)(b)

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1130 or to meet needs for innovative choice options identified by the
1131 district school board.
1132 (5) The Commissioner of Education, upon request by a
1133 charter school, shall verify that the charter school meets the
1134 criteria in subsection (1) and provide a letter to the charter
1135 school and the sponsor stating that the charter school is a
1136 high-performing charter school pursuant to this section. The
1137 commissioner shall annually determine whether a high-performing
1138 charter school under subsection (1) continues to meet the
1139 criteria in that subsection. Such high-performing charter school
1140 shall maintain its high-performing status unless the
1141 commissioner determines that the charter school no longer meets
1142 the criteria in subsection (1), at which time the commissioner
1143 shall send a letter to the charter school and its sponsor
1144 providing notification that the charter school has been
1145 declassified ~~of its declassification~~ as a high-performing
1146 charter school.
1147 Section 5. Paragraph (c) of subsection (1) of section
1148 1002.451, Florida Statutes, is amended to read:
1149 1002.451 District innovation school of technology program.—
1150 (1) DISTRICT INNOVATION SCHOOL OF TECHNOLOGY.—
1151 (c) An innovation school of technology must be open to any
1152 student covered in an interdistrict agreement or residing in the
1153 school district in which the innovation school of technology is
1154 located. An innovation school of technology shall enroll an
1155 eligible student who submits a timely application if the number
1156 of applications does not exceed the capacity of a program,
1157 class, grade level, or building. If the number of applications
1158 exceeds capacity, all applicants shall have an equal chance of

1159 being admitted through a public random selection process.
1160 However, a district may give enrollment preference to students
1161 who identify the innovation school of technology as the
1162 student's preferred choice pursuant to the district's public
1163 school parental choice ~~controlled open enrollment~~ plan.
1164 Section 6. Section 1003.3101, Florida Statutes, is created
1165 to read:
1166 1003.3101 Additional school choice options.—Each district
1167 school board shall establish a transfer process for a parent to
1168 request his or her child be transferred to another classroom
1169 teacher. A school must grant or deny the transfer within 2 weeks
1170 after receiving a request. If a request for transfer is denied,
1171 the school shall notify the parent and specify the reasons for a
1172 denial. An explanation of the transfer process must be made
1173 available in the student handbook or a similar publication.
1174 Section 7. Section 1003.5711, Florida Statutes, is created
1175 to read:
1176 1003.5711 Instruction for students receiving hospitalized
1177 program services.—
1178 (1) A public school student in prekindergarten through
1179 grade 12 who is deemed eligible for hospitalized program
1180 services in this state is considered a student with a
1181 disability.
1182 (a) If the student has an individual education plan (IEP),
1183 the IEP must be followed, but upon request of the student's
1184 parent, the IEP may be modified to accommodate the student's use
1185 of hospitalized program services in a children's hospital
1186 pursuant to this section.
1187 (b) The student's IEP may be modified to reduce the

1188 student's course load to core courses identified in s.
1189 1002.20(19)(a). The student may be excused or exempted from
1190 physical education classes or instruction based on the IEP or
1191 orders from the student's medical doctor. The student's IEP may
1192 allow the student to receive instruction beyond the normal
1193 school hours, school day, or school year of the school district.
1194 (2) A student who is admitted to a children's hospital for
1195 hospitalized program services must continue to receive
1196 educational instruction.
1197 (a) If a student is expected to be absent from school and
1198 admitted to the children's hospital for hospitalized program
1199 services for at least 10 consecutive days, no later than the
1200 fifth day of the student's hospital stay, the school district in
1201 which the student is or was most recently enrolled may choose to
1202 provide a certified teacher to the children's hospital to
1203 provide instruction to the student. If that school district
1204 declines to provide a certified teacher, the school district in
1205 which the children's hospital is located must provide a
1206 certified teacher to provide the student with instruction or
1207 must partner with the Florida Virtual School or an approved
1208 provider as defined in s. 1002.45 for instructional services as
1209 authorized in this section. Such school district shall also
1210 provide the student's instructional materials and other
1211 necessary educational support and services identified in the
1212 IEP.
1213 (b) A student in prekindergarten through grade 6 shall be
1214 taught in person by the certified teacher. A student in grades 7
1215 through 12 shall be taught in person by the certified teacher,
1216 or the student may choose to utilize instruction from the

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1217 Florida Virtual School. If the Florida Virtual School is used by
1218 any student, at least one certified teacher from the Florida
1219 Virtual School must be present at the hospital to assist with
1220 online learning.
1221 (3) If a school district other than the one in which the
1222 student was previously enrolled provides the hospitalized
1223 program services, the Department of Education must transfer the
1224 funds from the school district in which the student was
1225 previously enrolled to the school district in which the
1226 children's hospital providing hospitalized program services is
1227 located. This transfer shall occur no later than each subsequent
1228 quarterly FEFP payment.
1229 (4) The children's hospital providing the hospitalized
1230 program services is responsible for providing adequate
1231 educational space for each student, but is not required to
1232 comply with chapter 1013. The hospital and applicable school
1233 district must enter into an agreement to implement this section.
1234 The agreement may be student-specific or address all students as
1235 necessary.
1236 (5) The intent of this section is to supplement existing
1237 laws, rules, and regulations concerning hospitalized students
1238 that use hospitalized program services at a children's hospital.
1239 Section 8. Section 1004.6491, Florida Statutes, is created
1240 to read:
1241 1004.6491 Florida Institute for Charter School Innovation.—
1242 (1) There is established the Florida Institute for Charter
1243 School Innovation within the Florida State University. The
1244 purpose of the institute is to advance charter school
1245 accountability, quality, and innovation; provide support and

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1246 technical assistance to charter school applicants; connect
1247 aspiring teachers to opportunities to experience teaching in
1248 schools of choice; and conduct research and develop and promote
1249 best practices for charter school authorization, financing,
1250 management, operations, and instructional practices.
1251 (2) The institute shall:
1252 (a) Conduct research to inform both policy and practice
1253 related to charter school accountability, financing, management,
1254 operations, and instructional practices.
1255 (b) Partner with state-approved teacher preparation
1256 programs in this state to provide opportunities for aspiring
1257 teachers to experience teaching in schools of choice.
1258 (c) Provide technical assistance and support to charter
1259 school applicants with innovative charter school concepts.
1260 (3) The President of the Florida State University shall
1261 appoint a director of the institute. The director is responsible
1262 for overall management of the institute and for developing and
1263 executing the work of the institute consistent with this
1264 section. The director may engage individuals in other state
1265 universities with accredited colleges of education to
1266 participate in the institute.
1267 (4) By each October 1, the institute shall provide a
1268 written report to the Governor, the President of the Senate, and
1269 the Speaker of the House of Representatives which outlines its
1270 activities in the preceding year, reports significant research
1271 findings, details expenditures of state funds, and provides
1272 specific recommendations for improving the institute's ability
1273 to fulfil its mission and for changes to statewide charter
1274 school policy.

1275 (5) Within 180 days after completion of the institute's
1276 fiscal year, the institute shall provide to the Auditor General,
1277 the Board of Governors of the State University System, and the
1278 State Board of Education a report on the results of an annual
1279 financial audit conducted by an independent certified public
1280 accountant in accordance with s. 11.45.
1281 Section 9. Subsection (1) of section 1011.61, Florida
1282 Statutes, is amended to read:
1283 1011.61 Definitions.—Notwithstanding the provisions of s.
1284 1000.21, the following terms are defined as follows for the
1285 purposes of the Florida Education Finance Program:
1286 (1) A "full-time equivalent student" in each program of the
1287 district is defined in terms of full-time students and part-time
1288 students as follows:
1289 (a) A "full-time student" is one student on the membership
1290 roll of one school program or a combination of school programs
1291 listed in s. 1011.62(1)(c) for the school year or the equivalent
1292 for:
1293 1. Instruction in a standard school, comprising not less
1294 than 900 net hours for a student in or at the grade level of 4
1295 through 12, or not less than 720 net hours for a student in or
1296 at the grade level of kindergarten through grade 3 or in an
1297 authorized prekindergarten exceptional program;
1298 2. Instruction in a ~~double-session school or a~~ school
1299 utilizing an experimental school calendar approved by the
1300 Department of Education, comprising not less than the equivalent
1301 of 810 net hours in grades 4 through 12 or not less than 630 net
1302 hours in kindergarten through grade 3; or
1303 3. Instruction comprising the appropriate number of net

1304 hours set forth in subparagraph 1. or subparagraph 2. for
1305 students who, within the past year, have moved with their
1306 parents for the purpose of engaging in the farm labor or fish
1307 industries, if a plan furnishing such an extended school day or
1308 week, or a combination thereof, has been approved by the
1309 commissioner. Such plan may be approved to accommodate the needs
1310 of migrant students only or may serve all students in schools
1311 having a high percentage of migrant students. The plan described
1312 in this subparagraph is optional for any school district and is
1313 not mandated by the state.
1314 (b) A "part-time student" is a student on the active
1315 membership roll of a school program or combination of school
1316 programs listed in s. 1011.62(1)(c) who is less than a full-time
1317 student.
1318 (c)1. A "full-time equivalent student" is:
1319 a. A full-time student in any one of the programs listed in
1320 s. 1011.62(1)(c); or
1321 b. A combination of full-time or part-time students in any
1322 one of the programs listed in s. 1011.62(1)(c) which is the
1323 equivalent of one full-time student based on the following
1324 calculations:
1325 (I) A full-time student in a combination of programs listed
1326 in s. 1011.62(1)(c) shall be a fraction of a full-time
1327 equivalent membership in each special program equal to the
1328 number of net hours per school year for which he or she is a
1329 member, divided by the appropriate number of hours set forth in
1330 subparagraph (a)1. or subparagraph (a)2. The difference between
1331 that fraction or sum of fractions and the maximum value as set
1332 forth in subsection (4) for each full-time student is presumed

1333 to be the balance of the student's time not spent in a special
1334 program and shall be recorded as time in the appropriate basic
1335 program.
1336 (II) A prekindergarten student with a disability shall meet
1337 the requirements specified for kindergarten students.
1338 (III) A full-time equivalent student for students in
1339 kindergarten through grade 12 in a full-time virtual instruction
1340 program under s. 1002.45 or a virtual charter school under s.
1341 1002.33 shall consist of six full-credit completions or the
1342 prescribed level of content that counts toward promotion to the
1343 next grade in programs listed in s. 1011.62(1)(c). Credit
1344 completions may be a combination of full-credit courses or half-
1345 credit courses. Beginning in the 2016-2017 fiscal year, the
1346 reported full-time equivalent students and associated funding of
1347 students enrolled in courses requiring passage of an end-of-
1348 course assessment under s. 1003.4282 to earn a standard high
1349 school diploma shall be adjusted if the student does not pass
1350 the end-of-course assessment. However, no adjustment shall be
1351 made for a student who enrolls in a segmented remedial course
1352 delivered online.
1353 (IV) A full-time equivalent student for students in
1354 kindergarten through grade 12 in a part-time virtual instruction
1355 program under s. 1002.45 shall consist of six full-credit
1356 completions in programs listed in s. 1011.62(1)(c)1. and 3.
1357 Credit completions may be a combination of full-credit courses
1358 or half-credit courses. Beginning in the 2016-2017 fiscal year,
1359 the reported full-time equivalent students and associated
1360 funding of students enrolled in courses requiring passage of an
1361 end-of-course assessment under s. 1003.4282 to earn a standard

1362 high school diploma shall be adjusted if the student does not
1363 pass the end-of-course assessment. However, no adjustment shall
1364 be made for a student who enrolls in a segmented remedial course
1365 delivered online.
1366 (V) A Florida Virtual School full-time equivalent student
1367 shall consist of six full-credit completions or the prescribed
1368 level of content that counts toward promotion to the next grade
1369 in the programs listed in s. 1011.62(1)(c)1. and 3. for students
1370 participating in kindergarten through grade 12 part-time virtual
1371 instruction and the programs listed in s. 1011.62(1)(c) for
1372 students participating in kindergarten through grade 12 full-
1373 time virtual instruction. Credit completions may be a
1374 combination of full-credit courses or half-credit courses.
1375 Beginning in the 2016-2017 fiscal year, the reported full-time
1376 equivalent students and associated funding of students enrolled
1377 in courses requiring passage of an end-of-course assessment
1378 under s. 1003.4282 to earn a standard high school diploma shall
1379 be adjusted if the student does not pass the end-of-course
1380 assessment. However, no adjustment shall be made for a student
1381 who enrolls in a segmented remedial course delivered online.
1382 (VI) Each successfully completed full-credit course earned
1383 through an online course delivered by a district other than the
1384 one in which the student resides shall be calculated as 1/6 FTE.
1385 (VII) A full-time equivalent student for courses requiring
1386 passage of a statewide, standardized end-of-course assessment
1387 under s. 1003.4282 to earn a standard high school diploma shall
1388 be defined and reported based on the number of instructional
1389 hours as provided in this subsection until the 2016-2017 fiscal
1390 year. Beginning in the 2016-2017 fiscal year, the FTE for the

1391 course shall be assessment-based and shall be equal to 1/6 FTE.
1392 The reported FTE shall be adjusted if the student does not pass
1393 the end-of-course assessment. However, no adjustment shall be
1394 made for a student who enrolls in a segmented remedial course
1395 delivered online.
1396 (VIII) For students enrolled in a school district as a
1397 full-time student, the district may report 1/6 FTE for each
1398 student who passes a statewide, standardized end-of-course
1399 assessment without being enrolled in the corresponding course.
1400 2. A student in membership in a program scheduled for more
1401 or less than 180 school days or the equivalent on an hourly
1402 basis as specified by rules of the State Board of Education is a
1403 fraction of a full-time equivalent membership equal to the
1404 number of instructional hours in membership divided by the
1405 appropriate number of hours set forth in subparagraph (a)1.;
1406 however, for the purposes of this subparagraph, membership in
1407 programs scheduled for more than 180 days is limited to students
1408 enrolled in:
1409 a. Juvenile justice education programs.
1410 b. The Florida Virtual School.
1411 c. Virtual instruction programs and virtual charter schools
1412 for the purpose of course completion and credit recovery
1413 pursuant to ss. 1002.45 and 1003.498. Course completion applies
1414 only to a student who is reported during the second or third
1415 membership surveys and who does not complete a virtual education
1416 course by the end of the regular school year. The course must be
1417 completed no later than the deadline for amending the final
1418 student enrollment survey for that year. Credit recovery applies
1419 only to a student who has unsuccessfully completed a traditional

1420 or virtual education course during the regular school year and
1421 must re-take the course in order to be eligible to graduate with
1422 the student's class.
1423
1424 The full-time equivalent student enrollment calculated under
1425 this subsection is subject to the requirements in subsection
1426 (4).
1427
1428 The department shall determine and implement an equitable method
1429 of equivalent funding for experimental schools and for schools
1430 operating under emergency conditions, which schools have been
1431 approved by the department to operate for less than the minimum
1432 school day.
1433 Section 10. Section 1011.6202, Florida Statutes, is created
1434 to read:
1435 1011.6202 Principal Autonomy Pilot Program Initiative.—The
1436 Principal Autonomy Pilot Program Initiative is created within
1437 the Department of Education. The purpose of the pilot program is
1438 to provide the principal of a participating school with
1439 increased autonomy and authority to operate his or her school in
1440 a way that produces significant improvements in student
1441 achievement and school management while complying with
1442 constitutional requirements. The State Board of Education may,
1443 upon approval of a principal autonomy proposal, enter into a
1444 performance contract with up to six district school boards for
1445 participation in the program.
1446 (1) PARTICIPATING SCHOOL DISTRICTS.—A Florida school
1447 district may submit to the state board for approval a principal
1448 autonomy proposal that exchanges statutory and rule exemptions

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1449 for an agreement to meet performance goals established in the
1450 proposal. If approved by the state board, the school district
1451 shall be eligible to participate in the program for 3 years. At
1452 the end of the 3 years, the performance of all participating
1453 schools in the school district shall be evaluated.
1454 (2) PRINCIPAL AUTONOMY PROPOSAL.—
1455 (a) To participate in the program, a school district must:
1456 1. Identify three middle or high schools whose principals
1457 will have fiscal and administrative autonomy.
1458 2. Describe the current financial and administrative
1459 management of each participating school; identify the areas in
1460 which each school principal will have increased fiscal and
1461 administrative autonomy, including the authority and
1462 responsibilities provided in s. 1012.28(8); and identify the
1463 areas in which each participating school will continue to follow
1464 district school board fiscal and administrative policies.
1465 3. Explain the methods used to identify the educational
1466 strengths and needs of the participating school's students and
1467 identify how student achievement can be improved.
1468 4. Establish performance goals for student achievement, as
1469 defined in s. 1008.34(1), and explain how the increased autonomy
1470 of principals will help participating schools improve student
1471 achievement and school management.
1472 5. Provide each participating school's mission and a
1473 description of its student population.
1474 (b) The state board shall establish criteria, which must
1475 include the criteria listed in paragraph (a), for the approval
1476 of a principal autonomy proposal.
1477 (c) A school district must submit its principal autonomy

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1478 proposal to the state board for approval by December 1 in order
1479 to begin participation in the subsequent school year. By
1480 February 28 of the school year in which the proposal is
1481 submitted, the state board shall notify the district school
1482 board in writing whether the proposal is approved.
1483 (3) EXEMPTION FROM LAWS.—
1484 (a) With the exception of those laws listed in paragraph
1485 (b), a participating school district is exempt from the
1486 provisions of chapters 1000-1013 and rules of the state board
1487 which implement those exempt provisions.
1488 (b) A participating school district shall comply with the
1489 provisions of chapters 1000-1013, and rules of the state board
1490 which implement those provisions, pertaining to the following:
1491 1. Those laws relating to the election and compensation of
1492 district school board members, the election or appointment and
1493 compensation of district school superintendents, public meetings
1494 and public records requirements, financial disclosure, and
1495 conflicts of interest.
1496 2. Those laws relating to the student assessment program
1497 and school grading system, including chapter 1008.
1498 3. Those laws relating to the provision of services to
1499 students with disabilities.
1500 4. Those laws relating to civil rights, including s.
1501 1000.05, relating to discrimination.
1502 5. Those laws relating to student health, safety, and
1503 welfare.
1504 6. Section 1001.42(4)(f), relating to the uniform opening
1505 and closing date for public schools.
1506 7. Section 1003.03, governing maximum class size, except

1507 that the calculation for compliance pursuant to s. 1003.03 is
1508 the average at the school level for a participating school.
1509 8. Sections 1012.22(1)(c) and 1012.27(2), relating to
1510 compensation and salary schedules.
1511 9. Section 1012.33(5), relating to workforce reductions for
1512 annual contracts for instructional personnel. This subparagraph
1513 does not apply to at-will employees.
1514 10. Section 1012.335, relating to annual contracts for
1515 instructional personnel hired on or after July 1, 2011. This
1516 subparagraph does not apply to at-will employees.
1517 11. Section 1012.34, relating to personnel evaluation
1518 procedures and criteria.
1519 12. Those laws pertaining to educational facilities,
1520 including chapter 1013, except that s. 1013.20, relating to
1521 covered walkways for relocatables, and s. 1013.21, relating to
1522 the use of relocatable facilities exceeding 20 years of age, are
1523 eligible for exemption.
1524 13. Those laws pertaining to participating school
1525 districts, including this section and ss. 1011.64(2)(b),
1526 1011.69(2), 1012.28(8), and 1012.986(1)(e).
1527 (4) PROFESSIONAL DEVELOPMENT.—Each participating school
1528 district shall require that the principal of each participating
1529 school complete professional development provided through the
1530 William Cecil Golden Professional Development Program for School
1531 Leaders under s. 1012.986. The professional development must be
1532 completed before a school may participate in the Principal
1533 Autonomy Pilot Program Initiative.
1534 (5) TERM OF PARTICIPATION.—The state board shall authorize
1535 a school district to participate in the program for a period of

1536 3 years commencing with approval of the principal autonomy
1537 proposal. Authorization to participate in the program may be
1538 renewed upon action of the state board. The state board may
1539 revoke authorization to participate in the program if the school
1540 district fails to meet the requirements of this section during
1541 the 3-year period.
1542 (6) REPORTING.—Each participating school district shall
1543 submit an annual report to the state board. The state board
1544 shall annually report on the implementation of the Principal
1545 Autonomy Pilot Program Initiative. Upon completion of the
1546 program's first 3-year term, the Commissioner of Education shall
1547 submit to the President of the Senate and the Speaker of the
1548 House of Representatives by December 1 a full evaluation of the
1549 effectiveness of the program.
1550 (7) RULEMAKING.—The State Board of Education shall adopt
1551 rules to administer this section.
1552 Section 11. Paragraph (b) of subsection (2) of section
1553 1011.64, Florida Statutes, is amended to read:
1554 1011.64 School district minimum classroom expenditure
1555 requirements.—
1556 (2) For the purpose of implementing the provisions of this
1557 section, the Legislature shall prescribe minimum academic
1558 performance standards and minimum classroom expenditure
1559 requirements for districts not meeting such minimum academic
1560 performance standards in the General Appropriations Act.
1561 (b) School district minimum classroom expenditure
1562 requirements shall be calculated pursuant to subsection (3) and
1563 may include training pursuant to s. 1012.986(1)(e).
1564 Section 12. Subsection (2) of section 1011.69, Florida

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1565 Statutes, is amended to read:
1566 1011.69 Equity in School-Level Funding Act.—
1567 (2) Beginning in the 2003-2004 fiscal year, district school
1568 boards shall allocate to schools within the district an average
1569 of 90 percent of the funds generated by all schools and
1570 guarantee that each school receives at least 80 percent, except
1571 that a school participating in the Principal Autonomy Pilot
1572 Program Initiative under s. 1011.6202 is guaranteed to receive
1573 at least 90 percent, of the funds generated by that school based
1574 upon the Florida Education Finance Program as provided in s.
1575 1011.62 and the General Appropriations Act, including gross
1576 state and local funds, discretionary lottery funds, and funds
1577 from the school district's current operating discretionary
1578 millage levy. Total funding for each school shall be
1579 recalculated during the year to reflect the revised calculations
1580 under the Florida Education Finance Program by the state and the
1581 actual weighted full-time equivalent students reported by the
1582 school during the full-time equivalent student survey periods
1583 designated by the Commissioner of Education. If the district
1584 school board is providing programs or services to students
1585 funded by federal funds, any eligible students enrolled in the
1586 schools in the district shall be provided federal funds.
1587 Section 13. Subsection (8) is added to section 1012.28,
1588 Florida Statutes, to read:
1589 1012.28 Public school personnel; duties of school
1590 principals.—
1591 (8) The principal of a participating school in a
1592 participating school district approved under s. 1011.6202 has
1593 the following additional authority and responsibilities:

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1594 (a) In addition to the authority provided in subsection
1595 (6), the authority to select qualified instructional personnel
1596 for placement or to refuse to accept the placement or transfer
1597 of instructional personnel by the district school
1598 superintendent. Placement of instructional personnel at a
1599 participating school in a participating school district does not
1600 affect the employee's status as a school district employee.
1601 (b) The authority to deploy financial resources to school
1602 programs at the principal's discretion to help improve student
1603 achievement, as defined in s. 1008.34(1), and meet performance
1604 goals identified in the principal autonomy proposal submitted
1605 pursuant to s. 1011.6202.
1606 (c) The responsibility to annually provide to the district
1607 school superintendent and the district school board a budget for
1608 the operation of the participating school which identifies how
1609 funds provided pursuant to s. 1011.69(2) are allocated. The
1610 school district shall include the budget in the annual report
1611 provided to the State Board of Education pursuant to s.
1612 1011.6202(6).
1613 Section 14. Subsection (2) of section 1012.42, Florida
1614 Statutes, is amended to read:
1615 1012.42 Teacher teaching out-of-field.—
1616 (2) NOTIFICATION REQUIREMENTS.—When a teacher in a district
1617 school system is assigned teaching duties in a class dealing
1618 with subject matter that is outside the field in which the
1619 teacher is certified, outside the field that was the applicant's
1620 minor field of study, or outside the field in which the
1621 applicant has demonstrated sufficient subject area expertise, as
1622 determined by district school board policy in the subject area

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1623 to be taught, the parents of all students in the class shall be
1624 notified in writing of such assignment. A parent that receives
1625 this notification may, after the October student membership
1626 survey, request that his or her child be transferred to another
1627 classroom teacher within the school and grade in which the child
1628 is currently enrolled. If space is available in a classroom
1629 taught by an in-field teacher, the school district shall grant
1630 the parent's request and transfer the student to the in-field
1631 classroom teacher within a reasonable period of time, not to
1632 exceed 2 weeks. An explanation of the transfer process must be
1633 made available in the student handbook or a similar publication.
1634 This does not provide a parent the right to choose a specific
1635 teacher.
1636 Section 15. Paragraph (e) is added to subsection (1) of
1637 section 1012.986, Florida Statutes, to read:
1638 1012.986 William Cecil Golden Professional Development
1639 Program for School Leaders.—
1640 (1) There is established the William Cecil Golden
1641 Professional Development Program for School Leaders to provide
1642 high standards and sustained support for principals as
1643 instructional leaders. The program shall consist of a
1644 collaborative network of state and national professional
1645 leadership organizations to respond to instructional leadership
1646 needs throughout the state. The network shall support the human-
1647 resource development needs of principals, principal leadership
1648 teams, and candidates for principal leadership positions using
1649 the framework of leadership standards adopted by the State Board
1650 of Education, the Southern Regional Education Board, and the
1651 National Staff Development Council. The goal of the network

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1652 leadership program is to:
1653 (e) For principals of schools participating in the
1654 Principal Autonomy Pilot Program Initiative under s. 1011.6202,
1655 provide training on the following:
1656 1. Managing instructional personnel, including developing a
1657 high-performing instructional leadership team.
1658 2. Public school budgeting, financial management, and human
1659 resources policies and procedures.
1660 3. Best practices for the effective exercise of increased
1661 budgetary and staffing flexibility to improve student
1662 achievement and operational efficiency.
1663 Section 16. Paragraph (a) of subsection (1) of section
1664 1013.62, Florida Statutes, is amended to read:
1665 1013.62 Charter schools capital outlay funding.—
1666 (1) In each year in which funds are appropriated for
1667 charter school capital outlay purposes, the Commissioner of
1668 Education shall allocate the funds among eligible charter
1669 schools.
1670 (a) To be eligible for a funding allocation, a charter
1671 school must:
1672 1.a. Have been in operation for 3 or more years;
1673 b. Be governed by a governing board established in the
1674 state for 3 or more years which operates both charter schools
1675 and conversion charter schools within the state;
1676 c. Be an expanded feeder chain of a charter school within
1677 the same school district that is currently receiving charter
1678 school capital outlay funds;
1679 d. Have been accredited by the Commission on Schools of the
1680 Southern Association of Colleges and Schools; or

1681 e. Serve students in facilities that are provided by a
1682 business partner for a charter school-in-the-workplace pursuant
1683 to s. 1002.33(15)(b).
1684 2. Have an annual audit that does not reveal any of the
1685 financial emergency conditions provided in s. 218.503(1) for the
1686 most recent fiscal year for which such audit results are
1687 available ~~stability for future operation as a charter school~~.
1688 3. Have satisfactory student achievement based on state
1689 accountability standards applicable to the charter school.
1690 4. Have received final approval from its sponsor pursuant
1691 to s. 1002.33 for operation during that fiscal year.
1692 5. Serve students in facilities that are not provided by
1693 the charter school's sponsor.
1694 Section 17. Notwithstanding any other provision of law,
1695 student reporting requirements related to withdrawals,
1696 suspensions, expulsions, and other related instances where
1697 students are no longer enrolled in a school, must be the same
1698 for public schools, including charter schools. Thus, charter
1699 school reporting requirements for these instances apply to all
1700 public schools, and public school reporting requirements apply
1701 to all charter schools.
1702 Section 18. This act shall take effect July 1, 2015.

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 Appropriations

BILL: CS/CS/SB 1552

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Education); Education Pre-K - 12 Committee; and Senator Benacquisto

SUBJECT: Student Choice

DATE: April 23, 2015 REVISED: _____ _____ _____ _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hand	Klebacha	ED	**Fav/CS**
2.	Sikes	Elwell	AED	**Recommend: Fav/CS**
3.	Sikes	Kynoch	AP	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1552 requires the disclosure of financial information to parents regarding costs associated with the education of their children, expands K-12 public school choice enrollment options, and modifies charter school requirements and options.

Specifically, the bill:

- Requires school districts to provide parents with the total expenditures on a per FTE basis, as reported in the school district's annual financial report.
- Expands the scope of controlled open enrollment public school choice options available to parents:
  - Authorizes school and classroom choice options beyond school district boundaries, provided the receiving district or school has not reached capacity and the parent provides transportation.
  - Allows a student to transfer to another classroom teacher, in specified circumstances.
  - Obligates school districts to provide instruction to homebound or hospitalized students by establishing eligibility criteria and procedures and other requirements.
- Specifies charter school requirements and options:
  - Modifies charter school requirements related to application processes, contract renewal and termination, operations, performance and fiscal accountability, student reporting, and governing board conflict of interest disclosure and reporting.

- Authorizes the replication of high performing charter school in the attendance zone of a school in need of intervention, to meet capacity needs, or to meet district identified innovative choice options.
- Creates the Principal Autonomy Pilot Program Initiative authorizing the State Board of Education to enter into a performance contract with district school boards to provide principals of participating schools with increased autonomy and authority.
- Creates the Florida Institute for Charter School Innovation at the Florida State University to provide technical assistance to charter school applicants and improve charter school accountability, quality, and innovation.

The bill establishes the Florida Institute for Charter School Innovation, which does not have funds appropriated in SB 2500, the Senate's Fiscal Year 2015-2016 proposed General Appropriations Bill. The bill has other requirements which may increase administrative costs for school districts. The fiscal impact of these administrative costs should be minimal and absorbed within existing resources.

The bill provides an effective date of July 1, 2015.

II. Present Situation:

There is a range of information and school choice options available to parents, from academic progress information, multiple school choice options, and notifications about and limits to certain types of teachers that may be assigned a student.[1] Charter schools are public schools of choice available to serve the unique needs of students.[2]

Educational Transparency

Parents of public school students must receive accurate and timely information regarding their child's academic progress and must be informed about ways that the parents can help their child to succeed in school.[3]

For purposes of exceptional student education (ESE), district school boards must provide parents, at the initial individual education plan (IEP) team meeting, the amount of state appropriations that the school district receives for each of the five ESE support levels for a full-time student.[4]

Controlled Open Enrollment Public School Choice Options

Parents of public school students may seek school choice options such as controlled open enrollment, lab schools, virtual instruction programs, charter schools, charter technical career centers, magnet schools, alternative schools, special programs, auditory-oral education programs, advanced placement, dual enrollment, International Baccalaureate, Advanced International Certificate of Education, credit by examination or demonstration of competency, the School for

[1] Section 1002.20(6), F.S.
[2] Section 1002.33, F.S.
[3] Section 1002.20, F.S.
[4] Section 1003.57(1)(j), F.S.

Deaf and the Blind, the Florida Virtual School, and the public school options for the Opportunity Scholarship Program and the McKay Scholarships for Students with Disabilities Program.[5]

Controlled Open Enrollment

Controlled open enrollment is a public education delivery system that gives school districts the option of making student school assignments using a parent's indicated preferential public school choice as a significant factor.[6]

Each district school board offering the controlled open enrollment must to adopt by rule a controlled open enrollment plan (plan) and post the plan on the district's website.[7] The plan must:[8]

- Adhere to federal desegregation requirements.
- Include an application process required to participate in controlled open enrollment that allows parents to declare school preferences, including placement of siblings within the same school.
- Provide a lottery procedure to determine student assignment and establish an appeals process for hardship cases.
- Afford parents of students in multiple session schools preferred access to controlled open enrollment.
- Maintain socioeconomic, demographic, and racial balance.
- Address the availability of transportation.

Notification and Ability to Change Teachers

Each district school board must adopt and implement a plan to assist teachers who teach out-of-field and prioritize professional development activities for such teachers.[9] If a teacher is assigned a class that is outside the field in which the teacher is certified or has demonstrated sufficient subject matter expertise, parents of all students in that class must be notified, in writing, of such assignment.[10]

Public school students are prohibited from being taught by a classroom teacher who received a performance evaluation rating of "needs improvement" or "unsatisfactory" if the student was taught by a classroom teacher that received a performance rating of "needs improvement" or "unsatisfactory" in the previous school year.[11]

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[5] Section 1002.20(6), F.S.
[6] Section 1002.31(1), F.S.; Implementation of the plan by a district school board is optional. Section 1002.31(2), F.S.
[7] Section 1002.31(3), F.S.
[8] Section 1002.31(3), F.S.
[9] Section 1012.42(1), F.S. The district school board must require the teacher to participate in a certification or staff development program that is designed to provide the teacher with the necessary competencies to perform assigned duties. *Id*.
[10] Section 1012.42(2), F.S.
[11] Section 1012.2315(6), F.S. For elementary school students, this probation applies to any subject, while the prohibition for middle school and high school students are limited to teachers who receive the performance evaluations in the same subject area. *Id.* A parent may provide written consent to exempt extracurricular courses from this prohibition. *Id.*

Charter Schools

Charter schools are nonsectarian, public schools that operate under a performance contract with a sponsor, which is typically a school district.[12] Charter schools are exempt from many laws and regulations applicable to traditional public schools to encourage the use of innovative learning methods.[13] One of the guiding principles of charter schools is to "meet high standards of student achievement while providing parents flexibility to choose among diverse educational opportunities within the state's public school system."[14] The terms and conditions for the operation of the school are set forth in a performance contract or "charter."[15]

Florida law tasks sponsors with authorizing new charter schools and providing continuing oversight of each charter school in the school district.[16] The law establishes several processes designed to enable the sponsor to perform these roles, including:

- Authority to review and approve or deny charter school applications.[17]
- Authority to enforce the terms and conditions of the charter agreement.[18]
- Annual reporting of student achievement and financial information by each charter school to the sponsor.[19]
- Sponsor monitoring of annual financial audits[20] and monthly financial statements submitted by charter schools in the school district.[21]
- Interventions for remedying unsatisfactory academic performance and financial instability.[22]
- Authority to close charter schools for academic or financial failure; poor management; violations of law; or child health, safety, and welfare violations.[23]

The law establishes an application process for establishing a new charter school.[24] An applicant must submit a charter school application to the sponsor.[25] The sponsor must review and approve or deny the application.[26] The law requires sponsors and applicants to use a standard charter school application and application evaluation instrument.[27] The standard application is designed to enable the sponsor to evaluate the applicant's educational plan, organizational plan, financial viability, and business plan.[28]

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[12] Section 1002.33(5)(a), (6)(h), (7) and (9)(a), F.S.
[13] Section 1002.33(2)(b)3, and (16), F.S.
[14] Section 1002.33(2)(a)1, F.S.
[15] Section 1002.33(6)(h), F.S.
[16] Section 1002.33(6), F.S.
[17] Section 1002.33(6), F.S.
[18] Section 1002.33(6)(h) and (7), F.S.
[19] Section 1002.33(9)(k), F.S.
[20] Sections 218.39(1)(e) and (f), 1002.33(9)(j)1. and 2., F.S.
[21] Section 1002.33(9)(g), F.S.
[22] Section 1002.33(9)(n), F.S.
[23] Section 1002.33(8), F.S.
[24] Section 1002.33(6)(a), F.S.
[25] *Id.*
[26] *Id.*
[27] *Id.*
[28] *Id.*

Charter school sponsors evaluate a variety of factors when considering an application to open a charter school.[29] The standard application requires the applicant to:[30]

- List each proposed member of the charter school's governing board and his or her background and qualifications.
- Indicate whether the governing board will contract with a management company, summarize the company's history operating charter schools, and list other charter schools managed by the company along with student achievement and financial performance data of such schools.

Among other oversight processes, charter schools must submit monthly financial statements for review by the sponsor.[31] If a financial statement reveals a deteriorating financial condition, the sponsor and charter school governing board must develop a corrective action plan.[32] The sponsor may choose to terminate or not renew the charter school's charter if financial deficiencies noted in the corrective action plan are not corrected within one year or if the school exhibits one or more financial emergency conditions for two consecutive years.[33]

High-Performing Charter Schools

A charter school is a high-performing charter school if it:[34]

- Received at least two school grades of "A" and no school grade below "B," during each of the previous three school years.
- Received an unqualified opinion on each annual financial audit in the most recent three fiscal years for which such audits are available.
- Did not receive a financial audit that revealed one or more of the financial emergency conditions in the most recent three fiscal years for which such audits are available. However, this requirement is deemed met for a charter school-in-the-workplace if there is a finding in an audit that the school has the monetary resources available to cover any reported deficiency or that the deficiency does not result in a deteriorating financial condition.

A high-performing charter school is authorized to:[35]

- Increase its student enrollment once per school year to more than the capacity identified in the charter, but student enrollment may not exceed the current facility capacity.
- Expand grade levels within kindergarten through grade 12 to add grade levels not already served if any annual enrollment increase resulting from grade level expansion is within the limit established its contract.
- Submit a quarterly, rather than a monthly, financial statement to the sponsor.
- Consolidate under a single charter the charters of multiple high-performing charter schools operated in the same school district by the charter schools' governing board regardless of the renewal cycle.

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[29] Section 1002.33(6)(a), (7), (8), (9), F.S.
[30] *Id.*
[31] Sections 1002.33(9)(g)3, and 1002.345(1)(b)-(f), F.S.; rule 6A-10081, F.A.C. A high-performing charter school may submit quarterly rather than monthly financial statements. Section 1002.331(2)(c), F.S.
[32] *Id.*
[33] Section 1002.345(5), F.S.
[34] Section 1002.331(1), F.S.
[35] Section 1002.331(2), F.S.

- Receive a modification of its charter to a term of 15 years or a 15-year charter renewal. The charter may be modified or renewed for a shorter term at the option of the high-performing charter school.

A virtual charter school is not eligible for designation as a high-performing charter school, nor may a high-performing charter school be replicated as a virtual charter school.[36]

High Performing Charter School Systems

A high-performing charter school system means an entity[37] that:[38]

- Operated at least three high-performing charter schools in the state during each of the previous three school years.
- Operated a system of charter schools in which at least 50 percent of the charter schools were high-performing charter schools pursuant to s. 1002.331, F.S., and no charter school earned a school grade of "D" or "F" in any of the previous three school years, regardless of whether the entity currently operates the charter school.[39]
- Did not receive a financial audit that revealed one or more emergency conditions set forth in s. 218.503(1), F.S., for any charter school assumed or established by the entity in the most recent three fiscal years for which such audits are available.[40]

A high performing charter school system may replicate its high-performing charter schools pursuant to s. 1002.331(3), F.S.[41]

III. Effect of Proposed Changes:

The bill requires the disclosure of financial information to parents regarding costs associated with the education of their children, expands K-12 controlled open enrollment public school choice options, and modifies charter school requirements and options.

Educational Transparency

The bill requires a school district to provide a fiscal transparency notification in the parent guide that contains, at a minimum, the total expenditures on a per FTE basis, as reported in the school district's annual financial report.

Controlled Open Enrollment Public School Choice Options

The bill expands controlled open enrollment school choice options, beginning in the 2016-2017 academic year, to authorize a parent to choose to enroll his or her child in and transport his or her

[36] Sections 1002.331(1)(c) and (6), F.S.
[37] Entity means a municipality or other public entity that is authorized by law to operate a charter school; a private, nonprofit corporation with tax-exempt status under s. 501(c)(3) of the Internal Revenue Code; or a private, for-profit education management corporation. Section 1002.332(1)(a), F.S.
[38] Section 1002.332(1)(b), F.S.
[39] Limited exceptions exist, such as if the entity assumed operating a charter school with a school grade of "F." Section 1002.332(1)(b).
[40] Section 218.503(1), F.S., relates to a determination of a financial emergency for charter schools, among other entities.
[41] Section 1002.332(2)(b), F.S.

child to any public school that has not reached capacity, including charter schools, in the school district or state. The controlled open enrollment process retains the current lottery procedure for determining student assignment, but adds a preference process for dependent children of active duty military personnel in districts with a military base. A parent choosing to enroll his or her child in another school district must notify both the district of residence and the district of choice within 60 days beginning no earlier than March 1.

The bill defines capacity to be as determined by the school district. When determining the capacity of each school in the district, the school district must incorporate the specifications, plans, elements, and commitments contained in the school district educational facilities plan and the long-term work programs.

The bill requires each district school board to establish a transfer process for a parent to request his or child be transferred to another classroom teacher, if the receiving teacher has unfilled classroom capacity. An explanation of the transfer process must be made available in the student handbook or a similar publication.

The bill allows a parent that receives notification that his or her student is being taught by an out of field classroom teacher to request that the child be transferred to another classroom teacher. The school district must grant the request, if an in-field teacher has available space.

Students Receiving Hospitalized Program Services

The bill requires school districts to provide instruction to homebound or hospitalized students by establishing:

- Criteria for the eligibility of K-12 homebound or hospitalized students for specially designed instruction.
- Procedures for determining student eligibility.
- A list of appropriate methods for providing instruction to homebound or hospitalized instruction.

Requirements for initiating instructional services for a homebound or hospitalized student. The bill requires the Department of Education (DOE) to develop, and school districts to utilize, a standard agreement to provide seamless educational instruction to students who receive treatment in a hospital outside the school district in which the resides.

Charter Schools

The bill modifies charter school requirements related to application processes, contract renewal and termination, operations, performance and fiscal accountability, student reporting, governing board conflict of interest disclosure and reporting, and high performing charter school replication. The bill creates a Principal Autonomy Pilot Program Initiative, and the Florida Institute for Charter School Innovation at the Florida State University.

Charter School Applications and Contracts

The bill modifies charter school accountability provisions to require:

- Each charter school to disclose in the application the name of each applicant, governing board member, and proposed management company, if any; the name and sponsor of any charter school currently or previously operated by such parties; and the academic and financial history of such charter schools.
- A sponsor to consider the past history in deciding to approve or deny the application.
- A charter school governing board to be independent of any management company.
- A charter school to prepare and submit a plan with the specific actions the school will take if the school's financial statement indicates that the school is not financially viable.
- Background screening[42] for a person, or an officer of an entity who submits a charter school application. A person may not receive approval of a charter application until the person's screening is completed and the results have been submitted to the sponsor.
- A charter school to have a certificate of occupancy or a temporary certificate of occupancy for such a facility no later than 30 calendar days before the first day of school.
- A sponsor to automatically renew a high-performing charter contract for the same terms and length of the current term if the charter school governing board and sponsor have not executed the renewal before the term of the charter agreement is scheduled to expire.
- The charter school's reading curriculum be specified in the charter contract to be eligible to receive the research-based reading instruction allocation.

Charter Termination or Nonrenewal

The bill clarifies that a charter school that is closed voluntarily by the operator is subject to the dissolution requirements of a school whose charter is not renewed or is terminated. Specifically, the bill requires the governing board of a charter school that closes voluntarily to notify the sponsor and the Department of Education in writing within seven calendar days of its decision to cease operations. The notice must state the reasons for the closure and acknowledge that the governing board agrees to follow the procedures for dissolution and the reversion of public funds specified in law.

Charter School Performance Accountability

The bill delays a charter school's termination if the school earns two consecutive grades of "F" until all school grade appeals are final, unless an exception applies. The sponsor must notify in writing the charter school's governing board, the charter school principal, and the department when a charter is terminated. The bill specifies that procedures regarding reversion of public funds and property purchased with public funds apply to "double F" terminations, as well as, voluntary closures.

Student Reporting

The bill aligns charter school and district reporting requirements regarding student suspensions and withdrawals, including the involuntary withdrawal of a student.

[42] A background check similar to an instructional or noninstructional personnel hired or contracted to fill positions. Section 1012.32, F.S.

Charter School Governing Board Independence

The bill establishes that an individual may not serve as a member of a governing board of a charter school or charter school cooperative organization if he or she or an immediate family member receives a pension or any compensation from the charter school, or if the individual's partner is an owner or principal with an entity or independent contractor with whom the charter school does business or contracts, for professional services, goods, or facilities. Members of the governing board of a charter school may not be appointed, removed, or replaced by an entity or component unit of an entity, with which the charter school has entered into any contract.

High Performing Charter Schools

The bill removes the restriction on replication of high performing charter schools in the attendance zone of a school in need of intervention or to meet district identified innovative choice options. The bill also extends the deadline from March 1 to May 1 for a high-performing charter school to inform its sponsor of an intended enrollment or grade level expansion, and repeals the prohibition on high performing charter schools making a "C" or lower from enrollment or grade level expansion.

Principal Autonomy Pilot Program Initiative

The bill creates a program within the Department of Education to provide the principal of a participating school with increased autonomy and authority to operate his or her school in a way that produces significant improvements in student achievement and school management while complying with constitutional requirements. The State Board of Education may, upon approval of a charter proposal, enter into a performance contract with up to six district school boards to establish such districts as charter school districts.

Professional Development

The principal at each school must complete the professional development offered through the William Cecil Golden Professional Development Program for School Leaders.[43] This training must be completed before a school may participate in the Principal Autonomy Pilot Program Initiative.

Terms of Charter and Reporting

The state board authorizes a charter school district's charter for a period of 3 years commencing with the award of the charter which may be renewed upon action of the state board. The charter school district must submit an annual report to the state board and the state board will annually report on the implementation of the Principal Autonomy Pilot Program Initiative. After completion of the program's first 3-year term, the Commissioner of Education will submit to the President of the Senate, and the Speaker of the House of Representatives, by December 1, a full evaluation of the effectiveness of the program.

Florida Institute for Charter School Innovation

The bill establishes the Florida Institute for Charter School Innovation at Florida State University in order to:

[43] Section 1013.21, F.S.

- Advance charter school accountability, quality, and innovation;
- Provide support and technical assistance to charter school applicants;
- Connect aspiring teachers to opportunities to experience teaching in schools of choice; and
- To conduct research and develop and promote best practices for charter school authorization, financing, management, operations, and instructional practices.

The institute is responsible for providing technical assistance and support to charter school applicants with innovative charter school concepts. In effect, an applicant would be supported by the institute by acquiring the financial and operational knowledge and skills needed to operate a charter school.

The bill requires the President of Florida State University to appoint a director for the institute to be responsible for the management, development, and executing of the Institute's mission. The institute must submit a written report to the Governor, the President of the Senate, and the Speaker of the House of Representatives. Among other things, the report must include research findings, expenditures of state funds, and recommendations for improving the institute's ability to fulfill its mission and changes to statewide charter school policy. The bill requires the institute to provide an annual financial audit conducted by an independent certified public accountant to the Auditor General, the Board of Governors of the State University System, and the State Board of Education.

The bill takes effect July 1, 2015.

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:

CS/CS/SB1552 establishes the Florida Institute for Charter School Innovation, which does not have funds appropriated in SB 2500, the Senate's Fiscal Year 2015-2016 proposed General Appropriations Bill. The bill has other requirements which may increase administrative costs for school districts. The fiscal impact of these administrative costs should be minimal and absorbed within existing resources.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 1002.20, 1002.31, 1002.33, 1002.331, 1003.57 1006.15, 1011.64 1011.69, 1012.28, 1012.42, 1012.986, and 1013.62.

The bill creates the following sections of the Florida Statutes: 1003.3101, 1004.6491, and 1011.6202.

IX. Additional Information:

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

CS/CS by Appropriations on April 21, 2015:
The committee substitute:

- Deletes quarterly financial reporting requirement for new charter schools.
- Extends deadline from March 1 to May 1 for high-performing charter school to inform sponsor of enrollment or grade level expansion.
- Removes prohibitions and restrictions on high performing charter schools making a "C" or lower.
- Reinstates current statutory language regarding the class size requirement at public schools of choice being calculated at the school level.
- Requires school districts to provide instruction to homebound or hospitalized students by establishing:
  - Criteria for the eligibility of K-12 homebound or hospitalized students for specially designed instruction.
  - Procedures for determining student eligibility.
  - A list of appropriate methods for providing instruction to homebound or hospitalized instruction.
  - Requirements for initiating instructional services for a homebound or hospitalized student. The bill requires the Department of Education (DOE) to develop, and

school districts to utilize, a standard agreement to provide seamless educational instruction to students who receive treatment in a hospital outside the school district in which the resides.

- Includes options under the Florida Personal Learning Scholarship Accounts Program as a private educational choice available to parents of public school students.
- Clarifies that school districts must provide in the parent guide the total expenditures from the district's annual financial report on a per FTE basis, rather than estimated allocation per student based on grade level and level of support.
- Returns to current statutory language regarding "controlled open enrollment," rather than "public school parental choice," and clarifies that the statewide open enrollment begins with the 2016-2017 academic year.
- Requires parents to notify the district of residence and the district of choice within 60 days beginning no earlier than March 1.
- Replaces the first-come, first-served provision for student assignment in schools of choice with a lottery and preference process for dependent children of active duty military personnel in districts with a military base.
- Removes the provision allowing an entity that successfully operates a system of charter schools outside the state to apply to the State Board of Education for status as a high-performing charter school system.
- Renames the Charter School District Pilot Program as the Principal Autonomy Pilot Program Initiative.

CS by Education Pre-K-12 on March 18, 2015:
The committee substitute retains the following provisions of SB 1552:

- Authorizes parents to choose to enroll and transport child to any school in the district or state that has not reached capacity.
- Authorizes parents to request different classroom teachers.
- Requires districts to notify parents of the cost of a child's education.

The committee substitute adds the following language related to public school choice options to SB 1552.

- Enables customized instruction for students receiving hospitalized program services in children's hospitals.

The committee substitute adds the following language related to charter schools to SB 1552:

- Specifies charter school requirements related to the following areas:
  - Changes the definition of "capacity" for purposes of the public school parental choice policy from a school in which the capital outlay FTE enrollment exceeds 95 percent of the space and occupant design capacity to allow the school district to determine capacity based on the district's educational facilities plan and long-term work programs.
  - Requires applications to contain names and historical performance of charter schools, and documentation of adequate financial resources, which may constitute grounds for denial.

  - Allows renewing charter schools to have a 15-year term, by removing the limitation in current law that limits such terms to purposes of facilitating access to long-term financial resources.
  - Requires background checks, documentation of adequate financial resources, and moves up deadline to obtain a certificate of occupancy from 15 to 30 days.
  - Requires monthly financial statements during first year.
  - Prohibits districts from delaying payments of local funds to charter schools.
  - Requires sponsor to review monthly or quarterly financial statements to identify deteriorating financial conditions.
  - Requires a charter school governing board to be independent of a management company by prohibiting board members from being appointed, replaced, or fired by any entity that contracts with the charter school.
  - Requires charter schools and traditional public schools to be subject to the same reporting requirements when students withdraw from the school.
  - Allows the approval of a charter school's reading curriculum to deem the charter school eligible for the reading allocation.
  - Updates capital outlay requirements to replace undefined language (financial stability) with statutorily defined language (financial emergency).
  - Allows alternative charter schools to have double-sessions if providing the equivalent of 810 hours and approved by the district school board in the charter agreement.
  - Prohibits a sponsor from requiring a charter school to implement any curriculum adopted by the district school board.
  - Clarifies that notice and dissolution requirement in current law apply if charter school voluntarily closes, and adds additional notice requirements.
  - Requires a high-performing charter school whose contract expires during renewal negotiations to automatically renew the contract according to the same terms, conditions, and length as the expiring charter.
  - Delays automatic termination of a double-F charter school until after all school grade appeals are final.
- Expands replication of high performing charter schools in certain instances, and allows out-of-state entities to apply for status as a high-performing charter school system.
  - Removes the restriction on replication of high performing charter schools in the attendance zone of a school in need of intervention or to meet district identified innovative choice options.
  - Authorizes an entity that successfully operates a system of charter schools to apply to the State Board of Education for status as a high-performing charter school system.
- Authorizes the State Board of Education create the Charter School District Pilot Program and enter into performance contracts with 6 district school boards to provide principals of participating schools with increased autonomy and authority.
- Establishes a charter institute at Florida State University to conduct research to inform policy and practice, provide technical assistance to charter applicants, and partner with state-approved teacher preparation programs.

B. Amendments:

None.

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

By the Committee on Education Pre-K - 12; and Senator Benacquisto

A bill to be entitled

An act relating to student choice; amending s. 1002.20, F.S.; conforming a provision to changes made by the act; providing the right of a parent to know the average amount of money expended for the education of his or her child; requiring the Department of Education to provide each school district with such information and requiring the school districts to provide notification to parents; authorizing the information to be published in the student handbook or a similar publication; amending s. 1002.31, F.S.; deleting the definition of the term "controlled open enrollment" and deleting provisions relating to controlled open enrollment; requiring each district school board to establish a public school parental choice policy that allows students to attend any public school that has not reached capacity in their district; requiring assignments to be made on a first-come, first-served basis; requiring that the public school parental choice plan define the term "capacity"; authorizing a parent to enroll his or her child in any public school that has not reached capacity in the state; amending s. 1002.33, F.S.; revising required contents of charter school applications; requiring a charter school to submit quarterly financial statements for the first year of operation with specified information included; requiring a charter school to submit a plan to become financially viable under certain circumstances;

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conforming provisions regarding the appeal process for denial of a high-performing charter school application; specifying that the reading curriculum and instructional strategies in a charter school's charter satisfy the research-based reading plan requirement and that charter schools are eligible for the research-based reading allocation; requiring a person or officer of an entity who submits a charter school application to undergo background screening; prohibiting a sponsor from approving a charter school application until completion, receipt, and review of the results of such screening; requiring a charter to document that the governing board is independent of a management company or cooperative; revising charter provisions relating to long-term charters; revising the deadline by which a charter school must have a certificate of occupancy or temporary certificate of occupancy; revising conditions for nonrenewal or termination of a charter; requiring the sponsor to review monthly financial statements; requiring the sponsor to notify specified parties of a charter's termination under certain circumstances; requiring a charter school's governing board to appoint a representative to provide information and assistance to parents; requiring the governing board to hold a certain number of meetings that are noticed, open, and accessible to the public per school year; requiring a charter school with space available to be open to any student in the state; revising requirements for the

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59 funding of charter schools; prohibiting the district
60 school board from delaying payment to a charter school
61 under specified circumstances; requiring the
62 Department of Education to include a standard
63 application form when providing information to the
64 public on how to form, operate, and enroll in a
65 charter school; prohibiting an employee of a
66 management company or cooperative from being a member
67 of a charter school governing board; prohibiting
68 specified conflicts of interests on the part of
69 members of the governing board of a charter school or
70 charter school cooperative organization; amending s.
71 1002.331, F.S.; providing an exception to the
72 prohibition on a high-performing charter school
73 establishing more than one charter school in this
74 state under specified circumstances; conforming
75 provisions and a cross-reference to changes made by
76 the act; amending s. 1002.332, F.S.; authorizing
77 certain out-of-state entities to apply for designation
78 as a high-performing charter school system; requiring
79 the State Board of Education to adopt by rule
80 eligibility criteria for such designation; requiring
81 that charter schools established by such entities
82 receive a reduction in certain administrative fees;
83 amending s. 1002.451, F.S.; conforming a provision to
84 changes made by the act; creating s. 1003.3101, F.S.;
85 requiring each district school board to establish a
86 classroom teacher transfer process for parents,
87 approve or deny a request within a certain timeframe,

88 and post an explanation of the transfer process in the
89 student handbook or a similar publication; creating s.
90 1003.5711, F.S.; providing that certain students who
91 are deemed eligible for hospitalized program services
92 are considered students with a disability; authorizing
93 an individual education plan to be modified to
94 accommodate such services; requiring the student to
95 continue to receive educational instruction; requiring
96 a school district to provide the student with a
97 certified teacher or to partner with the Florida
98 Virtual School for instructional services under
99 certain circumstances; requiring the department to
100 transfer funds for the student; requiring a children's
101 hospital to provide adequate educational space for
102 each student; requiring the hospital and school
103 district to enter in an agreement; creating s.
104 1004.6491, F.S.; establishing the Florida Institute
105 for Charter School Innovation; specifying requirements
106 for the institute; requiring an annual report to the
107 Governor and the Legislature; requiring a report on
108 the institute's annual financial audit to the Auditor
109 General, the Board of Governors of the State
110 University System, and the State Board of Education;
111 amending s. 1006.15, F.S.; conforming provisions to
112 changes made by the act; amending s. 1011.61, F.S.;
113 revising the definition of the term "full-time
114 student" for the purposes of the Florida Education
115 Finance Program; creating s. 1011.6202, F.S.; creating
116 the Charter School District Pilot Program; providing a

117 procedure for a school district to participate in the
118 pilot program; providing requirements for
119 participating school districts and schools; exempting
120 participating school districts from certain laws and
121 rules; providing that charter school districts must
122 comply with certain laws and rules; requiring
123 principals of participating schools to complete a
124 specific professional development program; providing
125 the authorization period of a charter; providing for
126 renewal and revocation of a charter; providing for
127 reporting and rulemaking; amending s. 1011.69, F.S.;
128 requiring district school boards participating in the
129 pilot program to allocate a specified percentage of
130 certain funds to participating schools; amending s.
131 1012.28, F.S.; providing additional authority and
132 responsibilities of the principal of a participating
133 school in a charter school district; amending s.
134 1012.42, F.S.; authorizing a parent who receives
135 notification that a teacher is teaching outside his or
136 her field to request that his or her child be
137 transferred to another classroom teacher within the
138 school and grade in which the child is currently
139 enrolled; amending s. 1012.986, F.S.; specifying the
140 contents of a specific professional development
141 program for certain school principals; amending s.
142 1013.62, F.S.; revising eligibility requirements for
143 charter school capital outlay funding; specifying
144 applicability of certain reporting requirements to
145 charter schools and public schools; providing an

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146 effective date.
147
148 Be It Enacted by the Legislature of the State of Florida:
149
150 Section 1. Paragraph (a) of subsection (6) of section
151 1002.20, Florida Statutes, is amended, and subsection (25) is
152 added to that section, to read:
153 1002.20 K-12 student and parent rights.—Parents of public
154 school students must receive accurate and timely information
155 regarding their child's academic progress and must be informed
156 of ways they can help their child to succeed in school. K-12
157 students and their parents are afforded numerous statutory
158 rights including, but not limited to, the following:
159 (6) EDUCATIONAL CHOICE.—
160 (a) *Public school choices.*—Parents of public school
161 students may seek whatever public school choice options that are
162 applicable and available to students in their school districts.
163 These options may include public school parental choice
164 ~~controlled open enrollment~~, single-gender programs, lab schools,
165 virtual instruction programs, charter schools, charter technical
166 career centers, magnet schools, alternative schools, special
167 programs, auditory-oral education programs, advanced placement,
168 dual enrollment, International Baccalaureate, International
169 General Certificate of Secondary Education (pre-AICE), Advanced
170 International Certificate of Education, CAPE digital tools, CAPE
171 industry certifications, collegiate high school programs, early
172 admissions, credit by examination or demonstration of
173 competency, the New World School of the Arts, the Florida School
174 for the Deaf and the Blind, and the Florida Virtual School.

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175 These options may also include the public school choice options
176 of the Opportunity Scholarship Program and the McKay
177 Scholarships for Students with Disabilities Program.
178 (25) FISCAL TRANSPARENCY.—A parent has the right to know
179 the average amount of money estimated to be expended from all
180 sources, state, local, and federal, for the education of his or
181 her child, including operating and capital outlay expenses. The
182 department shall annually provide each district the estimated
183 amount of funding allocated for a student in the district by
184 grade level and level of support. Each district must notify
185 parents of the estimated amount of funding allocated for a
186 student similar to their child, based upon grade level and level
187 of support. The fiscal transparency notification may be included
188 in the student handbook or a similar publication.
189 Section 2. Subsections (1), (2), and (3) of section
190 1002.31, Florida Statutes, are amended to read:
191 1002.31 ~~Controlled open enrollment;~~ Public school parental
192 choice.—
193 ~~(1) As used in this section, "controlled open enrollment"~~
194 ~~means a public education delivery system that allows school~~
195 ~~districts to make student school assignments using parents'~~
196 ~~indicated preferential school choice as a significant factor.~~
197 (1) ~~(2)~~ Each district school board shall establish a public
198 school parental choice policy that authorizes a parent to choose
199 to enroll his or her child in and transport his or her child to
200 any public school that has not reached capacity, including
201 charter schools, in the district. This policy ~~may offer~~
202 ~~controlled open enrollment within the public schools which~~ is in
203 addition to the existing choice programs, such as virtual

204 instruction programs, magnet schools, alternative schools,
205 special programs, CAPE digital tools, CAPE industry
206 certifications, advanced placement, collegiate high school
207 programs, and dual enrollment.
208 (2) ~~(3)~~ Each district school board ~~offering controlled open~~
209 ~~enrollment~~ shall adopt by rule and post on its website a public
210 school parental choice ~~controlled open enrollment~~ plan which
211 must:
212 (a) Adhere to federal desegregation requirements.
213 (b) Include an application process required to participate
214 in public school parental choice ~~controlled open enrollment~~ that
215 allows parents to declare school preferences, including
216 placement of siblings within the same school.
217 (c) Assign students on a first-come, first-served basis
218 based upon the date and time complete applications are received
219 by the school district ~~Provide a lottery procedure to determine~~
220 ~~student assignment and establish an appeals process for hardship~~
221 ~~cases~~.
222 (d) Afford parents of students in multiple session schools
223 preferred access ~~to controlled open enrollment~~.
224 (e) Maintain socioeconomic, demographic, and racial
225 balance.
226 (f) Address the availability of transportation.
227 (g) Define the term "capacity" as determined by the school
228 district. When determining the capacity of each school in the
229 district, the school district shall incorporate the
230 specifications, plans, elements, and commitments contained in
231 the school district educational facilities plan and the long-
232 term work programs required under s. 1013.35 in its

233 determination.
234 (3) A parent may choose to enroll his or her child in and
235 transport his or her child to any public school that has not
236 reached capacity, including charter schools, in any school
237 district in the state. The school district shall accept the
238 student and report the student for purposes of the district's
239 funding pursuant to the Florida Education Finance Program.
240 Section 3. Paragraphs (a), (b), and (c) of subsection (6),
241 paragraphs (a), (b), and (d) of subsection (7), paragraphs (e),
242 (f), and (g) of subsection (8), paragraphs (g), (n), and (p) of
243 subsection (9), paragraph (a) of subsection (10), paragraphs (b)
244 and (e) of subsection (17), subsection (21), and paragraph (c)
245 of subsection (26) of section 1002.33, Florida Statutes, are
246 amended, paragraphs (h) and (i) are added to subsection (8) of
247 that section, a new subsection (27) is added to that section,
248 and present subsections (27) and (28) are redesignated as
249 subsections (28) and (29), respectively, to read:
250 1002.33 Charter schools.—
251 (6) APPLICATION PROCESS AND REVIEW.—Charter school
252 applications are subject to the following requirements:
253 (a) A person or entity wishing to open a charter school
254 shall prepare and submit an application on a model application
255 form prepared by the Department of Education which:
256 1. Demonstrates how the school will use the guiding
257 principles and meet the statutorily defined purpose of a charter
258 school.
259 2. Provides a detailed curriculum plan that illustrates how
260 students will be provided services to attain the Sunshine State
261 Standards.

262 3. Contains goals and objectives for improving student
263 learning and measuring that improvement. These goals and
264 objectives must indicate how much academic improvement students
265 are expected to show each year, how success will be evaluated,
266 and the specific results to be attained through instruction.
267 4. Describes the reading curriculum and differentiated
268 strategies that will be used for students reading at grade level
269 or higher and a separate curriculum and strategies for students
270 who are reading below grade level. A sponsor shall deny an
271 application ~~a charter~~ if the school does not propose a reading
272 curriculum that is consistent with effective teaching strategies
273 that are grounded in scientifically based reading research, but
274 the sponsor may not require the school to implement any
275 curriculum adopted by the school district.
276 5. Contains an annual financial plan for each year
277 requested by the charter for operation of the school for up to 5
278 years. This plan must contain anticipated fund balances based on
279 revenue projections, a spending plan based on projected revenues
280 and expenses, and a description of controls that will safeguard
281 finances and projected enrollment trends.
282 6. Discloses the name of each applicant, governing board
283 member, and proposed management company or cooperative, if any;
284 the name and sponsor of any charter school currently operated or
285 previously operated by such parties; and the academic and
286 financial history of such charter schools, which the sponsor
287 shall consider in deciding to approve or deny the application.
288 7. Documents that the governing board is independent of any
289 management company or cooperative and may, at its sole
290 discretion, terminate a contract with the management company or

291 cooperative at any time.
292 8.~~6.~~ Contains additional information a sponsor may require,
293 which shall be attached as an addendum to the charter school
294 application described in this paragraph.
295 9.~~7.~~ For the establishment of a virtual charter school,
296 documents that the applicant has contracted with a provider of
297 virtual instruction services pursuant to s. 1002.45(1)(d).
298 (b) A sponsor shall receive and review all applications for
299 a charter school using an evaluation instrument developed by the
300 Department of Education. A sponsor shall receive and consider
301 charter school applications received on or before August 1 of
302 each calendar year for charter schools to be opened at the
303 beginning of the school district's next school year, or to be
304 opened at a time agreed to by the applicant and the sponsor. A
305 sponsor may not refuse to receive a charter school application
306 submitted before August 1 and may receive an application
307 submitted later than August 1 if it chooses. In order to
308 facilitate greater collaboration in the application process, an
309 applicant may submit a draft charter school application on or
310 before May 1 with an application fee of $500. If a draft
311 application is timely submitted, the sponsor shall review and
312 provide feedback as to material deficiencies in the application
313 by July 1. The applicant shall then have until August 1 to
314 resubmit a revised and final application. The sponsor may
315 approve the draft application. Except as provided for a draft
316 application, a sponsor may not charge an applicant for a charter
317 any fee for the processing or consideration of an application,
318 and a sponsor may not base its consideration or approval of a
319 final application upon the promise of future payment of any

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320 kind. Before approving or denying any final application, the
321 sponsor shall allow the applicant, upon receipt of written
322 notification, at least 7 calendar days to make technical or
323 nonsubstantive corrections and clarifications, including, but
324 not limited to, corrections of grammatical, typographical, and
325 like errors or missing signatures, if such errors are identified
326 by the sponsor as cause to deny the final application.
327 1. In order to facilitate an accurate budget projection
328 process, a sponsor shall be held harmless for FTE students who
329 are not included in the FTE projection due to approval of
330 charter school applications after the FTE projection deadline.
331 In a further effort to facilitate an accurate budget projection,
332 within 15 calendar days after receipt of a charter school
333 application, a sponsor shall report to the Department of
334 Education the name of the applicant entity, the proposed charter
335 school location, and its projected FTE.
336 2. In order to ensure fiscal responsibility, an application
337 for a charter school shall include a full accounting of expected
338 assets, a projection of expected sources and amounts of income,
339 including income derived from projected student enrollments and
340 from community support, and an expense projection that includes
341 full accounting of the costs of operation, including start-up
342 costs. To ensure continued financial responsibility, a charter
343 school shall submit quarterly financial statements for the first
344 year of operation which include a full accounting of the costs
345 of operation and sources of income. If a school's financial
346 statement indicates that the school is not financially viable,
347 the school must also prepare and submit a plan that describes
348 specific actions the school will take to become viable.

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349 3.a. A sponsor shall by a majority vote approve or deny an
350 application no later than 60 calendar days after the application
351 is received, unless the sponsor and the applicant mutually agree
352 in writing to temporarily postpone the vote to a specific date,
353 at which time the sponsor shall by a majority vote approve or
354 deny the application. If the sponsor fails to act on the
355 application, an applicant may appeal to the State Board of
356 Education as provided in paragraph (c). If an application is
357 denied, the sponsor shall, within 10 calendar days after such
358 denial, articulate in writing the specific reasons, based upon
359 good cause, supporting its denial of the charter application and
360 shall provide the letter of denial and supporting documentation
361 to the applicant and to the Department of Education.
362 b. An application submitted by a high-performing charter
363 school identified pursuant to s. 1002.331 may be denied by the
364 sponsor only if the sponsor demonstrates by clear and convincing
365 evidence that:
366 (I) The application does not materially comply with the
367 requirements in paragraph (a);
368 (II) The charter school proposed in the application does
369 not materially comply with the requirements in paragraphs
370 (9)(a)-(f);
371 (III) The proposed charter school's educational program
372 does not substantially replicate that of the applicant or one of
373 the applicant's high-performing charter schools;
374 (IV) The applicant has made a material misrepresentation or
375 false statement or concealed an essential or material fact
376 during the application process; or
377 (V) The proposed charter school's educational program and

378 financial management practices do not materially comply with the
379 requirements of this section.
380
381 Material noncompliance is a failure to follow requirements or a
382 violation of prohibitions applicable to charter school
383 applications, which failure is quantitatively or qualitatively
384 significant either individually or when aggregated with other
385 noncompliance. An applicant is considered to be replicating a
386 high-performing charter school if the proposed school is
387 substantially similar to at least one of the applicant's high-
388 performing charter schools and the organization or individuals
389 involved in the establishment and operation of the proposed
390 school are significantly involved in the operation of replicated
391 schools.
392 c. If the sponsor denies an application submitted by a
393 high-performing charter school, the sponsor must, within 10
394 calendar days after such denial, state in writing the specific
395 reasons, based upon the criteria in sub-subparagraph b.,
396 supporting its denial of the application and must provide the
397 letter of denial and supporting documentation to the applicant
398 and to the Department of Education. The applicant may appeal the
399 sponsor's denial of the application ~~directly~~ to the State Board
400 of Education pursuant to paragraph (c) and must provide the
401 sponsor with a copy of the appeal ~~sub-subparagraph (c)3.b~~.
402 4. For budget projection purposes, the sponsor shall report
403 to the Department of Education the approval or denial of a
404 charter application within 10 calendar days after such approval
405 or denial. In the event of approval, the report to the
406 Department of Education shall include the final projected FTE

407 for the approved charter school.
408 5. Upon approval of a charter application, the initial
409 startup shall commence with the beginning of the public school
410 calendar for the district in which the charter is granted unless
411 the sponsor allows a waiver of this subparagraph for good cause.
412 6. A person, or an officer of an entity, who submits an
413 application pursuant to this subsection must undergo background
414 screening in the same manner as instructional and
415 noninstructional personnel hired or contracted to fill positions
416 in a charter school or as members of the governing board of a
417 charter school undergo background screening under s. 1012.32.
418 Notwithstanding any other provision of this subsection, a person
419 may not receive approval of a charter application until the
420 person's screening is completed and the results have been
421 submitted to, and reviewed by, the sponsor.
422 (c)1. An applicant may appeal any denial of that
423 applicant's application or failure to act on an application to
424 the State Board of Education within ~~no later than~~ 30 calendar
425 days after receipt of the sponsor's decision or failure to act
426 and shall notify the sponsor of its appeal. Any response of the
427 sponsor shall be submitted to the State Board of Education
428 within 30 calendar days after notification of the appeal. Upon
429 receipt of notification from the State Board of Education that a
430 charter school applicant is filing an appeal, the Commissioner
431 of Education shall convene a meeting of the Charter School
432 Appeal Commission to study and make recommendations to the State
433 Board of Education regarding its pending decision about the
434 appeal. The commission shall forward its recommendation to the
435 state board at least 7 calendar days before the date on which

436 the appeal is to be heard. An appeal regarding the denial of an
437 application submitted by a high-performing charter school
438 pursuant to s. 1002.331 shall be conducted by the State Board of
439 Education in accordance with this paragraph, except that the
440 commission shall not convene to make recommendations regarding
441 the appeal. However, the Commissioner of Education shall review
442 the appeal and make a recommendation to the state board.
443 2. The Charter School Appeal Commission or, in the case of
444 an appeal regarding an application submitted by a high-
445 performing charter school, the State Board of Education may
446 reject an appeal submission for failure to comply with
447 procedural rules governing the appeals process. The rejection
448 shall describe the submission errors. The appellant shall have
449 15 calendar days after notice of rejection in which to resubmit
450 an appeal that meets the requirements set forth in State Board
451 of Education rule. An appeal submitted subsequent to such
452 rejection is considered timely if the original appeal was filed
453 within 30 calendar days after receipt of notice of the specific
454 reasons for the sponsor's denial of the ~~charter~~ application.
455 3.a. The State Board of Education shall by majority vote
456 accept or reject the decision of the sponsor no later than 90
457 calendar days after an appeal is filed in accordance with State
458 Board of Education rule. The State Board of Education shall
459 remand the application to the sponsor with its written decision
460 that the sponsor approve or deny the application. The sponsor
461 shall implement the decision of the State Board of Education.
462 The decision of the State Board of Education is not subject to
463 the provisions of the Administrative Procedure Act, chapter 120.
464 b. If an appeal concerns an application submitted by a

465 high-performing charter school identified pursuant to s.
466 1002.331, the State Board of Education shall determine whether
467 the sponsor's denial of the application complies with the
468 requirements in sub-subparagraph (b)3.b. ~~sponsor has shown, by~~
469 ~~clear and convincing evidence, that:~~
470 ~~(I) The application does not materially comply with the~~
471 ~~requirements in paragraph (a);~~
472 ~~(II) The charter school proposed in the application does~~
473 ~~not materially comply with the requirements in paragraphs~~
474 ~~(9)(a)-(f);~~
475 ~~(III) The proposed charter school's educational program~~
476 ~~does not substantially replicate that of the applicant or one of~~
477 ~~the applicant's high-performing charter schools;~~
478 ~~(IV) The applicant has made a material misrepresentation or~~
479 ~~false statement or concealed an essential or material fact~~
480 ~~during the application process; or~~
481 ~~(V) The proposed charter school's educational program and~~
482 ~~financial management practices do not materially comply with the~~
483 ~~requirements of this section.~~
484
485 The State Board of Education shall approve or reject the
486 sponsor's denial of an application no later than 90 calendar
487 days after an appeal is filed in accordance with State Board of
488 Education rule. The State Board of Education shall remand the
489 application to the sponsor with its written decision that the
490 sponsor approve or deny the application. The sponsor shall
491 implement the decision of the State Board of Education. The
492 decision of the State Board of Education is not subject to the
493 Administrative Procedure Act, chapter 120.

494 (7) CHARTER.—The major issues involving the operation of a
495 charter school shall be considered in advance and written into
496 the charter. The charter shall be signed by the governing board
497 of the charter school and the sponsor, following a public
498 hearing to ensure community input.
499 (a) The charter shall address and criteria for approval of
500 the charter shall be based on:
501 1. The school's mission, the students to be served, and the
502 ages and grades to be included.
503 2. The focus of the curriculum, the instructional methods
504 to be used, any distinctive instructional techniques to be
505 employed, and identification and acquisition of appropriate
506 technologies needed to improve educational and administrative
507 performance which include a means for promoting safe, ethical,
508 and appropriate uses of technology which comply with legal and
509 professional standards.
510 a. The charter shall ensure that reading is a primary focus
511 of the curriculum and that resources are provided to identify
512 and provide specialized instruction for students who are reading
513 below grade level. The curriculum and instructional strategies
514 for reading must be consistent with the Next Generation Sunshine
515 State Standards and grounded in scientifically based reading
516 research. For purposes of determining eligibility for the
517 research-based reading instruction allocation, the reading
518 curriculum and instructional strategies specified in the charter
519 satisfy the research-based reading plan requirement under s.
520 1011.62(9).
521 b. In order to provide students with access to diverse
522 instructional delivery models, to facilitate the integration of

523 technology within traditional classroom instruction, and to
524 provide students with the skills they need to compete in the
525 21st century economy, the Legislature encourages instructional
526 methods for blended learning courses consisting of both
527 traditional classroom and online instructional techniques.
528 Charter schools may implement blended learning courses which
529 combine traditional classroom instruction and virtual
530 instruction. Students in a blended learning course must be full-
531 time students of the charter school and receive the online
532 instruction in a classroom setting at the charter school.
533 Instructional personnel certified pursuant to s. 1012.55 who
534 provide virtual instruction for blended learning courses may be
535 employees of the charter school or may be under contract to
536 provide instructional services to charter school students. At a
537 minimum, such instructional personnel must hold an active state
538 or school district adjunct certification under s. 1012.57 for
539 the subject area of the blended learning course. The funding and
540 performance accountability requirements for blended learning
541 courses are the same as those for traditional courses.
542 3. The current incoming baseline standard of student
543 academic achievement, the outcomes to be achieved, and the
544 method of measurement that will be used. The criteria listed in
545 this subparagraph shall include a detailed description of:
546 a. How the baseline student academic achievement levels and
547 prior rates of academic progress will be established.
548 b. How these baseline rates will be compared to rates of
549 academic progress achieved by these same students while
550 attending the charter school.
551 c. To the extent possible, how these rates of progress will

552 be evaluated and compared with rates of progress of other
553 closely comparable student populations.
554
555 The district school board is required to provide academic
556 student performance data to charter schools for each of their
557 students coming from the district school system, as well as
558 rates of academic progress of comparable student populations in
559 the district school system.
560 4. The methods used to identify the educational strengths
561 and needs of students and how well educational goals and
562 performance standards are met by students attending the charter
563 school. The methods shall provide a means for the charter school
564 to ensure accountability to its constituents by analyzing
565 student performance data and by evaluating the effectiveness and
566 efficiency of its major educational programs. Students in
567 charter schools shall, at a minimum, participate in the
568 statewide assessment program created under s. 1008.22.
569 5. In secondary charter schools, a method for determining
570 that a student has satisfied the requirements for graduation in
571 s. 1002.3105(5), s. 1003.4281, or s. 1003.4282.
572 6. A method for resolving conflicts between the governing
573 board of the charter school and the sponsor.
574 7. The admissions procedures and dismissal procedures,
575 including the school's code of student conduct.
576 8. The ways by which the school will achieve a
577 racial/ethnic balance reflective of the community it serves or
578 within the racial/ethnic range of other public schools in the
579 same school district.
580 9. The financial and administrative management of the

581 school, including a reasonable demonstration of the professional
582 experience or competence of those individuals or organizations
583 applying to operate the charter school or those hired or
584 retained to perform such professional services and the
585 description of clearly delineated responsibilities and the
586 policies and practices needed to effectively manage the charter
587 school. A description of internal audit procedures and
588 establishment of controls to ensure that financial resources are
589 properly managed must be included. Both public sector and
590 private sector professional experience shall be equally valid in
591 such a consideration. The charter must document that the
592 governing board is independent of any management company or
593 cooperative and may, at its sole discretion, terminate the
594 contract with the management company or cooperative at any time.
595 10. The asset and liability projections required in the
596 application which are incorporated into the charter and shall be
597 compared with information provided in the annual report of the
598 charter school.
599 11. A description of procedures that identify various risks
600 and provide for a comprehensive approach to reduce the impact of
601 losses; plans to ensure the safety and security of students and
602 staff; plans to identify, minimize, and protect others from
603 violent or disruptive student behavior; and the manner in which
604 the school will be insured, including whether or not the school
605 will be required to have liability insurance, and, if so, the
606 terms and conditions thereof and the amounts of coverage.
607 12. The term of the charter which shall provide for
608 cancellation of the charter if insufficient progress has been
609 made in attaining the student achievement objectives of the

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610 charter and if it is not likely that such objectives can be
611 achieved before expiration of the charter. The initial term of
612 the ~~a~~ charter is either ~~shall be for~~ 4 years or 5 years. ~~In~~
613 ~~order to facilitate access to long-term financial resources for~~
614 ~~charter school construction,~~ Charter schools that are operated
615 by a municipality or other public entity, as provided by law, or
616 a private, not-for-profit corporation granted 501(c)(3) status
617 by the Internal Revenue Service are eligible for up to a 15-year
618 charter, subject to approval by the district school board. A
619 charter lab school is also eligible for a charter for a term of
620 up to 15 years. ~~In addition, to facilitate access to long-term~~
621 ~~financial resources for charter school construction, charter~~
622 ~~schools that are operated by a private, not-for-profit, s.~~
623 ~~501(c)(3) status corporation are eligible for up to a 15-year~~
624 ~~charter, subject to approval by the district school board.~~ Such
625 long-term charters remain subject to annual review and may be
626 terminated during the term of the charter, but only according to
627 ~~the provisions set forth in~~ subsection (8) or paragraph (9)(n).
628 13. Termination or nonrenewal of the charter pursuant to
629 subsection (8) or paragraph (9)(n).
630 14.~~13.~~ The facilities to be used and their location. The
631 sponsor shall ~~may not~~ require a charter school to have a
632 certificate of occupancy or a temporary certificate of occupancy
633 for such a facility no later than 30 ~~earlier than 15~~ calendar
634 days before the first day of school.
635 15.~~14.~~ The qualifications to be required of the teachers
636 and the potential strategies used to recruit, hire, train, and
637 retain qualified staff to achieve best value.
638 16.~~15.~~ The governance structure of the school, including

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639 the status of the charter school as a public or private employer
640 as required in paragraph (12)(i).
641 17.~~16.~~ A timetable for implementing the charter which
642 addresses the implementation of each element thereof and the
643 date by which the charter shall be awarded in order to meet this
644 timetable.
645 18.~~17.~~ In the case of an existing public school that is
646 being converted to charter status, alternative arrangements for
647 current students who choose not to attend the charter school and
648 for current teachers who choose not to teach in the charter
649 school after conversion in accordance with the existing
650 collective bargaining agreement or district school board rule in
651 the absence of a collective bargaining agreement. However,
652 alternative arrangements shall not be required for current
653 teachers who choose not to teach in a charter lab school, except
654 as authorized by the employment policies of the state university
655 which grants the charter to the lab school.
656 19.~~18.~~ Full disclosure of the identity of all relatives
657 employed by the charter school who are related to the charter
658 school owner, president, chairperson of the governing board of
659 directors, superintendent, governing board member, principal,
660 assistant principal, or any other person employed by the charter
661 school who has equivalent decisionmaking authority. For the
662 purpose of this subparagraph, the term "relative" means father,
663 mother, son, daughter, brother, sister, uncle, aunt, first
664 cousin, nephew, niece, husband, wife, father-in-law, mother-in-
665 law, son-in-law, daughter-in-law, brother-in-law, sister-in-law,
666 stepfather, stepmother, stepson, stepdaughter, stepbrother,
667 stepsister, half brother, or half sister.

668 20.~~19.~~ Implementation of the activities authorized under s.
669 1002.331 by the charter school when it satisfies the eligibility
670 requirements for a high-performing charter school. A high-
671 performing charter school shall notify its sponsor in writing by
672 March 1 if it intends to increase enrollment or expand grade
673 levels the following school year. The written notice shall
674 specify the amount of the enrollment increase and the grade
675 levels that will be added, as applicable.
676 (b)1. A charter may be renewed provided that a program
677 review demonstrates that the criteria in paragraph (a) have been
678 successfully accomplished and that none of the grounds for
679 nonrenewal established by paragraph (8)(a) has been documented.
680 ~~In order to facilitate long-term financing for charter school~~
681 ~~construction,~~ Charter schools operating for a minimum of 3 years
682 and demonstrating exemplary academic programming and fiscal
683 management are eligible for a 15-year charter renewal. Such
684 long-term charter is subject to annual review and may be
685 terminated during the term of the charter.
686 2. The 15-year charter renewal that may be granted pursuant
687 to subparagraph 1. shall be granted to a charter school that has
688 received a school grade of "A" or "B" pursuant to s. 1008.34 in
689 3 of the past 4 years and is not in a state of financial
690 emergency or deficit position as defined by this section. Such
691 long-term charter is subject to annual review and may be
692 terminated during the term of the charter pursuant to subsection
693 (8).
694 ~~(d)1. Each charter school's governing board must appoint a~~
695 ~~representative to facilitate parental involvement, provide~~
696 ~~access to information, assist parents and others with questions~~

697 ~~and concerns, and resolve disputes. The representative must~~
698 ~~reside in the school district in which the charter school is~~
699 ~~located and may be a governing board member, charter school~~
700 ~~employee, or individual contracted to represent the governing~~
701 ~~board. If the governing board oversees multiple charter schools~~
702 ~~in the same school district, the governing board must appoint a~~
703 ~~separate individual representative for each charter school in~~
704 ~~the district. The representative's contact information must be~~
705 ~~provided annually in writing to parents and posted prominently~~
706 ~~on the charter school's website if a website is maintained by~~
707 ~~the school. The sponsor may not require that governing board~~
708 ~~members reside in the school district in which the charter~~
709 ~~school is located if the charter school complies with this~~
710 ~~paragraph.~~
711 ~~2. Each charter school's governing board must hold at least~~
712 ~~two public meetings per school year in the school district. The~~
713 ~~meetings must be noticed, open, and accessible to the public,~~
714 ~~and attendees must be provided an opportunity to receive~~
715 ~~information and provide input regarding the charter school's~~
716 ~~operations. The appointed representative and charter school~~
717 ~~principal or director, or his or her equivalent, must be~~
718 ~~physically present at each meeting.~~
719 (8) CAUSES FOR NONRENEWAL OR TERMINATION OF CHARTER.—
720 (e) When a charter is not renewed or is terminated or when
721 a charter school is closed voluntarily by the operator, the
722 school shall be dissolved under the provisions of law under
723 which the school was organized, and any unencumbered public
724 funds, except for capital outlay funds and federal charter
725 school program grant funds, from the charter school shall revert

726 to the sponsor. Capital outlay funds provided pursuant to s.
727 1013.62 and federal charter school program grant funds that are
728 unencumbered shall revert to the department to be redistributed
729 among eligible charter schools. In the event a charter school is
730 dissolved or is otherwise terminated, all district school board
731 property and improvements, furnishings, and equipment purchased
732 with public funds shall automatically revert to full ownership
733 by the district school board, subject to complete satisfaction
734 of any lawful liens or encumbrances. Any unencumbered public
735 funds from the charter school, district school board property
736 and improvements, furnishings, and equipment purchased with
737 public funds, or financial or other records pertaining to the
738 charter school, in the possession of any person, entity, or
739 holding company, other than the charter school, shall be held in
740 trust upon the district school board's request, until any appeal
741 status is resolved.
742 (f) If a charter is not renewed or is terminated or a
743 charter school is closed voluntarily by the operator, the
744 charter school is responsible for all debts of the charter
745 school. The district may not assume the debt from any contract
746 made between the governing body of the school and a third party,
747 except for a debt that is previously detailed and agreed upon in
748 writing by both the district and the governing body of the
749 school and that may not reasonably be assumed to have been
750 satisfied by the district.
751 (g) If a charter is not renewed or is terminated, a student
752 who attended the school may apply to, and shall be enrolled in,
753 another public school. Normal application deadlines shall be
754 disregarded under such circumstances.

755 (h) The governing board of a charter school that closes
756 voluntarily shall notify the sponsor and the department in
757 writing within 7 calendar days of its decision to cease
758 operations. The notice must state the reasons for the closure
759 and acknowledge that the governing board agrees to follow the
760 procedures for dissolution and reversion of public funds
761 specified in this subsection and paragraph (9)(o).
762 (i) For a high-performing charter school that is having the
763 charter agreement renewed, the charter contract, as that
764 contract exists on the day the term of the contract is to
765 terminate, must be automatically renewed for the length of the
766 current term if the charter school governing board and sponsor
767 have not executed the renewal before the term of the charter
768 agreement is scheduled to expire.
769 (9) CHARTER SCHOOL REQUIREMENTS.—
770 (g)1. In order to provide financial information that is
771 comparable to that reported for other public schools, charter
772 schools are to maintain all financial records that constitute
773 their accounting system:
774 a. In accordance with the accounts and codes prescribed in
775 the most recent issuance of the publication titled "Financial
776 and Program Cost Accounting and Reporting for Florida Schools";
777 or
778 b. At the discretion of the charter school's governing
779 board, a charter school may elect to follow generally accepted
780 accounting standards for not-for-profit organizations, but must
781 reformat this information for reporting according to this
782 paragraph.
783 2. Charter schools shall provide annual financial report

784 and program cost report information in the state-required
785 formats for inclusion in district reporting in compliance with
786 s. 1011.60(1). Charter schools that are operated by a
787 municipality or are a component unit of a parent nonprofit
788 organization may use the accounting system of the municipality
789 or the parent but must reformat this information for reporting
790 according to this paragraph.
791 3. A charter school shall, upon execution of the contract,
792 provide the sponsor with a concise, uniform, monthly financial
793 statement summary sheet that contains a balance sheet and a
794 statement of revenue, expenditures, and changes in fund balance.
795 The balance sheet and the statement of revenue, expenditures,
796 and changes in fund balance shall be in the governmental funds
797 format prescribed by the Governmental Accounting Standards
798 Board. A high-performing charter school pursuant to s. 1002.331
799 may provide a quarterly financial statement in the same format
800 and requirements as the uniform monthly financial statement
801 summary sheet. The sponsor shall review each monthly financial
802 statement, to identify the existence of any conditions
803 identified in s. 1002.345 (1)(a).
804 4. A charter school shall maintain and provide financial
805 information as required in this paragraph. The financial
806 statement required in subparagraph 3. must be in a form
807 prescribed by the Department of Education.
808 (n)1. The director and a representative of the governing
809 board of a charter school that has earned a grade of "D" or "F"
810 pursuant to s. 1008.34 shall appear before the sponsor to
811 present information concerning each contract component having
812 noted deficiencies. The director and a representative of the

813 governing board shall submit to the sponsor for approval a
814 school improvement plan to raise student performance. Upon
815 approval by the sponsor, the charter school shall begin
816 implementation of the school improvement plan. The department
817 shall offer technical assistance and training to the charter
818 school and its governing board and establish guidelines for
819 developing, submitting, and approving such plans.
820 2.a. If a charter school earns three consecutive grades of
821 "D," two consecutive grades of "D" followed by a grade of "F,"
822 or two nonconsecutive grades of "F" within a 3-year period, the
823 charter school governing board shall choose one of the following
824 corrective actions:
825 (I) Contract for educational services to be provided
826 directly to students, instructional personnel, and school
827 administrators, as prescribed in state board rule;
828 (II) Contract with an outside entity that has a
829 demonstrated record of effectiveness to operate the school;
830 (III) Reorganize the school under a new director or
831 principal who is authorized to hire new staff; or
832 (IV) Voluntarily close the charter school.
833 b. The charter school must implement the corrective action
834 in the school year following receipt of a third consecutive
835 grade of "D," a grade of "F" following two consecutive grades of
836 "D," or a second nonconsecutive grade of "F" within a 3-year
837 period.
838 c. The sponsor may annually waive a corrective action if it
839 determines that the charter school is likely to improve a letter
840 grade if additional time is provided to implement the
841 intervention and support strategies prescribed by the school

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842 improvement plan. Notwithstanding this sub-subparagraph, a
843 charter school that earns a second consecutive grade of "F" is
844 subject to subparagraph 4.
845 d. A charter school is no longer required to implement a
846 corrective action if it improves by at least one letter grade.
847 However, the charter school must continue to implement
848 strategies identified in the school improvement plan. The
849 sponsor must annually review implementation of the school
850 improvement plan to monitor the school's continued improvement
851 pursuant to subparagraph 5.
852 e. A charter school implementing a corrective action that
853 does not improve by at least one letter grade after 2 full
854 school years of implementing the corrective action must select a
855 different corrective action. Implementation of the new
856 corrective action must begin in the school year following the
857 implementation period of the existing corrective action, unless
858 the sponsor determines that the charter school is likely to
859 improve a letter grade if additional time is provided to
860 implement the existing corrective action. Notwithstanding this
861 sub-subparagraph, a charter school that earns a second
862 consecutive grade of "F" while implementing a corrective action
863 is subject to subparagraph 4.
864 3. A charter school with a grade of "D" or "F" that
865 improves by at least one letter grade must continue to implement
866 the strategies identified in the school improvement plan. The
867 sponsor must annually review implementation of the school
868 improvement plan to monitor the school's continued improvement
869 pursuant to subparagraph 5.
870 4. A charter school's charter is automatically terminated

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871 if the school earns two consecutive grades of "F" after all
872 school grade appeals are final ~~The sponsor shall terminate a~~
873 ~~charter if the charter school earns two consecutive grades of~~
874 ~~"F"~~ unless:
875 a. The charter school is established to turn around the
876 performance of a district public school pursuant to s.
877 1008.33(4)(b)3. Such charter schools shall be governed by s.
878 1008.33;
879 b. The charter school serves a student population the
880 majority of which resides in a school zone served by a district
881 public school that earned a grade of "F" in the year before the
882 charter school opened and the charter school earns at least a
883 grade of "D" in its third year of operation. The exception
884 provided under this sub-subparagraph does not apply to a charter
885 school in its fourth year of operation and thereafter; or
886 c. The state board grants the charter school a waiver of
887 termination. The charter school must request the waiver within
888 15 days after the department's official release of school
889 grades. The state board may waive termination if the charter
890 school demonstrates that the Learning Gains of its students on
891 statewide assessments are comparable to or better than the
892 Learning Gains of similarly situated students enrolled in nearby
893 district public schools. The waiver is valid for 1 year and may
894 only be granted once. Charter schools that have been in
895 operation for more than 5 years are not eligible for a waiver
896 under this sub-subparagraph.
897
898 The sponsor shall notify in writing the charter school's
899 governing board, the charter school principal, and the

900 department when a charter is terminated under this subparagraph.
901 A charter terminated under this subparagraph is governed by the
902 requirements of paragraphs (8)(e)-(g) and paragraph (o) of this
903 subsection.
904 5. The director and a representative of the governing board
905 of a graded charter school that has implemented a school
906 improvement plan under this paragraph shall appear before the
907 sponsor at least once a year to present information regarding
908 the progress of intervention and support strategies implemented
909 by the school pursuant to the school improvement plan and
910 corrective actions, if applicable. The sponsor shall communicate
911 at the meeting, and in writing to the director, the services
912 provided to the school to help the school address its
913 deficiencies.
914 6. Notwithstanding any provision of this paragraph except
915 sub-subparagraphs 4.a.-c., the sponsor may terminate the charter
916 at any time pursuant to subsection (8).
917 (p)1. Each charter school shall maintain a website that
918 enables the public to obtain information regarding the school;
919 the school's academic performance; the names of the governing
920 board members; the programs at the school; any management
921 companies, cooperatives, service providers, or education
922 management corporations associated with the school; the school's
923 annual budget and its annual independent fiscal audit; the
924 school's grade pursuant to s. 1008.34; and, on a quarterly
925 basis, the minutes of governing board meetings.
926 2. Each charter school's governing board shall appoint a
927 representative to facilitate parental involvement, provide
928 access to information, assist parents and others with questions

929 and concerns, and resolve disputes. The representative must
930 reside in the school district in which the charter school is
931 located and may be a governing board member, charter school
932 employee, or individual contracted to represent the governing
933 board. If the governing board oversees multiple charter schools
934 in the same school district, the governing board must appoint a
935 separate individual representative for each charter school in
936 the district. The representative's contact information must be
937 provided annually, in writing, to parents and posted prominently
938 on the charter school's website. The sponsor may not require
939 that governing board members reside in the school district in
940 which the charter school is located if the charter school
941 complies with this paragraph.
942 3. Each charter school's governing board must hold at least
943 two public meetings per school year in the school district where
944 the charter school is located. The meetings must be noticed,
945 open, and accessible to the public, and attendees must be
946 provided an opportunity to receive information and provide input
947 regarding the charter school's operations. The appointed
948 representative and charter school principal or director, or his
949 or her equivalent, must be physically present at each meeting.
950 (10) ELIGIBLE STUDENTS.—
951 (a) A charter school shall be open to any student covered
952 in an interdistrict agreement or residing in the school district
953 in which the charter school is located; however, in the case of
954 a charter lab school, the charter lab school shall be open to
955 any student eligible to attend the lab school as provided in s.
956 1002.32 or who resides in the school district in which the
957 charter lab school is located. A charter school with space

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958 available must be open to any student in the state, pursuant to
959 s. 1002.31(2). Any eligible student shall be allowed
960 interdistrict transfer to attend a charter school when based on
961 good cause. Good cause shall include, but is not limited to,
962 geographic proximity to a charter school in a neighboring school
963 district.
964 (17) FUNDING.—Students enrolled in a charter school,
965 regardless of the sponsorship, shall be funded as if they are in
966 a basic program or a special program, the same as students
967 enrolled in other public schools in the school district. Funding
968 for a charter lab school shall be as provided in s. 1002.32.
969 (b) The basis for the agreement for funding students
970 enrolled in a charter school shall be the sum of the school
971 district's operating funds from the Florida Education Finance
972 Program as provided in s. 1011.62 and the General Appropriations
973 Act, including gross state and local funds, discretionary
974 lottery funds, and funds from the school district's current
975 operating discretionary millage levy; divided by total funded
976 weighted full-time equivalent students in the school district;
977 multiplied by the weighted full-time equivalent students for the
978 charter school. Charter schools whose students or programs meet
979 the eligibility criteria in law are entitled to their
980 proportionate share of categorical program funds included in the
981 total funds available in the Florida Education Finance Program
982 by the Legislature, including transportation, the research-based
983 reading allocation, and the Florida digital classrooms
984 allocation. Total funding for each charter school shall be
985 recalculated during the year to reflect the revised calculations
986 under the Florida Education Finance Program by the state and the

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987 actual weighted full-time equivalent students reported by the
988 charter school during the full-time equivalent student survey
989 periods designated by the Commissioner of Education.
990 (e) District school boards shall make timely and efficient
991 payment and reimbursement to charter schools, including
992 processing paperwork required to access special state and
993 federal funding for which they may be eligible. The district
994 school board may distribute funds to a charter school for up to
995 3 months based on the projected full-time equivalent student
996 membership of the charter school. Thereafter, the results of
997 full-time equivalent student membership surveys shall be used in
998 adjusting the amount of funds distributed monthly to the charter
999 school for the remainder of the fiscal year. The payment shall
1000 be issued no later than 10 working days after the district
1001 school board receives a distribution of state or federal funds.
1002 If a warrant for payment is not issued within 10 working days
1003 after receipt of funding by the district school board, the
1004 school district shall pay to the charter school, in addition to
1005 the amount of the scheduled disbursement, interest at a rate of
1006 1 percent per month calculated on a daily basis on the unpaid
1007 balance from the expiration of the 10 working days until such
1008 time as the warrant is issued. The district school board may not
1009 delay payment to a charter school of any portion of the funds
1010 provided in paragraph (b) based on the timing of receipt of
1011 local funds by the district school board.
1012 (21) PUBLIC INFORMATION ON CHARTER SCHOOLS.—
1013 (a) The Department of Education shall provide information
1014 to the public, directly and through sponsors, on how to form and
1015 operate a charter school and how to enroll in a charter school

1016 once it is created. This information shall include a standard
1017 ~~model~~ application form, standard charter contract, standard
1018 application evaluation instrument, and standard charter renewal
1019 contract, which shall include the information specified in
1020 subsection (7) and shall be developed by consulting and
1021 negotiating with both school districts and charter schools
1022 before implementation. The charter and charter renewal contracts
1023 shall be used by charter school sponsors.
1024 (26) STANDARDS OF CONDUCT AND FINANCIAL DISCLOSURE.—
1025 (c) An employee of the charter school, or his or her
1026 spouse, or an employee of a management company, cooperative, or
1027 charter management organization, or his or her spouse, may not
1028 be a member of the governing board of the charter school.
1029 (27) CONFLICTS OF INTEREST AND ETHICS.—An individual may
1030 not serve as a member of a governing board of a charter school,
1031 an education management corporation, or charter school
1032 cooperative organization if he or she or an immediate family
1033 member receives a pension or any compensation from the charter
1034 school, or if the individual's partner is an owner or principal
1035 with an entity or independent contractor with whom the charter
1036 school does business or contracts, directly or indirectly, for
1037 professional services, goods, or facilities. An individual may
1038 not serve as a governing board member if an immediate family
1039 member is an employee of the school. Members of the governing
1040 board of a charter school may not be appointed, removed, or
1041 replaced by an entity or component unit of an entity, which the
1042 charter school has entered into any contract with.
1043 Section 4. Paragraph (e) of subsection (2), paragraph (b)
1044 of subsection (3), and subsection (5) of section 1002.331,

1045 Florida Statutes, are amended to read:
1046 1002.331 High-performing charter schools.—
1047 (2) A high-performing charter school is authorized to:
1048 (e) Receive a modification of its charter to a term of 15
1049 years or a 15-year charter renewal. The charter may be modified
1050 or renewed for a shorter term at the option of the high-
1051 performing charter school. The charter must be consistent with
1052 s. 1002.33(7)(a)20. ~~s. 1002.33(7)(a)19.~~ and (10)(h) and (i), is
1053 subject to annual review by the sponsor, and may be terminated
1054 during its term pursuant to s. 1002.33(8).
1055
1056 A high-performing charter school shall notify its sponsor in
1057 writing by March 1 if it intends to increase enrollment or
1058 expand grade levels the following school year. The written
1059 notice shall specify the amount of the enrollment increase and
1060 the grade levels that will be added, as applicable. If a charter
1061 school notifies the sponsor of its intent to expand, the sponsor
1062 shall modify the charter within 90 days to include the new
1063 enrollment maximum and may not make any other changes. The
1064 sponsor may deny a request to increase the enrollment of a high-
1065 performing charter school if the commissioner has declassified
1066 the charter school as high-performing. If a high-performing
1067 charter school requests to consolidate multiple charters, the
1068 sponsor shall have 40 days after receipt of that request to
1069 provide an initial draft charter to the charter school. The
1070 sponsor and charter school shall have 50 days thereafter to
1071 negotiate and notice the charter contract for final approval by
1072 the sponsor.
1073 (3)

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1074 (b) A high-performing charter school may not establish more
1075 than one charter school within the state under paragraph (a) in
1076 any year. A subsequent application to establish a charter school
1077 under paragraph (a) may not be submitted unless each charter
1078 school established in this manner achieves high-performing
1079 charter school status. The limits set forth in this paragraph do
1080 not apply to charter schools established by a high-performing
1081 charter school in the attendance zone of a school identified as
1082 in need of intervention and support pursuant to s. 1008.33(3)(b)
1083 or to meet needs for innovative choice options identified by the
1084 district school board.
1085 (5) The Commissioner of Education, upon request by a
1086 charter school, shall verify that the charter school meets the
1087 criteria in subsection (1) and provide a letter to the charter
1088 school and the sponsor stating that the charter school is a
1089 high-performing charter school pursuant to this section. The
1090 commissioner shall annually determine whether a high-performing
1091 charter school under subsection (1) continues to meet the
1092 criteria in that subsection. Such high-performing charter school
1093 shall maintain its high-performing status unless the
1094 commissioner determines that the charter school no longer meets
1095 the criteria in subsection (1), at which time the commissioner
1096 shall send a letter to the charter school and its sponsor
1097 providing notification that the charter school has been
1098 declassified ~~of its declassification~~ as a high-performing
1099 charter school.
1100 Section 5. Present subsection (2) of section 1002.332,
1101 Florida Statutes, is redesignated as subsection (3), and a new
1102 subsection (2) is added to that section, to read:

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1103 1002.332 High-performing charter school system.—
1104 (2) An entity that successfully operates a system of
1105 charter schools outside the state may apply to the State Board
1106 of Education for status as a high-performing charter school
1107 system. The state board shall adopt rules prescribing a process
1108 for determining whether the entity meets the requirements of
1109 this subsection by reviewing student demographic and performance
1110 data and fiscal accountability of all schools operated by the
1111 entity. To the extent practicable, the state board shall develop
1112 a rubric for the approval of such entities which aligns with the
1113 priorities of the federal Charter Schools Program Grants for
1114 Replication and Expansion of High-Quality Charter Schools in the
1115 Federal Register, Volume 76, No. 133. An entity classified as a
1116 high-performing charter school system pursuant to this
1117 subsection may submit an application in the same manner as
1118 specified in s. 1002.331(3) to establish and operate a new
1119 charter school in this state. For the first 3 school years of
1120 operation, each charter school established by such an entity
1121 shall receive a reduction in administrative fees as authorized
1122 under s. 1002.33(20)(a)3.
1123 Section 6. Paragraph (c) of subsection (1) of section
1124 1002.451, Florida Statutes, is amended to read:
1125 1002.451 District innovation school of technology program.—
1126 (1) DISTRICT INNOVATION SCHOOL OF TECHNOLOGY.—
1127 (c) An innovation school of technology must be open to any
1128 student covered in an interdistrict agreement or residing in the
1129 school district in which the innovation school of technology is
1130 located. An innovation school of technology shall enroll an
1131 eligible student who submits a timely application if the number

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1132 of applications does not exceed the capacity of a program,
1133 class, grade level, or building. If the number of applications
1134 exceeds capacity, all applicants shall have an equal chance of
1135 being admitted through a public random selection process.
1136 However, a district may give enrollment preference to students
1137 who identify the innovation school of technology as the
1138 student's preferred choice pursuant to the district's public
1139 school parental choice ~~controlled open enrollment~~ plan.
1140 Section 7. Section 1003.3101, Florida Statutes, is created
1141 to read:
1142 1003.3101 Additional school choice options.—Each district
1143 school board shall establish a transfer process for a parent to
1144 request his or her child be transferred to another classroom
1145 teacher. A school must grant or deny the transfer within 2 weeks
1146 after receiving a request. If a request for transfer is denied,
1147 the school shall notify the parent and specify the reasons for a
1148 denial. An explanation of the transfer process must be made
1149 available in the student handbook or a similar publication.
1150 Section 8. Section 1003.5711, Florida Statutes, is created
1151 to read:
1152 1003.5711 Instruction for students receiving hospitalized
1153 program services.—
1154 (1) A public school student in prekindergarten through
1155 grade 12 who is deemed eligible for hospitalized program
1156 services in this state is considered a student with a
1157 disability.
1158 (a) If the student has an individual education plan (IEP),
1159 the IEP must be followed, but upon request of the student's
1160 parent, the IEP may be modified to accommodate the student's use

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1161 of hospitalized program services in a children's hospital
1162 pursuant to this section.
1163 (b) The student's IEP may be modified to reduce the
1164 student's course load to core courses identified in s.
1165 1002.20(19)(a). The student may be excused or exempted from
1166 physical education classes or instruction based on the IEP or
1167 orders from the student's medical doctor. The student's IEP may
1168 allow the student to receive instruction beyond the normal
1169 school hours, school day, or school year of the school district.
1170 (2) A student who is admitted to a children's hospital for
1171 hospitalized program services must continue to receive
1172 educational instruction.
1173 (a) If a student is expected to be absent from school and
1174 admitted to the children's hospital for hospitalized program
1175 services for at least 15 consecutive days, no later than the
1176 fifth day of the student's hospital stay, the school district in
1177 which the student is or was most recently enrolled may choose to
1178 provide a certified teacher to the children's hospital to
1179 provide instruction to the student. If that school district
1180 declines to provide a certified teacher, the school district in
1181 which the children's hospital is located must provide a
1182 certified teacher to provide the student with instruction, or
1183 must partner with the Florida Virtual School for instructional
1184 services as authorized in this section. Such school district
1185 shall also provide the student's instructional materials and
1186 other necessary educational support and services identified in
1187 the IEP.
1188 (b) A student in prekindergarten through grade 6 shall be
1189 taught in person by the certified teacher. A student in grades 7

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1190 through 12 shall be taught in person by the certified teacher,
1191 or the student may choose to utilize instruction from the
1192 Florida Virtual School. If the Florida Virtual School is used by
1193 any student, at least one certified teacher from the Florida
1194 Virtual School must be present at the hospital to assist with
1195 online learning.
1196 (3) If a school district other than the one in which the
1197 student was previously enrolled provides the hospitalized
1198 program services, the Department of Education must transfer the
1199 funds from the school district in which the student was
1200 previously enrolled to the school district in which the
1201 children's hospital providing hospitalized program services is
1202 located. This transfer shall occur no later than each subsequent
1203 quarterly FEFP payment.
1204 (4) The children's hospital providing the hospitalized
1205 program services is responsible for providing adequate
1206 educational space for each student, but is not required to
1207 comply with chapter 1013. The hospital and applicable school
1208 district must enter into an agreement to implement this section.
1209 The agreement may be student-specific or address all students as
1210 necessary.
1211 (5) The intent of this section is to supplement existing
1212 laws, rules, and regulations concerning hospitalized students
1213 that use hospitalized program services at a children's hospital.
1214 Section 9. Section 1004.6491, Florida Statutes, is created
1215 to read:
1216 1004.6491 Florida Institute for Charter School Innovation.—
1217 (1) There is established the Florida Institute for Charter
1218 School Innovation within the Florida State University. The

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1219 purpose of the institute is to advance charter school
1220 accountability, quality, and innovation; provide support and
1221 technical assistance to charter school applicants; connect
1222 aspiring teachers to opportunities to experience teaching in
1223 schools of choice; and conduct research and develop and promote
1224 best practices for charter school authorization, financing,
1225 management, operations, and instructional practices.
1226 (2) The institute shall:
1227 (a) Conduct research to inform both policy and practice
1228 related to charter school accountability, financing, management,
1229 operations, and instructional practices.
1230 (b) Partner with state-approved teacher preparation
1231 programs in this state to provide opportunities for aspiring
1232 teachers to experience teaching in schools of choice.
1233 (c) Provide technical assistance and support to charter
1234 school applicants with innovative charter school concepts.
1235 (3) The President of the Florida State University shall
1236 appoint a director of the institute. The director is responsible
1237 for overall management of the institute and for developing and
1238 executing the work of the institute consistent with this
1239 section. The director may engage individuals in other state
1240 universities with accredited colleges of education to
1241 participate in the institute.
1242 (4) By each October 1, the institute shall provide a
1243 written report to the Governor, the President of the Senate, and
1244 the Speaker of the House of Representatives which outlines its
1245 activities in the preceding year, reports significant research
1246 findings, details expenditures of state funds, and provides
1247 specific recommendations for improving the institute's ability

1248 to fulfil its mission and for changes to statewide charter
1249 school policy.
1250 (5) Within 180 days after completion of the institute's
1251 fiscal year, the institute shall provide to the Auditor General,
1252 the Board of Governors of the State University System, and the
1253 State Board of Education a report on the results of an annual
1254 financial audit conducted by an independent certified public
1255 accountant in accordance with s. 11.45.
1256 Section 10. Paragraphs (c), (d), and (e) of subsection (3)
1257 of section 1006.15, Florida Statutes, are amended to read:
1258 1006.15 Student standards for participation in
1259 interscholastic and intrascholastic extracurricular student
1260 activities; regulation.—
1261 (3)
1262 (c) An individual home education student is eligible to
1263 participate at the public school to which the student would be
1264 assigned according to district school board attendance area
1265 policies or which the student could choose to attend pursuant to
1266 public school parental choice ~~district or interdistrict~~
1267 ~~controlled open enrollment~~ provisions, or may develop an
1268 agreement to participate at a private school, in the
1269 interscholastic extracurricular activities of that school,
1270 provided the following conditions are met:
1271 1. The home education student must meet the requirements of
1272 the home education program pursuant to s. 1002.41.
1273 2. During the period of participation at a school, the home
1274 education student must demonstrate educational progress as
1275 required in paragraph (b) in all subjects taken in the home
1276 education program by a method of evaluation agreed upon by the

1277 parent and the school principal which may include: review of the
1278 student's work by a certified teacher chosen by the parent;
1279 grades earned through correspondence; grades earned in courses
1280 taken at a Florida College System institution, university, or
1281 trade school; standardized test scores above the 35th
1282 percentile; or any other method designated in s. 1002.41.
1283 3. The home education student must meet the same residency
1284 requirements as other students in the school at which he or she
1285 participates.
1286 4. The home education student must meet the same standards
1287 of acceptance, behavior, and performance as required of other
1288 students in extracurricular activities.
1289 5. The student must register with the school his or her
1290 intent to participate in interscholastic extracurricular
1291 activities as a representative of the school before the
1292 beginning date of the season for the activity in which he or she
1293 wishes to participate. A home education student must be able to
1294 participate in curricular activities if that is a requirement
1295 for an extracurricular activity.
1296 6. A student who transfers from a home education program to
1297 a public school before or during the first grading period of the
1298 school year is academically eligible to participate in
1299 interscholastic extracurricular activities during the first
1300 grading period provided the student has a successful evaluation
1301 from the previous school year, pursuant to subparagraph 2.
1302 7. Any public school or private school student who has been
1303 unable to maintain academic eligibility for participation in
1304 interscholastic extracurricular activities is ineligible to
1305 participate in such activities as a home education student until

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1306 the student has successfully completed one grading period in
1307 home education pursuant to subparagraph 2. to become eligible to
1308 participate as a home education student.
1309 (d) An individual charter school student pursuant to s.
1310 1002.33 is eligible to participate at the public school to which
1311 the student would be assigned according to district school board
1312 attendance area policies or which the student could choose to
1313 attend, pursuant to district or interdistrict public school
1314 parental choice ~~controlled open-enrollment~~ provisions, in any
1315 interscholastic extracurricular activity of that school, unless
1316 such activity is provided by the student's charter school, if
1317 the following conditions are met:
1318 1. The charter school student must meet the requirements of
1319 the charter school education program as determined by the
1320 charter school governing board.
1321 2. During the period of participation at a school, the
1322 charter school student must demonstrate educational progress as
1323 required in paragraph (b).
1324 3. The charter school student must meet the same residency
1325 requirements as other students in the school at which he or she
1326 participates.
1327 4. The charter school student must meet the same standards
1328 of acceptance, behavior, and performance that are required of
1329 other students in extracurricular activities.
1330 5. The charter school student must register with the school
1331 his or her intent to participate in interscholastic
1332 extracurricular activities as a representative of the school
1333 before the beginning date of the season for the activity in
1334 which he or she wishes to participate. A charter school student

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1335 must be able to participate in curricular activities if that is
1336 a requirement for an extracurricular activity.
1337 6. A student who transfers from a charter school program to
1338 a traditional public school before or during the first grading
1339 period of the school year is academically eligible to
1340 participate in interscholastic extracurricular activities during
1341 the first grading period if the student has a successful
1342 evaluation from the previous school year, pursuant to
1343 subparagraph 2.
1344 7. Any public school or private school student who has been
1345 unable to maintain academic eligibility for participation in
1346 interscholastic extracurricular activities is ineligible to
1347 participate in such activities as a charter school student until
1348 the student has successfully completed one grading period in a
1349 charter school pursuant to subparagraph 2. to become eligible to
1350 participate as a charter school student.
1351 (e) A student of the Florida Virtual School full-time
1352 program may participate in any interscholastic extracurricular
1353 activity at the public school to which the student would be
1354 assigned according to district school board attendance area
1355 policies or which the student could choose to attend, pursuant
1356 to district or interdistrict public school parental choice
1357 ~~controlled open enrollment~~ policies, if the student:
1358 1. During the period of participation in the
1359 interscholastic extracurricular activity, meets the requirements
1360 in paragraph (a).
1361 2. Meets any additional requirements as determined by the
1362 board of trustees of the Florida Virtual School.
1363 3. Meets the same residency requirements as other students

1364 in the school at which he or she participates.
1365 4. Meets the same standards of acceptance, behavior, and
1366 performance that are required of other students in
1367 extracurricular activities.
1368 5. Registers his or her intent to participate in
1369 interscholastic extracurricular activities with the school
1370 before the beginning date of the season for the activity in
1371 which he or she wishes to participate. A Florida Virtual School
1372 student must be able to participate in curricular activities if
1373 that is a requirement for an extracurricular activity.
1374 Section 11. Subsection (1) of section 1011.61, Florida
1375 Statutes, is amended to read:
1376 1011.61 Definitions.—Notwithstanding the provisions of s.
1377 1000.21, the following terms are defined as follows for the
1378 purposes of the Florida Education Finance Program:
1379 (1) A "full-time equivalent student" in each program of the
1380 district is defined in terms of full-time students and part-time
1381 students as follows:
1382 (a) A "full-time student" is one student on the membership
1383 roll of one school program or a combination of school programs
1384 listed in s. 1011.62(1)(c) for the school year or the equivalent
1385 for:
1386 1. Instruction in a standard school, comprising not less
1387 than 900 net hours for a student in or at the grade level of 4
1388 through 12, or not less than 720 net hours for a student in or
1389 at the grade level of kindergarten through grade 3 or in an
1390 authorized prekindergarten exceptional program;
1391 2. Instruction in an alternative charter school that is
1392 operating with two or more instructional sessions per day, when

1393 combined, comprising not less than the equivalent of 810 net
1394 hours per student per school year and using instructional
1395 calendars that may extend beyond 180 days, as authorized in the
1396 charter contract that is approved by the district school board;
1397 3. Instruction in a ~~double session school or a~~ school
1398 utilizing an experimental school calendar approved by the
1399 Department of Education, comprising not less than the equivalent
1400 of 810 net hours in grades 4 through 12 or not less than 630 net
1401 hours in kindergarten through grade 3; or
1402 4.~~3.~~ Instruction comprising the appropriate number of net
1403 hours set forth in subparagraph 1. or subparagraph 2. for
1404 students who, within the past year, have moved with their
1405 parents for the purpose of engaging in the farm labor or fish
1406 industries, if a plan furnishing such an extended school day or
1407 week, or a combination thereof, has been approved by the
1408 commissioner. Such plan may be approved to accommodate the needs
1409 of migrant students only or may serve all students in schools
1410 having a high percentage of migrant students. The plan described
1411 in this subparagraph is optional for any school district and is
1412 not mandated by the state.
1413 (b) A "part-time student" is a student on the active
1414 membership roll of a school program or combination of school
1415 programs listed in s. 1011.62(1)(c) who is less than a full-time
1416 student.
1417 (c)1. A "full-time equivalent student" is:
1418 a. A full-time student in any one of the programs listed in
1419 s. 1011.62(1)(c); or
1420 b. A combination of full-time or part-time students in any
1421 one of the programs listed in s. 1011.62(1)(c) which is the

1422 equivalent of one full-time student based on the following
1423 calculations:
1424 (I) A full-time student in a combination of programs listed
1425 in s. 1011.62(1)(c) shall be a fraction of a full-time
1426 equivalent membership in each special program equal to the
1427 number of net hours per school year for which he or she is a
1428 member, divided by the appropriate number of hours set forth in
1429 subparagraph (a)1. or subparagraph (a)2. The difference between
1430 that fraction or sum of fractions and the maximum value as set
1431 forth in subsection (4) for each full-time student is presumed
1432 to be the balance of the student's time not spent in a special
1433 program and shall be recorded as time in the appropriate basic
1434 program.
1435 (II) A prekindergarten student with a disability shall meet
1436 the requirements specified for kindergarten students.
1437 (III) A full-time equivalent student for students in
1438 kindergarten through grade 12 in a full-time virtual instruction
1439 program under s. 1002.45 or a virtual charter school under s.
1440 1002.33 shall consist of six full-credit completions or the
1441 prescribed level of content that counts toward promotion to the
1442 next grade in programs listed in s. 1011.62(1)(c). Credit
1443 completions may be a combination of full-credit courses or half-
1444 credit courses. Beginning in the 2016-2017 fiscal year, the
1445 reported full-time equivalent students and associated funding of
1446 students enrolled in courses requiring passage of an end-of-
1447 course assessment under s. 1003.4282 to earn a standard high
1448 school diploma shall be adjusted if the student does not pass
1449 the end-of-course assessment. However, no adjustment shall be
1450 made for a student who enrolls in a segmented remedial course

1451 delivered online.
1452 (IV) A full-time equivalent student for students in
1453 kindergarten through grade 12 in a part-time virtual instruction
1454 program under s. 1002.45 shall consist of six full-credit
1455 completions in programs listed in s. 1011.62(1)(c)1. and 3.
1456 Credit completions may be a combination of full-credit courses
1457 or half-credit courses. Beginning in the 2016-2017 fiscal year,
1458 the reported full-time equivalent students and associated
1459 funding of students enrolled in courses requiring passage of an
1460 end-of-course assessment under s. 1003.4282 to earn a standard
1461 high school diploma shall be adjusted if the student does not
1462 pass the end-of-course assessment. However, no adjustment shall
1463 be made for a student who enrolls in a segmented remedial course
1464 delivered online.
1465 (V) A Florida Virtual School full-time equivalent student
1466 shall consist of six full-credit completions or the prescribed
1467 level of content that counts toward promotion to the next grade
1468 in the programs listed in s. 1011.62(1)(c)1. and 3. for students
1469 participating in kindergarten through grade 12 part-time virtual
1470 instruction and the programs listed in s. 1011.62(1)(c) for
1471 students participating in kindergarten through grade 12 full-
1472 time virtual instruction. Credit completions may be a
1473 combination of full-credit courses or half-credit courses.
1474 Beginning in the 2016-2017 fiscal year, the reported full-time
1475 equivalent students and associated funding of students enrolled
1476 in courses requiring passage of an end-of-course assessment
1477 under s. 1003.4282 to earn a standard high school diploma shall
1478 be adjusted if the student does not pass the end-of-course
1479 assessment. However, no adjustment shall be made for a student

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1480 who enrolls in a segmented remedial course delivered online.
1481 (VI) Each successfully completed full-credit course earned
1482 through an online course delivered by a district other than the
1483 one in which the student resides shall be calculated as 1/6 FTE.
1484 (VII) A full-time equivalent student for courses requiring
1485 passage of a statewide, standardized end-of-course assessment
1486 under s. 1003.4282 to earn a standard high school diploma shall
1487 be defined and reported based on the number of instructional
1488 hours as provided in this subsection until the 2016-2017 fiscal
1489 year. Beginning in the 2016-2017 fiscal year, the FTE for the
1490 course shall be assessment-based and shall be equal to 1/6 FTE.
1491 The reported FTE shall be adjusted if the student does not pass
1492 the end-of-course assessment. However, no adjustment shall be
1493 made for a student who enrolls in a segmented remedial course
1494 delivered online.
1495 (VIII) For students enrolled in a school district as a
1496 full-time student, the district may report 1/6 FTE for each
1497 student who passes a statewide, standardized end-of-course
1498 assessment without being enrolled in the corresponding course.
1499 2. A student in membership in a program scheduled for more
1500 or less than 180 school days or the equivalent on an hourly
1501 basis as specified by rules of the State Board of Education is a
1502 fraction of a full-time equivalent membership equal to the
1503 number of instructional hours in membership divided by the
1504 appropriate number of hours set forth in subparagraph (a)1.;
1505 however, for the purposes of this subparagraph, membership in
1506 programs scheduled for more than 180 days is limited to students
1507 enrolled in:
1508 a. Juvenile justice education programs.

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

1509 b. The Florida Virtual School.
1510 c. Virtual instruction programs and virtual charter schools
1511 for the purpose of course completion and credit recovery
1512 pursuant to ss. 1002.45 and 1003.498. Course completion applies
1513 only to a student who is reported during the second or third
1514 membership surveys and who does not complete a virtual education
1515 course by the end of the regular school year. The course must be
1516 completed no later than the deadline for amending the final
1517 student enrollment survey for that year. Credit recovery applies
1518 only to a student who has unsuccessfully completed a traditional
1519 or virtual education course during the regular school year and
1520 must re-take the course in order to be eligible to graduate with
1521 the student's class.
1522
1523 The full-time equivalent student enrollment calculated under
1524 this subsection is subject to the requirements in subsection
1525 (4).
1526
1527 The department shall determine and implement an equitable method
1528 of equivalent funding for experimental schools and for schools
1529 operating under emergency conditions, which schools have been
1530 approved by the department to operate for less than the minimum
1531 school day.
1532 Section 12. Section 1011.6202, Florida Statutes, is created
1533 to read:
1534 1011.6202 Charter School District Pilot Program.—The
1535 Charter School District Pilot Program is created within the
1536 Department of Education. The purpose of the pilot program is to
1537 provide the principal of a participating school with increased

1538 autonomy and authority to operate his or her school in a way
1539 that produces significant improvements in student achievement
1540 and school management while complying with constitutional
1541 requirements. The State Board of Education may, upon approval of
1542 a charter proposal, enter into a performance contract with up to
1543 six district school boards to establish such districts as
1544 charter school districts.
1545 (1) CHARTER SCHOOL DISTRICT.—A charter school district is a
1546 school district in the state that has submitted, and the state
1547 board has approved, a charter proposal that exchanges statutory
1548 and rule exemption for an agreement to meet performance goals
1549 established in the charter proposal. A charter school district
1550 shall be chartered for 3 years. At the end of the 3 years, the
1551 performance of all participating schools in the charter school
1552 district shall be evaluated.
1553 (2) CHARTER PROPOSAL.—
1554 (a) The proposal to become a charter school district must:
1555 1. Identify three middle or high schools whose principals
1556 will have fiscal and administrative autonomy.
1557 2. Describe the current financial and administrative
1558 management of each participating school; identify the areas in
1559 which each school principal will have increased fiscal and
1560 administrative autonomy, including the authority and
1561 responsibilities provided in s. 1012.28(8); and identify the
1562 areas in which each participating school will continue to follow
1563 district school board fiscal and administrative policies.
1564 3. Explain the methods used to identify the educational
1565 strengths and needs of the participating school's students and
1566 identify how student achievement can be improved.

1567 4. Establish performance goals for student achievement, as
1568 defined in s. 1008.34(1), and explain how increased principal
1569 autonomy will help participating schools improve student
1570 achievement and school management.
1571 5. Provide each participating school's mission and a
1572 description of its student population.
1573 (b) The state board shall establish criteria, which must
1574 include the criteria listed in paragraph (a), for the approval
1575 of a school district charter proposal.
1576 (c) A school district must submit the charter proposal to
1577 the state board for approval by December 1 in order to begin
1578 participation in the subsequent school year. By February 28 of
1579 the school year in which the proposal is submitted, the state
1580 board shall notify the district school board in writing whether
1581 the charter proposal has been approved.
1582 (3) EXEMPTION FROM LAWS.—
1583 (a) With the exception of those laws listed in paragraph
1584 (b), a charter school district is exempt from the provisions in
1585 chapters 1000-1013, including s. 1001.42(4)(f), relating to the
1586 opening date for schools, and rules of the state board that
1587 implement these exempt provisions.
1588 (b) A charter school district shall comply with the
1589 provisions in chapters 1000-1013, and rules of the state board
1590 that implement these provisions, pertaining to the following:
1591 1. Those laws relating to the election of district school
1592 board members, public meetings and public records requirements,
1593 financial disclosure, and conflicts of interest.
1594 2. Those laws relating to the student assessment program
1595 and school grading system, including chapter 1008.

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1596 3. Those laws relating to the provision of services to
1597 students with disabilities.
1598 4. Those laws relating to civil rights, including s.
1599 1000.05, relating to discrimination.
1600 5. Those laws relating to student health, safety, and
1601 welfare.
1602 6. Those laws relating to the election and compensation of
1603 district school board members and the election or appointment
1604 and compensation of district school superintendents.
1605 7. Section 1003.03, governing maximum class size, except
1606 that the calculation for compliance pursuant to s. 1003.03 is
1607 the average at the school level.
1608 8. Sections 1012.22(1)(c) and 1012.27(2), relating to
1609 compensation and salary schedules.
1610 9. Section 1012.33(5), relating to workforce reductions for
1611 annual contracts for instructional personnel. This subparagraph
1612 does not apply to at-will employees.
1613 10. Section 1012.335, relating to annual contracts for
1614 instructional personnel hired on or after July 1, 2011. This
1615 subparagraph does not apply to at-will employees.
1616 11. Section 1012.34, relating to personnel evaluation
1617 procedures and criteria.
1618 12. Those laws pertaining to educational facilities,
1619 including chapter 1013, except that s. 1013.20, relating to
1620 covered walkways for relocatables, and s. 1013.21, relating to
1621 the use of relocatable facilities exceeding 20 years of age, are
1622 eligible for exemption.
1623 13. Those laws pertaining to charter school districts,
1624 including this section.

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1625 (4) PROFESSIONAL DEVELOPMENT.—Each charter school district
1626 shall require the principal of each participating school to
1627 complete the professional development provided through the
1628 William Cecil Golden Professional Development Program for School
1629 Leaders under s. 1012.986. The professional development must be
1630 completed before a school may participate in the Charter School
1631 District Pilot Program.
1632 (5) TERM OF CHARTER.—The state board shall authorize a
1633 charter school district's charter for a period of 3 years
1634 commencing with award of the charter. The charter may be renewed
1635 upon action of the state board. The state board may revoke a
1636 charter if the charter school district fails to meet the
1637 requirements of this section during the 3-year period.
1638 (6) REPORTING.—Each charter school district shall submit an
1639 annual report to the state board. The state board shall annually
1640 report on the implementation of the Charter School District
1641 Pilot Program. Upon completion of the program's first 3-year
1642 term, the Commissioner of Education shall submit to the
1643 President of the Senate and the Speaker of the House of
1644 Representatives by December 1 a full evaluation of the
1645 effectiveness of the program.
1646 (7) RULEMAKING.—The State Board of Education shall adopt
1647 rules to administer this section.
1648 Section 13. Subsection (2) of section 1011.69, Florida
1649 Statutes, is amended to read:
1650 1011.69 Equity in School-Level Funding Act.—
1651 (2) Beginning in the 2003-2004 fiscal year, district school
1652 boards shall allocate to schools within the district an average
1653 of 90 percent of the funds generated by all schools and

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1654 guarantee that each school receives at least 80 percent, except
1655 schools participating in the Charter School District Pilot
1656 Program under s. 1011.6202 are guaranteed to receive at least 90
1657 percent, of the funds generated by that school based upon the
1658 Florida Education Finance Program as provided in s. 1011.62 and
1659 the General Appropriations Act, including gross state and local
1660 funds, discretionary lottery funds, and funds from the school
1661 district's current operating discretionary millage levy. Total
1662 funding for each school shall be recalculated during the year to
1663 reflect the revised calculations under the Florida Education
1664 Finance Program by the state and the actual weighted full-time
1665 equivalent students reported by the school during the full-time
1666 equivalent student survey periods designated by the Commissioner
1667 of Education. If the district school board is providing programs
1668 or services to students funded by federal funds, any eligible
1669 students enrolled in the schools in the district shall be
1670 provided federal funds.
1671 Section 14. Subsection (8) is added to section 1012.28,
1672 Florida Statutes, to read:
1673 1012.28 Public school personnel; duties of school
1674 principals.—
1675 (8) The principal of a participating school in a charter
1676 school district approved under s. 1011.6202 has the following
1677 additional authority and responsibilities:
1678 (a) In addition to the authority provided in subsection
1679 (6), the authority to select qualified instructional personnel
1680 for placement or to refuse to accept the placement or transfer
1681 of instructional personnel by the district school
1682 superintendent. Placement of instructional personnel at a

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1683 participating school in a charter school district does not
1684 affect the employee's status as a school district employee.
1685 (b) The authority to deploy financial resources to school
1686 programs at the principal's discretion to help improve student
1687 achievement, as defined in s. 1008.34(1), and meet performance
1688 goals identified in the charter proposal submitted pursuant to
1689 s. 1011.6202.
1690 (c) To annually provide to the district school
1691 superintendent and the district school board a budget for the
1692 operation of the participating school that identifies how funds
1693 provided pursuant to s. 1011.69(2) are allocated. The school
1694 district shall include the budget in the annual report provided
1695 to the State Board of Education pursuant to s. 1011.6202(6).
1696 Section 15. Subsection (2) of section 1012.42, Florida
1697 Statutes, is amended to read:
1698 1012.42 Teacher teaching out-of-field.—
1699 (2) NOTIFICATION REQUIREMENTS.—When a teacher in a district
1700 school system is assigned teaching duties in a class dealing
1701 with subject matter that is outside the field in which the
1702 teacher is certified, outside the field that was the applicant's
1703 minor field of study, or outside the field in which the
1704 applicant has demonstrated sufficient subject area expertise, as
1705 determined by district school board policy in the subject area
1706 to be taught, the parents of all students in the class shall be
1707 notified in writing of such assignment. A parent that receives
1708 this notification may, after the October student membership
1709 survey, request that his or her child be transferred to another
1710 classroom teacher within the school and grade in which the child
1711 is currently enrolled. If space is available in a classroom

1712 taught by an in-field teacher, the school district shall grant
1713 the parent's request and transfer the student to the in-field
1714 classroom teacher within a reasonable period of time, not to
1715 exceed 2 weeks. An explanation of the transfer process must be
1716 made available in the student handbook or a similar publication.
1717 This does not provide a parent the right to choose a specific
1718 teacher.
1719 Section 16. Paragraph (e) is added to subsection (1) of
1720 section 1012.986, Florida Statutes, to read:
1721 1012.986 William Cecil Golden Professional Development
1722 Program for School Leaders.—
1723 (1) There is established the William Cecil Golden
1724 Professional Development Program for School Leaders to provide
1725 high standards and sustained support for principals as
1726 instructional leaders. The program shall consist of a
1727 collaborative network of state and national professional
1728 leadership organizations to respond to instructional leadership
1729 needs throughout the state. The network shall support the human-
1730 resource development needs of principals, principal leadership
1731 teams, and candidates for principal leadership positions using
1732 the framework of leadership standards adopted by the State Board
1733 of Education, the Southern Regional Education Board, and the
1734 National Staff Development Council. The goal of the network
1735 leadership program is to:
1736 (e) For principals of schools participating in the Charter
1737 School District Pilot Program under s. 1011.6202, provide
1738 training on the following:
1739 1. Managing instructional personnel, including developing a
1740 high-performing instructional leadership team.

1741 2. Public school budgeting, financial management, and human
1742 resources policies and procedures.
1743 3. Best practices for the effective exercise of increased
1744 budgetary and staffing flexibility to improve student
1745 achievement and operational efficiency.
1746 Section 17. Paragraph (a) of subsection (1) of section
1747 1013.62, Florida Statutes, is amended to read:
1748 1013.62 Charter schools capital outlay funding.—
1749 (1) In each year in which funds are appropriated for
1750 charter school capital outlay purposes, the Commissioner of
1751 Education shall allocate the funds among eligible charter
1752 schools.
1753 (a) To be eligible for a funding allocation, a charter
1754 school must:
1755 1.a. Have been in operation for 3 or more years;
1756 b. Be governed by a governing board established in the
1757 state for 3 or more years which operates both charter schools
1758 and conversion charter schools within the state;
1759 c. Be an expanded feeder chain of a charter school within
1760 the same school district that is currently receiving charter
1761 school capital outlay funds;
1762 d. Have been accredited by the Commission on Schools of the
1763 Southern Association of Colleges and Schools; or
1764 e. Serve students in facilities that are provided by a
1765 business partner for a charter school-in-the-workplace pursuant
1766 to s. 1002.33(15)(b).
1767 2. Have an annual audit that does not reveal any of the
1768 financial emergency conditions provided in s. 218.503(1) for the
1769 most recent fiscal year for which such audit results are

1770 available ~~stability for future operation as a charter school~~.
1771 3. Have satisfactory student achievement based on state
1772 accountability standards applicable to the charter school.
1773 4. Have received final approval from its sponsor pursuant
1774 to s. 1002.33 for operation during that fiscal year.
1775 5. Serve students in facilities that are not provided by
1776 the charter school's sponsor.
1777 Section 18. Notwithstanding any other provision of law,
1778 student reporting requirements related to withdrawals,
1779 suspensions, expulsions, and other related instances where
1780 students are no longer enrolled in a school, must be the same
1781 for public schools, including charter schools. Thus, charter
1782 school reporting requirements for these instances apply to all
1783 public schools, and public school reporting requirements apply
1784 to all charter schools.
1785 Section 19. This act shall take effect July 1, 2015.

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Banking and Insurance, *Chair*
Appropriations, *Vice Chair*
Appropriations Subcommittee on Health and Human Services
Education Pre-K-12
Higher Education
Judiciary
Rules

JOINT COMMITTEE:
Joint Legislative Auditing Committee
Joint Select Committee on Collective Bargaining

SENATOR LIZBETH BENACQUISTO
30th District

April 3, 2015

The Honorable Tom Lee
Appropriations, Chair
201 The Capitol
404 S. Monroe Street
Tallahassee, FL 32399-1100

RE: CS/CS/SB 1552 – Student Choice

Dear Mr. Chair:

Please allow this letter to serve as my respectful request to agenda CS/CS/SB 1552, relating to Student Choice, for a public hearing at your earliest convenience.

Your kind consideration of this request is greatly appreciated. Please feel free to contact my office for any additional information.

Sincerely,

Lizbeth Benacquisto
Senate District 30

REPLY TO:
❒ 2310 First Street, Suite 305, Fort Myers, Florida 33901 (239) 338-2570
❒ 326 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5030

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

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/21/15
Meeting Date

1552
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic: Student choice

Name: Jackie Futch

Job Title: Teacher

Address: 11 Gaylord Drive
Street

Venus, FL 33960
City, State, Zip

Phone: 229-251-9721

Email: jackiefutch@ymail.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☒ Against
(The Chair will read this information into the record.)

Representing: Educator in rural district

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/21/15
Meeting Date

1552
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic: Hospital homebound

Name: Amy Maguire All Children's Hospital

Job Title: Vice President

Address: 501 5th St
Street

St Pete
City State Zip

Phone

Email

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

Waive Speaking: [✓] In Support [ ] Against
(The Chair will read this information into the record.)

Representing: All Children's Hospital

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

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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April 20, 2015
Meeting Date

1552
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic: Student Choice

Name: Larry Williams

Job Title: Director of Governmental Affairs

Address: 200 West College Ave.
Street

Tallahassee
City *State* *Zip*

Phone: 904-557-8593

Email: larry@larrywilliamsconsulting.c

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

Waive Speaking: [ ] In Support [ ] Against
(The Chair will read this information into the record.)

Representing: Florida Consortium of Public Charter Schools

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

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

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THE FLORIDA SENATE

APPEARANCE RECORD

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4-21-15
Meeting Date

SB 1552
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic: SB 1552 Student Choice

Name: Kelly Rhinehart

Job Title: teacher

Address: County Rd. 78
Street

Fort Denaud FL 33935
City State Zip

Phone: 239-273-1892

Email: kellyrhinehart@gmail.com

Speaking: [ ] For [.] Against [ ] Information

Waive Speaking: [ ] In Support [✓] Against
(The Chair will read this information into the record.)

Representing: Hendry County Education Association

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

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

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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4/21
Meeting Date

1552
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic

Name Michael Cantens

Job Title

Address 21748 SR 54
Street

Lutz FL 33549
City State Zip

Phone (813) 527-0172

Email mcantens@corcoranfin.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Nicklaus Children's Hospital

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/21/15
Meeting Date

SB 1552
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic SB 1552

Name Sara Clements

Job Title Legislative Director

Address 215 S. Monroe St.
Street

Tallahassee FL 32301
City State Zip

Phone 850-391-0329

Email sara@aflorida promise.org

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

Waive Speaking: [x] In Support [ ] Against
(The Chair will read this information into the record.)

Representing Foundation for Florida's Future

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

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

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/21/2015
Meeting Date

SB1552
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic: Parental School Choice

Name: Nancy Lounsbury

Job Title: Mom / sub teacher / tutor

Address: 1511 SW Bobcat Dr
Street

Ft White, FL 32038
City, State, Zip

Phone: 386.454.2936

Email: nmlounsbury@gmail.com

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

Waive Speaking: [ ] In Support [ ] Against
(The Chair will read this information into the record.)

Representing: Self

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

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

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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4 / 21 / 2015
Meeting Date

Topic _____ Bill Number 1552 *(if applicable)*

Name BRIAN PITTS Amendment Barcode _____ *(if applicable)*

Job Title TRUSTEE

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

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

Speaking: ☐ For ☐ Against ☑ Information

Representing JUSTICE-2-JESUS

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

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

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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4/21/15
Meeting Date

1552
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic: School Choice

Name: Dr Jesse Jackson

Job Title: Superintendent (Lake Wales Charter Schools)

Address: 130 E Central Ave
Street

Lake Wales, FL 33859
City, State, Zip

Phone: 863-604-8221

Email: jjackson@lwcharterschools.com

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

Waive Speaking: [ ] In Support [ ] Against
(The Chair will read this information into the record.)

Representing:

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

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

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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4-21-15
Meeting Date

1552
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic

Name Ken Kniepmann

Job Title Exec Dir

Address 3512 Clifden Dr
Street

Tallahass
City State Zip

Phone 850-345-7062

Email

Speaking: ☑ For ☑ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Educational choice

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/21
Meeting Date

1552
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic: Student Choice

Name: Jim Horne

Job Title:

Address: 200 W. College Ave
Street

Tallahassee, FL 32301
City, State, Zip

Phone: 904-759-4596

Email:

Speaking: ☐ For ☐ Against ☑ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing: AIF

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4-21-15
Meeting Date

1552
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic: SB 1552 (Student Choice)

Name: Kimberly Young-Stitt

Job Title: Teacher

Address: 4001 School Circle
Street

LaBelle, FL
City, State, Zip

Phone: 239-641-0305

Email: stittobcea@yahoo.c

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☒ Against
(The Chair will read this information into the record.)

Representing: Hendry County Education 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 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/21/15
Meeting Date

SB 1552
Bill Number (if applicable)

768690
Amendment Barcode (if applicable)

Topic: Amendment to SB1552 (768690)

Name: Linda Champion

Job Title: Deputy Commissioner for Finance

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Street

Tallahassee, FL 32399
City, State, Zip

Phone: 850-245-9120

Email: Linda.Champion@fldoe.org

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

Waive Speaking: [X] In Support [ ] Against
(The Chair will read this information into the record.)

Representing: DOE

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 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

April 21, 2015
Meeting Date

CS SB 1552
Bill Number (if applicable)

768690
Amendment Barcode (if applicable)

Topic: Amendment to the Amendment by Senator Montford

Name: Burt Saunders — (For Information or Questions)

Job Title: Attorney

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Street

Naples, FL 34108
City, State, Zip

Phone: 239-598-3601

Email: burt.saunders@gray-robinson.com

Speaking: ☐ For ☒ Against ☒ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing: Accelerated Learning Solutions - ALS

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 (10/14/14)

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 Appropriations

BILL: PCS/CS/SB 1554 (511078)

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Transportation, Tourism, and Economic Development), Transportation Committee, and Senator Brandes

SUBJECT: Transportation

DATE: April 20, 2015 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Price	Eichin	TR	**Fav/CS**
2.	Sneed	Miller	ATD	**Recommend: Fav/CS**
3.	Sneed	Kynoch	AP	**Pre-meeting**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/CS/SB 1554 reflects the Florida Department of Transportation's (FDOT) 2015 Legislative Package, as well as other transportation-related issues. More specifically, the bill:

- Increases from $15 million to $25 million the annual funding for the Florida Seaport Transportation and Economic Development (FSTED) program.
- Removes Port Citrus as an authorized member of the FSTED Council, as well as obsolete provisions regarding a related port feasibility study.
- Grants the Port of Palm Beach authority to apply for designation as a foreign-trade zone, with a proposed service area including certain counties.
- Allows commercial motor vehicle operators to purchase temporary registration permits and provides for a reduced non-registration penalty under certain circumstances.
- Extends the allowable length of a trailer transporting manufactured buildings under a special permit from 54 feet to 80 feet.
- Extends the allowable length of certain semitrailers from 53 feet to 57 feet under certain conditions.
- Provides an exemption from required minimum following distance to users of driver-assistive truck platooning technology, a system that controls inter-vehicle spacing between two truck tractor-semitrailer combinations.
- Directs the Office of Economic and Demographic Research to evaluate and determine the economic benefits of the state's investment in the FDOT Work Program.

- Allows turnpike bonds to be validated at the option of the Division of Bond Finance, and limits the location of publication of bond-validation notices to Leon County.
- Substantially revises chapter 333, Florida Statutes, relating to airport zoning regulations.
- Authorizes the FDOT to assume certain review responsibilities under the National Environmental Policy Act (NEPA) with respect to highway projects, as authorized by federal law, and includes a limited waiver of the state's immunity from lawsuits in federal courts pursuant to the Eleventh Amendment to the U.S. Constitution, which are associated with the assumed responsibilities under NEPA.
- Requires consideration of infrastructure and technological improvements necessary to accommodate advances in vehicle technology and revises existing statutes with regard to the definition and use of autonomous vehicle technology.
- Clarifies provisions relating to pedestrians and crosswalks in an effort to improve safety.
- Increases from three years to ten years the period after which a dormant prepaid toll account is presumed unclaimed.
- Creates the Shared-Use Nonmotorized Trail (SunTrail) Network as a component of the Florida Greenways and Trail System, provides for the maintenance of the system, and requires the FDOT Work Program to include at least $50 million annually for the SunTrail Network.
- Requires the Center for Urban Transportation Research to conduct a study, design a pilot project, and provide a report regarding the feasibility and means of implementing a vehicle-miles-traveled funding mechanism for transportation projects.
- Creates the Northwest Florida Regional Transportation Finance Authority Act, authorizing Escambia and Santa Rosa Counties, to form a regional transportation finance authority to develop transportation projects in the northwest region of the state.
- Revises provisions relating to staffing and responsibilities of the Fort Meyers Urban Office of the FDOT.
- Modernizes language relating to FDOT's provision of 511 services.
- Removes obsolete language relating to the FDOT secretary's appointment of an inspector general.
- Repeals obsolete language relating to transportation corridors.
- Deletes references to toll facilities no longer owned by the FDOT.
- Repeals obsolete bond language relating to the already-repealed Broward County Expressway Authority.
- Makes other technical and conforming revisions.

The fiscal impact of the bill is indeterminate but likely insignificant. Please see Section V for specific details.

The bill provides an effective date of July 1, 2015.

II. Present Situation:

Due to the disparate issues in the bill, the present situation for each section is discussed below in conjunction with the Effect of Proposed Changes.

III. Effect of Proposed Changes:

U.S. Foreign-Trade Zone Program (Section 4)

Present Situation

Authorized by Congress in 1934,[1] the U.S. Foreign Trade Zones Program helps to encourage activity, including value-added functions, at U.S. facilities in competition with foreign alternatives. The Foreign-Trade Zones (FTZ) Board is chaired by the U.S. Secretary of Commerce and the Secretary of Treasury. U.S. Customs and Border Protection monitors zone activity day-to-day.[2] The FTZ Board licenses designated sites at which special customs procedures may be used, allowing domestic activity involving foreign items to take place prior to formal customs entry.[3]

Two types of zone sites exist. A magnet site is usually located at ports or industrial parks and are open to multiple zone users. Subzone or usage-driven sites are for a specific company or use.[4] According to the FTZ Board, assembling, exhibiting, cleaning, manipulating, manufacturing, mixing, processing, relabeling, repackaging, repairing, salvaging, sampling, storing, testing, displaying, and destroying merchandise are allowed in an FTZ. Production activity; i.e., activity involving the substantial transformation of a foreign article or activity that results in a change in the customs classification of the article or in its eligibility for entry for consumption, must be specifically authorized by the FTZ Board. Retail trade is prohibited in an FTZ.[5]

According to the FTZ Board, benefits to a zone user include:

- Duty Exemption - No duties on or quota charges on re-exports.
- Duty Deferral - Customs duties and federal excise tax deferred on imports.
- Inverted Tariff - In situations where zone production results in a finished product that has a lower duty rate than the rates on foreign inputs (inverted tariff), the finished products may be entered at the duty rate that applies to its condition as it leaves the zone (requires prior authorization).
- Logistical Benefits - Companies using FTZ procedures may have access to streamlined customs procedures.
- Other Benefits - Foreign goods and domestic goods held for export are exempt from state/local inventory taxes.[6]

Benefits to the public include:

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[1] 19 U.S.C. 81a-81u (2013).
[2] See the FTZ Board website for additional general information: http://enforcement.trade.gov/ftzpage/info/ftzstart.html. Last visited April 7, 2015.
[3] See the FTZ Board website, *Information Summary*: http://enforcement.trade.gov/ftzpage/info/summary.html. Last visited April 7, 2015.
[4] See the FTZ Board website on the types of zone sites: http://enforcement.trade.gov/ftzpage/info/zonetypes.html. Last visited April 7, 2015.
[5] See the FTZ Board website on activity permitted in zones: http://enforcement.trade.gov/ftzpage/info/activity.html. Last visited April 7, 2015.
[6] See the FTZ Board website on the benefits to a zone user: http://enforcement.trade.gov/ftzpage/info/userbenefits.html. Last visited April 7, 2015. 19 U.S.C. 81o(e) exempts tangible personal property imported from outside the U.S. and held in a zone for specified activities and for export from state and local ad valorem taxation.

- Helping to facilitate and expedite international trade.
- Providing special customs procedures as a public service to help firms conduct international trade related operations in competition with foreign plants.
- Encouraging and facilitating exports.
- Helping to attract offshore activity and encouraging retention of domestic activity.
- Assisting state and local economic development efforts.
- Helping to create employment opportunities.[7]

Up until 2009, applications for FTZ designation involved an "outmoded" traditional site-management framework that tended "to impose a major burden on applicants, to take far too long, and to consume too much in government resources, as well."[8] In response, an "alternative site framework" (ASF) was established, which is "an optional framework for organizing and designating sites that allows zones to use quicker and less complex procedures to obtain FTZ designation for eligible facilities." Under the ASF, a zone grantee proposes a service area. Once approved, a subzone or usage-driven site can be designated anywhere in the service area within 30 days using a simple application form. The process allows zone designation for any company that needs it and eliminates the need for zone grantees to predict where a zone will be needed and to pre-designate sites under the traditional framework.[9]

Current state law authorizes any corporation or government agency to apply to the proper U.S. authority for a trade zone or subzone, to accept a grant of the privilege, and to do all things necessary to establish, operate, and maintain such zones.[10] State law also authorizes any corporation or government agency to select and describe the location of such zones.[11]

At the local level, chapter 74-570, L.O.F., as amended by chapter 90-462, L.O.F., relating to the Port of Palm Beach, provides in part:

> In the event a trade zone site is established outside the boundaries of the port district, the county government, or, if within an incorporated area, the local municipal government, shall have approved the establishment of the trade zone within its jurisdiction, and such trade zone site shall be subject to such local government's applicable codes and ordinances.

Effect of Proposed Changes

Section 4 creates s. 288.365, F.S., which deems the Port of Palm Beach to be eligible, and grants it authority to apply, for approval from the FTZ board through the optional ASF procedure for an FTZ with a proposed service area including Palm Beach, Martin, and St. Lucie Counties, without approval from incorporated municipalities within the service area, notwithstanding chapter 74-570, L.O.F., as amended by chapter 90-462, L.O.F.

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[7] See the FTZ Board website on the public benefits: http://enforcement.trade.gov/ftzpage/info/publicbenefits.html. Last visited April 7, 2015.
[8] See the FTZ Boards Power Point presentation, *Alternative FTZ Site Framework: Introduction for CBP*. On file in the Senate Transportation Committee.
[9] See the FTZ Board website on the ASF: http://enforcement.trade.gov/ftzpage/info/asf.html. Last visited April 7, 2015.
[10] Section 288.36, F.S.
[11] Section 288.36, F.S.

The authorization expressly does not grant an exemption from any law, any local zoning or land use designation or ordinance of any municipality or county, or any tax imposed by the state or by any political subdivision, agency, or instrumentality thereof.

To the extent that this provision is construed to subject tangible personal property imported from outside the U.S. and held in an FTZ for specified purposes to local ad valorem taxation, the provision directly conflicts with 19 U.S.C. 81o(e) (2013), which exempts tangible personal property imported from outside the United States and held in a zone for specified activities and for export from state and local ad valorem taxation.

Florida Seaport Transportation and Economic Development Program (Sections 5 and 6)

Present Situation

Florida has 15 public seaports,[12] and Florida law reflects a number of seaport and seaport-related funding provisions. Section 311.07(2), F.S., requires a minimum of $15 million per year from the State Transportation Trust Fund (STTF) to fund the Florida Seaport Transportation and Economic Development (FSTED) Program.[13] The program represents a collaborative relationship between the Florida Department of Transportation (FDOT) and the seaports. FSTED funds are to be used on approved projects on a 50-50 matching basis.[14] Funding grants under the FSTED program are limited to the following port facilities or port transportation projects:

- Transportation facilities within the jurisdiction of the port.
- The dredging or deepening of channels, turning basins, or harbors.
- The construction or rehabilitation of wharves, docks, structures, jetties, piers, storage facilities, cruise terminals, automated people mover systems, or any facilities necessary or useful in connection with the foregoing.
- The acquisition of vessel tracking systems, container cranes, or other mechanized equipment used in the movement of cargo or passengers in international commerce.
- The acquisition of land to be used for port purposes.
- The acquisition, improvement, enlargement, or extension of existing port facilities.
- Environmental protection projects: which are necessary because of requirements imposed by a state agency as a condition of a permit or other form of state approval; which are necessary for environmental mitigation required as a condition of a state, federal, or local environmental permit; which are necessary for the acquisition of spoil disposal sites; or which result from the funding of eligible projects.
- Transportation facilities which are not otherwise part of FDOT's adopted Work Program.[15]
- Intermodal access projects.

[12] Jacksonville (JaxPort), Port Canaveral, Port Citrus, Port of Fort Pierce, Port of Palm Beach, Port Everglades, Port of Miami, Port Manatee, Port of St. Petersburg, Port of Tampa, Port St. Joe, Port Panama City, Port of Pensacola, Port of Key West, and Port of Fernandina. Listed in s. 311.09(1), F.S.
[13] See also s. 311.09(9), directing the FDOT to include no less than $15 million annually in its legislative budget request for the FSTED Program.
[14] S. 311.07(3)(a), F.S.
[15] DOT's Work Program is adopted pursuant to s. 339.135, F.S.

- Construction or rehabilitation of port facilities, excluding any park or recreational facility, in ports listed in s. 311.09(1), F.S.,[16] with operating revenues of $5 million or less, provided that such project creates economic development opportunities, capital improvements, and positive financial returns to such ports.
- Seaport master plan or strategic plan development updates, including the purchase of data to support such plans or other provisions of the Community Planning Act.[17]

In order for a project to be eligible for consideration by the FSTED Council, a project must be consistent with the port's comprehensive master plan, which is incorporated as part of the approved local government comprehensive plan.

The FSTED program is managed by the FSTED Council, which consists of the port director, or director's designee of the 15 public seaports, the Secretary of FDOT or his or her designee, and the Executive Director of the Department of Economic Opportunity or his or her designee.[18]

Effect of Proposed Changes

Sections 5 and 6 amend s. 311.07(2) and s. 311.09(9), F.S., respectively, to increase the annual funding from the State Transportation Trust Fund for the FSTED Program from $15 million to $25 million. The bill requires FDOT to include no less than the $25 million in its annual legislative budget request to fund the program.

Port Citrus (Section 6)

Present Situation

The Florida Legislature in 2011 included a representative of Port Citrus as a member of the FSTED Council. Port Citrus was authorized to apply for a grant for a feasibility study through the FSTED Council until July 14, 2014, regarding the establishment of a port in Citrus County.

According to a recent article, by late 2011, Citrus County established a port authority and joined the Florida Ports Council and Gulf Ports Association of the Americas, with annual dues of $15,000. Backers of Port Citrus "envisioned development of a port near a key cut in the Cross Florida Barge Canal."[19] According to the article, the study found that the barge canal would be a good location for a marina, but not for a port, because the canal's 12-foot depth is too shallow. Efforts are underway to pursue a possible marina. However, members of the current Citrus County Commission have raised questions about whether the dues paid for membership in the groups joined are appropriate, noting that a marina does not need to be designated as a port.[20]

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[16] Jacksonville (JaxPort), Port Canaveral, Port Citrus, Port of Fort Pierce, Port of Palm Beach, Port Everglades, Port of Miami, Port Manatee, Port of St. Petersburg, Port of Tampa, Port St. Joe, Port Panama City, Port of Pensacola, Port of Key West, and Port of Fernandina.
[17] Part II of ch. 163, F.S.
[18] S. 311.09(1), F.S.
[19] See *Port Citrus talk: Sink or stay afloat?*, January 24, 2015, Citrus County Chronicle Online: http://www.chronicleonline.com/content/port-citrus-talk-sink-or-stay-afloat. Last visited March 19, 2015.
[20] *Id*.

On January 24, 2015, the Citrus County Board of County Commissions, acting as the Citrus County Port Authority, voted to abolish Port Citrus. The Port Authority has requested statutory revision to reflect the abolishment.[21]

Effect of Proposed Changes

Section 6 amends s. 311.09(1) and repeals s. 311.09(12), F.S., to remove a representative of Port Citrus as an authorized member of the FSTED Council, as well as the dated provisions relating to application for a grant to conduct the feasibility study.

Commercial Motor Vehicles/Ports of Entry/Operating Credentials (Sections 7 and 12)

Present Situation

Interstate operators of commercial motor vehicles (CMVs) are required to obtain a number of credentials. Generally, for example, interstate operators of CMVs are required to obtain an International Fuel Tax Agreement (IFTA) license and decal[22] and, in some cases, to obtain overweight or over-dimensional permits.[23] Some states allow the purchase of some or all necessary credentials at weigh stations located close to routes entering their borders and at other locations, and these states are known as "port of entry" or "POE" states.[24] Because these credentials must be obtained prior to entering Florida, the state is known as a "non-POE" state.[25] If a CMV enters the state without proper credentials and the operator seeks to purchase them at any weigh station, the applicable fine is assessed depending on the type of credential at issue. Only then is the operator allowed to purchase the necessary credential.[26]

Another credential required before entering Florida is registration under the International Registration Plan (IRP). The IRP[27] is a plan for registering vehicles that are operated in two or more IRP-member jurisdictions while displaying just one registration license plate for each vehicle.

> All IRP member jurisdictions have agreed to allow one jurisdiction to collect the registration fees (apportioned fees) for each jurisdiction at one time. These fees are then distributed among the other IRP jurisdictions according to:
> - Percentage of mileage traveled in each jurisdiction;

[21] See Citrus Port Authority correspondence dated January 29, 2015. On file in the Senate Transportation Committee.
[22] See ss. 207.004 and 316.545(4), F.S. The International Fuel Tax Agreement (IFTA) is an agreement among the states and the Canadian provinces to simplify the reporting of interstate fuel taxes. The motor carrier's base jurisdiction issues the IFTA license and decals, allowing the carrier to file one quarterly tax return reflecting the net tax and any refund due on fuel used in all jurisdictions.
[23] See s. 316.550, F.S.
[24] *See* the *Florida Port of Entry Feasibility Study*, September 2014, prepared for the FDOT, at 3.1 and 3.2. Copy on file in the Senate Transportation Committee. According to the study, 28 states are non-POE states, and 22 states and the District of Columbia consider themselves to be POE jurisdictions. Alabama is a POE state; Georgia is not. Further, the definitions of "POE" vary greatly by state.
[25] *Id.* at 1.1.
[26] *See* the FDOT 2015 Legislative Proposal form, *Port-of-Entry*, on file in the Senate Transportation Committee.
[27] Section 320.01(23), F.S., defines the IRP to mean "a registration reciprocity agreement among states of the United States and provinces of Canada providing for payment of license fees on the basis of fleet miles operated in various jurisdictions."

- Vehicle identification information; and
- Maximum weight.

Under the IRP, interstate truck operators are required to file an application with their base jurisdiction. The base jurisdiction, in turn, issues one registration cab card and one tag for the vehicle. In member jurisdictions, the single apportioned license plate and cab card are the only registration credentials required to operate interstate and intrastate.[28]

A "Full Reciprocity Plan" was instituted effective January 1, 2015, under which registrants are billed only for jurisdictions in which actual miles were accrued during the reporting period. If no miles were accrued in a given jurisdiction, registrants are billed based on the average distance of all registrants in each jurisdiction. Upon registration, the cab cards will reflect all jurisdictions.[29]

Section 320.0715(1), F.S., requires all apportionable vehicles[30] domiciled in this state to register under the International Registration Plan and to display the apportioned license plate. If a CMV domiciled elsewhere could be lawfully operated in this state because IRP registration had been obtained prior to entering Florida, but was not, a ten-day Florida trip permit may be obtained for $30. The permit allows the vehicle to be operated in interstate or intrastate commerce for the ten-day period.

A CMV not registered under the application provisions of ch. 320, F.S., is subject to a penalty of five cents per pound on the weight that exceeds 35,000 pounds on laden truck tractor-semitrailer combinations or tandem trailer truck combinations, 10,000 pounds on laden straight trucks or straight truck-trailer combinations, or 10,000 pounds on any unladen CMV.[31] Operators of CMVs that fail to obtain the temporary trip permit prior to entering Florida are fined accordingly and then allowed to purchase the temporary trip permit. All such penalties and permit fees are credited to the State Transportation Trust Fund to be used for repair and maintenance of Florida's roads and for enforcement purposes.[32]

Effect of Proposed Changes

The bill defines "port-of-entry" and reduces the existing penalty for IRP registration violations.

Section 7 creates s. 316.003(94), F.S., to define "port-of-entry" as a designated location that allows drivers of commercial motor vehicles to purchase temporary registration permits

[28] See the Florida Department of Highway Safety and Motor Vehicles *International Registration Plan Trucking Manual*, at 5. On file in the Senate Transportation Committee.
[29] *Id.*
[30] Section 320.01(24), F.S., defines "apportionable vehicle" to mean "any vehicle [with certain exceptions] which is used or intended for use in two or more member jurisdictions that allocate or proportionally register vehicles and which is used for the transportation of persons for hire or is designed, used, or maintained primarily for the transportation of property and: (a) Is a power unit having a gross vehicle weight in excess of 26,000 pounds; (b) Is a power unit having three or more axles, regardless of weight; or (c) Is sued in combination, when the weight of such combination exceeds 26,000 pounds gross vehicle weight."
[31] See 316.545(2)(b), F.S.
[32] See s. 316.545(6), F.S.

necessary to operate legally within Florida, and to direct the FDOT to determine the locations and the designated routes to such locations.

Section 12 amends s. 316.545(2)(b), F.S., to provide that if a CMV enters the state at a designated POE or is operating on an FDOT-designated route to a POE, and if the ten-day IRP trip permit is obtained at the POE, the penalty is limited to the difference between the CMV's gross weight and the declared gross vehicle weight at five cents per pound.

The penalty no longer is calculated based on five cents per pound of weight in excess of 35,000 pounds or 10,000 pounds, depending on the type of truck, combination, or whether the truck is laden, but on the difference between declared and actual weight. Existing penalties for failure to obtain other required credentials remain unchanged, including, but not limited to, IFTA violations and overweight and over-dimensional permit violations.

The FDOT advises three potential POE locations are under consideration:

- I-10 at the first eastbound weigh station entering the state;
- I-75 at the first southbound weigh station entering the state; and
- I-95 at the first southbound weigh station entering the state.

The designated route for each location would be the portion of the interstate from the state line to the weigh station.[33]

Commercial Motor Vehicles/Trailer Lengths/Manufactured Building/Special Permits (Section 11)

Present Situation

The Office of Commercial Vehicle Enforcement of the Florida Department of Highway Safety and Motor Vehicles (FDHSMV) administers a Weight Enforcement program. Protection of the public's investment in the highway system is the primary purpose of the program. To prevent heavy trucks from causing unreasonable damage to roads and bridges, maximum weight and size limits are established in ch. 316, F.S.[34] Section 316.515, F.S., sets out the maximum width, height, and length limitations, and s. 316.545, F.S., addresses unlawful weight.

The FDOT or a local authority may issue a special permit to operate or move a vehicle or combination of a size or weight exceeding the maximums specified. Issuance of such a permit must not be contrary to the public interest and is at the discretion of the FDOT or the local authority.[35] Significant penalties can result from failure to obtain a special permit or failure to comply with the specific terms of the permit.[36]

Generally, as to truck tractor-semitrailer combinations and length, the extreme overall outside dimension of the combination may not exceed 48 feet, measured from the front of the unit to the

[33] *Supra*, note 14.
[34] See the FDHSMV website: http://www.flhsmv.gov/fhp/CVE/WeightEnforcment.htm/. Last visited March 3, 2015.
[35] See s. 316.550, F.S.
[36] See s. 316.550(10), F.S.

rear of the unit and the load carried.[37] However, a semitrailer that is more than 48 feet but not more than 53 feet may operate on non-restricted public roads, if the distance between the kingpin and the rear axle or axle group does not exceed a certain number of feet[38] and the vehicle is equipped with required rear end protection.

In addition, the FDOT is authorized to issue a special permit for a truck tractor-semitrailer combination if the total number of over-width deliveries of manufactured buildings may be reduced by permitting the use of an over-length trailer not exceeding 54 feet.[39] Issuance of this type of over-length special permit does not exempt the combination vehicle from existing weight limitations or special permit requirements if the weight of the combination exceeds the maximums specified in ch. 316, F.S.

Effect of Proposed Changes

Section 11 amends s. 316.515(3)(b), F.S., to increase from 53 to 57 feet the allowable extreme overall outside dimension of a semitrailer exceeding 48 feet, if specified conditions are met. The Federal Highway Administration (FHWA) has reviewed the proposed language and deems it compliant with federal regulations.[40]

Section 11 also amends s. 316.515(14), F.S., to insert "multiple sections or single units" with reference to manufactured buildings transported on permitted, over-length trailers, and to increase the allowable over-length trailer from 54 to 80 feet.

The Federal Highway Administration has reviewed the proposed language and opined that it does not appear to conflict with federal regulations, as long as weight restrictions are not exceeded.[41] Transporters of manufactured buildings on truck tractor-semitrailer combinations continue to be required to obtain a permit for such combinations, even with a trailer length of 80 feet. Overweight permits also continue to be required when applicable. Issuance of such permits remains within the discretion of the FDOT.

Driver-Assistive Truck Platooning (Sections 7, 8, and 10)

Present Situation

In August of 2014, the National Highway Traffic Safety Administration (NHTSA) issued an advance notice of proposed rulemaking, following NHTSA's earlier announcement that the agency will begin working on a regulatory proposal to require vehicle-to-vehicle (V2V) devices in passenger cars and light trucks in a future year. V2V is a crash avoidance technology, relying on communication of information between nearby vehicles to warn drivers about dangerous situations that could lead to a crash.[42] NHTSA advises that, "Using V2V technology, vehicles

[37] Section 316.550(3)(b)1., F.S.
[38] Generally, forty-one feet. For a semitrailer used exclusively or primarily to transportation vehicles in connection with motorsports competition events, 46 feet. Section 316.515(3)(b), F.S.
[39] Section 316.515(14), F.S.
[40] See the FHWA email, March 17, 2015. On filed in the Senate Transportation Committee.
[41] See the FHWA email, February 11, 2015. On file in the Senate Transportation Committee.
[42] See the U.S. Department of Transportation Fact Sheet on Vehicle-To-Vehicle Communication Technology. On file in the Senate Transportation Committee.

ranging from cars to trucks and buses to trains could one day be able to communicate important safety and mobility information to one another that can help save lives, prevent injuries, ease traffic congestion, and improve the environment."[43]

One form of V2V technology is known as driver-assistive truck platooning (DATP), which allows trucks to communicate with each other and to travel as close as thirty feet apart with automatic acceleration and braking. A draft is created, reducing wind resistance and cutting down on fuel consumption.[44]

> The DATP concept is based on a system that controls inter-vehicle spacing based on information from forward-looking radars and direct vehicle-to-vehicle communications. Braking and other operational data is constantly exchanged between the trucks, enabling the control system to automatically adjust engine and brakes in real-time. This allows equipped trucks to travel closer together than manual operations would safely allow. Platooning technology is increasingly a subject of interest in the truck community, with multiple companies developing prototypes.[45]

One such system uses integrated sensors, controls, and wireless communications for "connected" trucks. The system is cloud-based, determining in real time whether specific trucks are clear to engage in platooning operations. The system synchronizes acceleration and braking between tractor-trailers, leaving steering to the drivers, but eliminating braking distance otherwise caused by lags in the front or rear driver's response time. The following vehicle is provided video showing the lead truck's line of sight while the lead vehicle is provided video showing the area behind the following truck. If another vehicle enters between platooning trucks, the system will automatically increase following distance or delink the trucks and then relink once the cut-in risk has passed. If data transfer between platooning trucks ceases, the driver is immediately notified that manual acceleration and braking control is about to resume.[46]

Section 316.0895(2), F.S., currently deems it unlawful for the driver of any motor truck, motor truck drawing another vehicle, or vehicle towing another vehicle or trailer, when traveling upon a roadway outside of a business or residence district, to follow within 300 feet of another motor truck, motor truck drawing another vehicle, or vehicle towing another vehicle or trailer. That subsection expressly does not prevent overtaking and passing and does not apply upon any lane specially designated for use by motor trucks or other slow-moving vehicles.

Effect of Proposed Changes

Section 7 creates s. 316.003(95), F.S., to define driver-assistive truck platooning.

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[43] See the NHTSA website: http://www.safercar.gov/v2v/index.html. Last visited March 16, 2015.
[44] See the GBT Global News website: http://www.gobytrucknews.com/driver-survey-platooning/123. Last visited March 16, 2015.
[45] See the American Transportation Research Institute website: http://atri-online.org/2014/11/17/atri-seeks-input-on-driver-assistive-truck-platooning/. Last visited March 16, 2015.
[46] *See* http://www.peloton-tech.com/faq/. Last visited March 16, 2015.

Section 8 amends s. 316.0895 (2), F.S., to exclude from the 300-foot distance limitation two-truck tractor-semitrailer combinations, equipped and connected with driver-assistive truck platooning technology and operating on a multilane, limited access facility. The exclusion applies only if the owner or operator complies with the financial responsibility requirement of s. 316.86, F.S., which requires submission to the DHSMV of proof of insurance acceptable to the DHSMV in the amount of $5 million. Tandem trailer trucks are not included in the authorized exclusion.

Section 10 amends s. 316.303(1) and (3), respectively, to allow vehicles equipped and operating with driver-assistive truck platooning technology to be equipped with video equipment visible from the driver's seat, and to authorize an electronic display used by the operator of a vehicle equipped and operating with truck platooning technology.

Return on Transportation Investment (Section 40)

Present Situation

Section 334.046, F.S., provides prevailing principles to be considered in planning and developing an integrated, balanced statewide transportation system. The principles are preserving the existing transportation infrastructure, enhancing Florida's economic competitiveness, and improving travel choices to ensure mobility.

As to economic competitiveness, the statute requires the FDOT to ensure a clear understanding of the economic consequences of transportation investments and how such investments affect the state's economic competitiveness. The FDOT is directed to develop a macroeconomic analysis of the linkages between transportation investment and economic performance and a method to quantifiably measure the economic benefits of the district-work-program investments. The FDOT must analyze the state's and districts' economic performance relative to competition, the business environment viewed from the perspective of companies evaluating the state as a place in which to do business, and the state's capacity to sustain long-term growth.[47]

The FDOT in January 2015 completed its "Macroeconomic Analysis of Florida's Transportation Investments,"[48] estimating the economic effects of its Work Program for Fiscal Years 2013-2014 through 2017-2018. The analysis indicates that almost all Work Program spending was covered, including highway, rail, seaport, and transit modes. According to the analysis, "on average, every dollar invested in the Work Program will yield about $4.40 in economic benefits for Florida from the beginning of the Work Program to FY 2043."[49]

[47] Section 334.046(4)(b), F.S.
[48] The analysis is available at: http://www.dot.state.fl.us/planning/weeklybriefs/2015/011915.shtm. Last visited March 16, 2015.
[49] *Id*. at 1.

Effect of Proposed Changes

Section 40 directs the Office of Economic and Demographic Research (EDR) to evaluate and determine the economic benefits[50] of the state's investment in the FDOT Adopted Work Program for Fiscal Year 2015-2016, including the following four fiscal years. At a minimum, a separate return on investment shall be projects for roads and highways, rails, public transit, aviation, and seaports.

The analysis is limited to funding anticipated by the Adopted Work Program but may address the continuing economic impact of the transportation projects in the five years beyond the conclusion of the Adopted Work Program. The number of jobs created, the increase or decrease in personal income, and the impact on gross domestic product from the direct, indirect, and induced effects on the state's investment in each area must be evaluated.

The FDOT and each of its district offices are required to provide the EDR full access to all data necessary to complete the analysis, including any confidential data, and the EDR must provide the analysis to the President of the Senate and Speaker of the House of Representatives by January 1, 2016.

Turnpike Revenue Bonds/Bond Validation (Sections 2 and 33)

Present Situation

The Division of Bond Finance (DBF) is authorized to issue bonds on behalf of the FDOT to finance or refinance the cost of legislatively approved turnpike projects. Such bonds must be validated under ch. 75, F.S., through proceedings instituted by attorneys for the DBF.[51] In any action to validate bonds issued pursuant to s. 338.227, F.S., the complaint must be filed in the circuit court of Leon County; the notice required by s. 75.06, F.S., must be published in a newspaper of general circulation *in Leon County and in two other newspapers of general circulation in the state*;[52] and the complaint and order of the circuit court must be served only on the state attorney of the circuit in which the action is pending (the Second Circuit).

Section 75.06(2), F.S., requires the clerk, before the date set for hearing on a complaint to validate turnpike bonds, to publish a copy of the court's order requiring appearance at the hearing in Leon County at least once each week for two consecutive weeks, commencing with the first publication, which may not be less than 20 days before the date set for hearing, *in a newspaper in each of the counties where the proceeds of the bonds are to be expended, and in a newspaper published in Leon County*.[53]

[50] Defined per the bill in s. 288.005, F.S., meaning the direct, indirect, and induced gains in state revenues as a percentage of the state's investment. The state's investment includes state grants, tax exemptions, tax refunds, tax credits, and other state incentives.
[51] See s. 215.82(1), F.S.
[52] Emphasis added.
[53] Emphasis added.

However, if publication pursuant to s. 215.82, F.S., would require publication in more newspapers than would publication pursuant to s. 75.06, F.S., then publication pursuant to s. 75.06, F.S., controls. [54] The required publication is dependent upon the geographic reach of the project(s) for which funding through bond issuance is sought.

According to the DBF:

> Bond validation is a judicial procedure through which the legality of a proposed bond issue may be determined in advance of its issuance. It serves to assure bondholders that future court proceedings will not invalidate a government's pledge to repay the bonds. Validation is generally not necessary for established borrowing programs, such as Turnpike bonds, where any legal issues relating to the bonds have been resolved previously. Validation is optional for almost all bonds issued by the Division of Bond Finance, including Public Education Capital Outlay Bonds and University Revenue Bonds. If a constitutional or statutory question arises for a proposed bond issue, a complaint for validation may be filed in circuit court even if validation is not required.[55]

Effect of Proposed Changes

The bill in general leaves validation of turnpike bonds to the discretion of the DBF and limits provisions relating to publication of the required notice.

Section 2 amends s. 215.82(2), F.S., to strike the reference to s. 338.227, F.S., in favor of the language in newly created s. 338.227(5), F.S.

Section 33 creates subsection (5) of s. 338.227, F.S., to:
- Provide turnpike bonds issued pursuant to that section are not required to be validated pursuant to ch. 75, F.S., notwithstanding s. 215.82, F.S.;
- Provide for validation at the option of the DBF; and
- Require the notice under s. 75.06, F.S., to be published only in Leon County.

Airport Zoning/Chapter 333 Re-Write (Sections 13 through 27)

Chapter 333, Florida Statutes, contains airport zoning provisions relating to the management of airspace and land use at or near airports. Generally, the chapter:
- Addresses permitting for structures exceeding federal obstruction standards;
- Requires adoption of certain airport zoning regulations;
- Provides a process for seeking variances from the zoning regulations;
- Sets out a process for appeal of decisions based on the zoning regulations;
- Requires boards of adjustment to hear and decide appeals;
- Provides for judicial review of any board of adjustment decision; and

[54] See s. 215.82(2), F.S.
[55] See copy of email from Ben Watkins, Director, Florida Division of Bond Finance, to House staff dated January 27, 2015. On file in the Senate Transportation Committee.

- Establishes penalties and remedies for violations.

The FDOT in 2012 created a stakeholder working group to address problems with implementing this chapter. Representatives from airports, local planning and zoning departments, the Florida Defense Alliance, the League of Cities, the Florida Airports Council, the real estate development community, and the FDOT participated in the working group. The FDOT advises the working group determined that ch. 333, F.S., "contains outdated and inconsistent provisions when compared to applicable federal regulations, contains internal inconsistencies, and requires a local government airport protection zoning process that can be cumbersome and confusing."

As examples, the FDOT reports the need to update current definitions consistent with federal regulations, advises that zoning variances and permitting processes are mixed in the chapter, and notes that required creation of separate boards often duplicate existing local governing body structures and functions. The result is inconsistent local application of the provisions governing airspace and land use at or near airports with outcomes that may be unpredictable.[56]

The FDOT advises it expects no substantive changes as a result of the bill's proposed revisions; e.g., the existing requirements for issuance of permits are substantively unchanged. The number of permits issued or denied is not expected to change. Rather, the changes are designed to facilitate more uniform permitting, appeals, and review processes applied at the local level and provide clarity and predictability for those subject to airport zoning regulations.[57]

Definitions

Present Situation

Section 333.01, F.S., contains definitions related to airport zoning that need updating for internal chapter consistency and for consistency with federal regulations.

Effect of Proposed Changes

Section 13 amends s. 333.01, F.S., to provide, revise, and delete definitions to:

- Reflect terminology used in federal regulations;
- Provide for consistency with Federal Aviation Administration (FAA) advisements;
- Define terms used but undefined elsewhere in the chapter and delete terms not used elsewhere in the chapter;
- Remove antiquated terminology;
- Delete variances from definitions to reflect the streamlined permitting process effected in the bill; and
- Otherwise provide clarity through editorial and grammatical changes.

[56] See the FDOT 2015 Agency Proposal, *Airspace and Land Use at Public Airports*. On file in the Senate Transportation Committee.
[57] Conversation with FDOT Legislative and Legal Staff during joint meeting with Senate and House staff, January 30, 2015.

Permitting for Structures Exceeding Federal Obstruction Standards

Present Situation

The Code of Federal Regulations (CFR) sets forth standards for structures that present a hazard within an area in an airport due to obstruction of the airspace required for aircraft to take off, maneuver, or land. Section 333.025, F.S., requires a permit from the FDOT for any proposed construction or alteration of a structure that would exceed the federal standards, if the standards will be exceeded within a 10-nautical mile radius of the geographical center of a publicly owned or operated airport, a military airport, or an airport licensed by the state for public use.[58] A permit from the FDOT is not required if a political subdivision[59] has adopted adequate airspace protection regulations and filed them with the FDOT. The facilities at airports shown on the airport master plan, or on an airport layout plan submitted to the Federal Aviation Administration (FAA) or comparable military documents, are to be protected. Certain planned or proposed facilities are also protected.

The FDOT must issue or deny a permit within 30 days of receipt of an application for erection, alteration, or modification of any structure that would exceed the federal obstruction standards. The FDOT is required to consider a list of factors in determining whether to issue or deny a permit. As a permit condition, the FDOT is directed to require obstruction and lighting of the permitted structure. The FDOT is prohibited from approving a permit to erect a structure unless the applicant submits both documentation showing compliance with federal notification requirements and a valid aeronautical evaluation.

Effect of Proposed Changes

Section 14 amends s. 333.025, F.S., to replace the term "geographic center" with "airport reference point," which is located at the approximate geometric center of all usable runways and to update references to current federal regulations. Per the FDOT, the airport reference point is not the same as the geographic center of the airport.[60]

When a political subdivision has adopted adequate airport protection zoning regulations which are on file with the FDOT *and* the political subdivision has established a permitting process, a permit from the FDOT is not required for a structure. To evaluate the technical consistency of a permit application submitted to a local government, the bill provides a 15-day FDOT review period concurrent with the established local permitting process. Cranes, construction equipment, and other temporary structures in use or in place for a period not exceeding 18 consecutive months are exempt from the FDOT review, unless the FDOT requests review.

The FDOT is required to review permit applications in conformity with s. 120.60, F.S., relating to licensing. The list of factors to be considered by the FDOT when granting or denying a permit is revised to remove ambiguity and duplication, and to provide clarity. The FDOT must require the owner of the permitted structure or vegetation to install, operate, and maintain marking and lighting in conformance with FAA standards, at the owner's expense. A reference to aeronautical

[58] Public airports are licensed under the provisions of ch. 330, F.S.
[59] Generally, a local governmental entity. Section 333.03(9), F.s
[60] See the FDOT document provided to staff, *Proposed ch. 333, F.S. Amendments and Legislative Support Documentation*. On file in the Senate Transportation Committee.

"evaluation" is revised to aeronautical "study" in accordance with the new definition. The denial of a permit is subjected to the administrative review provisions of the Administrative Procedures Act.

Adoption of Airport Zoning Regulations

Present Situation

Section 333.03, F.S., requires political subdivisions with an airport hazard area[61] to adopt, administer, and enforce airport zoning regulations for the area. If the airport is owned or controlled by a political subdivisions and has a hazard area outside of its territorial limits, the owning or controlling political subdivision and the political subdivision within which the hazard area is located must either adopt zoning regulations by interlocal agreement or create a joint airport zoning board with the power to do so. The airport zoning regulations must, at a minimum, require:

- A variance for erection, alteration, or modification of any structure that would exceed the federal obstruction standards;
- Obstruction marking and lighting per s. 333.07(3);
- Documentation of compliance with federal proposed construction notification and a valid aeronautical evaluation submitted by each person applying for a variance;
- Consideration of the same list of factors when determining whether to issue or deny a variance as required of the FDOT when considering permit applications; and
- That no variance be approved solely on the basis that a proposed structure will not exceed the federal obstruction standards.

The FDOT is required to issue copies of the federal obstruction standards in the CFR to each political subdivision with an airport hazard area, and issue certain airport zoning maps at no cost.

Interim land use compatibility zoning regulations must be adopted, unless the political subdivision has adopted land development regulations addressing the use of land consistent with this section. Interim land use compatibility zoning regulations must consider whether sanitary landfills are located within certain areas and whether any landfill will attract or sustain hazardous bird movements, with attendant reporting requirements and bird management considerations. If a public-use airport has conducted a specified federal noise study, residential construction and construction of certain educational facilities are prohibited within the area defined by the study to be incompatible with such construction. If no study is conducted, the same construction is prohibited within a certain distance.

Airport zoning regulations restricting new incompatible uses, activities, or construction within runway clear zones must be adopted, including uses that result in congregations of people,

[61] The bill defines "airport hazard" to mean any area of land or water upon which an airport hazard might be established. "Airport hazard area" is defined in the bill to mean any obstruction which exceeds the federal obstruction standards in the specified sections of the Code of Federal Regulations and which obstructs the airspace required for the flight of aircraft in taking off, maneuvering, or landing; or is otherwise hazardous to such activity and for which no permit has been obtained. The bill generally defines "obstruction" to mean any object of natural growth, terrain, or permanent or temporary construction or alteration thereof, existing or proposed, that exceeds the federal obstruction standards.

emissions of light or smoke, or attract birds. Certain limited exceptions for construction of educational facilities in specified areas are authorized.

Effect of Proposed Changes

Section 15 amends s. 333.03, F.S., to eliminate the duplicative requirement for obtaining a variance for structures that would exceed federal obstruction standards, in favor of a local permitting process. Every political subdivision having an airport hazard area is required to adopt, by either of the two authorized methods, airport *protection* zoning regulations. In addition to editorial and grammatical revisions, this section revises language to:

- Replace references to a "variance" with "permit."
- Update references to the federal obstruction standards contained in the CFR;
- Replace aeronautical "evaluation" with "study" consistent with the new definition;
- Remove the FDOT's duty to provide copies of the federal obstruction standards and issue maps and replace it with making the FDOT available to provide assistance with respect to the standards;
- Eliminate the reporting requirements related to birds at airports near landfills in favor of requiring the landfill operator to incorporate bird management techniques;
- Allow alternative noise studies approved by the FAA, and their application;
- Include substantial modification of existing incompatible uses in the required adopted regulations restricting such uses within runway *protection* zones;
- Remove the limited exceptions for construction of educational facilities
- Require all updates and amendments to local airport codes to be filed with the FDOT within 30 days after adoption.
- Delete outdated language; and
- Authorize an airport authority, local government, or other governing body operating a public-use airport to adopt more restrictive airport protection zoning regulations, per the FDOT, to allow restrictions appropriate to the local context of the airport.[62]

Guidelines Regarding Land Use Near Airports

Present Situation

Section 333.065, F.S., requires the FDOT, after consultation with the Department of Economic Opportunity, local governments, and other interested persons, to adopt by rule recommended guidelines regarding compatible land uses in the vicinity of airports. The guidelines must use certain acceptable and established quantitative measures.

Effect of Proposed Changes

Section 19 repeals s. 333.065, F.S. The FDOT advises the deletion reflects completion of the FDOT's Airport Compatible Land Use Guidebook.[63]

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[62] *Supra*, note 48.
[63] *Supra*, note 48.

Permits, Variances, and Appeals

Present Situation

Section 333.07, F.S., authorizes any adopted airport zoning regulations to require a permit be obtained before any new structure or use is constructed or established and before any existing use or structure may be substantially changed or repaired. All such regulations must require a permit before any nonconforming structure or tree may be replaced, substantially altered or repaired, rebuilt, allowed to grow higher, or replanted.

If a nonconforming use, structure, or tree has been abandoned or is more than 80 percent torn down or deteriorated, a permit may not be issued under certain conditions. The owner of a nonconforming structure or tree may be compelled, at the owner's expense, to under certain actions necessary to conform to the regulations. If the owner does not, the required action may be accomplished by the administrative agency and the costs may be assessed against the nonconforming object or the land on which it is located. If the assessment is not paid within 90 days, a lien at the annual rate of 6 percent interest is applied.

Any person desiring to erect any structure, increase the height of any structure, permit the growth of any tree, or otherwise use his or her property in violation of the adopted airport zoning regulations is authorized to apply to a board of adjustment for a variance from the regulations. The FDOT has 45 days to comment or waive that right. Conditions for allowance of variations are provided. The FDOT is authorized to appeal any variance granted and to apply for judicial relief.

As a condition of any granted permit or variance, the administrative agency or board of adjustment must require the structure or tree owner to install, operate, and maintain at the owner's expense marking and lighting necessary to indicate to aircraft pilots the presence of an obstruction.

Section 333.08, F.S., authorizes any person or taxpayer affected by any decision of an administrative agency in its administration of adopted airport zoning regulations or of any governing body of a political subdivision, or the Department of Transportation, or any joint airport zoning board, may appeal to the board of adjustment authorized to hear and decide appeals from the decisions of such administrative agency.

Effect of Proposed Changes

Section 20 amends s. 333.07, F.S., to streamline the permitting process, repeal the duplicative variance process, and facilitate implementation of the permitting process by local entities. More specifically, rather than authorizing any adopted airport zoning regulations to require a permit be obtained before any new structure or use is constructed or established and before any existing use or structure may be substantially changed or repaired, the bill simply requires a permit to erect, construct, alter, increase the height of any structure, permit the growth of any vegetation, or otherwise use his or her property in violation of the adopted regulations.

The political subdivision or its administrative agency must consider virtually the same standards as must be considered by the FDOT when issuing or denying a permit for structures exceeding

federal obstruction standards. All variance provisions are removed in favor of the permitting process. In addition, the provisions relating to a lien resulting from an owner's failure to take action to bring a nonconforming structure or tree into regulatory compliance are removed. The FDOT's 45-day comment period is removed in favor of the shortened 15-day period of review for technical consistency described above. Obstruction marking and lighting is required in conformance with specific standards established by the FAA. Outdated language is repealed.

Section 21 repeals s. 333.08, F.S., authorizing and providing requirements for appeals of zoning regulation decisions, in favor of relocated, modified appeals language in s. 333.09, F.S.

Section 23 repeals s. 333.10, F.S., currently requiring all adopted airport zoning regulations to provide for a board of adjustment to hear and decide appeals and variances, consistent with repeal of the variance provisions in favor of the local government permitting and appeals process established by the bill in revised s. 333.09, F.S.

Administration of Airport Zoning Regulations

Present Situation

Section 333.09, F.S., requires all adopted airport zoning regulations to provide for administration and enforcement by an administrative agency, which may be an agency created by the regulations; or by any official, board, or other existing agency of the political subdivision adopting the regulations; or by one of the subdivisions that participated in creating a joint airport zoning board adopting the regulations. The duties of any such administrative agency include hearing and deciding all permits under s. 333.07, F.S., but not any of the powers delegated to the board of adjustment.

Effect of Proposed Changes

Section 22 amends s. 333.09, F.S., to remove the list of entities that may be an administrative agency, per the FDOT, to reflect correct community planning terminology.[64] Administration and enforcement is left to the affected political subdivision or its administrative agency. Also removed is the prohibition against an administrative agency exercising the powers delegated to the board of adjustment.

Political subdivisions required to adopt airport zoning regulations must establish a process to:

- Issue or deny permits consistent with s. 333.07, F.S., including requests for exceptions to airport zoning regulations;
- Notify the FDOT of receipt of a complete permit application; and
- Enforce any permit, order, requirement, decision, or determination made by the administrative agency with respect the airport zoning regulations.

If a zoning board or permitting body already exists within a political subdivision, the zoning board or permitting body may implement the permitting and appeals process. Otherwise, the political subdivision must implement the permitting and appeals process.

[64] *Supra*, note 48.

Any person, political subdivision or its administrative agency, or any joint airport zoning board, may use the process established for an appeal. Appeals must be taken with a reasonable time provided by the political subdivision or its administrative agency by filing a notice of appeal specifying the grounds for appeal. An appeal stays all proceedings in the underlying action, unless the entity from which the appeal is taken certifies pursuant to the rules for appeal that a stay would cause imminent peril to life or property. In such case, proceedings may be stayed only by an order from the political subdivision or its administrative agency following notice to the entity from which the appeal is taken and for good cause shown.

The political subdivision or its administrative agency must set a reasonable time for a hearing and provide notice to the public and the parties in interest. A party may appear in person, by agent, or by attorney. The subdivision or agency may reverse, affirm, or modify the underlying order, requirement, decision, or determination from which the appeal is taken in accordance with the provisions of ch. 333, F.S.

Judicial Review

Present Situation

Section 333.11, F.S., authorizes any person aggrieved or any taxpayer affected by a decision of a board of adjustment, any governing body of a political subdivision, the FDOT, any joint airport zoning board, or any administrative agency to apply for judicial relief in the judicial circuit court where the board of adjustment is located. That section provides procedural provisions related to the board of adjustment, describes the court's authorized review of a decision by a board of adjustment, and prohibits judicial review in provisions related to a board of adjustment.

Effect of Proposed Changes

Section 24 amends s. 333.11, F.S., to remove the FDOT from authorization to apply for judicial relief and reference to the board of adjustment, but otherwise leave the authorization to apply for judicial review in place. Any person, political subdivision or its administrative agency, or any joint zoning board is authorized to apply for judicial relief. The judicial review prohibition is revised. An appellant is required to exhaust all remedies through application for local government permits, exceptions, and appeals before seeking judicial review. These revisions reflect the elimination of the requirement that adopted airport zoning regulations provide for a board of adjustment, consistent with repeal of the variance provisions in favor of the local government permitting and appeals process established by the bill in revised s. 333.09, F.S.

Transition Provisions

Section 26 of the bill creates s. 333.135, F.S., to:

- Provide that a provision of airport zoning regulation in effect on July 1, 2015, and in conflict with the revised ch. 333, F.S., must be amended to conform by July 1, 2016.
- Requires any political subdivision with an airport that has not adopted airport zoning regulations to do so by October 1, 2017, consistent with the chapter.
- Require the FDOT to administer the permitting process as provided in s. 333.025, F.S., for political subdivisions that have not yet adopted the required regulations.

Technical Revisions

The following sections of the bill primarily make grammatical and editorial revisions to existing language in ch. 333, F.S., and modify sections of the chapter for internal consistency with definitions.

Section 16 amends s. 333.04, F.S., to replace the following phrases as follows:

- "Zoning ordinance" with "plan or policy."
- "Trees" with "vegetation."

Section 17 amends s. 333.05, F.S., to reference amended or deleted regulations and administering and enforcing regulations, in addition to those adopted.

Section 18 amends s. 333.06, F.S., to replace references to "runway clear zones" with "runway protection zones, and "tree" to "vegetation."

Section 25 amends s. 333.12, F.S., to provide editorial changes; replace the term "navigation easement" with "avigation easement;"[65] and replace "tree" with "vegetation."

Section 27 repeals s. 333.14, the short title citing of ch. 333, F.S., as the "Airport Zoning Law of 1945."

Section 58 reenacts s. 350.81, F.S., to incorporate the amendment to s. 333.01, F.S.

National Environmental Policy Act/Delegation of Responsibilities to States (Section 29)

Present Situation

The National Environmental Policy Act (NEPA) "establishes national environmental policy for the protection, maintenance, and enhancement of the environment and provides a process for implementing the goals within the federal agencies." Federal agencies are required to prepare detailed statements assessing the environmental impact of and alternatives to major federal actions that significantly affect the environment. [66]

NEPA requirements also apply to state highway projects eligible for federal funding. According to the FDOT, when a highway project is advanced and is federally eligible, project development occurs consistent with NEPA requirements, in consultation with and subject to the oversight of the Federal Highway Administration (FHWA). The FDOT utilizes two processes to meet NEPA requirements. One process, the Efficient Transportation Decision Making process, is used during the project's planning phase to initiate contact with agencies and other stakeholders and obtain multiple-party input and information used to inform the second process. The Project Development and Environment (PD&E) process is used to analyze, perform outreach, guide agency coordination, and meet regulatory requirements before a project may be advanced. The FDOT prepares necessary documents, analyzes alternatives, consults with agencies, and makes

[65] The bill describes "avigation" easement as an easement conveying the airspace over another property for use by the airport.
[66] See the U.S. Environmental Protection Agency website: http://www.epa.gov/compliance/basics/nepa.html. Last visited March 17, 2015.

recommendations. This information is provided to the FHWA, which is the lead agency for review, comment, and ultimate approval.[67]

Following an initial pilot project conducted in California, Congress in 2012 enacted the Moving Ahead for Progress in the 21st Century Act, which established a permanent surface transportation project delivery program.[68] Under the program, in which Texas is already participating, the U.S. Department of Transportation (USDOT) secretary may assign, and any state may assume, pursuant to a written agreement, all or part of the secretary's responsibilities under NEPA with respect to projects or classes of projects. The written agreement must provide that the state:

- Agrees to assume all or part of the described responsibilities;
- Expressly consents, on behalf of the state, to accept the jurisdiction of the Federal courts for the compliance, discharge, and enforcement of any responsibility of the secretary assumed by the state;[69]
- Certifies that state laws and regulations are in effect that authorize the state to take the actions necessary to carry out the responsibilities; and
- Agrees to maintain the financial resources necessary to carry out the responsibilities.[70]

The USDOT secretary is authorized to terminate the participation of any state if the state is not adequately carrying out the responsibilities and the secretary notifies the state of the determination of noncompliance. If the state fails to take corrective action as determined by the USDOT secretary within 30 days after notice, the agreement is terminated.[71]

With respect to the consent to federal court jurisdiction, the FDOT advises:

> This waiver is limited to only those actions delegated to the Department by the USDOT and related to carrying out its NEPA duties on state highway projects. Challenges to NEPA decision making are filed in federal district court pursuant to the Federal Administrative Procedures Act and are limited to a review of the underlying administrative record. The standard for review is whether the Department's action is arbitrary and capricious. To the extent that a challenger is successful, the remedy is to require additional review, analysis and documentation to support the action. The state's exposure is further limited by 23 USC 327(a)(2)(G), which provides that a state assuming the responsibilities of the Secretary [of the USDOT] under this section for a specific project may use funds apportioned to the State under section 104(b)(2) for attorneys' fees directly attributable to eligible activities associated with the project.[72]

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[67] See the FDOT 2015 Legislative Proposal form, *Authorization to Participate in Certain Federal Transportation Programs*. On file in the Senate Transportation Committee.
[68] 23 U.S.C. s. 327 (2013).
[69] This requirement apparently exists to address the Eleventh Amendment to the U.S. Constitution, which generally prohibits suits in law or equity against one of the United States by its citizens, citizens of another state, or subjects of any foreign state.
[70] *Supra*, note 56.
[71] *Id*.
[72] *Supra*, note 55.

Effect of Proposed Changes

Section 29 amends s. 334.044, F.S., to authorize the FDOT to assume responsibilities of the USDOT under 23 U.S.C. s. 327 with respect to highway projects, and with respect to related responsibilities for environmental review, consultation, or other action required under any federal environmental law pertaining to review or approval of a highway project, within Florida. The FDOT is authorized to enter into one or more agreements with the U.S. Secretary of Transportation related to the federal surface transportation project delivery program for the delivery of transportation projects, including highway projects. The FDOT is authorized to adopt implementing rules and to adopt relevant federal environmental standards as the standards for this state for the program. The FDOT advises the delegation allows direct consultation between the FDOT and federal regulatory agencies and maximizes efficiency by consolidating all NEPA reviews under the FDOT.

Sovereign immunity to civil suit in federal court is waived consistent with 23 U.S.C. s. 327 and limited to the compliance, discharge, or enforcement of a responsibility assumed by the FDOT. The FDOT advises its district offices would continue to conduct the PD&E process, with the FHWA's project review, legal sufficiency, and approval authority delegated to the FDOT's Central Office and with the FHWA retaining program level oversight. The waiver of sovereign immunity is limited only to those actions delegated to the FDOT and related to carrying out its NEPA duties on state highway projects. The standard for review is whether the FDOT's action is arbitrary and capricious. The remedy for a successful challenge is to require additional review, analysis, and documentation to support the project. Further, a state assuming the NEPA responsibilities may use certain apportioned state funds for attorneys' fees directly attributable to eligible activities associated with a project.[73]

Autonomous Vehicles (Sections 7, 10, 35, and 36)

Present Situation

Autonomous or "self-driving" vehicles are those operated "without direct driver input to control the steering, acceleration, and braking and … designed so that the driver is not expected to constantly monitor the roadway while operating in self-driving mode."[74] According to the National Highway Traffic Safety Administration, autonomous vehicles have the potential to improve highway safety, increase environmental benefits, expand mobility, and create new economic opportunities for jobs and investment.[75]

A review of material obtained via a simple Internet search reveals that common availability and use of such vehicles was not previously anticipated for at least a couple of decades. However, some expect increased availability and use in the relative near future, perhaps no longer than in the next five years.[76]

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[73] *Supra*, note 56.
[74] See the National Highway Traffic Safety Administration's Press Release: *U.S. Department of Transportation Releases Policy on Automated Vehicle Development.* On file in the Senate Transportation Committee.
[75] See NHTSA's statement of policy on automated vehicles.
[76] *See*, e.g.: *Autonomous Cars are Closer Than You Think*: http://techcrunch.com/2015/01/18/autonomous-cars-are-closer-than-you-think/. Last visited February 21, 2015.

Transportation Planning and Autonomous Vehicles
Current law requires metropolitan planning organizations (MPOs) to develop a long-range transportation plan addressing at least a 20-year planning horizon. The plans must be consistent, to the maximum extent feasible, with local government comprehensive plans of the local governments located within the jurisdiction of the MPO.

Section 339.64, F.S., requires the FDOT to develop and update every five years, in cooperation with MPOs, regional planning councils, local governments, and other transportation providers, a Strategic Intermodal System (SIS) Plan. The plan must be consistent with the Florida Transportation Plan.[77]

Current law makes no specific mention of taking into consideration planning for infrastructure and technological improvements necessary to accommodate advances in vehicle technology, such as autonomous vehicles, in developing MPO long-range transportation plans or when updating the SIS Plan.

Electronic Displays in Autonomous Vehicles
A motor vehicle operated on the highways of this state may not be equipped with television-type receiving equipment that is visible from the driver's seat. The prohibition does not apply to an electronic display used in conjunction with a vehicle navigation system.[78]

Definitions
The definitions of the terms "autonomous vehicle" and "autonomous technology" are currently contained together in one subsection of s. 316.003, F.S.

Effect of Proposed Changes

Section 35 amends s. 339.175(3)(c)2., F.S., to include in an MPO's capital investment assessment the goal of improving safety while making the most efficient use of existing transportation facilities. In addition, MPOs are required to consider in developing long-range transportation plans infrastructure and technological improvements necessary to accommodate advances in vehicle technology, such as autonomous vehicle technology and other developments.

Similarly, section 36 amends s. 339.64, F.S., to require the FDOT to coordinate with federal, regional, and local partners, as well as industry representatives, to consider when updating the SIS Plan infrastructure and technological improvements to the SIS necessary to accommodate advances in vehicle technology. The bill also requires the same consideration to be included in the needs assessment.

Section 10 amends s. 316.303(1) and (3), F.S., respectively, to allow autonomous vehicles to be equipped with television-type receiving equipment visible from the driver's seat, and to authorize an operator of an autonomous vehicle to use an electronic display in conjunction with a vehicle navigation system, both while the vehicle is being operated in autonomous mode.

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[77] The Florida Transportation Plan is a statewide transportation plan that considers the needs of the entire state transportation system and examines the use of all modes of transportation to meet such needs. The purpose of the plan is to establish and define the state's long-range transportation goals and objectives over a period of at least 20 years. See s. 339.155, F.S.
[78] See s. 316.303(1) and (3), F.S.

Section 7 amends s. 316.003, F.S., to separate the definitions of the terms "autonomous vehicle" and "autonomous technology," currently contained in one subsection, to facilitate ease of reference.

Pedestrian Safety/Crosswalks (Sections 7 and 9)

Present Situation

The FDOT advises that it conducts public opinion surveys and on-the-street observation surveys to elicit feedback relating to pedestrian safety.

> It is the opinion of the department's safety office that these results indicate that both the general population and law enforcement have a challenging time with the crosswalk definition as it is written.[79]

Current law defines "crosswalk" to mean:

- That part of the roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway, measured from the curbs or, in the absence of curbs, from the edges of the traversable roadway.
- Any portion of a roadway at an intersection *or elsewhere* distinctly indicated for pedestrian crossing by lines or other markings on the surface.[80]

This definition is quite similar, but not identical, to the definition contained in the Manual on Uniform Traffic Control Devices (MUTCD), which is a national, uniform system of traffic control devices adopted by the American Association of State Highway Officials. States must adopt the 2009 National MUTCD as their legal standard for traffic control devices within two years from the effective date.[81] The FDOT has adopted the MUTCD pursuant to direction in s. 316.0745, F.S., which in part recognizes the potential need for revisions to a uniform system "to meet local and state needs." Further, a review of the MUTCD reveals numerous references to the need to exercise engineering judgment in applying the provisions of the MUTCD, depending upon factors such as traffic volume, terrain, and posted speed limit, etc.

According to a Federal Highway Administration (FHWA) Study:

> Pedestrians have a right to cross roads safely, and planners and engineers have a professional responsibility to plan, design, and install safe and convenient crossing facilities. Pedestrians should be included as design users for all streets.
>
> Providing marked crosswalks traditionally has been one measure used in an attempt to facilitate crossings. Such crosswalks commonly are used at

[79] See the FDOT email to Senate and House Committee staff, February 9, 2015. On file in the Senate Transportation Committee.
[80] See s. 316.003(6), F.S. Emphasis added.
[81] See the FHWA website: http://mutcd.fhwa.dot.gov/index.htm. Last visited February 18, 2015.

> uncontrolled locations (i.e., sites not controlled by a traffic signal or stop sign) and sometimes at *midblock* locations.[82]

While current Florida law, the MUTCD, and the FHWA recognize the existence of midblock crosswalks, the term, "midblock crosswalk," is not currently defined in the Florida Statutes.

The FDOT also seeks to revise the current definition of "sidewalk"; *i.e.*, "That portion of a street between the curbline, or the lateral line, of a roadway and the adjacent property lines, intended for use by pedestrians."[83]

Section 316.130, F.S., generally requires a pedestrian to obey the instructions of any applicable official traffic control device, including, but not limited, to signals and signage at crosswalks. That section also contains direction to drivers with respect to stopping or yielding to pedestrians at intersections having a traffic control signal in place,[84] at crosswalks where signage so indicates,[85] and at crosswalks with no traffic control signals and no signage.[86]

Generally, a driver must stop and remain stopped when encountering a pedestrian at these crosswalks when the pedestrian steps in or is in the crosswalk and is upon the half of the roadway upon which the vehicle is traveling or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger. However, pedestrians crossing a roadway at a point where a pedestrian tunnel or overhead pedestrian crossing has been provided must yield to all vehicles on the roadway.[87]

Effect of Proposed Changes

The current definitions of "crosswalk" and "sidewalk" are revised in an attempt to clarify the terms with more easily understood language. The provisions relating to stopping for pedestrians at crosswalks where signage so indicates; i.e., crosswalks with stop signs, and at crosswalks with no traffic control signals and no signage are edited and collapsed into one subsection for clarity and brevity.

Section 7 amends s. 316.003(6), F.S., by deleting the current two-part definition of "crosswalk" and replacing it as follows:

- "Unmarked crosswalk" is defined to mean an unmarked part of the roadway at an intersection used by pedestrians for crossing the roadway.
- "Marked crosswalk" is defined to mean pavement marking lines on the roadway surface, which may include contrasting pavement texture, style, or colored[88] portions of the roadway at an intersection used by pedestrians for crossing the roadway.

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[82] Emphasis added. See *Safety Effects of Marked Versus Unmarked Crosswalks at Uncontrolled Locations, Final Report and Recommended Guidelines*, 2005, at 1. On file in the Senate Transportation Committee.
[83] See s. 316.003(47), F.S.
[84] Section 316.130(7)(a), F.S.
[85] Section 316.130(7)(b), F.S.
[86] Section 316.130(7)(c), F.S.
[87] *Id*.
[88] The current MUTCD definition of "crosswalk" also references "contrasting pavement texture, style, or color." *Supra*, note 69. The definition is found on p. 13 of the MUTCD, available by link on the FHWA website.

- "Midblock crosswalk" is defined to mean a location between intersections where the roadway surface is marked by pavement marking lines on the roadway surface, which may include contrasting pavement texture, style or colored portion of the roadway at a signalized or unsignalized crosswalk used for pedestrian roadway crossings and may include a pedestrian refuge island.

The bill also amends s. 316.003(47), F.S., to define "sidewalk" to mean: "That portion of a street intended for use by pedestrians, adjacent to the roadway between the curb or edge of the roadway and the property line. The current definitions of "crosswalk" and "sidewalk" are revised with "plain language." According to the FDOT, plain language provides pedestrians with tools necessary to make safer choices, which often results in fewer crashes. In addition, law enforcement officials are assisted in enforcing compliance with relevant laws. The FDOT further advises these changes will not result in fewer crosswalks getting marked; rather, the sole purpose is to utilize plain language to assist pedestrians and law enforcement.[89]

Section 9 amends s. 316.130(7)(b), F.S., to make that paragraph applicable to crosswalk locations where the approach is not controlled by a traffic signal or by, in plain language, a stop sign. A driver continues to be required to stop and remain stopped when encountering a pedestrian at these crosswalks when the pedestrian steps in or is in the crosswalk and is upon the half of the roadway upon which the vehicle is traveling and, the bill adds, when turning, or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger. Such locations may include midblock crosswalks. Paragraph (c) relating to crosswalks with no traffic control signals or signs is repealed, but a pedestrian's duty to yield to all vehicles on the roadway when crossing at a point where a pedestrian tunnel or overhead pedestrian crossing has been provided is retained and moved to paragraph (b).

Turnpike Tolls/Dormant Prepaid Accounts (Section 34)

Present Situation

SunPass is the Florida Turnpike's electronic, prepaid tolls program. SunPass is accepted on all Florida toll roads and nearly all toll bridges. The system uses electronic devices, called transponders, which are attached to the inside of a vehicle's windshield. The transponder sends a signal when the vehicle goes through a tolling location, and the toll is deducted from the customer's pre-paid account. The pre-paid accounts may be set up and replenished with a credit card or with cash.[90]

Under current law, any prepaid toll account of any kind which has been inactive for three years is presumed unclaimed. The Department of Financial Services (DFS) is required to process any such inactive account in accordance with applicable provisions of ch. 717, F.S., relating to the disposition of unclaimed property, and the FDOT is directed to close such accounts.[91]

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[89] *Supra*, note 69.
[90] *See* SunPass website, *Frequently Asked Questions:* https://www.sunpass.com/faq. Last visited February 11, 2015.
[91] See s. 338.231(3)(c), F.S.

Effect of Proposed Changes

Section 34 amends s. 338.231(3)(c), F.S., to increase the period after which a dormant prepaid toll account is presumed unclaimed from three years to ten years, thereby delaying disposition by the DFS and closing of the account by the FDOT. The FDOT advises:

> [T]he deletion is desired because, with multi-state toll interoperability already implemented, and national toll interoperability mandated by federal law,[92] prepaid customers may live outside Florida and use their Florida prepaid toll account only when vacationing or otherwise visiting the state.
>
> We believe that the affected citizens and businesses would react positively to the proposal as funds on a prepaid toll account continue to be managed by the Department. This provides the customers that have had no activity on a prepaid toll account for the 10 year time with continued direct access to the same agency with whom they established the account.[93]

Shared-Use Nonmotorized Trail (SunTrail) Network (Sections 3, 31, 37, 38, and 39)

Present Situation

Trail Development

The development of Florida's bicycle and pedestrian infrastructure did not begin in earnest until the late 20th Century. With the deregulation of the American railroad industry by the Staggers Rail Act of 1980[94], the state was presented with an immediate abundance of abandoned rail corridors. With the assistance of organizations such as The Rails-to-Trails Conservancy and The Trust for Public Land, the Florida Department of Transportation (FDOT), and the Florida Department of Environmental Protection (FDEP) coordinated to develop numerous abandoned rail corridors as shared-use "rail-trails" for nonmotorized transportation and recreation. Many of Florida's premier nonmotorized trails, including the Pinellas Trail, Tallahassee-St. Marks Trail, and the West Orange Trail, are a result of rail-trail conversions.

The second major thrust in trail development came in 1991 when Congress shifted transportation policy. The Intermodal Surface Transportation Efficiency Act, for the first time, identified pedestrian and bicycle facilities as components of the nation's transportation infrastructure, and created a dedicated funding source for multiuse trails and paths. With local governments serving as project sponsors,[95] many of the resulting projects are community-centric, short-distance trails, initiated by local governments and other governmental entities not traditionally associated with transportation development, such as water management districts and school districts.

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[92] The Moving Ahead for Progress in the 21st Century Act (MAP-21) requires implementation of technologies or business practices that provide for the interoperability of electronic toll collection on all Federal-aid highway toll facilities by October 1, 2016. See the FHWA website, *Investment* heading, *Tolling [1512]* subheading: http://www.fhwa.dot.gov/map21/summaryinfo.cfm. Last visited February 13, 2015.

[93] See the FDOT 2015 Legislative Proposal, *Dormant Accounts/Tolls/SunPass*. On file in the Senate Transportation Committee.

[94] Staggers Rail Act of 1980, Pub. L. 96-448, 94 Stat. 1895. Approved 1980-10-14.

[95] Resources for the Future Backgrounder "Federal Funding for Conservation and Recreation Trails" Joe Maher, February 2009 (http://www.rff.org/RFF/Documents/RFF-BCK-ORRG_DOT.pdf).

Trail Connectivity

Although locales throughout the state benefited from federal trail funding, an unintended consequence of trail development being initiated by numerous state entities and local governments is a collection of random trails rather than a statewide system. As a result, many trails lack connectivity with other trails and often serve no meaningful origins and destinations. Trail users are often required to use roads, sidewalks, and highways to connect trails or complete a trip. Many trail trips are "out-and-back" trips in which the origin and destination are the same. Such trips serve little to no transportation function and do not realize the full economic potential of a trail network.

A widely accepted tenet in trail development holds that the longer a given trail is, the greater its propensity for becoming a "destination trail," and the greater distance users will travel to use. Users traveling farther stay in the area longer and, consequently, increase spending in the area. Users of the Great Allegheny Passage/C&O Towpath, a 335-mile system of biking and hiking trails that connects Pittsburgh to Washington, DC, travel an average of 131 miles to a trailhead. Those traveling 50 miles or more had daily expenditures approximately twice that of users that traveled less.[96]

Recognizing this potential, the Florida Greenways and Trails Foundation (FGTF),[97] recently announced its priority to "close the gaps" on a 275-mile corridor between the Canaveral National Seashore near Titusville and St. Petersburg.[98] The "Coast-to-Coast Connector" will link communities along this destination trail, providing a year-round eco-tourism engine throughout the region. The Connector includes two of the state's most popular trails, the Pinellas Trail and the West Orange Trail, each of which have served approximately one million users per year and fueled the economic transformation of trail communities, particularly Dunedin and Winter Garden. Components of the Connector will also serve other planned trails including multi-day loop trails such as the 250-mile Heart of Florida Greenway[99] and the 300-mile St. Johns River-to-Sea Loop.[100]

Trail Benefits

In addition to the intrinsic values nonmotorized travel bring to community mobility, sustainable transportation, and personal health, trails provide the framework for, and access to, conservation lands and wildlife corridors. Trails also produce numerous quantifiable economic benefits:

- *Trails increase the value of nearby properties.* Based on an analysis of comparable trails from across the country, the presence of Miami-Dade County's Ludlam Trail will increase properties values within 1/2 mile of the trail, 0.32 percent to 0.73 percent faster than other

[96]The Great Allegheny Passage Economic Impact Study (2007–2008) Detailed Report The Progress Fund/Job #07-294b 91 March 9, 2009, page 70. (http://www.atatrail.org/docs/GAPeconomicImpactStudy200809.pdf)

[97] The FGTF, a direct support organization, exists to support the mission and programs of the Florida Department of Environmental Protection's Office of Greenways and Trails (OGT) as it continues toward establishing a statewide system of greenways and trails for recreation, conservation and alternative transportation.

[98] Florida Greenways and Trails Foundation Website: Coast-to-Coast Connector (http://fgtf.org/coast-to-coast/) (Last visited: 2/25/15)

[99] Florida Greenways and Trails Foundation Website: Heart of Florida Greenway (http://fgtf.org/maps/hof/overview.pdf) (Last visited 2/25/15)

[100]St. Johns River-to-Sea Loop Trail Status Update, September 2011. ETM, Inc. http://www.etminc.com/SJR2C/sg_userfiles/SJR2C_Summary_Report_09-19-11.pdf

properties throughout the county. This translates into a total property value increase over a 25 year period of between $121 million and $282 million.[101] A survey co-sponsored by the National Association of Home Builders and the National Association of Realtors found that proximity to nonmotorized trails came in second only to highway access when recent home buyers were asked about the "importance of community amenities."[102] A study of property values near trails in Delaware found that properties within 50 meters of the bike paths sell for $8,800 more than other similar homes.[103]

- *Trails boost spending at local businesses.* An economic impact analysis of Orange County trails found that in 2010, average spending per trail user is $20 per visit, representing food and beverages, transportation, books and maps, bike maintenance, rentals and more. The West Orange Trail supported 61 jobs, and represented an estimated economic impact of $5 million for Downtown Winter Garden. Longer, "destination trails," increase spending and benefit hotels, bed and breakfasts, and outdoor outfitters. A study of the Great Allegheny Passage, a 132-mile corridor in Pennsylvania, found that users reporting longer average travel distances to the trail, were more likely to spend successive days on or near the trail. Those who reported an overnight stay in conjunction with their trip averaged spending $203 per person.[104] A survey on the Greenbrier River Trail, an 81-mile corridor in West Virginia, found an overwhelming majority of trail users were highly educated professionals with high income levels, 2/3 were from outside of West Virginia, 93 percent were staying in the area from one to four days, 58 percent spent between $100 and $500 in the area, and 93 percent indicated that they were highly likely to plan a return trip.[105]
- *Trails influence business location and relocations decisions.* Companies often choose to locate in communities that offer a high level of amenities to employees as a means of attracting and retaining top-level workers. Trails can make communities attractive to businesses looking to expand or relocate both because of the amenities they offer to employees and the opportunities they offer to cater to trail visitors.[106]
- *Trails revitalize depressed areas.* In Dunedin, Florida, after the abandoned CSX railroad was transformed into the Pinellas Trail, the downtown went from a 30 percent storefront vacancy rate to a 95 percent storefront occupancy.[107]
- *Trails provide sustainable tourism opportunities.* The Outer Banks of North Carolina generates $60 million in economic activity through bicycle tourism. The one-time investment of $6.7 million on bicycle infrastructure has resulted in an annual nine-to-one return. Outer Banks shows bicycle tourists tend to be affluent (half earn more than $100,000 a year, 87 percent earn more than $50,000) and educated (40 percent have a masters or doctoral

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[101] Miami-Dade County Trail Benefits Study: Ludlam Trail Case Study (http://atfiles.org/files/pdf/Miami-Dade-Ludlam-Trail-Benefits.pdf)
[102] (http://www.americantrails.org/resources/benefits/homebuyers02.html)
[103] Lindsey et al, "Property Values, Recreation Values, and Urban Greenways," Journal of Park and Recreation Administration, V22(3) pp.69-90.
[104] *The Great Allegheny Passage Economic Impact Study* (2007–2008) Detailed Report The Progress Fund/Job #07-294b 91 March 9, 2009, page 91 (http://www.atatrail.org/docs/GAPeconomicImpactStudy200809.pdf)
[105] *Maximizing Economic Benefits from a Rails-to-Trails Project in Southern West Virginia – A Case Study of the Greenbrier River Trail*, May 2001. Raymond Busbee, Ph.D. Marshall University.
[106] Economic Impacts of Protecting Rivers, Trails, and Greenway Corridors: Corporate Relocation and Retention. Rivers, Trails and Conservation Assistance Program, National Park Service 1995
[107] FDEP Presentation: "*The Impact of Trails on Communities*" Office of Greenways and Trails. (http://www.opportunityflorida.com/pdf/Jim%20Wood%20-%20Trails%20and%20Economic%20Impact%20-%20Rural%20Summit.pdf)

degree). More than half of survey respondents said bicycling had a strong influence on their decision to return to the area. Two-thirds of respondents said that riding on bike facilities made them feel safer and three-fourths said that more paths, shoulders and lanes should be built.[108] A trail can be regarded as a product that is able to provide a sustainable form of tourism resting on a 'quadruple bottom line' of environmental, social, economic and climate responsiveness."[109]

- *Trail development creates more jobs than road development.* A national comparison of the number of jobs created per $1 million spent on various types of transportation projects found that for every $1 million spent on the development of multi-use trails, 9.57 jobs were created while road-only development yielded 7.75 jobs.[110]

Effect of Proposed Changes

Generally, the bill creates the Shared-Use Nonmotorized Trail (SunTrail) Network as a component of the Florida Greenways and Trail System. The FDOT is given primary responsibility for developing and maintaining the SunTrail network, although provisions are included to allow the FDOT to outsource maintenance and to enter into trail sponsorship agreements with public and private entities. Specific provisions of the bill follow.

Section 3 amends s. 260.0144 F.S., to remove SunTrail components from existing provisions for sponsorship of state trails by not-for-profit or private sector entities. Other greenways and trails remain eligible for sponsorship under the section. Section 12 of the bill creates a new s. 339.83, F.S., to provide for sponsorship of SunTrail components.

Section 31 amends s. 335.065, F.S., to remove the FDOT's authority to enter contracts for commercial sponsorship of multi-use trails. This authority is provided in new section 339.83, F.S., which expands sponsorship opportunities for SunTrail components.

Section 37 creates s. 339.81, F.S., to establish the Florida Shared-Use Nonmotorized Trail (SunTrail) Network. The bill provides legislative findings and intent and creates the SunTrail Network as a component of the Florida Greenways and Trails System established in ch. 260 of the Florida Statutes. SunTrail components will provide nonmotorized travel opportunities between and within communities, conservation areas, state parks, beaches and other natural and cultural attractions.

SunTrail components will not include sidewalks, nature trails, or loop trails in a single park. Bicycle lanes on roadways may not be considered components of the SunTrail network unless the lane is used to connect two or more nonmotorized trails and is no more than one-half mile long. Exceptions are provided to include some on-road components of the Florida Keys Overseas Heritage Trail within the SunTrail Network.

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[108] Lawrie, et al, "*Pathways to Prosperity: the economic impact of investments in bicycling facilities*," N.C. Department of Transportation Division of Bicycle and Pedestrian Transportation, Technical Report, July 2004. http://www.ncdot.org/transit/bicycle/safety/safety_economicimpact.html.

[109] Reis, A.C.; Jellum, C. (2012). Rail trails development: a conceptual model for sustainable tourism. Tourism Planning and Development,9(2): 133-148

[110] Pedestrian And Bicycle Infrastructure: A National Study Of Employment Impacts Heidi Garrett-Peltier Political Economy Research Institute University of Massachusetts, Amherst June 2011

The FDOT will include SunTrail projects within its five-year Work Program. Beginning in Fiscal Year 2015-2016, the FDOT is required to allocate a minimum of $50 million annually for SunTrail projects in the Work Program. The FDOT and other agencies and units of government are authorized to expend funds and accept gifts and grants of funds, property, and property rights for the development of the SunTrail network. The FDOT is authorized to enter into memoranda of agreement with other governmental entities and contract with private entities to provide maintenance services on individual components of the network and may adopt rules to assist in developing and maintaining the network.

Section 38 creates s. 339.82, F.S., directing the FDOT to develop the SunTrail Network Plan in coordination with FDEP, MPOs, local governments, other public agencies, and the Florida Greenways and Trails Council. The plan must include:

- A needs assessment, including a comprehensive inventory of existing facilities;
- A process that prioritizes projects that:
  - Are identified by the Florida Greenways and Trails Council as priority projects;
  - Connect components by closing gaps in the network; and
  - Maximize use of federal, local, and private funds;
- A map showing existing and planned facilities;
- A finance plan in five- and ten-year cost-feasible increments;
- Performance measures focusing on trail access and connectivity;
- A timeline for completion of the base network; and
- A marketing plan prepared in conjunction with Visit Florida.

Section 39 creates s. 339.83, F.S., to provide for sponsorship of SunTrail components by not-for-profit or private sector entities. The bill provides guidance on sponsor signs, markings, and exhibits and provides for trail marketing materials to recognize sponsors.

Vehicle Miles Traveled Pilot (Section 57)

Present Situation

Concern regarding the sustainability of transportation funding sources remains as a focus of attention in the transportation arena. A number of factors have together caused a reduction in transportation revenues:

- The bulk of federal surface transportation funding comes from the federal taxes on gasoline and diesel fuel assessed on a per-gallon basis, and the tax rates are not adjusted for inflation.
- The total number of vehicle miles traveled (VMT) has declined in recent years, resulting in fewer gallons of gas and diesel sold upon which to assess federal, state, and local taxes. This number is not expected to return to previously realized growth levels.
- Vehicle fuel efficiency continues to increase, also lowering the demand for gallons of gas and diesel.[111]

[111] See the Center for Urban Transportation Research, *Florida MPOAC Transportation Revenue Study*, July 2012. On file in the Senate Transportation Committee.

Various alternatives to the existing gas and diesel taxes have been considered. One alternative is to replace those taxes with a "vehicle-miles-traveled tax" or a "mileage-based user fee":

> Mileage-based user fees (MBUF) are an alternative way to finance the construction and maintenance of roads. Rather than the current gas tax method, which is based on the amount of fuel purchased at the pump, a VMT tax is based on how many miles are driven.[112]

According to the Mileage-based User Fee Alliance (MBUFA), use of a distance-traveled mechanism is already being successfully implemented in several European nations and in New Zealand. Domestically, "…states are taking a lead in helping to resolve many of the implementation questions by working with academia, industry partners and each other to devise mileage-based user fee pilot projects around the country."[113]

The State of Oregon appears to have made the most progress in the United States, having already completed two pilots and planning implementation of a voluntary program, beginning July 1, 2015, using 5,000 vehicles.[114] Interest has been expressed in developing a Florida-specific, implementable pilot project to determine the efficacy of a VMT fee as a viable alternative to per-gallon gas and diesel taxes.

Effect of Proposed Changes

Section 57 directs the Center for Urban Transportation Research at the University of South Florida (CUTR) to conduct a study on the viability of implementing a system that charges drivers based on their vehicle miles traveled (VMT), as an alternative to the present fuel tax structure, to fund transportation projects. The study is to inventory previous research and findings from pilot projects conducted in other states.

At a minimum, the study must address previous work conducted in the following broad areas.

- Assessment of technologies;
- Behavioral and privacy concerns;
- Equity impacts; and
- Policy implications of a VMT road charging system.

The study must also quantify the current costs to collect traditional highway user fees, synthesize findings of completed research and demonstrations, and analyze their applicability to Florida. The CUTR must present the findings of the study phase to the Legislature by January 30, 2016.

In the course of the study, and in consultation with the Florida Transportation Commission, the CUTR is directed to establish the framework for a pilot project that will evaluate the feasibility

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[112] See Mileage-Based User Fee Alliance website: http://mbufa.org/about.html. Last visited February 26, 2015.
[113] See MBUFA website: http://mbufa.org/where.html. Last visited February 26, 2015. Colorado, Minnesota, Nevada, New York City, Texas, Washington, the University of Iowa, and the I-95 Corridor Coalition have all undertaken efforts with respect to a mileage-based fee.
[114] See *Oregon's VMT Pilot to Begin its Third Phase – Road usage Charge Program Update*: http://www.nlc.org/media-center/news-search/oregon%E2%80%99s-vmt-pilot-to-begin-its-third-phase-road-usage-charge-program-update. Last visited February 26, 2015.

of implementing a VMT charging system. In designing the framework, the CUTR is directed to address at a minimum the following elements:

- The geographic location for the pilot;
- Special fleets or classes of vehicles;
- Evaluation criteria for the demonstration;
- Consumer choice in the method of reporting miles traveled;
- Privacy options for participants in the pilot project;
- The recording of miles traveled with and without locational information;
- Records retention and destruction; and
- Cyber security.

The pilot project design must be completed by December 31, 2016, and submitted in a report to the Legislature, so that implementation can occur in 2017.

Northwest Florida Regional Transportation Finance Authority (Sections 42 through 56)

Present Situation

Escambia and Santa Rosa counties, are currently served by the Northwest Florida Transportation Corridor Authority and the Santa Rosa Bay Bridge Authority. According to a report by the Florida Transportation Commission (FTC), the NFTCA is not currently operating any facility and is operating under an agreement using federal funding for administration, professional services, and regional transportation planning. The Santa Rosa Bay Bridge Authority owns the Garcon Point Bridge in southwest Santa Rosa County. Florida's Turnpike Enterprise provides toll operations.[115]

Effect of Proposed Changes

The bill creates ch. 345 of the Florida Statutes, the Northwest Florida Regional Transportation Finance Authority Act, consisting of ss. 345.0001 through 345.0014, F.S. The bill authorizes Escambia County, alone or together with a consenting Santa Rosa County, to form a regional finance authority in the northwest region of the state. The governing body of the Authority consists of two resident members from each participating county appointed by the county commission of each county, an equal number to be appointed by the Governor, and the FDOT's District Three secretary. County commission appointees must represent the business and civic interests of the relevant community, if possible.

The Authority is authorized to construct, operate, and maintain a regional system in the area served, except for an existing system for transporting people and goods owned by another non-consenting entity. Broad powers are granted to the Authority, including, but not limited to:

- The exercise of eminent domain;
- The establishment and collection of rates and fees, which power may be assigned or delegated to the FDOT;

[115] Florida Transportation Commission, *Transportation Authority Monitoring and Oversight Fiscal Year 2013 Report*, at 163, *available at*: http://www.ftc.state.fl.us/reports/TAMO.shtm. Last visited February 16, 2015.

- The power to borrow money and issue bonds[116] to finance the system and to secure the payment of such bonds by a pledge of system revenues, including any municipal or county funds received by the Authority under an agreement with the municipality or county.
- The power to enter into contracts, including, but not limited to, partnerships providing for participation in system ownership and revenues;
- The power to employ an executive director, attorney, staff, and consultants, with the FDOT furnishing the services of an FDOT employee to act as the executive director upon the request of the Authority.

The FDOT is deemed the Authority's agent for performing all construction, extension, and improvement phases of a project. After the issuance of bonds to finance construction, the Division of Bond Finance and the Authority are required to transfer the necessary funds to the credit of the State Transportation Trust Fund. Alternatively, with the FDOT's consent and approval, the Authority may appoint a local, FDOT-certified agency to administer federal-aid projects.

The FDOT is also deemed the Authority's agent for operating and maintaining the system, except for transit facilities, and the costs incurred by the FDOT must be reimbursed from system revenues. However, the Authority remains obligated as principal to operate and maintain the system.

At the request of the Authority and subject to appropriation by the Legislature, the FDOT may pay the cost of financial, engineering, or traffic feasibility studies or of the design, financing, acquisition, or construction of an Authority project that is included in the ten-year Strategic Intermodal System (SIS) Plan.[117] The FDOT is required to include funding for such payments in its legislative budget request. The request for funding may be included in the FDOT's five-year Tentative Work Program. However, the request must appear as a distinct funding item in the legislative budget request and be supported by a financial feasibility test.

The FDOT may not make a budget request unless the estimated net revenues of the proposed project will be sufficient to pay at least 50 percent of the annual debt service on the bonds associated with the project by the end of 12 years of operation, and at least 100 percent of the same by the end of 30 years of operation.[118] Funding for a project must appear in the General Appropriations Act as a distinct fixed capital outlay item and must clearly identify the related project.

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[116] A resolution authorizing issuance of bonds on behalf of the authority under the State Bond Act and pledging system revenues must require periodic deposits of system revenues into appropriate accounts in amounts sufficient to pay the costs of O&M for the current fiscal year and to reimburse the FDOT for any unreimbursed O&M costs from prior fiscal years before revenues of the system are deposited for payment of principal and interest on such bonds.

[117] The Strategic Intermodal System (SIS) is the statewide network of high priority transportation facilities, including the state's largest and most significant airports, spaceports, deepwater seaports, freight rail terminals, interregional rail and bus terminals, rail corridors, urban fixed guideway transit corridors, waterways, and highways. The SIS is the state's highest statewide priority for transportation capacity improvements. See the FDOT SIS brochure, available at: http://www.dot.state.fl.us/planning/sis/Strategicplan/. Last visited February 17, 2015.

[118] Equivalent to the economic feasibility test for proposed Turnpike projects under s. 338.221(8)(a), F.S.

The FDOT may participate in projects that, at a minimum, serve national, statewide, or regional functions; are identified in the capital improvements element of a comprehensive plan; comply with local government policies in such plans relative to corridor management; are consistent with the SIS; and have a local, regional, or private financial match.

Before approving a proposed project, the FDOT must determine that the project:

- Is in the public's best interest;
- Does not require the use of state funds, unless the project is on the State Highway System;
- Has adequate safeguards in place to ensure no additional imposed costs or service disruptions if the FDOT cancels or defaults on the agreement, and to ensure that the FDOT and the Authority have the opportunity to add capacity to the project and other transportation facilities serving similar origins and destinations.

The FDOT may require any contribution to be repaid from tolls of the project, other Authority revenue, or other sources of funds. The FDOT must receive a share of the Authority's net revenues equal to the ratio of the FDOT's total contributions to the Authority to the sum of:

- The FDOT's total contributions;
- Any local government contributions to the cost of revenue-producing Authority projects; and
- The sale proceeds of Authority bonds after payment of costs of issuance.

The Authority is exempt from paying any taxes or assessments upon any Authority property, rates, fees, or income, etc., or upon bonds issued by the Authority. Issuance of bonds to finance the cost of extension or improvement of a system is authorized without compliance with any other law.

Fort Myers Urban Office/Staffing and Responsibilities (Section 1)

Present Situation

Current law organizes the operations of the FDOT into seven districts, each headed by a district secretary, as well as a turnpike enterprise and a rail enterprise. Section 20.23(4)(b), F.S., authorizes each district secretary to appoint up to three district directors. Section 20.23(4)(d), F.S., makes the district director for the Fort Myers Urban Office of the FDOT responsible for developing the five-year Transportation Plan for Charlotte, Collier, DeSoto, Glades, Hendry, and Lee Counties, and makes the Urban Office responsible for providing policy, direction, local government coordination, and planning for those counties. The office and the counties are contained within FDOT's District One, which currently provides policy, direction, and planning for all counties in District One, not just those listed above.

The FDOT also has Urban Area offices located in Jacksonville and Orlando. The FDOT advises all urban offices are satellite offices for their main District Office, and all are under the direction of the respective District Secretary. However, only the Fort Myer's Urban Office is referenced in statute with express direction as to staffing and responsibilities.

The FDOT advises that insertion of the specific staffing and responsibility assignment was in the nature of a precursor to what might have, but did not, become an FDOT District Eight. No district director is currently physically housed in the Fort Myers Urban Office. Responsibility for

providing policy, direction, and planning for the listed counties occurs at the District One level, leaving the Fort Myers Urban Office largely responsible for local government coordination in support of those activities, as well as coordination of joint participation and local funding agreements for transportation projects, in the listed counties.[119]

Effect of Proposed Changes

Section 1 repeals s. 20.23(4)(d), F.S., to remove the Fort Myers Urban Office District Director responsibility for developing the five-year Transportation Plan for the specified counties and remove the specified Urban Office responsibilities. The FDOT advises the existence of the Fort Myers Urban Office is in no way affected, and the office will continue to provide local government coordination in the specified counties. The FDOT advises the revisions provide flexibility to make efficient best-practices human resource decisions, while it continues to provide service in the specified counties.[120]

511 Traveler Information Services (Sections 28, 29, and 30)

Present Situation

511 is a national abbreviated dialing code assigned by the Federal Communications Commission (FCC) to be used exclusively for access to travel information services.[121] The code enables a caller to connect to a location in a network without using a seven or ten-digit telephone number. The network is pre-programmed to translate a three-digit code into the appropriate seven or ten-digit code and route the call accordingly.[122]

All of Florida's interstates, toll roads, and other major metropolitan roadways are covered by the 511 system. Currently, in addition to provision of services via the toll-free 511 telephone system, motorists may also receive travel information by:

- Visiting FL511.com for interactive roadway maps showing traffic congestion and crashes, travel times, and traffic camera views;
- Downloading a free mobile app available on Google Play or Apple App Store; or
- Following one of the 12 statewide, regional, or roadway specific Twitter feeds (#FL511).[123]

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[119] Conversation with FDOT Legislative and Legal Staff during joint meeting with Senate and House staff, January 30, 2015.
[120] See the FDOT 2015 Legislative Proposal form, *Fort Myers Urban Office*. On file in the Senate Transportation Committee.
[121] See Federal Communications Commission Order No. 00-256, *Third Report and Order and Order on Reconsideration*, July 21, 2000. Copy on file in the Senate Transportation Committee.
[122] *Id.*, at 4.
[123] See 511News.com January 20, 2015, press release http://www.511news.com/news-releases/fdots-511-on-the-lookout-to-help-birdwatchers-travel-to-space-coast/ for additional information on Florida 511 features. Last visited February 4, 2015.

The FDOT, as the state's lead agency for implementing 511 services and the point of contact for coordinating 511 services with *telecommunications*[124] service providers, is statutorily tasked with the following duties:

- Implementation and administration of 511 services in the state;
- Coordination with other transportation authorities in the state to provide multimodal traveler information through 511 services and other means;
- Development of uniform standards and criteria for the collection and dissemination of traveler information using the 511 number or other interactive voice response systems; and
- Entrance into joint participation agreements or contracts with highway authorities and public transit districts to share the costs of implementation and administration.[125]

"511" or "511 services" are currently defined as three-digit *telecommunications dialing to access interactive voice response telephone*[126] traveler information services as defined by the FCC Order No. 00-256, July 1, 2000.[127] "Interactive voice response" is defined as a software application that accepts a combination of voice *telephone* input and touch-tone keypad selection and provides appropriate responses in the form of voice, fax, callback, e-mail, and other media.[128] The FDOT's existing rulemaking authority is similarly limited to coordination of 511 traveler information *phone* services.[129] And the FDOT's existing powers and duties likewise limit the FDOT's provision of services to *interactive voice response telephone systems access.*[130]

The referenced duties and definitions are essentially limited to *telephonic* access to traveler information and do not recognize the additional methods by which travelers may obtain the information using more recent technology, such as a web site, mobile apps, Twitter accounts, and text alerts.

Effect of Proposed Changes

The bill in general revises 511 traveler information services statutes to remove language limiting the provision of services through only telephonic access. These revisions recognize newer technologies and methods for providing traveler information.

Section 28 amends s. 334.03(36), F.S., to remove from the definition reference to *three-digit telecommunications dialing to access interactive voice response telephone* traveler information in favor of *all* traveler information services. That section also amends s. 334.03(37), F.S., to repeal the definition of "interactive voice response," as the phrase is no longer to be used.

Section 29 amends s. 334.044(31), F.S., to revise the FDOT's 511 oversight duty by deleting reference to *the provision of interactive voice response telephone systems* and a reference to the 511 *number*, leaving the FDOT responsible for oversight via the 511 *services* as assigned by the FCC.

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[124] Emphasis added.
[125] See s. 334.60, F.S.
[126] Emphasis added.
[127] See s. 334.03(36), F.S.
[128] See s. 334.03(37), F.S.
[129] See s. 334.60, F.S.
[130] See s. 334.044(31), F.S.

Section 30 amends s. 334.60, F.S., striking reference to the FDOT's coordination *with telecommunications service providers*, to allow the FDOT's continued coordination of *all* traveler information services with providers using newer technologies and methods. A reference to the 511 *number or other interactive voice response systems* is removed, in favor of 511 *services*, and a reference to *phone* services is deleted.

The FDOT advises that the effectiveness of disseminating traveler information through interactive voice response is becoming less advantageous. While the FDOT may decide to discontinue providing an interactive voice response system, traveler information will be provided via the most advanced technologies, thereby ensuring distribution of information to the largest possible audience. Armed with the information, users are able to make informed travel decisions, which improves safety and mobility on Florida roadways.[131]

Inspector General Appointment (Section 1)

Present Situation

Prior to 2014, agency inspectors general were appointed by and reported to agency heads. The Legislature in 2014 revised the law with respect to agency inspector general appointment to provide, for agencies such as the FDOT under the jurisdiction of the Governor, agency inspectors general are to be appointed by and report to the Chief Inspector General.[132] Section 20.23(3)(d), F.S., continues to require the FDOT Secretary to appoint an inspector general directly responsible to and serving at the pleasure of the Secretary, in direct conflict with the revisions made in 2014 to s. 20.55, F.S.

Effect of Proposed Changes

Section 1 repeals s. 20.23(3)(d), F.S., to remove the directly conflicting and obsolete direction to the FDOT Secretary regarding inspector general appointment, thereby conforming to the revisions to s. 20.55, F.S., made by the 2014 Legislature.

Transportation Corridors (Section 41)

Present Situation

Section 341.0532, F.S., enacted in 2003, currently defines "statewide transportation corridor" as a system of transportation infrastructure that collectively provides for the efficient movement of significant volumes of intrastate, interstate, and international commerce by seamlessly linking multiple modes of transport. That section also lists eight corridors deemed "Florida's statewide transportation corridors."

In the same year, the Legislature enacted the Strategic Intermodal System (SIS).[133] SIS facilities collectively serve 56 percent of State Highway System traffic, 70 percent of State Highway System truck traffic, 89 percent of interregional bus and rail passengers, 99 percent of

[131] See the FDOT 2015 Legislative Proposal form, *Modify definition/responsibilities of 511*, on file in the Senate Transportation Committee.
[132] See Enrolled HB 1385 (2014).
[133] See the web link, *supra*, note 105, for additional information on the SIS.

commercial air passengers and cargo, and 100 percent of rail and waterborne freight tonnage and cruise ship passengers.[134] SIS facilities are designated by the FDOT based on criteria provided in ss. 339.61 through 339.64, F.S. The corridors currently listed in s. 341.0532, F.S., with limited exception,[135] are also part of the SIS. Section 341.0532, F.S., is not referenced elsewhere in the Florida Statutes, and the FDOT advises that section is not used in performing any of its duties and responsibilities. The statute appears to be obsolete.

Effect of Proposed Changes

Section 41 repeals s. 341.0532, F.S., which created Florida's statewide transportation corridors. The corridors continue to be managed through their inclusion in the SIS.

Obsolete References/Beeline-East Expressway and Navarre Bridge (Section 32)

Present Situation

Section 338.165(4), F.S., authorizes the FDOT to request the DBF to issue bonds secured by toll revenues collected on the Alligator Alley, the Sunshine Skyway Bridge, the Beeline-East Expressway, the Navarre Bridge, and the Pinellas Bayway to fund transportation projects located within the county or counties in which the project is located and contained in the FDOT's adopted Work Program. The Beeline-East Expressway (re-named the Beachline East Expressway) became part of the Turnpike Enterprise on July 1, 2012, pursuant to ch. 2012-128, L.O.F.[136] The Navarre Bridge is now county-owned and no longer used for toll revenue. The references to each facility in s. 338.165(4), F.S., are now obsolete.

Effect of Proposed Changes

Section 32 s. 338.165(4), F.S., to remove obsolete references to the Beeline-East Expressway and the Navarre Bridge within the FDOT's authority to request issuance of bonds secured by toll revenues from certain toll facilities, as the expressway and bridge are no longer owned by the FDOT.

Broward County Expressway Authority/Obsolete Bond Language (Section 34)

Present Situation

The Broward County Expressway Authority built the Sawgrass Expressway, a 23-mile facility in Broward County. The expressway opened to traffic in 1986 and extends from I-75 in Weston to its interchange with the Florida Turnpike and Southwest 10th Street in Deerfield Beach. In 1990, the FDOT acquired the expressway, and it became a part of Florida's Turnpike System.[137] The Expressway Authority was abolished in 2011.[138] Section 338.221(5), F.S., generally authorizes the FDOT, in each fiscal year during which any of the Broward County Expressway Authority bond series 1984 and series 1986-A remain outstanding, to pledge revenues from the turnpike

[134] See the 2014 FDOT *Strategic Intermodal System Briefing*. On file in the Senate Transportation Committee.
[135] See the FDOT email, March 2, 2015. On file in the Senate Transportation Committee.
[136] See s. 338.165(10), F.S.
[137] See the FDOT website: http://www.floridasturnpike.com/about_system.cfm#7. Last visited February 23, 2015.
[138] See s. 18, ch. 2011-64, Laws of Florida.

system to the payment of such bonds and the operation and maintenance of the Sawgrass Expressway. No such bonds are currently outstanding, and the language is obsolete.

Effect of Proposed Changes

Section 34 repeals the obsolete language in s. 338.231(5), F.S., relating to bonds of the abolished Broward County Expressway Authority.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The following sections of PCS/CS/SB 1554 will have the indicated impact on the private sector:

Sections 3, 31, 37, 38, and 39: Significant positive economic development is expected from development of the SunTrail Network.

Section 5 and 6: Increased FSTED funding may generate a positive economic impact for the private sector.

Sections 7 and 12: The trucking industry is expected to experience a positive fiscal impact due to the decreased fines assessed for IRP violations.

Sections 7 and 9: To the extent that the bill reduces the number and severity of bicycle and pedestrian deaths and injuries, a positive but indeterminate fiscal impact to bicyclists and pedestrians is expected.

C. Government Sector Impact:

The following sections of the bill will have the indicated impacts:

Sections 3, 31, 37, 38, and 39: Funding for the SunTrail Network in the amount of $50 million is authorized for Fiscal Year 2015-2016 in SB 2500 (the Senate's General Appropriations Bill for Fiscal Year 2015-2016). **Sections 5 and 6:** The additional $10 million in FSTED funding will assist seaports with various projects and is expected to generate a positive economic impact by helping to increase the competitiveness of Florida's seaports. Projects planned for various ports include dredging, berth rehabilitation, and the expansion of facilities. The additional FSTED funding will require the FDOT to reallocate budget authority within the state's $9.3 billion transportation Work Program.

Sections 7 and 12: The FDOT advises it expects a negative annual fiscal impact of approximately $1.6 million due to a decrease in the fines assessed for IRP violations.[139] A portion of the decrease, approximately $500,000, is attributed to the revised IRP Full Reciprocity Plan.

Section 11: The FDOT may experience an indeterminate positive fiscal impact if the increased allowable trailer length used to transport manufactured buildings results in issuance of more special permits.

Section 40: According to the Office of Economic and Demographic Research (EDR), the additional workload and resources associated with the evaluation and determination of the economic benefits of the state's investment in the FDOT Adopted Work Program annually can be absorbed by existing staff. The FDOT and its district offices may experience additional workload to provide the necessary data to EDR; however, the workload is currently indeterminate.

Sections 35 and 36: MPOs may experience minimal expenses in considering autonomous vehicle technology when developing long-range transportation plans. Likewise for the FDOT when updating the SIS Plan.

Section 57: The bill authorizes the Center for Urban Transportation Research at the University of South Florida to expend up to $400,000 for the vehicle miles traveled study and pilot project design, contingent upon legislative appropriation. There is no funding in SB 2500 for this study.

Sections 42 through 56: The fiscal impact of authorizing creation of the Northwest Florida Regional Transportation Finance Authority is indeterminate.

VI. Technical Deficiencies:

None.

[139] See the FDOT's response to House committee staff's *DOT Package Questions from Committee Staff*, on file in the Senate Transportation Committee.

VII. Related Issues:

Section 4 relating to the Port of Palm Beach appears to conflict with Article III, section 10 of the State Constitution, which requires that a notice of intent to seek enactment of local law be published in the manner provided by general law[140] or that the local law be conditioned to take affect only upon approval by vote of the electors of the area affected.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 20.23, 215.82, 260.0144, 311.07, 311.09, 316.003, 316.0895, 316.130, 316.303, 316.515, 316.545, 333.01, 333.025, 333.03, 333.04, 333.05, 333.06, 333.07, 333.09, 333.11, 333.12, 334.03, 334.044, 334.60, 335.065, 338.165, 338.227, 338.231, 339.175, and 339.64.

This bill creates the following sections of the Florida Statutes: 288.365, 333.135, 339.81, 339.82, 339.83, 345.0001, 345.0002, 345.0003, 345.0004, 345.0005, 345.0006, 345.0007, 345.0008, 345.0009, 345.001, 345.0011, 345.0012, 345.0013, and 345.0014.

This bill repeals the following sections of the Florida Statutes: 333.065, 333.08, 333.10, 333.14, and 341.0532.

This bill reenacts section 350.81 of the Florida Statutes.

The bill creates three undesignated sections of Florida law.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

Recommended CS/CS by Appropriations Subcommittee on Transportation, Tourism, and Economic Development on April 14, 2015:
The committee substitute recommends modifying the bill by:

- Granting authority to the Port of Palm Beach to apply for designation as a foreign-trade zone, through an alternate site framework to include all of Palm Beach, Martin and St. Lucie counties;
- Removing provisions that revised the membership of the Hillsborough County Public Transportation Commission; and
- Conforming language relating to the Florida Shared-Use Nonmotorized Trail (SunTrail) Network to SB 918.

CS by Transportation on March 29, 2015:
The CS modifies the bill by:

- Revising several sections of the bill dealing with ch. 333, F.S., relating to airport zoning regulations, to make final glitch corrections and provide uniformity in the language;

[140] See sections 11.02, 11.021, and 11.03, F.S.

- Authorizing the FDOT to assume responsibilities under the National Environmental Policy Act with respect to highway projects, as authorized by federal law;
- Providing that the provisions revising the membership of a legislatively-created independent special district do not apply to certain entities;
- Adding provisions of SB 1186 requiring a vehicle-miles-traveled study, requiring consideration of infrastructure and technological improvements necessary to accommodate advances in vehicle technology, creating the Northwest Florida Regional Transportation Authority Act, extending the allowable length of certain trailers, and repealing obsolete language;
- Defining "driver-assistive truck platooning," excluding certain vehicles equipped with such technology from provisions relating to vehicles following too closely, and including such vehicles in the provisions relating to television-type or other electronic displays visible to a driver.
- Removing Port Citrus from membership on the FSTED Council and repealing related provisions;
- Removing authorization of a public transit provider to contract with a transportation network company to provide public transit services;
- Removing direction to the Commission for the Transportation Disadvantaged and the Center for Urban Transportation Research to develop and implement a pilot program with a public transit provider to provide paratransit services; and
- Extending from 53 to 57 feet the allowable length of certain semitrailers authorized to operate on public roads.

B. Amendments:

None.

777084

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/22/2015	.	
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The Committee on Appropriations (Hays) recommended the following:

Senate Amendment (with title amendment)

Between lines 617 and 618
insert:
Section 8. Paragraph (a) of subsection (2) of section 316.0776, Florida Statutes, is amended to read:
316.0776 Traffic infraction detectors; placement and installation.—
(2)(a) If the department, county, or municipality installs a traffic infraction detector at an intersection, the

777084

11 department, county, or municipality shall notify the public that
12 a traffic infraction device may be in use at that intersection
13 and must specifically include notification of camera enforcement
14 of violations concerning right turns. A notice of a violation
15 may not be issued to a motorist unless signage notifying the
16 public of the traffic infraction detector is present, ~~Such~~
17 ~~signage used to notify the public must meet~~ meets the
18 specifications for uniform signals and devices adopted by the
19 Department of Transportation pursuant to s. 316.0745~~.~~ , and:
20 1. Is 3 feet wide by 2 feet tall and displays visible,
21 prominent letters at least 6 inches tall stating "Photo
22 Enforced"; and
23 2. Is installed at an intersection having a traffic
24 infraction detector on or before November 30, 2015. The signage
25 must be prominently displayed over the intersection and be
26 clearly visible to drivers traveling in all directions. The
27 traffic infraction detector company is responsible for any costs
28 associated with the manufacture and installation of such
29 signage.
30
31 ========== T I T L E A M E N D M E N T ==========
32 And the title is amended as follows:
33 Delete line 37
34 and insert:
35 redefining terms; amending s. 316.0776, F.S.;
36 prohibiting violations from being issued unless
37 traffic infraction detector notification signage is
38 present, meets certain requirements, and is installed
39 at an intersection with a traffic infraction detector

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40 by a certain date; requiring that the traffic
41 infraction detector company be responsible for certain
42 costs of the signage; amending s. 316.0895, F.S.;

461634

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/22/2015	.	
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The Committee on Appropriations (Hays) recommended the following:

1 **Senate Amendment to Amendment (777084)**
2
3 Delete lines 20 - 22
4 and insert:
5 1. Displays visible, prominent letters stating "Photo
6 Enforced" and displays "Includes Right Turns" as appropriate,
7 consistent with the Department of Transportation's
8 specifications; and

850140

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/22/2015	.	
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The Committee on Appropriations (Hays) recommended the following:

1 **Senate Amendment (with title amendment)**
2
3 Between lines 617 and 618
4 insert:
5 Section 10. Paragraph (b) of subsection (1) and paragraph
6 (a) of subsection (4) of section 316.0083, Florida Statutes, are
7 amended to read:
8 316.0083 Mark Wandall Traffic Safety Program;
9 administration; report.—
10 (1)

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11 (b)1.a. Within 30 days after a violation, notification must
12 be sent to the registered owner of the motor vehicle involved in
13 the violation specifying the remedies available under s. 318.14
14 and that the violator must pay the penalty of $158 to the
15 department, county, or municipality, or furnish an affidavit in
16 accordance with paragraph (d), or request a hearing within 60
17 days following the date of the notification in order to avoid
18 the issuance of a traffic citation. The notification must be
19 sent by first-class mail. The mailing of the notice of violation
20 constitutes notification.
21 b. Included with the notification to the registered owner
22 of the motor vehicle involved in the infraction must be a notice
23 that the owner has the right to review the photographic or
24 electronic images or the streaming video evidence that
25 constitutes a rebuttable presumption against the owner of the
26 vehicle. The notice must state the time and place or Internet
27 location where the evidence may be examined and observed.
28 c. Notwithstanding any other provision of law, a person who
29 receives a notice of violation under this section may request a
30 hearing within 60 days following the notification of violation
31 or pay the penalty pursuant to the notice of violation, but a
32 payment or fee may not be required before the hearing requested
33 by the person. The notice of violation must be accompanied by,
34 or direct the person to a website that provides, information on
35 the person’s right to request a hearing and on all court costs
36 related thereto and a form to request a hearing. As used in this
37 sub-subparagraph, the term “person” includes a natural person,
38 registered owner or coowner of a motor vehicle, or person
39 identified on an affidavit as having care, custody, or control

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40 of the motor vehicle at the time of the violation.
41 d. If the registered owner or coowner of the motor vehicle,
42 or the person designated as having care, custody, or control of
43 the motor vehicle at the time of the violation, or an authorized
44 representative of the owner, coowner, or designated person,
45 initiates a proceeding to challenge the violation pursuant to
46 this paragraph, such person waives any challenge or dispute as
47 to the delivery of the notice of violation.
48 2. Penalties assessed and collected by the department,
49 county, or municipality authorized to collect the funds provided
50 for in this paragraph, less the amount retained by the county or
51 municipality pursuant to subparagraph 3., shall be paid to the
52 Department of Revenue weekly. Payment by the department, county,
53 or municipality to the state shall be made by means of
54 electronic funds transfers. In addition to the payment, summary
55 detail of the penalties remitted shall be reported to the
56 Department of Revenue.
57 3. Penalties to be assessed and collected by the
58 department, county, or municipality are as follows:
59 a. One hundred fifty-eight dollars for a violation of s.
60 316.074(1) or s. 316.075(1)(c)1. when a driver failed to stop at
61 a traffic signal if enforcement is by the department's traffic
62 infraction enforcement officer. One hundred dollars shall be
63 remitted to the Department of Revenue for deposit into the
64 General Revenue Fund, $10 shall be remitted to the Department of
65 Revenue for deposit into the Department of Health Emergency
66 Medical Services Trust Fund, $3 shall be remitted to the
67 Department of Revenue for deposit into the Brain and Spinal Cord
68 Injury Trust Fund, and $45 shall be distributed to the

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69 municipality in which the violation occurred, or, if the
70 violation occurred in an unincorporated area, to the county in
71 which the violation occurred. Funds deposited into the
72 Department of Health Emergency Medical Services Trust Fund under
73 this sub-subparagraph shall be distributed as provided in s.
74 395.4036(1). Proceeds of the infractions in the Brain and Spinal
75 Cord Injury Trust Fund shall be distributed quarterly to the
76 Miami Project to Cure Paralysis and used for brain and spinal
77 cord research.
78 b. One hundred fifty-eight dollars for a violation of s.
79 316.074(1) or s. 316.075(1)(c)1. when a driver failed to stop at
80 a traffic signal if enforcement is by a county or municipal
81 traffic infraction enforcement officer. Seventy dollars shall be
82 remitted by the county or municipality to the Department of
83 Revenue for deposit into the General Revenue Fund, $10 shall be
84 remitted to the Department of Revenue for deposit into the
85 Department of Health Emergency Medical Services Trust Fund, $3
86 shall be remitted to the Department of Revenue for deposit into
87 the Brain and Spinal Cord Injury Trust Fund, and $75 shall be
88 retained by the county or municipality enforcing the ordinance
89 enacted pursuant to this section. Funds deposited into the
90 Department of Health Emergency Medical Services Trust Fund under
91 this sub-subparagraph shall be distributed as provided in s.
92 395.4036(1). Proceeds of the infractions in the Brain and Spinal
93 Cord Injury Trust Fund shall be distributed quarterly to the
94 Miami Project to Cure Paralysis and used for brain and spinal
95 cord research.
96 4. If a county or municipality fails to comply with the
97 reporting requirements in subsection (4), as determined by the

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98 department, the department shall annually, on October 1, provide
99 notice of the failure to the county or municipality. The county
100 or municipality shall have 30 days from the date of the notice
101 within which to establish compliance with the reporting
102 requirements. If compliance is not established within the 30
103 days, the department shall immediately notify the Department of
104 Revenue of the county's or municipality's noncompliance. In
105 cases of such noncompliance, notwithstanding subparagraph 3.,
106 the portion of revenues collected and otherwise retained by the
107 county or municipality may not be retained but shall be remitted
108 to the Department of Revenue. The Department of Revenue shall
109 maintain records of such remissions reflecting the total amount
110 of revenues received from each noncompliant county or
111 municipality. On notice from the department that the county or
112 municipality has established compliance, the Department of
113 Revenue shall return those revenues to the affected county or
114 municipality.
115 5.~~4.~~ An individual may not receive a commission from any
116 revenue collected from violations detected through the use of a
117 traffic infraction detector. A manufacturer or vendor may not
118 receive a fee or remuneration based upon the number of
119 violations detected through the use of a traffic infraction
120 detector.
121 (4)(a) Each county or municipality that operates a traffic
122 infraction detector shall submit a report ~~by October 1, 2012,~~
123 ~~and annually thereafter,~~ to the department no later than
124 September 30 of each year which details the results of using the
125 traffic infraction detector and the procedures for enforcement
126 for the preceding state fiscal year. The information submitted

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127 by the counties and municipalities must include statistical data
128 and information required by the department to complete the
129 report required under paragraph (b), and must include all of the
130 following:.
131 1. The name of the jurisdiction and contact information for
132 the person responsible for the administration of the traffic
133 infraction detector program.
134 2. The location of each camera, including both geospatial
135 and cross-road descriptions of the location of each device.
136 3. The date that each red light camera became operational,
137 and the dates of camera operation during the fiscal year,
138 including any status changes of the camera's use during the
139 reporting period.
140 4. Data related to the issuance and disposition of notices
141 of violation and subsequent uniform traffic citations issued
142 during the reporting period.
143 5. Vehicle crash data, including fatalities and injuries,
144 for crashes that occurred within 250 feet of the approach to, or
145 250 feet following, a traffic infraction detector on the
146 specific road monitored by the traffic infraction detector
147 during the 12-month period immediately preceding the initial
148 date of camera operation. Data submitted as required under this
149 subsection should be able to be validated against department
150 data.
151 6. Identification of any and all alternative safety
152 measures, including increasing the interval between the yellow
153 change light and the red clearance light, increasing the
154 visibility of traffic lights, and installing advance dilemma-
155 zone detection systems, which the jurisdiction considered or

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156 implemented during the reporting period in lieu of or in
157 addition to the use of a traffic infraction detector. The
158 jurisdiction shall include the date of implementation of any
159 such measures to assist the department in the analysis of crash
160 data at a specified location.
161 Section 11. Subsection (9) of section 316.0745, Florida
162 Statutes, is created to read:
163 316.0745 Uniform signals and devices.—
164 (9) The Department of Transportation is authorized to
165 inspect, at random, any traffic control device or any traffic
166 infraction detector at any intersection with a traffic
167 infraction detector for the purpose of verifying that such
168 device and detector conform to the specifications and
169 requirements of this section.
170 Section 12. Subsection (1) of section 316.0776, Florida
171 Statutes, is amended to read:
172 316.0776 Traffic infraction detectors; placement and
173 installation.—
174 (1) Traffic infraction detectors are allowed on state roads
175 when permitted by the Department of Transportation and under
176 placement and installation specifications developed by the
177 Department of Transportation. Traffic infraction detectors are
178 allowed on streets and highways under the jurisdiction of
179 counties or municipalities in accordance with placement and
180 installation specifications developed by the Department of
181 Transportation. A notice of violation or uniform traffic
182 citation may not be issued through the use of a traffic
183 infraction detector that is not in compliance with all
184 specifications. Additionally, before installation of any traffic

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185 infraction detector, the county or municipality shall document
186 and make available upon the request of the Department of
187 Transportation consideration and reasons for rejection of other
188 engineering countermeasures set forth in the most recent
189 publication addressing countermeasures by the Institute of
190 Transportation Engineers that are intended to reduce violations
191 of ss. 316.074(1) and 316.075(1)(c)1.
192
193 ========== T I T L E A M E N D M E N T ==========
194 And the title is amended as follows:
195 Delete line 37
196 and insert:
197 redefining terms; amending s. 316.0083, F.S.; relating
198 to traffic infraction detectors; requiring the
199 Department of Highway Safety & Motor Vehicles to
200 provide notice of failure to comply with certain
201 reporting requirements; providing a period within
202 which to become compliant with such reporting
203 requirements; requiring a municipality or county to
204 remit certain revenues to the Department of Revenue;
205 requiring the Department of Revenue to maintain
206 records of such remissions; providing for the return
207 of certain revenues to a municipality or county under
208 certain circumstances; requiring the annual report
209 detailing the results of using traffic infraction
210 detectors and the procedures for enforcement to
211 include specified information; amending s. 316.0745,
212 F.S.; authorizing the Department of Transportation to
213 randomly inspect any traffic control device or any

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214 traffic infraction detector at certain locations to
215 verify compliance with certain specifications and
216 requirements; amending s. 316.0776, F.S.; prohibiting
217 issuance of a notice of violation or traffic citation
218 through use of a traffic infraction detector that is
219 not in compliance with all specifications; requiring a
220 municipality or county to document and make available
221 upon request of the Department of Transportation
222 consideration and reasons for rejection of certain
223 engineering countermeasures before installing any
224 traffic infraction detector; amending s. 316.0895,
225 F.S.;

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LEGISLATIVE ACTION

Senate	.	House
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The Committee on Appropriations (Hays) recommended the following:

Senate Amendment (with title amendment)

Between lines 661 and 662
insert:
Section 10. Subsection (1) of section 316.228, Florida Statutes, is amended to read:
316.228 Lamps or flags on projecting load.—
(1) Except as provided in subsection (2), whenever the load upon any vehicle extends to the rear 4 feet or more beyond the bed or body of such vehicle, there shall be displayed at the

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11 extreme rear end of the load, at the times specified in s.
12 316.217, two red lamps visible from a distance of at least 500
13 feet to the rear, two red reflectors visible at night from all
14 distances within 600 feet to 100 feet to the rear when directly
15 in front of lawful lower beams of headlamps and located so as to
16 indicate maximum width, and on each side one red lamp visible
17 from a distance of at least 500 feet to the side and located so
18 as to indicate maximum overhang. There shall be displayed at all
19 other times on any vehicle having a load which extends beyond
20 its sides or more than 4 feet beyond its rear, red flags, not
21 less than 18 ~~12~~ inches square, marking the extremities of such
22 load, at each point where a lamp would otherwise be required by
23 this section. A violation of this section is a noncriminal
24 traffic infraction punishable as a nonmoving violation as
25 provided in chapter 318.
26
27 ========== T I T L E A M E N D M E N T ==========
28 And the title is amended as follows:
29 Delete line 44
30 and insert:
31 roadways; amending s. 316.228, F.S.; requiring a
32 vehicle with a load that extends beyond its sides or a
33 certain amount beyond its rear to display red flags
34 not less than 18 inches square under certain
35 circumstances; amending s. 316.303, F.S,; providing

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LEGISLATIVE ACTION

Senate	.	House
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The Committee on Appropriations (Hays) recommended the following:

Senate Amendment (with title amendment)

Between lines 818 and 819
insert:
Section 13. Section 319.141, Florida Statutes, is amended to read:
319.141 Pilot rebuilt motor vehicle inspection program.—
(1) As used in this section, the term:
(a) “Facility” means a rebuilt motor vehicle inspection facility authorized and operating under this section.

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11 (b) "Rebuilt inspection services" means an examination of a
12 rebuilt vehicle and a properly endorsed certificate of title,
13 salvage certificate of title, or manufacturer's statement of
14 origin and an application for a rebuilt certificate of title, a
15 rebuilder's affidavit, a photograph of the junk or salvage
16 vehicle taken before repairs began, receipts or invoices for all
17 major component parts, as defined in s. 319.30, and repairs
18 which were changed, and proof that notice of rebuilding of the
19 vehicle has been reported to the National Motor Vehicle Title
20 Information System.
21 (2) By July 1, 2015 ~~October 1, 2013~~, the department shall
22 oversee ~~implement~~ a pilot program in Miami-Dade County ~~and~~
23 ~~Hillsborough Counties~~ to evaluate alternatives for rebuilt
24 inspection services ~~to be~~ offered by existing ~~the~~ private sector
25 operators, including the continued use ~~feasibility~~ of ~~using~~
26 private facilities, the cost impact to consumers, and the
27 potential savings to the department.
28 (3) The department shall establish a memorandum of
29 understanding that allows private parties participating in the
30 pilot program to conduct rebuilt motor vehicle inspections and
31 specifies requirements for oversight, bonding and insurance,
32 procedures, and forms and requires the electronic transmission
33 of documents.
34 (4) Before an applicant is approved, the department shall
35 ensure that the applicant meets basic criteria designed to
36 protect the public. At a minimum, the applicant shall meet all
37 of the following requirements:
38 (a) Have and maintain a surety bond or irrevocable letter
39 of credit in the amount of $100,000 ~~$50,000~~ executed by the

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40 applicant.
41 (b) Secure and maintain a facility at a permanent structure
42 at an address recognized by the United States Postal Service
43 where the only services provided on such property are rebuilt
44 inspection services. The operator of a facility shall annually
45 attest that he or she is not employed by or does not have an
46 ownership interest in or other financial arrangement with the
47 owner, operator, manager, or employee of a motor vehicle repair
48 shop as defined in s. 559.903, a motor vehicle dealer as defined
49 in s. 320.27(1)(c), a towing company, a vehicle storage company,
50 a vehicle auction, an insurance company, a salvage yard, a metal
51 retailer, or a metal rebuilder from which he or she receives
52 remuneration, directly or indirectly, for the referral of
53 customers for rebuilt inspection services.
54 (c) ~~(b)~~ Have and maintain garage liability and other
55 insurance required by the department.
56 (d) ~~(c)~~ Have completed criminal background checks of the
57 owners, partners, and corporate officers and the inspectors
58 employed by the facility.
59 (e) ~~(d)~~ Meet any additional criteria the department
60 determines necessary to conduct proper inspections.
61 (5) A participant in the program shall access vehicle and
62 title information and enter inspection results through an
63 electronic filing system authorized by the department and shall
64 maintain records of each rebuilt vehicle inspection processed at
65 such facility for at least 5 years.
66 (6) The department shall immediately terminate any operator
67 from the program who fails to meet the minimum eligibility
68 requirements specified in subsection (4). Prior to a change in

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69 ownership of the rebuilt inspection facility, the current
70 operator must give the department 45 days written notice of the
71 intended sale. The prospective owner must meet the eligibility
72 requirements of this section and execute a new memorandum of
73 understanding with the department prior to operating the
74 facility.
75 ~~(6) The department shall submit a report to the President~~
76 ~~of the Senate and the Speaker of the House of Representatives~~
77 ~~providing the results of the pilot program by February 1, 2015~~.
78 (7) This section is ~~shall stand~~ repealed on July 1, 2018
79 ~~2015~~, unless saved from repeal through reenactment by the
80 Legislature.
81 Section 14. Subsection (1) and paragraph (a) of subsection
82 (2) of section 320.086, Florida Statutes, are amended to read:
83 320.086 Ancient or antique motor vehicles; horseless
84 carriage, antique, or historical license plates; former military
85 vehicles.—
86 (1) The owner of a motor vehicle for private use
87 manufactured in the model year 1945 or earlier, ~~equipped with an~~
88 ~~engine manufactured in 1945 or earlier or manufactured to the~~
89 ~~specifications of the original engine,~~ and operated on the
90 streets and highways of this state shall, upon application in
91 the manner and at the time prescribed by the department and upon
92 payment of the license tax for an ancient motor vehicle
93 prescribed by s. 320.08(1)(d), (2)(a), or (3)(e), be issued a
94 special license plate for such motor vehicle. The license plate
95 shall be permanent and valid for use without renewal so long as
96 the vehicle is in existence. In addition to the payment of all
97 other fees required by law, the applicant shall pay such fee for

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98 the issuance of the special license plate as may be prescribed
99 by the department commensurate with the cost of its manufacture.
100 The registration numbers and special license plates assigned to
101 such motor vehicles shall run in a separate numerical series,
102 commencing with "Horseless Carriage No. 1," and the plates shall
103 be of a distinguishing color.
104 (2)(a) The owner of a motor vehicle for private use
105 manufactured in the model year after 1945 and of the age of 30
106 years or more after the model year ~~date of manufacture, equipped~~
107 ~~with an engine of the age of 30 years or more after the date of~~
108 ~~manufacture~~, and operated on the streets and highways of this
109 state may, upon application in the manner and at the time
110 prescribed by the department and upon payment of the license tax
111 prescribed by s. 320.08(1)(d), (2)(a), or (3)(e), be issued a
112 special license plate for such motor vehicle. In addition to the
113 payment of all other fees required by law, the applicant shall
114 pay the fee for the issuance of the special license plate
115 prescribed by the department, commensurate with the cost of its
116 manufacture. The registration numbers and special license plates
117 assigned to such motor vehicles shall run in a separate
118 numerical series, commencing with "Antique No. 1," and the
119 plates shall be of a distinguishing color. The owner of the
120 motor vehicle may, upon application and payment of the license
121 tax prescribed by s. 320.08, be issued a regular Florida license
122 plate or specialty license plate in lieu of the special
123 "Antique" license plate.
124 Section 15. For the purpose of incorporating the amendment
125 made by this act to section 320.086, Florida Statutes, in a
126 reference thereto, paragraph (c) of subsection (3) of section

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127 319.23, Florida Statutes, is reenacted to read:
128 319.23 Application for, and issuance of, certificate of
129 title.—
130 (3) If a certificate of title has not previously been
131 issued for a motor vehicle or mobile home in this state, the
132 application, unless otherwise provided for in this chapter,
133 shall be accompanied by a proper bill of sale or sworn statement
134 of ownership, or a duly certified copy thereof, or by a
135 certificate of title, bill of sale, or other evidence of
136 ownership required by the law of the state or county from which
137 the motor vehicle or mobile home was brought into this state.
138 The application shall also be accompanied by:
139 (c) If the vehicle is an ancient or antique vehicle, as
140 defined in s. 320.086, the application shall be accompanied by a
141 certificate of title; a bill of sale and a registration; or a
142 bill of sale and an affidavit by the owner defending the title
143 from all claims. The bill of sale must contain a complete
144 vehicle description to include the vehicle identification or
145 engine number, year make, color, selling price, and signatures
146 of the seller and purchaser.
147
148 Verification of the vehicle identification number is not
149 required for any new motor vehicle; any mobile home; any trailer
150 or semitrailer with a net weight of less than 2,000 pounds; or
151 any travel trailer, camping trailer, truck camper, or fifth-
152 wheel recreation trailer.
153 Section 16. For the purpose of incorporating the amendment
154 made by this act to section 320.086, Florida Statutes, in a
155 reference thereto, paragraph (a) of subsection (2) and paragraph

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156 (e) of subsection (3) of section 320.08, Florida Statutes, are
157 reenacted to read:
158 320.08 License taxes.—Except as otherwise provided herein,
159 there are hereby levied and imposed annual license taxes for the
160 operation of motor vehicles, mopeds, motorized bicycles as
161 defined in s. 316.003(2), tri-vehicles as defined in s. 316.003,
162 and mobile homes, as defined in s. 320.01, which shall be paid
163 to and collected by the department or its agent upon the
164 registration or renewal of registration of the following:
165 (2) AUTOMOBILES OR TRI-VEHICLES FOR PRIVATE USE.—
166 (a) An ancient or antique automobile, as defined in s.
167 320.086, or a street rod, as defined in s. 320.0863: $7.50 flat.
168 (3) TRUCKS.—
169 (e) An ancient or antique truck, as defined in s. 320.086:
170 $7.50 flat.
171 Section 17. Subsection (2) of section 324.242, Florida
172 Statutes, is amended, present subsection (3) of that section is
173 redesignated as subsection (6), and new subsections (3), (4),
174 and (5) are added to that section, to read:
175 324.242 Personal injury protection and property damage
176 liability insurance policies; public records exemption.—
177 (2) Upon receipt of a ~~written~~ request and proof ~~a copy~~ of a
178 crash report as required under s. 316.065, s. 316.066, or s.
179 316.068, or a crash report created pursuant to the laws of
180 another state, the department shall release the policy number
181 for a policy covering a vehicle involved in a motor vehicle
182 accident to:
183 (a) Any person involved in such accident;
184 (b) The attorney of any person involved in such accident;

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185 or
186 (c) A representative of the insurer of any person involved
187 in such accident.
188 (3) The department shall provide personal injury protection
189 and property damage liability insurance policy numbers to
190 department-approved third parties that provide data collection
191 services to an insurer of any person involved in such accident.
192 (4) Before the department's release of a policy number in
193 accordance with subsection (2) or subsection (3), an insurer's
194 representative, a contracted third party, or an attorney for a
195 person involved in an accident must provide the department with
196 documentation confirming proof of representation.
197 (5) Information made confidential and exempt by this
198 section may be disclosed to another governmental entity without
199 a written request or copy of the crash report if disclosure is
200 necessary for the receiving governmental entity to perform its
201 duties and responsibilities. For purposes of this subsection,
202 the term "governmental entity" means any federal, state, county,
203 district, authority, or municipal officer, department, division,
204 board, bureau, or commission created or established by law.
205 (6) ~~(3)~~ This exemption applies to personal identifying
206 information of an insured or former insured and insurance policy
207 numbers held by the department before, on, or after October 11,
208 2007.
209
210 ========== T I T L E A M E N D M E N T ==========
211 And the title is amended as follows:
212 Delete line 61
213 and insert:

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214 location; amending s. 319.141, F.S.; defining the term
215 “rebuilt inspection services”; directing the
216 Department of Highway Safety and Motor Vehicles to
217 oversee a pilot program in Miami-Dade County to
218 evaluate alternatives for certain rebuilt inspection
219 services by a specified date; revising the minimum
220 criteria an applicant must meet before he or she is
221 approved; requiring that participants in the program
222 maintain records of each rebuilt vehicle inspection
223 processed at such facility for a specified period of
224 time; requiring the department to terminate any
225 operator from the program under certain circumstances;
226 requiring a current operator to give the department
227 written notice of an intended sale within a specified
228 period of time; requiring a prospective owner to meet
229 specified requirements and execute a certain
230 memorandum; deleting a provision requiring the
231 department to submit a certain report to the
232 Legislature; revising the date of repeal for this
233 section; amending s. 320.086, F.S.; requiring the
234 department to issue a special license plate to the
235 owner of a motor vehicle manufactured in the model
236 year 1945 or earlier for such motor vehicle, subject
237 to certain requirements; requiring the department to
238 issue a special license plate to the owner of a motor
239 vehicle manufactured in the model year after 1945 and
240 of the age of 30 years or more after the model year
241 for such motor vehicle, subject to certain
242 requirements; reenacting s. 319.23(3)(c), F.S.,

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243 relating to application for, and issuance of,
244 certificate of title, to incorporate the amendment
245 made to s. 320.086, F.S., in a reference thereto;
246 reenacting s. 320.08(2)(a) and (3)(e), F.S., relating
247 to license taxes, to incorporate the amendment made to
248 s. 320.086, F.S., in a reference thereto; amending s.
249 324.242, F.S.; requiring the department to release the
250 policy number of a policy covering a vehicle involved
251 in a motor vehicle accident to certain persons upon
252 receipt of a request and proof of a crash report
253 created pursuant to the laws of another state;
254 requiring the department to provide personal injury
255 protection and property damage liability insurance
256 policy numbers to department-approved third parties
257 that provide data collection services to certain
258 insurers; requiring an insurer's representative, a
259 contracted third party, or an attorney for a person
260 involved in an accident to provide the department with
261 documentation confirming proof of representation prior
262 to the release of certain policy numbers; authorizing
263 the department to disclose certain confidential and
264 exempt information to another governmental entity
265 under certain circumstances; defining the term
266 "governmental entity"; amending s. 333.01, F.S.;
267 defining and

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LEGISLATIVE ACTION

Senate	.	House
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The Committee on Appropriations (Hays) recommended the following:

Senate Amendment (with title amendment)

Between lines 1786 and 1787
insert:
Section 32. Paragraph (a) of subsection (1) of section 337.18, Florida Statutes, is amended to read:
337.18 Surety bonds for construction or maintenance contracts; requirement with respect to contract award; bond requirements; defaults; damage assessments.—
(1)(a) A surety bond shall be required of the successful

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11 bidder in an amount equal to the awarded contract price.
12 However, the department may choose, in its discretion and
13 applicable only to multiyear maintenance contracts, to allow for
14 incremental annual contract bonds that cumulatively total the
15 full, awarded, multiyear contract price.
16 1. The department may waive the requirement for all or a
17 portion of a surety bond if:
18 a. ~~For a project for which~~ The contract price is $250,000
19 or less and the department~~, the department may waive the~~
20 ~~requirement for all or a portion of a surety bond if it~~
21 determines the project is of a noncritical nature and
22 nonperformance will not endanger public health, safety, or
23 property;
24 b. The prime contractor is a qualified nonprofit agency for
25 the blind or for the other severely handicapped under s.
26 413.036(2); or
27 c. The prime contractor is using a subcontractor that is a
28 qualified nonprofit agency for the blind or for the other
29 severely handicapped under s. 413.036(2); however, the
30 department may not waive more than the amount of the
31 subcontract.
32 2. If the Secretary of Transportation or the secretary's
33 designee determines that it is in the best interests of the
34 department to reduce the bonding requirement for a project and
35 that to do so will not endanger public health, safety, or
36 property, the department may waive the requirement of a surety
37 bond in an amount equal to the awarded contract price for a
38 project having a contract price of $250 million or more and, in
39 its place, may set a surety bond amount that is a portion of the

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40 total contract price and provide an alternate means of security
41 for the balance of the contract amount that is not covered by
42 the surety bond or provide for incremental surety bonding and
43 provide an alternate means of security for the balance of the
44 contract amount that is not covered by the surety bond. Such
45 alternative means of security may include letters of credit,
46 United States bonds and notes, parent company guarantees, and
47 cash collateral. The department may require alternate means of
48 security if a surety bond is waived. The surety on such bond
49 shall be a surety company authorized to do business in the
50 state. All bonds shall be payable to the department and
51 conditioned for the prompt, faithful, and efficient performance
52 of the contract according to plans and specifications and within
53 the time period specified, and for the prompt payment of all
54 persons defined in s. 713.01 furnishing labor, material,
55 equipment, and supplies for work provided in the contract;
56 however, whenever an improvement, demolition, or removal
57 contract price is $25,000 or less, the security may, in the
58 discretion of the bidder, be in the form of a cashier’s check,
59 bank money order of any state or national bank, certified check,
60 or postal money order. The department shall adopt rules to
61 implement this subsection. Such rules shall include provisions
62 under which the department shall refuse to accept bonds on
63 contracts when a surety wrongfully fails or refuses to settle or
64 provide a defense for claims or actions arising under a contract
65 for which the surety previously furnished a bond.
66
67 ========== T I T L E A M E N D M E N T ==========
68 And the title is amended as follows:

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69 Delete line 197
70 and insert:
71 trails; amending s. 337.18, F.S.; authorizing the
72 department to waive a surety bond on certain contracts
73 with specified contractors; amending s. 338.165, F.S.;
74 removing an option

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LEGISLATIVE ACTION

Senate	.	House
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The Committee on Appropriations (Garcia) recommended the following:

1 **Senate Amendment (with title amendment)**
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3 Delete lines 1859 - 1905
4 and insert:
5 Section 35. Paragraphs (a), (c), and (d) of subsection (3)
6 and paragraph (c) of subsection (7) of section 339.175, Florida
7 Statutes, are amended to read:
8 339.175 Metropolitan planning organization.—
9 (3) VOTING MEMBERSHIP.—
10 (a) The voting membership of an M.P.O. shall consist of at

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11 least 5 but not more than 25 apportioned members, with the exact
12 number determined on an equitable geographic-population ratio
13 basis, based on an agreement among the affected units of
14 general-purpose local government and the Governor, as required
15 by federal regulations. In accordance with 23 U.S.C. s. 134, the
16 Governor may also allow M.P.O. members who represent
17 municipalities to alternate with representatives from other
18 municipalities within the metropolitan planning area which do
19 not have members on the M.P.O. With the exception of counties
20 chartered under s. 6(e), Art. VIII of the State Constitution and
21 instances in which all of the county commissioners in a single-
22 county M.P.O. are members of the M.P.O. governing board, county
23 commissioners shall compose at least one-third of the M.P.O.
24 governing board membership. A multicounty M.P.O. may satisfy
25 this requirement by any combination of county commissioners from
26 each of the counties constituting the M.P.O. Voting members
27 shall be elected officials of general-purpose local governments,
28 one of whom may represent a group of general-purpose local
29 governments through an entity created by an M.P.O. for that
30 purpose. An M.P.O. may include, as part of its apportioned
31 voting members, a member of a statutorily authorized planning
32 board, an official of an agency that operates or administers a
33 major mode of transportation, or an official of Space Florida.
34 As used in this section, the term “elected officials of a
35 general-purpose local government” excludes constitutional
36 officers, including sheriffs, tax collectors, supervisors of
37 elections, property appraisers, clerks of the court, and similar
38 types of officials. County commissioners shall compose not less
39 than 20 percent of the M.P.O. membership if an official of an

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40 agency that operates or administers a major mode of
41 transportation has been appointed to an M.P.O.
42 (c) Except as provided in paragraph (d), and any other
43 provision of this section to the contrary notwithstanding, a
44 chartered county with over 1 million population may elect to
45 reapportion the membership of an M.P.O. whose jurisdiction is
46 wholly within the county. The charter county may exercise the
47 provisions of this paragraph if:
48 1. The M.P.O. approves the reapportionment plan by a three-
49 fourths vote of its membership;
50 2. The M.P.O. and the charter county determine that the
51 reapportionment plan is needed to fulfill specific goals and
52 policies applicable to that metropolitan planning area; and
53 3. The charter county determines the reapportionment plan
54 otherwise complies with all federal requirements pertaining to
55 M.P.O. membership.
56
57 Any charter county that elects to exercise the provisions of
58 this paragraph shall notify the Governor in writing.
59 (d) Any other provision of this section to the contrary
60 notwithstanding, the membership of an M.P.O. in any county
61 chartered under s. 6(e), Art. VIII of the State Constitution
62 whose jurisdiction is wholly contained within the county shall
63 be the county mayor, the chairperson of the county commission,
64 the chairperson of the county's transportation committee, one
65 elected official appointed by the governing body of each
66 municipality with a population of 50,000 or more residents, one
67 county commissioner appointed by the Governor whose district
68 includes at least three municipalities with a population less

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69 than 50,000 each, one county commissioner appointed by the
70 Governor whose district includes only unincorporated areas of
71 the county, one county commissioner appointed by the Governor
72 whose district includes Biscayne National Park, one school board
73 member appointed by the Governor, one nonvoting representative
74 from the county's expressway authority appointed by the
75 Governor, and one representative of the department serving as a
76 nonvoting advisor ~~may elect to have its county commission serve~~
77 ~~as the M.P.O., if the M.P.O. jurisdiction is wholly contained~~
78 ~~within the county. Any charter county that elects to exercise~~
79 ~~the provisions of this paragraph shall so notify the Governor in~~
80 ~~writing. Upon receipt of such notification, the Governor must~~
81 ~~designate the county commission as the M.P.O. The Governor must~~
82 ~~appoint four additional voting members to the M.P.O., one of~~
83 ~~whom must be an elected official representing a municipality~~
84 ~~within the county, one of whom must be an expressway authority~~
85 ~~member, one of whom must be a person who does not hold elected~~
86 ~~public office and who resides in the unincorporated portion of~~
87 ~~the county, and one of whom must be a school board member~~.
88 (7) LONG-RANGE TRANSPORTATION PLAN.—Each M.P.O. must
89 develop a long-range transportation plan that addresses at least
90 a 20-year planning horizon. The plan must include both long-
91 range and short-range strategies and must comply with all other
92 state and federal requirements. The prevailing principles to be
93 considered in the long-range transportation plan are: preserving
94 the existing transportation infrastructure; enhancing Florida's
95 economic competitiveness; and improving travel choices to ensure
96 mobility. The long-range transportation plan must be consistent,
97 to the maximum extent feasible, with future land use elements

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98 and the goals, objectives, and policies of the approved local
99 government comprehensive plans of the units of local government
100 located within the jurisdiction of the M.P.O. Each M.P.O. is
101 encouraged to consider strategies that integrate transportation
102 and land use planning to provide for sustainable development and
103 reduce greenhouse gas emissions. The approved long-range
104 transportation plan must be considered by local governments in
105 the development of the transportation elements in local
106 government comprehensive plans and any amendments thereto. The
107 long-range transportation plan must, at a minimum:
108 (c) Assess capital investment and other measures necessary
109 to:
110 1. Ensure the preservation of the existing metropolitan
111 transportation system including requirements for the operation,
112 resurfacing, restoration, and rehabilitation of major roadways
113 and requirements for the operation, maintenance, modernization,
114 and rehabilitation of public transportation facilities; and
115 2. Make the most efficient use of existing transportation
116 facilities to relieve vehicular congestion, improve safety, and
117 maximize the mobility of people and goods. Such efforts shall
118 include, but not be limited to, consideration of infrastructure
119 and technological improvements necessary to accommodate advances
120 in vehicle technology, such as autonomous vehicle technology and
121 other developments.
122
123 In the development of its long-range transportation plan, each
124 M.P.O. must provide the public, affected public agencies,
125 representatives of transportation agency employees, freight
126 shippers, providers of freight transportation services, private

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127 providers of transportation, representatives of users of public
128 transit, and other interested parties with a reasonable
129 opportunity to comment on the long-range transportation plan.
130 The long-range transportation plan must be approved by the
131 M.P.O.
132 Section 36. Section 339.176, Florida Statutes, is amended
133 to read:
134 339.176 Voting membership for M.P.O. with boundaries
135 including certain counties.—In addition to the voting membership
136 established by s. 339.175(3) and notwithstanding any other
137 provision of law to the contrary, the voting membership of any
138 Metropolitan Planning Organization whose geographical boundaries
139 include any county as defined in s. 125.011(1) must include an
140 additional voting member appointed by the ~~that city's~~ governing
141 body for each municipality ~~city~~ with a population of 50,000 or
142 more residents, except as otherwise provided in s.
143 339.175(3)(d).
144
145 ========== T I T L E A M E N D M E N T ==========
146 And the title is amended as follows:
147 Delete lines 212 - 219
148 and insert:
149 s. 339.175, F.S.; revising the membership of certain
150 metropolitan planning organizations; requiring certain
151 long-range transportation plans to include assessment
152 of capital investment and other measures necessary to
153 make the most efficient use of existing transportation
154 facilities to improve safety; requiring the
155 assessments to include consideration of infrastructure

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156 and technological improvements necessary to
157 accommodate advances in vehicle technology; amending
158 s. 339.176, F.S.; providing an exception to the voting
159 membership of metropolitan planning organizations in
160 certain counties; amending

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576-04093-15

Proposed Committee Substitute by the Committee on Appropriations (Appropriations Subcommittee on Transportation, Tourism, and Economic Development)

A bill to be entitled

An act relating to transportation; amending s. 20.23, F.S.; deleting the requirement that the Secretary of Transportation appoint an inspector general pursuant to s. 20.055, F.S.; deleting the requirement that the district director for the Fort Myers Urban Office of the Department of Transportation be responsible for developing the 5-year Transportation Plan and other duties for specified counties; amending s. 215.82, F.S.; deleting a cross-reference; amending s. 260.0144, F.S.; providing that certain commercial sponsorship may be displayed on state greenway and trail facilities not included within the Florida Shared-Use Nonmotorized Trail Network; deleting provisions relating to the authorization of sponsored state greenways and trails at specified facilities or property; creating s. 288.365, F.S.; providing that the Port of Palm Beach is deemed eligible and granted authority to apply to the federal government to seek approval from the Foreign-Trade Zones Board through an alternative site framework to include specified counties in the proposed service area without obtaining approvals from certain municipalities; providing applicability; amending s. 311.07, F.S.; increasing the minimum amount that shall be made available annually from the State Transportation Fund

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576-04093-15

to fund the Florida Seaport Transportation and Economic Development Program; amending s. 311.09, F.S.; reducing the number of members of the Florida Seaport Transportation and Economic Development Council; removing Port Citrus from the council membership; increasing the amount per year the department must include in its annual legislative budget request for the Florida Seaport Transportation and Economic Development Program; deleting obsolete language; amending s. 316.003, F.S.; defining and redefining terms; amending s. 316.0895, F.S.; providing that provisions prohibiting a driver from following certain vehicles within a certain distance do not apply to truck tractor-semitrailer combinations under certain conditions; providing for financial responsibility; amending s. 316.130, F.S.; revising traffic regulations relating to pedestrians crossing roadways; amending s. 316.303, F.S.; providing exceptions to the prohibition of certain television-type receiving equipment and certain electronic displays in vehicles; amending s. 316.515, F.S.; extending the allowable length of certain semitrailers authorized to operate on public roads under certain conditions; authorizing the Department of Transportation to permit truck tractor-semitrailer combinations where the total number of overwidth deliveries of manufactured buildings may be reduced by the transport of multiple sections or single units on an overlength trailer of no more than a specified

length under certain circumstances; amending s. 316.545, F.S.; providing a specified penalty for commercial motor vehicles that obtain temporary registration permits entering the state at, or operating on designated routes to, a port-of-entry location; amending s. 333.01, F.S.; defining and redefining terms; amending s. 333.025, F.S.; revising requirements relating to securing a permit for the proposed construction or alteration of structures that would exceed specified federal obstruction standards; requiring such permits only within an airport hazard area if the proposed construction is within a set radius of a certain airport reference point; providing that existing, planned, and proposed facilities at public-use airports contained in certain plans or documents will be protected from structures that exceed federal obstruction standards; providing that a permit is not required when political subdivisions have adopted adequate airport protection zoning regulations and have established a permitting process, subject to certain requirements; providing for a review period by the department to run concurrent with such permitting process, subject to certain requirements and exemptions; specifying certain factors the department shall consider in determining whether to issue or deny a permit; directing the department to require an owner of a permitted obstruction or vegetation to install, operate, and maintain marking and lighting subject to certain

requirements; prohibiting a permit from being approved solely on the basis that a proposed structure will not exceed specified federal obstruction standards; providing certain administrative review for the denial of a permit; amending s. 333.03, F.S.; revising the requirements relating to the adoption of airport protection zoning regulations by certain political subdivisions; revising the requirements of such adopted airport protection zoning regulations; providing that the department is available to assist political subdivisions with regard to federal obstruction standards; revising requirements relating to airport land use compatibility zoning regulations that address, at a minimum, landfill locations and noise contours; requiring adoption of airport zoning regulations that restrict substantial modifications to existing incompatible uses within runway protection zones; requiring that updates and amendments to local airport zoning codes, rules, and regulations be filed with the department within a certain time after adoption; revising requirements relating to educational structures or sites; providing that a governing body operating a public-use airport may establish more restrictive airport protection zoning regulations for certain purposes; amending s. 333.04, F.S.; revising provisions relating to comprehensive plan or policy regulations, including airport protection zoning regulations under certain circumstances; amending s. 333.05, F.S.; revising

114 provisions relating to the procedure for adoption,
115 amendment, or deletion of airport zoning regulations;
116 revising provisions relating to airport zoning
117 commissions; amending s. 333.06, F.S.; revising
118 provisions relating to airport zoning requirements,
119 and airport master plans that are prepared by certain
120 public-use airports; repealing s. 333.065, F.S.,
121 relating to guidelines regarding land use near
122 airports; amending s. 333.07, F.S.; revising
123 provisions relating to permits for use of structures
124 or vegetation in violation of airport protection
125 zoning regulations; specifying factors a political
126 subdivision or its administrative agency must consider
127 when determining whether to issue or deny a permit;
128 deleting provisions relating to applying for a
129 variance from zoning regulations; revising provisions
130 relating to obstruction marking and lighting
131 requirements when a political subdivision or its
132 administrative agency issues a permit; repealing s.
133 333.08, F.S., relating to appeals in regard to airport
134 zoning regulations; amending s. 333.09, F.S.;
135 requiring all airport zoning regulations to provide
136 for the administration and enforcement of such
137 regulations by the affected political subdivisions or
138 an administrative agency created by the subdivisions;
139 requiring a political subdivision that must adopt
140 airport zoning regulations to provide a permitting
141 process subject to certain requirements and
142 exceptions; providing for an appeals process for

143 decisions in the administration of airport zoning
144 regulations, subject to certain requirements;
145 repealing s. 333.10, F.S., relating to boards of
146 adjustment provided for by all airport zoning
147 regulations; amending s. 333.11, F.S.; revising
148 provisions relating to judicial review for decisions
149 made by any governing body of a political subdivision,
150 joint airport zoning board, or administrative agency;
151 requiring the appellant to exhaust all its remedies
152 through application for local government permits,
153 exceptions, and appeals before judicial appeal is
154 permitted; amending s. 333.12, F.S.; revising
155 provisions relating to the acquisition of air rights;
156 providing that a certain political subdivision may
157 acquire air right, avigation easement, other estate,
158 or interest in a nonconforming structure or use that
159 presents an air hazard and cannot be removed, lowered,
160 or otherwise terminated, subject to certain
161 requirements; creating s. 333.135, F.S.; requiring
162 that certain airport zoning regulations be amended to
163 conform by a certain date; requiring certain political
164 subdivisions to adopt airport zoning regulations by a
165 certain date; directing the department to administer
166 the permitting process for local governments that have
167 not adopted airport protection zoning regulations;
168 repealing s. 333.14, F.S., relating to a short title;
169 amending s. 334.03, F.S.; redefining the term “511” or
170 “511 services”; deleting the term “interactive voice
171 response”; amending s. 334.044, F.S.; removing the

172 provision of interactive voice response telephone
173 systems accessible via the 511 number that may be
174 included in traveler information systems; removing a
175 requirement that applied uniform standards and
176 criteria for collection and dissemination of traveler
177 information using interactive voice response systems;
178 authorizing the department to assume certain
179 responsibilities under the National Environmental
180 Policy Act with respect to highway projects within the
181 state and certain related responsibilities relating to
182 review or approval of a highway project; authorizing
183 the department to enter into certain agreements
184 related to the federal surface transportation project
185 delivery program under certain federal law;
186 authorizing the department to adopt implementing
187 rules; authorizing the department to adopt certain
188 relevant federal environmental standards; providing a
189 limited waiver of sovereign immunity to civil suit in
190 federal court consistent with certain federal law;
191 amending s. 334.60, F.S.; revising provisions relating
192 to the 511 traveler information system; amending s.
193 335.065, F.S.; deleting provisions relating to certain
194 commercial sponsorship displays on multiuse trails and
195 related facilities; deleting provisions relating to
196 funding a statewide system of interconnected multiuse
197 trails; amending s. 338.165, F.S.; removing an option
198 to issue certain bonds secured by toll revenues
199 collected on the Beeline-East Expressway and the
200 Navarre Bridge; amending s. 338.227, F.S.; providing

201 that bonds issued are not required to be validated
202 pursuant to ch. 75, F.S., but may be validated at the
203 option of the Division of Bond Finance; providing
204 filing, notice, and service requirements relating to
205 complaints for such validation; amending s. 338.231,
206 F.S.; increasing the number of years before an
207 inactive prepaid toll account shall be presumed
208 unclaimed; deleting provisions relating to using the
209 revenues from the turnpike system to pay the principal
210 and interest of a specified series of bonds and
211 certain expenses of the Sawgrass Expressway; amending
212 s. 339.175, F.S.; requiring certain long-range
213 transportation plans to include assessment of capital
214 investment and other measures necessary to make the
215 most efficient use of existing transportation
216 facilities to improve safety; requiring the
217 assessments to include consideration of infrastructure
218 and technological improvements necessary to
219 accommodate advances in vehicle technology; amending
220 s. 339.64, F.S.; requiring the Department of
221 Transportation to coordinate with certain partners and
222 industry representatives to consider infrastructure
223 and technological improvements necessary to
224 accommodate advances in vehicle technology in
225 Strategic Intermodal System facilities; requiring the
226 Strategic Intermodal System Plan to include a needs
227 assessment regarding such infrastructure and
228 technological improvements; creating s. 339.81, F.S.;
229 creating the Florida Shared-Use Nonmotorized Trail

Network; specifying the composition of the network; requiring the network to be included in the Department of Transportation's work program; declaring the planning, development, operation, and maintenance of the network to be a public purpose; authorizing the department to transfer maintenance responsibilities to local governments or other state agencies and contract with not-for-profit or private sector entities to provide maintenance services; requiring funding to be allocated to the Florida Shared-Use Nonmotorized Trail Network in the program and resource plan of the department; authorizing the department to adopt rules; creating s. 339.82, F.S.; directing the department to develop a Shared-Use Nonmotorized Trail Network Plan, subject to certain requirements; creating s. 339.83, F.S.; creating a trail sponsorship program, subject to certain requirements and restrictions; directing the Office of Economic and Demographic Research to evaluate and determine the economic benefits of the state's investment in the Department of Transportation's adopted work program for a certain timeframe, subject to certain requirements; directing the Department of Transportation and each of its district offices to provide the Office of Economic and Demographic Research full access to certain data; requiring the Office of Economic and Demographic Research to submit the analysis to the Legislature by a certain date; repealing s. 341.0532, F.S., relating to statewide transportation corridors; providing a

directive to the Division of Law Revision and Information; creating s. 345.0001, F.S.; providing a short title; creating s. 345.0002, F.S.; defining terms; creating s. 345.0003, F.S.; authorizing certain counties to form the Northwest Florida Regional Transportation Finance Authority to construct, maintain, or operate transportation projects in a given region of the state; specifying procedural requirements; creating s. 345.0004, F.S.; specifying the powers and duties of the authority, subject to certain restrictions; requiring that the authority comply with certain reporting and documentation requirements; creating s. 345.0005, F.S.; authorizing the issuing of bonds on behalf of the authority under the State Bond Act and by the authority itself; specifying requirements and restrictions for such bonds under certain circumstances; creating s. 345.0006, F.S.; providing rights and remedies of bondholders; creating s. 345.0007, F.S.; designating the Department of Transportation as the agent of the authority for specified purposes; authorizing the administration and management of projects by the department; limiting the powers of the department as an agent; establishing the fiscal responsibilities of the authority; creating s. 345.0008, F.S.; authorizing the department to provide for or commit its resources for the authority project or system, if approved by the Legislature, subject to legislative budget request procedures and prohibitions and appropriation

procedures; authorizing the payment of expenses incurred by the department on behalf of the authority; requiring the department to receive a share of the revenue from the authority; providing calculations for disbursement of revenues; creating s. 345.0009, F.S.; authorizing the authority to acquire private or public property and property rights for a project or plan; establishing the rights and liabilities and remedial actions relating to property acquired for a transportation project or corridor; creating s. 345.001, F.S.; authorizing contracts between governmental entities and the authority; creating s. 345.0011, F.S.; pledging that the state will not limit or alter the vested rights of the authority or the department with regard to any issued bonds or other rights relating to the bonds if such vested rights affect the rights of bondholders; creating s. 345.0012, F.S.; exempting the authority from certain taxes and assessments; providing exceptions; creating s. 345.0013, F.S.; providing that bonds or obligations issued under this chapter are legal investments for specified entities; creating s. 345.0014, F.S.; providing applicability; providing legislative findings and intent relating to transportation funding; directing the Center for Urban Transportation Research to conduct a study on implementing a system in this state which charges drivers based on their vehicle miles traveled as an alternative to the present fuel tax structure to fund transportation

projects; specifying requirements of the study; requiring that the findings of the study be presented to the Legislature by a certain date; directing the center, in consultation with the Florida Transportation Commission, to establish the framework for a pilot project that will evaluate the feasibility of implementing a system that charges drivers based on their vehicle miles traveled; specifying requirements for the design of the pilot project framework; authorizing the center to expend up to a certain amount for the study and pilot project design contingent upon legislative appropriation; requiring that the pilot project design be completed by a certain date and submitted in a report to the Legislature; reenacting s. 350.81(6), F.S., relating to the definition of the term “airport layout plan,” to incorporate the amendment made to s. 333.01, F.S., in a reference thereto; providing an effective date.

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

Section 1. Paragraph (d) of subsection (3) and paragraph (d) of subsection (4) of section 20.23, Florida Statutes, are amended to read:

20.23 Department of Transportation.—There is created a Department of Transportation which shall be a decentralized agency.

(3)

~~(d) The secretary shall appoint an inspector general~~

~~pursuant to s. 20.055 who shall be directly responsible to the secretary and shall serve at the pleasure of the secretary.~~

(4)

~~(d) The district director for the Fort Myers Urban Office of the Department of Transportation is responsible for developing the 5-year Transportation Plan for Charlotte, Collier, DeSoto, Glades, Hendry, and Lee Counties. The Fort Myers Urban Office also is responsible for providing policy, direction, local government coordination, and planning for those counties.~~

Section 2. Subsection (2) of section 215.82, Florida Statutes, is amended to read:

215.82 Validation; when required.—

(2) Any bonds issued pursuant to this act which are validated shall be validated in the manner provided by chapter 75. In actions to validate bonds to be issued in the name of the State Board of Education under s. 9(a) and (d), Art. XII of the State Constitution and bonds to be issued pursuant to chapter 259, the Land Conservation Act of 1972, the complaint shall be filed in the circuit court of the county where the seat of state government is situated, the notice required to be published by s. 75.06 shall be published only in the county where the complaint is filed, and the complaint and order of the circuit court shall be served only on the state attorney of the circuit in which the action is pending. In any action to validate bonds issued pursuant to s. 1010.62 or issued pursuant to s. 9(a)(1), Art. XII of the State Constitution or issued pursuant to s. 215.605 ~~or s. 338.227~~, the complaint shall be filed in the circuit court of the county where the seat of state government

is situated, the notice required to be published by s. 75.06 shall be published in a newspaper of general circulation in the county where the complaint is filed and in two other newspapers of general circulation in the state, and the complaint and order of the circuit court shall be served only on the state attorney of the circuit in which the action is pending; provided, however, that if publication of notice pursuant to this section would require publication in more newspapers than would publication pursuant to s. 75.06, such publication shall be made pursuant to s. 75.06.

Section 3. Section 260.0144, Florida Statutes, is amended to read:

260.0144 Sponsorship of state greenways and trails.—The department may enter into a concession agreement with a not-for-profit entity or private sector business or entity for commercial sponsorship to be displayed on state greenway and trail facilities not included within the Florida Shared-Use Nonmotorized Trail Network established in chapter 339 ~~or property specified in this section~~. The department may establish the cost for entering into a concession agreement.

(1) A concession agreement shall be administered by the department and must include the requirements found in this section.

(2)(a) Space for a commercial sponsorship display may be provided through a concession agreement on certain state-owned greenway or trail facilities or property.

(b) Signage or displays erected under this section shall comply with the provisions of s. 337.407 and chapter 479, and shall be limited as follows:

404 1. One large sign or display, not to exceed 16 square feet
405 in area, may be located at each trailhead or parking area.
406 2. One small sign or display, not to exceed 4 square feet
407 in area, may be located at each designated trail public access
408 point.
409 (c) Before installation, each name or sponsorship display
410 must be approved by the department.
411 (d) The department shall ensure that the size, color,
412 materials, construction, and location of all signs are
413 consistent with the management plan for the property and the
414 standards of the department, do not intrude on natural and
415 historic settings, and contain only a logo selected by the
416 sponsor and the following sponsorship wording:
417
418 ...(Name of the sponsor)... proudly sponsors the costs
419 of maintaining the ...(Name of the greenway or
420 trail)....
421
422 ~~(c) Sponsored state greenways and trails are authorized at~~
423 ~~the following facilities or property:~~
424 ~~1. Florida Keys Overseas Heritage Trail.~~
425 ~~2. Blackwater Heritage Trail.~~
426 ~~3. Tallahassee-St. Marks Historic Railroad State Trail.~~
427 ~~4. Nature Coast State Trail.~~
428 ~~5. Withlacoochee State Trail.~~
429 ~~6. General James A. Van Fleet State Trail.~~
430 ~~7. Palatka-Lake Butler State Trail.~~
431 (e) ~~(f)~~ The department may enter into commercial sponsorship
432 agreements for other state greenways or trails as authorized in

433 this section. A qualified entity that desires to enter into a
434 commercial sponsorship agreement shall apply to the department
435 on forms adopted by department rule.
436 (f) ~~(g)~~ All costs of a display, including development,
437 construction, installation, operation, maintenance, and removal
438 costs, shall be paid by the concessionaire.
439 (3) A concession agreement shall be for a minimum of 1
440 year, but may be for a longer period under a multiyear
441 agreement, and may be terminated for just cause by the
442 department upon 60 days' advance notice. Just cause for
443 termination of a concession agreement includes, but is not
444 limited to, violation of the terms of the concession agreement
445 or any provision of this section.
446 (4) Commercial sponsorship pursuant to a concession
447 agreement is for public relations or advertising purposes of the
448 not-for-profit entity or private sector business or entity, and
449 may not be construed by that not-for-profit entity or private
450 sector business or entity as having a relationship to any other
451 actions of the department.
452 (5) This section does not create a proprietary or
453 compensable interest in any sign, display site, or location.
454 (6) Proceeds from concession agreements shall be
455 distributed as follows:
456 (a) Eighty-five percent shall be deposited into the
457 appropriate department trust fund that is the source of funding
458 for management and operation of state greenway and trail
459 facilities and properties.
460 (b) Fifteen percent shall be deposited into the State
461 Transportation Trust Fund for use in the Traffic and Bicycle

462 Safety Education Program and the Safe Paths to School Program
463 administered by the Department of Transportation.
464 (7) The department may adopt rules to administer this
465 section.
466 Section 4. Section 288.365, Florida Statutes, is created to
467 read:
468 288.365 Notwithstanding chapter 74-570, Laws of Florida, as
469 amended by chapter 90-462, Laws of Florida, the Port of Palm
470 Beach is deemed eligible and granted authority to apply to the
471 Federal Government to seek approval from the Foreign-Trade Zones
472 Board through an alternative site framework to include all of
473 Palm Beach, Martin, and St. Lucie Counties in the proposed
474 service area without requirement to obtain approvals from
475 incorporated municipalities within the service area. However,
476 the designation of any area as a foreign-trade zone does not
477 authorize an exemption from any law, any local zoning or land
478 use designation or ordinance of any municipality or county, or
479 any tax imposed by the state or by any political subdivision,
480 agency, or instrumentality thereof.
481 Section 5. Subsection (2) of section 311.07, Florida
482 Statutes, is amended to read:
483 311.07 Florida seaport transportation and economic
484 development funding.—
485 (2) A minimum of $25 ~~$15~~ million per year shall be made
486 available from the State Transportation Trust Fund to fund the
487 Florida Seaport Transportation and Economic Development Program.
488 The Florida Seaport Transportation and Economic Development
489 Council created in s. 311.09 shall develop guidelines for
490 project funding. Council staff, the Department of

491 Transportation, and the Department of Economic Opportunity shall
492 work in cooperation to review projects and allocate funds in
493 accordance with the schedule required for the Department of
494 Transportation to include these projects in the tentative work
495 program developed pursuant to s. 339.135(4).
496 Section 6. Subsections (1), (9), and (12) of section
497 311.09, Florida Statutes, are amended to read:
498 311.09 Florida Seaport Transportation and Economic
499 Development Council.—
500 (1) The Florida Seaport Transportation and Economic
501 Development Council is created within the Department of
502 Transportation. The council consists of the following 16 ~~17~~
503 members: the port director, or the port director's designee, of
504 each of the ports of Jacksonville, Port Canaveral, ~~Port Citrus,~~
505 Fort Pierce, Palm Beach, Port Everglades, Miami, Port Manatee,
506 St. Petersburg, Tampa, Port St. Joe, Panama City, Pensacola, Key
507 West, and Fernandina; the secretary of the Department of
508 Transportation or his or her designee; and the director of the
509 Department of Economic Opportunity or his or her designee.
510 (9) The Department of Transportation shall include at least
511 $25 ~~no less than $15~~ million per year in its annual legislative
512 budget request for the Florida Seaport Transportation and
513 Economic Development Program funded under s. 311.07. Such budget
514 shall include funding for projects approved by the council which
515 have been determined by each agency to be consistent. The
516 department shall include the specific approved Florida Seaport
517 Transportation and Economic Development Program projects to be
518 funded under s. 311.07 during the ensuing fiscal year in the
519 tentative work program developed pursuant to s. 339.135(4). The

total amount of funding to be allocated to Florida Seaport Transportation and Economic Development Program projects under s. 311.07 during the successive 4 fiscal years shall also be included in the tentative work program developed pursuant to s. 339.135(4). The council may submit to the department a list of approved projects that could be made production-ready within the next 2 years. The list shall be submitted by the department as part of the needs and project list prepared pursuant to s. 339.135(2)(b). However, the department shall, upon written request of the Florida Seaport Transportation and Economic Development Council, submit work program amendments pursuant to s. 339.135(7) to the Governor within 10 days after the later of the date the request is received by the department or the effective date of the amendment, termination, or closure of the applicable funding agreement between the department and the affected seaport, as required to release the funds from the existing commitment. Notwithstanding s. 339.135(7)(c), any work program amendment to transfer prior year funds from one approved seaport project to another seaport project is subject to the procedures in s. 339.135(7)(d). Notwithstanding any provision of law to the contrary, the department may transfer unexpended budget between the seaport projects as identified in the approved work program amendments.

~~(12) Until July 1, 2014, Citrus County may apply for a grant through the Florida Seaport Transportation and Economic Development Council to perform a feasibility study regarding the establishment of a port in Citrus County. The council shall evaluate such application pursuant to subsections (5)-(8) and, if approved, the Department of Transportation shall include the~~

~~feasibility study in its budget request pursuant to subsection (9). If the study determines that a port in Citrus County is not feasible, the membership of Port Citrus on the council shall terminate.~~

Section 7. Subsections (6), (47), and present subsection (90) of section 316.003, Florida Statutes, are amended, present subsections (91), (92), and (93) of that section are redesignated as subsections (93), (95), and (96), respectively, and new subsections (90), (92), and (94) are added to that section, to read:

316.003 Definitions.—The following words and phrases, when used in this chapter, shall have the meanings respectively ascribed to them in this section, except where the context otherwise requires:

(6) CROSSWALK.—

(a) Unmarked crosswalk.—An unmarked part of the roadway at an intersection used by pedestrians for crossing the roadway ~~That part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway, measured from the curbs or, in the absence of curbs, from the edges of the traversable roadway~~.

(b) Marked crosswalk.—Pavement marking lines on the roadway surface, which may include contrasting pavement texture, style, or colored portions of the roadway at an intersection used by pedestrians for crossing the roadway ~~Any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface~~.

(c) Midblock crosswalk.—A location between intersections where the roadway surface is marked by pavement marking lines,

which may include contrasting pavement texture, style or colored portion of the roadway at a signalized or unsignalized crosswalk used for pedestrian roadway crossings and may include a pedestrian refuge island.

(47) SIDEWALK.—That portion of a street ~~between the curbline, or the lateral line, of a roadway and the adjacent property lines,~~ intended for use by pedestrians, adjacent to the roadway between the curb or edge of the roadway and the property line.

(90) AUTONOMOUS TECHNOLOGY.—Technology installed on a motor vehicle which has the capability to drive the vehicle on which the technology is installed without the active control of or monitoring by a human operator.

(91) ~~(90)~~ AUTONOMOUS VEHICLE.—Any vehicle equipped with autonomous technology. ~~The term "autonomous technology" means technology installed on a motor vehicle that has the capability to drive the vehicle on which the technology is installed without the active control or monitoring by a human operator.~~ The term excludes a motor vehicle enabled with active safety systems or driver assistance systems, including, without limitation, a system to provide electronic blind spot assistance, crash avoidance, emergency braking, parking assistance, adaptive cruise control, lane keep assistance, lane departure warning, or traffic jam and queuing assistant, unless any such system alone or in combination with other systems enables the vehicle on which the technology is installed to drive without the active control or monitoring by a human operator.

(92) DRIVER-ASSISTIVE TRUCK PLATOONING TECHNOLOGY.—Vehicle

automation technology that integrates sensor array, wireless communications, vehicle controls, and specialized software to synchronize acceleration and braking between up to two truck tractor-semitrailer combinations, while leaving each vehicle's steering control and systems command in the control of the vehicle's driver.

(94) PORT-OF-ENTRY.—A designated location that allows drivers of commercial motor vehicles to purchase temporary registration permits necessary to operate legally within the state. The locations and the designated routes to such locations shall be determined by the Department of Transportation.

Section 8. Subsection (2) of section 316.0895, Florida Statutes, is amended to read:

316.0895 Following too closely.—

(2) It is unlawful for the driver of any motor truck, motor truck drawing another vehicle, or vehicle towing another vehicle or trailer, when traveling upon a roadway outside of a business or residence district, to follow within 300 feet of another motor truck, motor truck drawing another vehicle, or vehicle towing another vehicle or trailer. The provisions of this subsection shall not be construed to prevent overtaking and passing nor shall the same apply upon any lane specially designated for use by motor trucks or other slow-moving vehicles. This subsection does not apply to two truck tractor-semitrailer combinations equipped and connected with driver-assistive truck-platooning technology, as defined in s. 316.003, and operating on a multilane limited access facility, if the owner or operator complies with the financial responsibility requirement of s. 316.86.

Section 9. Paragraphs (b) and (c) of subsection (7) of section 316.130, Florida Statutes, are amended to read:

316.130 Pedestrians; traffic regulations.—

(7)

(b) The driver of a vehicle at any crosswalk location where the approach is not controlled by a traffic signal or stop sign must ~~signage so indicates shall~~ stop and remain stopped to allow a pedestrian to cross a roadway when the pedestrian is in the crosswalk or steps into the crosswalk and is upon the half of the roadway upon which the vehicle is traveling or turning, or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger. Any pedestrian crossing a roadway at a point where a pedestrian tunnel or overhead pedestrian crossing has been provided must yield the right-of-way to all vehicles upon the roadway.

~~(c) When traffic control signals are not in place or in operation and there is no signage indicating otherwise, the driver of a vehicle shall yield the right-of-way, slowing down or stopping if need be to so yield, to a pedestrian crossing the roadway within a crosswalk when the pedestrian is upon the half of the roadway upon which the vehicle is traveling or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger. Any pedestrian crossing a roadway at a point where a pedestrian tunnel or overhead pedestrian crossing has been provided shall yield the right-of-way to all vehicles upon the roadway.~~

Section 10. Subsections (1) and (3) of section 316.303, Florida Statutes, are amended to read:

316.303 Television receivers.—

(1) No motor vehicle operated on the highways of this state shall be equipped with television-type receiving equipment so located that the viewer or screen is visible from the driver's seat, unless the vehicle is equipped with autonomous technology, as defined in s. 316.003(90), and is being operated in autonomous mode, as provided in s. 316.85(2); or unless the vehicle is equipped and operating with driver-assistive truck-platooning technology, as defined in s. 316.003(92).

(3) This section does not prohibit the use of an electronic display used in conjunction with a vehicle navigation system; or an electronic display used by an operator of a vehicle equipped with autonomous technology, as defined in s. 316.003(90), while the vehicle is being operated in autonomous mode, as provided in s. 316.85(2); or an electronic display used by the operator of a vehicle equipped and operating with driver-assistive truck platooning technology, as defined in s. 316.003(92).

Section 11. Paragraph (b) of subsection (3) and subsection (14) of section 316.515, Florida Statutes, are amended to read:

316.515 Maximum width, height, length.—

(3) LENGTH LIMITATION.—Except as otherwise provided in this section, length limitations apply solely to a semitrailer or trailer, and not to a truck tractor or to the overall length of a combination of vehicles. No combination of commercial motor vehicles coupled together and operating on the public roads may consist of more than one truck tractor and two trailing units. Unless otherwise specifically provided for in this section, a combination of vehicles not qualifying as commercial motor vehicles may consist of no more than two units coupled together; such nonqualifying combination of vehicles may not exceed a

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694 total length of 65 feet, inclusive of the load carried thereon,
695 but exclusive of safety and energy conservation devices approved
696 by the department for use on vehicles using public roads.
697 Notwithstanding any other provision of this section, a truck
698 tractor-semitrailer combination engaged in the transportation of
699 automobiles or boats may transport motor vehicles or boats on
700 part of the power unit; and, except as may otherwise be mandated
701 under federal law, an automobile or boat transporter semitrailer
702 may not exceed 50 feet in length, exclusive of the load;
703 however, the load may extend up to an additional 6 feet beyond
704 the rear of the trailer. The 50-feet length limitation does not
705 apply to non-stinger-steered automobile or boat transporters
706 that are 65 feet or less in overall length, exclusive of the
707 load carried thereon, or to stinger-steered automobile or boat
708 transporters that are 75 feet or less in overall length,
709 exclusive of the load carried thereon. For purposes of this
710 subsection, a "stinger-steered automobile or boat transporter"
711 is an automobile or boat transporter configured as a semitrailer
712 combination wherein the fifth wheel is located on a drop frame
713 located behind and below the rearmost axle of the power unit.
714 Notwithstanding paragraphs (a) and (b), any straight truck or
715 truck tractor-semitrailer combination engaged in the
716 transportation of horticultural trees may allow the load to
717 extend up to an additional 10 feet beyond the rear of the
718 vehicle, provided said trees are resting against a retaining bar
719 mounted above the truck bed so that the root balls of the trees
720 rest on the floor and to the front of the truck bed and the tops
721 of the trees extend up over and to the rear of the truck bed,
722 and provided the overhanging portion of the load is covered with

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723 protective fabric.
724 (b) *Semitrailers.*—
725 1. A semitrailer operating in a truck tractor-semitrailer
726 combination may not exceed 48 feet in extreme overall outside
727 dimension, measured from the front of the unit to the rear of
728 the unit and the load carried thereon, exclusive of safety and
729 energy conservation devices approved by the department for use
730 on vehicles using public roads, unless it complies with
731 subparagraph 2. A semitrailer which exceeds 48 feet in length
732 and is used to transport divisible loads may operate in this
733 state only if issued a permit under s. 316.550 and if such
734 trailer meets the requirements of this chapter relating to
735 vehicle equipment and safety. Except for highways on the tandem
736 trailer truck highway network, public roads deemed unsafe for
737 longer semitrailer vehicles or those roads on which such longer
738 vehicles are determined not to be in the interest of public
739 convenience shall, in conformance with s. 316.006, be restricted
740 by the Department of Transportation or by the local authority to
741 use by semitrailers not exceeding a length of 48 feet, inclusive
742 of the load carried thereon but exclusive of safety and energy
743 conservation devices approved by the department for use on
744 vehicles using public roads. Truck tractor-semitrailer
745 combinations shall be afforded reasonable access to terminals;
746 facilities for food, fuel, repairs, and rest; and points of
747 loading and unloading.
748 2. A semitrailer which is more than 48 feet but not more
749 than 57 ~~53~~ feet in extreme overall outside dimension, as
750 measured pursuant to subparagraph 1., may operate on public
751 roads, except roads on the State Highway System which are

restricted by the Department of Transportation or other roads restricted by local authorities, if:

a. The distance between the kingpin or other peg that locks into the fifth wheel of a truck tractor and the center of the rear axle or rear group of axles does not exceed 41 feet, or, in the case of a semitrailer used exclusively or primarily to transport vehicles in connection with motorsports competition events, the distance does not exceed 46 feet from the kingpin to the center of the rear axles; and

b. It is equipped with a substantial rear-end underride protection device meeting the requirements of 49 C.F.R. s. 393.86, "Rear End Protection."

(14) MANUFACTURED BUILDINGS.—The Department of Transportation may, in its discretion and upon application and good cause shown therefor that the same is not contrary to the public interest, issue a special permit for truck tractor-semitrailer combinations where the total number of overwidth deliveries of manufactured buildings, as defined in s. 553.36(13), may be reduced by permitting the use of multiple sections or single units on an overlength trailer of no more than 80 ~~54~~ feet.

Section 12. Paragraph (b) of subsection (2) of section 316.545, Florida Statutes, is amended to read:

316.545 Weight and load unlawful; special fuel and motor fuel tax enforcement; inspection; penalty; review.—

(2)

(b) The officer or inspector shall inspect the license plate or registration certificate of the commercial vehicle, as defined in s. 316.003(66), to determine if its gross weight is

in compliance with the declared gross vehicle weight. If its gross weight exceeds the declared weight, the penalty shall be 5 cents per pound on the difference between such weights. In those cases when the commercial vehicle, as defined in s. 316.003(66), is being operated over the highways of the state with an expired registration or with no registration from this or any other jurisdiction or is not registered under the applicable provisions of chapter 320, the penalty herein shall apply on the basis of 5 cents per pound on that scaled weight which exceeds 35,000 pounds on laden truck tractor-semitrailer combinations or tandem trailer truck combinations, 10,000 pounds on laden straight trucks or straight truck-trailer combinations, or 10,000 pounds on any unladen commercial motor vehicle. A commercial motor vehicle entering the state at a designated port-of-entry location, as defined in s. 316.003(94), or operating on designated routes to a port-of-entry location, which obtains a temporary registration permit shall be assessed a penalty limited to the difference between its gross weight and the declared gross vehicle weight at 5 cents per pound. If the license plate or registration has not been expired for more than 90 days, the penalty imposed under this paragraph may not exceed $1,000. In the case of special mobile equipment as defined in s. 316.003(48), which qualifies for the license tax provided for in s. 320.08(5)(b), being operated on the highways of the state with an expired registration or otherwise not properly registered under the applicable provisions of chapter 320, a penalty of $75 shall apply in addition to any other penalty which may apply in accordance with this chapter. A vehicle found in violation of this section may be detained until the owner or

operator produces evidence that the vehicle has been properly registered. Any costs incurred by the retention of the vehicle shall be the sole responsibility of the owner. A person who has been assessed a penalty pursuant to this paragraph for failure to have a valid vehicle registration certificate pursuant to the provisions of chapter 320 is not subject to the delinquent fee authorized in s. 320.07 if such person obtains a valid registration certificate within 10 working days after such penalty was assessed.

Section 13. Section 333.01, Florida Statutes, is amended to read:

333.01 Definitions.—For the purpose of this chapter, the following words, terms, and phrases shall have the following meanings ~~herein given, unless otherwise specifically defined, or unless another intention clearly appears, or the context otherwise requires~~:

(1) "Aeronautical study" means a Federal Aviation Administration review conducted pursuant to 14 C.F.R. part 77, concerning the effect of proposed construction or alteration on the use of air navigation facilities or navigable airspace by aircraft. ~~"Aeronautics" means transportation by aircraft; the operation, construction, repair, or maintenance of aircraft, aircraft power plants and accessories, including the repair, packing, and maintenance of parachutes; the design, establishment, construction, extension, operation, improvement, repair, or maintenance of airports, restricted landing areas, or other air navigation facilities, and air instruction.~~

(2) "Airport" means any area of land or water designed and set aside for the landing and taking off of aircraft and

utilized or to be utilized in the interest of the public for such purpose.

(3) "Airport hazard" means any obstruction that exceeds ~~structure or tree or use of land which would exceed~~ the federal obstruction standards as contained in 14 C.F.R. ss. 77.15, 77.17, 77.19, 77.21, and 77.23 ~~77.21, 77.23, 77.25, 77.28, and 77.29~~ and which obstructs the airspace required for the flight of aircraft in taking off, maneuvering, or landing, or that is otherwise hazardous to such taking off, maneuvering, or landing of aircraft and for which no person has ~~previously~~ obtained a permit ~~or variance~~ pursuant to s. 333.025 or s. 333.07.

(4) "Airport hazard area" means any area of land or water upon which an airport hazard might be established ~~if not prevented as provided in this chapter~~.

(5) "Airport land use compatibility zoning" means airport zoning regulations governing ~~restricting~~ the use of land adjacent to or in the immediate vicinity of airports in the manner provided ~~enumerated~~ in ss. 333.03(2) ~~s. 333.03(2) to activities~~ and (3) ~~purposes compatible with the continuation of normal airport operations including landing and takeoff of aircraft in order to promote public health, safety, and general welfare~~.

(6) "Airport layout plan" means a scaled ~~detailed, scale engineering~~ drawing or set of drawings in either paper or electronic form of the existing~~, including pertinent dimensions, of an airport's current~~ and planned airport facilities which provides a graphic representation of the existing and long-term development plan for the airport and demonstrates the preservation and continuity of safety, utility, and efficiency

of the airport~~, their locations, and runway usage~~.

(7) "Airport master plan" means a comprehensive plan for an airport that describes the immediate and long-term development plans to meet future aviation demand.

(8) "Airport protection zoning" means airport zoning regulations governing airport hazards in the manner provided in s. 333.03.

(9) "Department" means the Department of Transportation as created by s. 20.23.

(10) "Educational facility" means any structure, land, or use thereof that includes a public or private kindergarten through grade 12 school, charter school, magnet school, college campus, or university campus. Space used for educational purposes within a multitenant building may not be treated as an educational facility for the purpose of this chapter.

(11) "Landfill" has the same meaning as in s. 403.703.

(12)~~(7)~~ "Obstruction" means any object of natural growth, terrain, or permanent or temporary construction or alteration, including equipment or materials used and any permanent or temporary apparatus, or alteration of any permanent or temporary existing structure by a change in its height, including existing or proposed appurtenances, or lateral dimensions, including equipment or material used therein, which exceeds ~~existing or proposed manmade object or object of natural growth or terrain that violates~~ the standards contained in 14 C.F.R. ss. 77.15, 77.17, 77.19, 77.21, and 77.23 ~~77.21, 77.23, 77.25, 77.28, and 77.29~~.

(13)~~(8)~~ "Person" means any individual, firm, copartnership, corporation, company, association, joint-stock association, or

body politic, and includes any trustee, receiver, assignee, or other similar representative thereof.

(14)~~(9)~~ "Political subdivision" means the local government of any county, city, town, village, or other subdivision or agency thereof, or any district or special district, port commission, port authority, or other such agency authorized to establish or operate airports in the state.

(15) "Public-use airport" means an airport, publicly or privately owned and licensed by the state, which is open for use by the public.

(16)~~(10)~~ "Runway protection ~~clear~~ zone" or "RPZ" means an area at ground level beyond the ~~a~~ runway end which is intended to enhance the safety and protection of people and property on the ground ~~clear zone as defined in 14 C.F.R. s. 151.9(b)~~.

(17)~~(11)~~ "Structure" means any object, constructed, erected, altered, or installed ~~by humans~~, including, but without limitation ~~thereof~~, buildings, towers, smokestacks, utility poles, power generation equipment, and overhead transmission lines.

(18) "Substantial modification" means any repair, reconstruction, rehabilitation, or improvement of a structure when the actual cost of the repair, reconstruction, rehabilitation, or improvement of the structure equals or exceeds 50 percent of the market value of the structure.

~~(12) "Tree" includes any plant of the vegetable kingdom.~~

Section 14. Section 333.025, Florida Statutes, is amended to read:

333.025 Permit required for structures exceeding federal obstruction standards.—

926 (1) A person proposing the construction or alteration ~~In~~
927 ~~order to prevent the erection~~ of structures hazardous ~~dangerous~~
928 to air navigation, subject to the provisions of subsections (2),
929 (3), and (4), must ~~each person shall~~ secure from the department
930 ~~of Transportation~~ a permit for the proposed construction or
931 ~~erection,~~ alteration~~, or modification~~ of any structure the
932 result of which would exceed the federal obstruction standards
933 as contained in 14 C.F.R. ss. 77.15, 77.17, 77.19, 77.21, and
934 77.23 ~~77.21, 77.23, 77.25, 77.28, and 77.29~~. However, permits
935 from the department ~~of Transportation~~ will be required only
936 within an airport hazard area where federal obstruction
937 standards are exceeded and if the proposed construction is
938 within a 10-nautical-mile radius of the airport reference point,
939 located at the approximate geometric ~~geographical~~ center of all
940 useable runways of public-use airports or ~~a publicly owned or~~
941 ~~operated airport,~~ a military airport~~, or an airport licensed by~~
942 ~~the state for public use~~.
943 (2) Existing, planned, and proposed ~~Affected airports will~~
944 ~~be considered as having those~~ facilities at public-use airports
945 contained in an ~~which are shown on the~~ airport master plan, on
946 ~~or~~ an airport layout plan submitted to the Federal Aviation
947 Administration Airport District Office, or in comparable
948 military documents~~, and~~ will be ~~so~~ protected from structures
949 that exceed federal obstruction standards. ~~Planned or proposed~~
950 ~~public-use airports which are the subject of a notice or~~
951 ~~proposal submitted to the Federal Aviation Administration or to~~
952 ~~the Department of Transportation shall also be protected.~~
953 (3) Permit requirements of subsection (1) do ~~shall~~ not
954 apply to structures ~~projects~~ which received construction permits

955 from the Federal Communications Commission for structures
956 exceeding federal obstruction standards prior to May 20, 1975~~,~~
957 ~~provided such structures now exist~~; nor does subsection (1)
958 ~~shall it~~ apply to previously approved structures now existing,
959 or any necessary replacement or repairs to such existing
960 structures, so long as the height and location is unchanged.
961 (4) When political subdivisions have adopted adequate
962 airport ~~airspace~~ protection zoning regulations in compliance
963 with s. 333.03~~,~~ and such regulations are on file with the
964 department ~~of Transportation~~, and have established a permitting
965 process in compliance with s. 333.09(2), a permit for such
966 structure shall not be required from the department ~~of~~
967 ~~Transportation~~. To evaluate technical consistency with this
968 section, there is a 15-day department review period concurrent
969 with the permitting process prescribed by s. 333.09. Upon
970 receipt of a complete permit application, the local government
971 shall forward to the department's Aviation Office by certified
972 mail, return receipt requested, or by delivery service that
973 provides a receipt evidencing delivery, a copy of the
974 application. Cranes, construction equipment, and other temporary
975 structures, in use or in place for a period not to exceed 18
976 consecutive months, are exempt from this requirement, unless
977 requested by the department's Aviation Office.
978 (5) The department ~~of Transportation~~ shall, within 30 days
979 of the receipt of an application for a permit, issue or deny a
980 permit for the construction or ~~erection,~~ alteration~~, or~~
981 ~~modification~~ of any structure ~~the result of~~ which would exceed
982 federal obstruction standards as contained in 14 C.F.R. ss.
983 77.15, 77.17, 77.19, 77.21, and 77.23 ~~77.21, 77.23, 77.25,~~

984 ~~77.28, and 77.29~~. The department shall review permit
985 applications in conformity with s. 120.60.
986 (6) In determining whether to issue or deny a permit, the
987 department shall consider:
988 (a) The safety of persons on the ground and in the air ~~The~~
989 ~~nature of the terrain and height of existing structures~~.
990 (b) The safe and efficient use of navigable airspace ~~Public~~
991 ~~and private interests and investments~~.
992 (c) The nature of the terrain and height of existing
993 structures ~~The character of flying operations and planned~~
994 ~~developments of airports~~.
995 (d) Whether the construction of the proposed structure
996 would impact the state licensing standards for a public-use
997 airport, contained in chapter 330 and chapter 14-60, Florida
998 Administrative Code ~~Federal airways as designated by the Federal~~
999 ~~Aviation Administration~~.
1000 (e) The character of existing and planned flight operations
1001 and developments at public-use airports ~~Whether the construction~~
1002 ~~of the proposed structure would cause an increase in the minimum~~
1003 ~~descent altitude or the decision height at the affected airport~~.
1004 (f) Federal airways; visual flight rules, flyways and
1005 corridors; and instrument approaches as designated by the
1006 Federal Aviation Administration ~~Technological advances~~.
1007 (g) Whether the construction of the proposed structure
1008 would cause an increase in the minimum descent altitude or the
1009 decision height at the affected airport ~~The safety of persons on~~
1010 ~~the ground and in the air~~.
1011 (h) The cumulative effects on navigable airspace of all
1012 existing structures and all other known and proposed structures

1013 in the area ~~Land use density~~.
1014 ~~(i) The safe and efficient use of navigable airspace.~~
1015 ~~(j) The cumulative effects on navigable airspace of all~~
1016 ~~existing structures, proposed structures identified in the~~
1017 ~~applicable jurisdictions' comprehensive plans, and all other~~
1018 ~~known proposed structures in the area.~~
1019 (7) When issuing a permit under this section, the
1020 department ~~of Transportation~~ shall~~, as a specific condition of~~
1021 ~~such permit,~~ require the owner ~~obstruction marking and lighting~~
1022 of the permitted structure or vegetation to install, operate,
1023 and maintain thereon, at his or her own expense, marking and
1024 lighting in conformance with the specific standards established
1025 by the Federal Aviation Administration ~~structure as provided in~~
1026 ~~s. 333.07(3)(b)~~.
1027 (8) The department may ~~of Transportation shall~~ not approve
1028 a permit for the construction or alteration ~~erection~~ of a
1029 structure unless the applicant submits both documentation
1030 showing compliance with the federal requirement for notification
1031 of proposed construction or alteration and a valid aeronautical
1032 study ~~evaluation~~, and no permit shall be approved solely on the
1033 basis that such proposed structure will not exceed federal
1034 obstruction standards as contained in 14 C.F.R. ss. 77.15,
1035 77.17, 77.19, 77.21, or 77.23 ~~77.21, 77.23, 77.25, 77.28, or~~
1036 ~~77.29~~, or any other federal aviation regulation.
1037 (9) The denial of a permit under this section is subject to
1038 the administrative review provisions of chapter 120.
1039 Section 15. Section 333.03, Florida Statutes, is amended to
1040 read:
1041 333.03 Requirement ~~Power~~ to adopt airport zoning

1042 regulations.—
1043 (1)(a) Every ~~In order to prevent the creation or~~
1044 ~~establishment of airport hazards, every~~ political subdivision
1045 having an airport hazard area within its territorial limits
1046 shall~~, by October 1, 1977,~~ adopt, administer, and enforce~~, under~~
1047 ~~the police power and~~ in the manner and upon the conditions
1048 ~~hereinafter~~ prescribed in this section, airport protection
1049 zoning regulations for ~~such~~ airport hazards ~~hazard area~~.
1050 (b) Where an airport is owned or controlled by a political
1051 subdivision and an ~~any~~ airport hazard area ~~appertaining to such~~
1052 ~~airport~~ is located wholly or partly outside the territorial
1053 limits of the ~~said~~ political subdivision, the political
1054 subdivision owning or controlling the airport and any ~~the~~
1055 political subdivision within which the airport hazard area is
1056 located, must ~~shall~~ either:
1057 1. By interlocal agreement, ~~in accordance with the~~
1058 ~~provisions of chapter 163,~~ adopt, administer, and enforce a set
1059 of airport protection zoning regulations applicable to the
1060 airport hazard area ~~in question~~; or
1061 2. By ordinance, regulation, or resolution duly adopted,
1062 create a joint airport zoning board, which must ~~board shall have~~
1063 ~~the same power to~~ adopt, administer, and enforce a set of
1064 airport protection zoning regulations applicable to the airport
1065 hazard area in each ~~question as that vested in paragraph (a) in~~
1066 ~~the~~ political subdivision in ~~within~~ which the airport hazard
1067 ~~such~~ area is located. Each such joint airport zoning board shall
1068 have as members two representatives appointed by each
1069 participating political subdivision ~~participating in its~~
1070 ~~creation~~ and, in addition, a chair elected by a majority of the

1071 members so appointed. The ~~However, the~~ airport manager or
1072 representative of each airport in ~~managers of~~ the ~~affected~~
1073 participating political subdivisions shall serve on the board in
1074 a nonvoting capacity.
1075 (c) Airport protection zoning regulations adopted under
1076 paragraph (a) must ~~shall~~, at ~~as a~~ minimum, require:
1077 1. A permit ~~variance~~ for the ~~erection,~~ construction or
1078 alteration~~, or modification~~ of any structure that ~~which~~ would
1079 cause the structure to exceed the federal obstruction standards
1080 as contained in 14 C.F.R. ss. 77.15, 77.17, 77.19, 77.21, and
1081 77.23. ~~77.21, 77.23, 77.25, 77.28, and 77.29;~~
1082 2. Obstruction marking and lighting for structures
1083 exceeding the federal obstruction standards as contained in 14
1084 C.F.R. ss. 77.15, 77.17, 77.19, 77.21, and 77.23, as specified
1085 in s. 333.07(3).~~;~~
1086 3. Documentation showing compliance with the federal
1087 requirement for notification of proposed construction or
1088 alteration and a valid aeronautical study ~~evaluation~~ submitted
1089 by each person applying for a permit. ~~variance;~~
1090 4. Consideration of the criteria in s. 333.025(6), when
1091 determining whether to issue or deny a permit. ~~variance; and~~
1092 5. That a permit may not ~~no variance shall~~ be approved
1093 solely on the basis that the ~~such~~ proposed structure will not
1094 exceed federal obstruction standards as contained in 14 C.F.R.
1095 ss. 77.15, 77.17, 77.19, 77.21, or 77.23 ~~77.21, 77.23, 77.25,~~
1096 ~~77.28, or 77.29~~, or any other federal aviation regulation.
1097 (d) The department is available to provide assistance to
1098 political subdivisions with regard to federal obstruction
1099 standards ~~shall issue copies of the federal obstruction~~

1100 ~~standards as contained in 14 C.F.R. ss. 77.21, 77.23, 77.25,~~
1101 ~~77.28, and 77.29 to each political subdivision having airport~~
1102 ~~hazard areas and, in cooperation with political subdivisions,~~
1103 ~~shall issue appropriate airport zoning maps depicting within~~
1104 ~~each county the maximum allowable height of any structure or~~
1105 ~~tree. Material distributed pursuant to this subsection shall be~~
1106 ~~at no cost to authorized recipients~~.
1107 (2) In the manner provided in subsection (1), ~~interim~~
1108 airport land use compatibility zoning regulations must ~~shall~~ be
1109 adopted, administered, and enforced. Airport land-use
1110 compatibility zoning ~~When political subdivisions have adopted~~
1111 ~~land development~~ regulations must, at a minimum, ~~in accordance~~
1112 ~~with the provisions of chapter 163 which~~ address the ~~use of land~~
1113 ~~in the manner consistent with the provisions herein, adoption of~~
1114 ~~airport land use compatibility regulations pursuant to this~~
1115 ~~subsection shall not be required. Interim airport land use~~
1116 ~~compatibility zoning regulations shall consider the~~ following:
1117 (a) Prohibiting any new and restricting any existing
1118 ~~Whether sanitary~~ landfills ~~are located~~ within the following
1119 areas:
1120 1. Within 10,000 feet from the nearest point of any runway
1121 used or planned to be used by turbine ~~turbojet or turboprop~~
1122 aircraft.
1123 2. Within 5,000 feet from the nearest point of any runway
1124 used only by nonturbine ~~piston-type~~ aircraft.
1125 3. Outside the perimeters defined in subparagraphs 1. and
1126 2., but still within the lateral limits of the civil airport
1127 imaginary surfaces defined in 14 C.F.R. part 77.19 ~~77.25~~. Case-
1128 by-case review of such landfills is advised.

1129 (b) Where ~~Whether~~ any landfill is located and constructed
1130 so that it attracts or sustains hazardous bird movements from
1131 feeding, water, or roosting areas into, or across, the runways
1132 or approach and departure patterns of aircraft, ~~. The political~~
1133 ~~subdivision shall request from the airport authority or other~~
1134 ~~governing body operating the airport a report on such bird~~
1135 ~~feeding or roosting areas that at the time of the request are~~
1136 ~~known to the airport. In preparing its report, the authority, or~~
1137 ~~other governing body, shall consider whether~~ the landfill
1138 operator will be required to incorporate bird management
1139 techniques or other practices to minimize bird hazards to
1140 airborne aircraft. ~~The airport authority or other governing body~~
1141 ~~shall respond to the political subdivision no later than 30 days~~
1142 ~~after receipt of such request.~~
1143 (c) Where an airport authority or other governing body
1144 operating a ~~publicly owned,~~ public-use airport has conducted a
1145 noise study in accordance with the provisions of 14 C.F.R. part
1146 150, or where the public-use airport owner has established noise
1147 contours pursuant to another public study approved by the
1148 Federal Aviation Administration, incompatible uses, as
1149 established in 14 C.F.R. part 150, appendix A noise study, or as
1150 a part of an alternative FAA-approved public study, may not be
1151 permitted within the noise contours established by that study,
1152 except where such use is specifically contemplated by such study
1153 with appropriate mitigation or similar techniques described in
1154 the study ~~neither residential construction nor any educational~~
1155 ~~facility as defined in chapter 1013, with the exception of~~
1156 ~~aviation school facilities, shall be permitted within the area~~
1157 ~~contiguous to the airport defined by an outer noise contour that~~

~~is considered incompatible with that type of construction by 14 C.F.R. part 150, Appendix A or an equivalent noise level as established by other types of noise studies~~.

(d) Where an airport authority or other governing body operating a ~~publicly owned,~~ public-use airport has not conducted a noise study, neither residential construction nor any educational facility ~~as defined in chapter 1013~~, with the exception of aviation school facilities, shall be permitted within an area contiguous to the airport measuring one-half the length of the longest runway on either side of and at the end of each runway centerline.

(3) In the manner provided in subsection (1), airport zoning regulations ~~shall be adopted~~ which restrict new incompatible uses~~, activities,~~ or substantial modifications to existing incompatible uses ~~construction~~ within runway protection ~~clear~~ zones shall be adopted ~~, including uses, activities, or construction in runway clear zones which are incompatible with normal airport operations or endanger public health, safety, and welfare by resulting in congregations of people, emissions of light or smoke, or attraction of birds. Such regulations shall prohibit the construction of an educational facility of a public or private school at either end of a runway of a publicly owned, public-use airport within an area which extends 5 miles in a direct line along the centerline of the runway, and which has a width measuring one-half the length of the runway~~. ~~Exceptions approving construction of an educational facility within the delineated area shall only be granted when the political subdivision administering the zoning regulations makes specific findings detailing how the public policy reasons for allowing~~

~~the construction outweigh health and safety concerns prohibiting such a location.~~

~~(4) The procedures outlined in subsections (1), (2), and (3) for the adoption of such regulations are supplemental to any existing procedures utilized by political subdivisions in the adoption of such regulations.~~

(4)~~(5)~~ The department ~~of Transportation~~ shall provide technical assistance to any political subdivision requesting assistance in the preparation of an airport zoning regulation ~~code~~. A copy of all local airport zoning codes, rules, ~~and~~ regulations, and amendments and proposed and granted permits ~~variances thereto,~~ shall be filed with the department. All updates and amendments to local airport zoning codes, rules, and regulations must be filed with the department within 30 days after adoption.

(5)~~(6)~~ ~~Nothing in~~ Subsection (2) and ~~or~~ subsection (3) may not ~~shall be construed to~~ require the removal, alteration, sound conditioning, or other change, or to interfere with the continued use or adjacent expansion of any educational structure or site in existence on July 1, 1993~~, or be construed to prohibit the construction of any new structure for which a site has been determined as provided in former s. 235.19, as of July 1, 1993~~.

(6) This section may not preclude an airport authority, local government, or other governing body operating a public-use airport from establishing airport protection zoning regulations more restrictive than herein prescribed in order to protect the safety and welfare of the public in the air and on the ground.

Section 16. Section 333.04, Florida Statutes, is amended to

1216 read:
1217 333.04 Comprehensive zoning regulations; most stringent to
1218 prevail where conflicts occur.—
1219 (1) INCORPORATION.—In the event that a political
1220 subdivision has adopted, or hereafter adopts, a comprehensive
1221 plan or policy ~~zoning ordinance~~ regulating, among other things,
1222 the height of buildings, structures, and natural objects, and
1223 uses of property, any airport zoning regulations applicable to
1224 the same area or portion thereof may be incorporated in and made
1225 a part of such comprehensive plans or policies ~~zoning~~
1226 ~~regulations~~, and be administered and enforced in connection
1227 therewith.
1228 (2) CONFLICT.—In the event of conflict between any airport
1229 zoning regulations adopted under this chapter and any other
1230 regulations applicable to the same area, whether the conflict be
1231 with respect to the height of structures or vegetation ~~trees~~,
1232 the use of land, or any other matter, and whether such
1233 regulations were adopted by the political subdivision which
1234 adopted the airport zoning regulations or by some other
1235 political subdivision, the more stringent limitation or
1236 requirement shall govern and prevail.
1237 Section 17. Section 333.05, Florida Statutes, is amended to
1238 read:
1239 333.05 Procedure for adoption of zoning regulations.—
1240 (1) NOTICE AND HEARING.—~~No~~ Airport zoning regulations may
1241 not ~~shall~~ be adopted, amended, or deleted ~~changed~~ under this
1242 chapter except by action of the legislative body of the
1243 political subdivision ~~in question~~, or the joint board provided
1244 in s. 333.03(1)(b) by the political subdivisions ~~bodies~~ therein

1245 provided and set forth, after a public hearing in relation
1246 thereto, at which parties in interest and citizens shall have an
1247 opportunity to be heard. Notice of the hearing shall be
1248 published at least once a week for 2 consecutive weeks in an
1249 official paper, or a paper of general circulation, in the
1250 political subdivision or subdivisions where ~~in which are located~~
1251 the airport zoning regulations are ~~areas~~ to be adopted, amended,
1252 or deleted ~~zoned~~.
1253 (2) AIRPORT ZONING COMMISSION.—Prior to the initial zoning
1254 of any airport area under this chapter the political subdivision
1255 or joint airport zoning board which is to adopt, administer, and
1256 enforce the regulations shall appoint a commission, to be known
1257 as the airport zoning commission, to recommend the boundaries of
1258 the various zones to be established and the regulations to be
1259 adopted therefor. Such commission shall make a preliminary
1260 report and hold public hearings thereon before submitting its
1261 final report, and the legislative body of the political
1262 subdivision or the joint airport zoning board shall not hold its
1263 public hearings or take any action until it has received the
1264 final report of such commission, and at least 15 days shall
1265 elapse between the receipt of the final report of the commission
1266 and the hearing to be held by the latter board. Where a planning
1267 ~~city plan~~ commission, airport commission, or comprehensive
1268 zoning commission already exists, it may be appointed as the
1269 airport zoning commission.
1270 Section 18. Section 333.06, Florida Statutes, is amended to
1271 read:
1272 333.06 Airport zoning requirements.—
1273 (1) REASONABLENESS.—All airport zoning regulations adopted

1274 under this chapter shall be reasonable and ~~none~~ shall not impose
1275 any requirement or restriction which is not reasonably necessary
1276 to effectuate the purposes of this chapter. In determining what
1277 regulations it may adopt, each political subdivision and joint
1278 airport zoning board shall consider, among other things, the
1279 character of the flying operations expected to be conducted at
1280 the airport, the nature of the terrain within the airport hazard
1281 area and runway protection ~~clear~~ zones, the character of the
1282 neighborhood, the uses to which the property to be zoned is put
1283 and adaptable, and the impact of any new use, activity, or
1284 construction on the airport's operating capability and capacity.
1285 (2) INDEPENDENT JUSTIFICATION.—The purpose of all airport
1286 zoning regulations adopted under this chapter is to provide both
1287 airspace protection and land uses ~~use~~ compatible with airport
1288 operations. Each aspect of this purpose requires independent
1289 justification in order to promote the public interest in safety,
1290 health, and general welfare. Specifically, construction in a
1291 runway protection ~~clear~~ zone which does not exceed airspace
1292 height restrictions is not conclusive ~~evidence per se~~ that such
1293 use, activity, or construction is compatible with airport
1294 operations.
1295 (3) NONCONFORMING USES.—No airport protection zoning
1296 regulations adopted under this chapter shall require the
1297 removal, lowering, or other change or alteration of any
1298 structure or vegetation ~~tree~~ not conforming to the regulations
1299 when adopted or amended, or otherwise interfere with the
1300 continuance of any nonconforming use, except as provided in s.
1301 333.07(1) and (3).
1302 (4) ADOPTION OF AIRPORT MASTER PLAN AND NOTICE TO AFFECTED

1303 LOCAL GOVERNMENTS.—An airport master plan shall be prepared by
1304 each public-use ~~publicly owned and operated~~ airport licensed by
1305 the department ~~of Transportation~~ under chapter 330. The
1306 authorized entity having responsibility for governing the
1307 operation of the airport, when either requesting from or
1308 submitting to a state or federal governmental agency with
1309 funding or approval jurisdiction a "finding of no significant
1310 impact," an environmental assessment, a site-selection study, an
1311 airport master plan, or any amendment to an airport master plan,
1312 shall submit simultaneously a copy of said request, submittal,
1313 assessment, study, plan, or amendments by certified mail to all
1314 affected local governments. For the purposes of this subsection,
1315 "affected local government" is defined as any city or county
1316 having jurisdiction over the airport and any city or county
1317 located within 2 miles of the boundaries of the land subject to
1318 the airport master plan.
1319 Section 19. Section 333.065, Florida Statutes, is repealed.
1320 Section 20. Section 333.07, Florida Statutes, is amended to
1321 read:
1322 333.07 Local government permitting of airspace obstructions
1323 ~~Permits and variances~~.—
1324 (1) PERMITS.—
1325 (a) Any person proposing to erect, construct, or alter any
1326 structure, increase the height of any structure, permit the
1327 growth of any vegetation, or otherwise use his or her property
1328 in violation of the airport protection zoning regulations
1329 adopted under this chapter shall apply for a permit. A ~~Any~~
1330 ~~airport zoning regulations adopted under this chapter may~~
1331 ~~require that a permit be obtained before any new structure or~~

1332 ~~use may be constructed or established and before any existing~~
1333 ~~use or structure may be substantially changed or substantially~~
1334 ~~altered or repaired. In any event, however, all such regulations~~
1335 ~~shall provide that before any nonconforming structure or tree~~
1336 ~~may be replaced, substantially altered or repaired, rebuilt,~~
1337 ~~allowed to grow higher, or replanted, a permit must be secured~~
1338 ~~from the administrative agency authorized to administer and~~
1339 ~~enforce the regulations, authorizing such replacement, change,~~
1340 ~~or repair. No~~ permit may not ~~shall~~ be issued ~~granted~~ that would
1341 allow the establishment or creation of an airport hazard or
1342 would permit a nonconforming structure or vegetation ~~tree~~ or
1343 nonconforming use to be made or become higher or to become a
1344 greater hazard to air navigation than it was when the applicable
1345 regulation was adopted or than it is when the application for a
1346 permit is made.
1347 (b) Whenever the political subdivision or its
1348 administrative agency determines that a nonconforming use or
1349 nonconforming structure or vegetation ~~tree~~ has been abandoned or
1350 is more than 80 percent torn down, destroyed, deteriorated, or
1351 decayed, a ~~no~~ permit may not ~~shall~~ be granted that would allow
1352 the ~~said~~ structure or vegetation ~~tree~~ to exceed the applicable
1353 height limit or otherwise deviate from the zoning regulations.~~;~~
1354 ~~and,~~ Whether an application is made for a permit under this
1355 subsection or not, the ~~said agency may by appropriate action,~~
1356 ~~compel the~~ owner of the nonconforming structure or vegetation
1357 may be required ~~tree~~, at his or her own expense, to lower,
1358 remove, reconstruct, alter, or equip such object as may be
1359 necessary to conform to the regulations. If the owner of the
1360 nonconforming structure or vegetation neglects or refuses ~~tree~~

1361 ~~shall neglect or refuse~~ to comply with the ~~such~~ order for 10
1362 days after notice ~~thereof~~, the ~~said~~ agency may report the
1363 violation to the political subdivision involved therein. The~~,~~
1364 ~~which~~ subdivision, through its appropriate agency, may proceed
1365 to have the object so lowered, removed, reconstructed, altered,
1366 or equipped, and assess the cost and expense thereof upon the
1367 object or the land where ~~whereon~~ it is or was located~~, and,~~
1368 ~~unless such an assessment is paid within 90 days from the~~
1369 ~~service of notice thereof on the owner or the owner's agent, of~~
1370 ~~such object or land, the sum shall be a lien on said land, and~~
1371 ~~shall bear interest thereafter at the rate of 6 percent per~~
1372 ~~annum until paid, and shall be collected in the same manner as~~
1373 ~~taxes on real property are collected by said political~~
1374 ~~subdivision, or, at the option of said political subdivision,~~
1375 ~~said lien may be enforced in the manner provided for enforcement~~
1376 ~~of liens by chapter 85~~.
1377 ~~(c) Except as provided herein, applications for permits~~
1378 ~~shall be granted, provided the matter applied for meets the~~
1379 ~~provisions of this chapter and the regulations adopted and in~~
1380 ~~force hereunder.~~
1381 (2) CONSIDERATIONS WHEN ISSUING OR DENYING PERMITS.—In
1382 determining whether to issue or deny a permit, the political
1383 subdivision or its administrative agency must consider the
1384 following, as applicable:
1385 (a) The safety of persons on the ground and in the air.
1386 (b) The safe and efficient use of navigable airspace.
1387 (c) The nature of the terrain and height of existing
1388 structures.
1389 (d) The construction or alteration of the proposed

1390 structure on the state licensing standards for a public-use
1391 airport, contained in chapter 330 and chapter 14-60 of the
1392 Florida Administrative Code.
1393 (e) The character of existing and planned flight operations
1394 and developments at public-use airports.
1395 (f) Federal airways; visual flight rules, flyways and
1396 corridors; and instrument approaches as designated by the
1397 Federal Aviation Administration.
1398 (g) The construction or alteration of the proposed
1399 structure on the minimum descent altitude or the decision height
1400 at the affected airport.
1401 (h) The cumulative effects on navigable airspace of all
1402 existing structures, and all other known proposed structures in
1403 the area.
1404 (i) Requirements contained in s. 333.03(2) and (3).
1405 (j) Additional requirements adopted by the local
1406 jurisdiction pertinent to evaluation and protection of airspace
1407 and airport operations.
1408 ~~(2) VARIANCES.—~~
1409 ~~(a) Any person desiring to erect any structure, increase~~
1410 ~~the height of any structure, permit the growth of any tree, or~~
1411 ~~otherwise use his or her property in violation of the airport~~
1412 ~~zoning regulations adopted under this chapter or any land~~
1413 ~~development regulation adopted pursuant to the provisions of~~
1414 ~~chapter 163 pertaining to airport land use compatibility, may~~
1415 ~~apply to the board of adjustment for a variance from the zoning~~
1416 ~~regulations in question. At the time of filing the application,~~
1417 ~~the applicant shall forward to the department by certified mail,~~
1418 ~~return receipt requested, a copy of the application. The~~

1419 ~~department shall have 45 days from receipt of the application to~~
1420 ~~comment and to provide its comments or waiver of that right to~~
1421 ~~the applicant and the board of adjustment. The department shall~~
1422 ~~include its explanation for any objections stated in its~~
1423 ~~comments. If the department fails to provide its comments within~~
1424 ~~45 days of receipt of the application, its right to comment is~~
1425 ~~waived. The board of adjustment may proceed with its~~
1426 ~~consideration of the application only upon the receipt of the~~
1427 ~~department's comments or waiver of that right as demonstrated by~~
1428 ~~the filing of a copy of the return receipt with the board.~~
1429 ~~Noncompliance with this section shall be grounds to appeal~~
1430 ~~pursuant to s. 333.08 and to apply for judicial relief pursuant~~
1431 ~~to s. 333.11. Such variances may only be allowed where a literal~~
1432 ~~application or enforcement of the regulations would result in~~
1433 ~~practical difficulty or unnecessary hardship and where the~~
1434 ~~relief granted would not be contrary to the public interest but~~
1435 ~~would do substantial justice and be in accordance with the~~
1436 ~~spirit of the regulations and this chapter. However, any~~
1437 ~~variance may be allowed subject to any reasonable conditions~~
1438 ~~that the board of adjustment may deem necessary to effectuate~~
1439 ~~the purposes of this chapter.~~
1440 ~~(b) The Department of Transportation shall have the~~
1441 ~~authority to appeal any variance granted under this chapter~~
1442 ~~pursuant to s. 333.08, and to apply for judicial relief pursuant~~
1443 ~~to s. 333.11.~~
1444 (3) OBSTRUCTION MARKING AND LIGHTING.—
1445 (a) In issuing a ~~granting any~~ permit ~~or variance~~ under this
1446 section, the political subdivision or its administrative agency
1447 ~~or board of adjustment~~ shall require the owner of the structure

1448 or vegetation ~~tree in question~~ to install, operate, and maintain
1449 thereon, at his or her own expense, ~~such~~ marking and lighting in
1450 conformance with the specific standards established by the
1451 Federal Aviation Administration ~~as may be necessary to indicate~~
1452 ~~to aircraft pilots the presence of an obstruction~~.
1453 (b) Such marking and lighting shall conform to the specific
1454 standards established by rule by the department ~~of~~
1455 ~~Transportation~~.
1456 ~~(c) Existing structures not in compliance on October 1,~~
1457 ~~1988, shall be required to comply whenever the existing marking~~
1458 ~~requires refurbishment, whenever the existing lighting requires~~
1459 ~~replacement, or within 5 years of October 1, 1988, whichever~~
1460 ~~occurs first.~~
1461 Section 21. Section 333.08, Florida Statutes, is repealed.
1462 Section 22. Section 333.09, Florida Statutes, is amended to
1463 read:
1464 333.09 Administration of airport zoning regulations.—
1465 (1) ADMINISTRATION AND ENFORCEMENT.—All airport zoning
1466 regulations adopted under this chapter shall provide for the
1467 administration and enforcement of such regulations by the
1468 political subdivisions or their ~~by an~~ administrative agency
1469 ~~which may be an agency created by such regulations or any~~
1470 ~~official, board, or other existing agency of the political~~
1471 ~~subdivision adopting the regulations or of one of the political~~
1472 ~~subdivisions which participated in the creation of the joint~~
1473 ~~airport zoning board adopting the regulations, if satisfactory~~
1474 ~~to that political subdivision, but in no case shall such~~
1475 ~~administrative agency be or include any member of the board of~~
1476 ~~adjustment~~. The duties of any administrative agency designated

1477 pursuant to this chapter shall include that of hearing and
1478 deciding all permits under s. 333.07 ~~s. 333.07(1), deciding all~~
1479 ~~matters under s. 333.07(3),~~ as they pertain to such agency, and
1480 all other matters under this chapter applying to said agency~~,~~
1481 ~~but such agency shall not have or exercise any of the powers~~
1482 ~~herein delegated to the board of adjustment~~.
1483 (2) LOCAL GOVERNMENT PROCESS.—
1484 (a) Any political subdivision required to adopt airport
1485 zoning regulations under this chapter must provide a process to:
1486 1. Issue or deny permits consistent with s. 333.07,
1487 including requests for exceptions to airport zoning regulations.
1488 2. Notify the department of receipt of a complete permit
1489 application consistent with s. 333.025(4).
1490 3. Enforce any permit, order, requirement, decision, or
1491 determination made by the administrative agency with respect to
1492 the airport zoning regulations.
1493 (b) Where a zoning board or permitting body already exists
1494 within a political subdivision, the zoning board or permitting
1495 body may implement the permitting and appeals process.
1496 Otherwise, the political subdivision shall implement the
1497 permitting and appeals process in a manner consistent with its
1498 constitutional powers and areas of jurisdiction.
1499 (3) APPEALS.—
1500 (a) Any person, political subdivision or its administrative
1501 agency, or any joint airport zoning board, which contends that
1502 the decision made by a political subdivision or its
1503 administrative agency is an improper application of airport
1504 zoning regulations may use the process established for an
1505 appeal.

1506 (b) All appeals taken under this section must be taken
1507 within a reasonable time, as provided by the political
1508 subdivision or its administrative agency, by filing with the
1509 entity from which appeal is taken a notice of appeal specifying
1510 the grounds for appeal.
1511 (c) An appeal stays all proceedings in the underlying
1512 action, unless the entity from which the appeal is taken
1513 certifies pursuant to the rules for appeal that by reason of the
1514 facts stated in the certificate, a stay would, in its opinion,
1515 cause imminent peril to life or property. In that case,
1516 proceedings may not be stayed except by an order of the
1517 political subdivision or its administrative agency following
1518 notice to the entity from which the appeal is taken and on good
1519 cause shown.
1520 (d) The political subdivision or its administrative agency
1521 must set a reasonable time for the hearing of appeals, give
1522 public notice and due notice to the parties in interest, and
1523 decide the same within a reasonable time. At the hearing, a
1524 party may appear in person, by agent, or by attorney.
1525 (e) The political subdivision or its administrative agency
1526 may, in conformity with the provisions of this chapter, reverse,
1527 affirm, or modify the underlying order, requirement, decision,
1528 or determination from which the appeal is taken.
1529 Section 23. Section 333.10, Florida Statutes, is repealed.
1530 Section 24. Section 333.11, Florida Statutes, is amended to
1531 read:
1532 333.11 Judicial review.—
1533 (1) Any person, ~~aggrieved, or taxpayer affected, by any~~
1534 ~~decision of a board of adjustment, or any governing body of a~~

1535 political subdivision or its administrative agency, or ~~the~~
1536 ~~Department of Transportation or~~ any joint airport zoning board
1537 affected by a decision of a political subdivision~~,~~ or its ~~of any~~
1538 administrative agency ~~hereunder~~, may apply for judicial relief
1539 to the circuit court in the judicial circuit where the political
1540 subdivision ~~board of adjustment~~ is located within 30 days after
1541 rendition of the decision ~~by the board of adjustment~~. Review
1542 shall be by petition for writ of certiorari, which shall be
1543 governed by the Florida Rules of Appellate Procedure.
1544 ~~(2) Upon presentation of such petition to the court, it may~~
1545 ~~allow a writ of certiorari, directed to the board of adjustment,~~
1546 ~~to review such decision of the board. The allowance of the writ~~
1547 ~~shall not stay the proceedings upon the decision appealed from,~~
1548 ~~but the court may, on application, on notice to the board, on~~
1549 ~~due hearing and due cause shown, grant a restraining order.~~
1550 ~~(3) The board of adjustment shall not be required to return~~
1551 ~~the original papers acted upon by it, but it shall be sufficient~~
1552 ~~to return certified or sworn copies thereof or of such portions~~
1553 ~~thereof as may be called for by the writ. The return shall~~
1554 ~~concisely set forth such other facts as may be pertinent and~~
1555 ~~material to show the grounds of the decision appealed from and~~
1556 ~~shall be verified.~~
1557 (2) ~~(4)~~ The court shall have exclusive jurisdiction to
1558 affirm, modify, or set aside the decision brought up for review~~,~~
1559 ~~in whole or in part,~~ and if need be, to order further
1560 proceedings by the political subdivision or its administrative
1561 agency ~~board of adjustment~~. The findings of fact by the
1562 political subdivision or its administrative agency ~~board~~, if
1563 supported by substantial evidence, shall be accepted by the

1564 court as conclusive. An~~, and no~~ objection to a decision of the
1565 political subdivision or its administrative agency may not ~~board~~
1566 ~~shall~~ be considered by the court unless such objection was
1567 raised in the underlying proceeding ~~shall have been urged before~~
1568 ~~the board, or, if it was not so urged, unless there were~~
1569 ~~reasonable grounds for failure to do so~~.
1570 (3)~~(5)~~ If ~~In any case in which~~ airport zoning regulations
1571 adopted under this chapter~~, although generally reasonable,~~ are
1572 held by a court to interfere with the use and enjoyment of a
1573 particular structure or parcel of land to such an extent, or to
1574 be so onerous in their application to such a structure or parcel
1575 of land, as to constitute a taking or deprivation of that
1576 property in violation of the State Constitution or the
1577 Constitution of the United States, such holding shall not affect
1578 the application of such regulations to other structures and
1579 parcels of land, or such regulations as are not involved in the
1580 particular decision.
1581 (4)~~(6)~~ ~~No~~ Judicial appeal ~~shall be or~~ is not permitted
1582 under this section~~,~~ to any courts until the appellant has
1583 exhausted all its remedies through application for local
1584 government permits, exceptions, and appeals~~, as herein provided,~~
1585 ~~save and except an appeal from a decision of the board of~~
1586 ~~adjustment, the appeal herein provided being from such final~~
1587 ~~decision of such board only, the appellant being hereby required~~
1588 ~~to exhaust his or her remedies hereunder of application for~~
1589 ~~permits, exceptions and variances, and appeal to the board of~~
1590 ~~adjustment, and gaining a determination by said board, before~~
1591 ~~being permitted to appeal to the court hereunder~~.
1592 Section 25. Section 333.12, Florida Statutes, is amended to

1593 read:
1594 333.12 Acquisition of air rights.~~—~~When ~~In any case which:~~
1595 ~~it is desired to remove, lower or otherwise terminate~~ a
1596 nonconforming structure or use presents an air hazard and the
1597 structure cannot be removed, lowered, or otherwise terminated;
1598 or the approach protection necessary cannot, because of
1599 constitutional limitations, be provided by airport regulations
1600 under this chapter; or it appears advisable that the necessary
1601 approach protection be provided by acquisition of property
1602 rights rather than by airport zoning regulations, the political
1603 subdivision within which the property or nonconforming use is
1604 located, or the political subdivision owning or operating the
1605 airport or being served by it, may acquire, by purchase, grant,
1606 or condemnation in the manner provided by chapter 73, such air
1607 right, avigation ~~navigation~~ easement conveying the airspace over
1608 another property for use by the airport, or other estate,
1609 portion or interest in the property or nonconforming structure
1610 or use or such interest in the air above such property,
1611 vegetation ~~tree~~, structure, or use, in question, as may be
1612 necessary to effectuate the purposes of this chapter, and in so
1613 doing, if by condemnation, to have the right to take immediate
1614 possession of the property, interest in property, air right, or
1615 other right sought to be condemned, at the time, and in the
1616 manner and form, and as authorized by chapter 74. In the case of
1617 the purchase of any property, ~~or any~~ easement, or estate or
1618 interest therein or the acquisition of the same by the power of
1619 eminent domain, the political subdivision making such purchase
1620 or exercising such power shall in addition to the damages for
1621 the taking, injury, or destruction of property also pay the cost

1622 of the removal and relocation of any structure or any public
1623 utility which is required to be moved to a new location.
1624 Section 26. Section 333.135, Florida Statutes, is created
1625 to read:
1626 333.135 Transition provisions.—
1627 (1) A provision of an airport zoning regulation in effect
1628 on July 1, 2015, that conflicts with this chapter must be
1629 amended to conform to the requirements of this chapter by July
1630 1, 2016.
1631 (2) By October 1, 2017, a political subdivision having an
1632 airport within its territorial limits, which has not adopted
1633 airport zoning regulations, must adopt airport zoning
1634 regulations which are consistent with this chapter.
1635 (3) For those political subdivisions that have not yet
1636 adopted airport zoning regulations pursuant to this chapter, the
1637 department shall administer the permitting process as provided
1638 in s. 333.025.
1639 Section 27. Section 333.14, Florida Statutes, is repealed.
1640 Section 28. Subsections (36) and (37) of section 334.03,
1641 Florida Statutes, are amended to read:
1642 334.03 Definitions.—When used in the Florida Transportation
1643 Code, the term:
1644 (36) "511" or "511 services" means all ~~three-digit~~
1645 ~~telecommunications dialing to access interactive voice response~~
1646 ~~telephone~~ traveler information services provided in the state to
1647 include, but not be limited to, the terms ~~as~~ defined by the
1648 Federal Communications Commission in FCC Order No. 00-256, July
1649 31, 2000.
1650 ~~(37) "Interactive voice response" means a software~~

1651 ~~application that accepts a combination of voice telephone input~~
1652 ~~and touch-tone keypad selection and provides appropriate~~
1653 ~~responses in the form of voice, fax, callback, e-mail, and other~~
1654 ~~media.~~
1655 Section 29. Subsection (31) of section 334.044, Florida
1656 Statutes, is amended, and subsection (34) of that section is
1657 created, to read:
1658 334.044 Department; powers and duties.—The department shall
1659 have the following general powers and duties:
1660 (31) To provide oversight of traveler information systems
1661 ~~that may include the provision of interactive voice response~~
1662 ~~telephone systems accessible~~ via ~~the~~ 511 services ~~number~~ as
1663 assigned by the Federal Communications Commission for traveler
1664 information services. The department shall ensure that uniform
1665 standards and criteria for the collection and dissemination of
1666 traveler information are applied ~~using interactive voice~~
1667 ~~response systems~~.
1668 (34) The department may assume responsibilities of the
1669 United States Department of Transportation with respect to
1670 highway projects within the state under the National
1671 Environmental Policy Act of 1969 (42 U.S.C. s. 4321 et seq.) and
1672 with respect to related responsibilities for environmental
1673 review, consultation, or other action required under any federal
1674 environmental law pertaining to review or approval of a highway
1675 project within the state. The department may assume
1676 responsibilities under 23 U.S.C. s. 327 and enter into one or
1677 more agreements, including memoranda of understanding, with the
1678 United States Secretary of Transportation related to the federal
1679 surface transportation project delivery program for the delivery

1680 of highway projects, as provided by 23 U.S.C. s. 327. The
1681 department may adopt rules to implement this subsection and may
1682 adopt relevant federal environmental standards as the standards
1683 for this state for a program described in this subsection.
1684 Sovereign immunity to civil suit in federal court is waived
1685 consistent with 23 U.S.C. s. 327 and limited to the compliance,
1686 discharge, or enforcement of a responsibility assumed by the
1687 department under this subsection.
1688 Section 30. Section 334.60, Florida Statutes, is amended to
1689 read:
1690 334.60 511 traveler information system.—The department is
1691 the state's lead agency for implementing 511 services and is the
1692 state's point of contact for coordinating all 511 services ~~with~~
1693 ~~telecommunications service providers~~.
1694 (1) The department shall:
1695 (a) ~~(1)~~ Implement and administer 511 services in the state;
1696 (b) ~~(2)~~ Coordinate with other transportation authorities in
1697 the state to provide multimodal traveler information through 511
1698 services and other means;
1699 (c) ~~(3)~~ Develop uniform standards and criteria for the
1700 collection and dissemination of traveler information using ~~the~~
1701 511 services ~~number or other interactive voice response systems~~;
1702 and
1703 (d) ~~(4)~~ Enter into joint participation agreements or
1704 contracts with highway authorities and public transit districts
1705 to share the costs of implementing and administering 511
1706 services in the state. The department may also enter into other
1707 agreements or contracts with private firms relating to the 511
1708 services to offset the costs of implementing and administering

1709 511 services in the state.
1710 (2) The department shall adopt rules to administer the
1711 coordination of 511 traveler information ~~phone~~ services in the
1712 state.
1713 Section 31. Subsections (3) and (4) of section 335.065,
1714 Florida Statutes, are amended to read:
1715 335.065 Bicycle and pedestrian ways along state roads and
1716 transportation facilities.—
1717 (3) The department, in cooperation with the Department of
1718 Environmental Protection, shall establish a statewide integrated
1719 system of bicycle and pedestrian ways in such a manner as to
1720 take full advantage of any such ways which are maintained by any
1721 governmental entity. ~~The department may enter into a concession~~
1722 ~~agreement with a not-for-profit entity or private sector~~
1723 ~~business or entity for commercial sponsorship displays on~~
1724 ~~multiuse trails and related facilities and use any concession~~
1725 ~~agreement revenues for the maintenance of the multiuse trails~~
1726 ~~and related facilities. Commercial sponsorship displays are~~
1727 ~~subject to the requirements of the Highway Beautification Act of~~
1728 ~~1965 and all federal laws and agreements, when applicable. For~~
1729 ~~the purposes of this section, bicycle facilities may be~~
1730 ~~established as part of or separate from the actual roadway and~~
1731 ~~may utilize existing road rights-of-way or other rights-of-way~~
1732 ~~or easements acquired for public use.~~
1733 ~~(a) A concession agreement shall be administered by the~~
1734 ~~department and must include the requirements of this section.~~
1735 ~~(b)1. Signage or displays erected under this section shall~~
1736 ~~comply with s. 337.407 and chapter 479 and shall be limited as~~
1737 ~~follows:~~

1738 ~~a. One large sign or display, not to exceed 16 square feet~~
1739 ~~in area, may be located at each trailhead or parking area.~~
1740 ~~b. One small sign or display, not to exceed 4 square feet~~
1741 ~~in area, may be located at each designated trail public access~~
1742 ~~point.~~
1743 ~~2. Before installation, each name or sponsorship display~~
1744 ~~must be approved by the department.~~
1745 ~~3. The department shall ensure that the size, color,~~
1746 ~~materials, construction, and location of all signs are~~
1747 ~~consistent with the management plan for the property and the~~
1748 ~~standards of the department, do not intrude on natural and~~
1749 ~~historic settings, and contain only a logo selected by the~~
1750 ~~sponsor and the following sponsorship wording:~~
1751
1752 ~~...(Name of the sponsor)... proudly sponsors the costs~~
1753 ~~of maintaining the ...(Name of the greenway or~~
1754 ~~trail)....~~
1755
1756 ~~4. All costs of a display, including development,~~
1757 ~~construction, installation, operation, maintenance, and removal~~
1758 ~~costs, shall be paid by the concessionaire.~~
1759 ~~(c) A concession agreement shall be for a minimum of 1~~
1760 ~~year, but may be for a longer period under a multiyear~~
1761 ~~agreement, and may be terminated for just cause by the~~
1762 ~~department upon 60 days' advance notice. Just cause for~~
1763 ~~termination of a concession agreement includes, but is not~~
1764 ~~limited to, violation of the terms of the concession agreement~~
1765 ~~or this section.~~
1766 ~~(4)(a) The department may use appropriated funds to support~~

1767 ~~the establishment of a statewide system of interconnected~~
1768 ~~multiuse trails and to pay the costs of planning, land~~
1769 ~~acquisition, design, and construction of such trails and related~~
1770 ~~facilities. The department shall give funding priority to~~
1771 ~~projects that:~~
1772 ~~1. Are identified by the Florida Greenways and Trails~~
1773 ~~Council as a priority within the Florida Greenways and Trails~~
1774 ~~System under chapter 260.~~
1775 ~~2. Support the transportation needs of bicyclists and~~
1776 ~~pedestrians.~~
1777 ~~3. Have national, statewide, or regional importance.~~
1778 ~~4. Facilitate an interconnected system of trails by~~
1779 ~~completing gaps between existing trails.~~
1780 ~~(b) A project funded under this subsection shall:~~
1781 ~~1. Be included in the department's work program developed~~
1782 ~~in accordance with s. 339.135.~~
1783 ~~2. Be operated and maintained by an entity other than the~~
1784 ~~department upon completion of construction. The department is~~
1785 ~~not obligated to provide funds for the operation and maintenance~~
1786 ~~of the project.~~
1787 Section 32. Subsection (4) of section 338.165, Florida
1788 Statutes, is amended to read:
1789 338.165 Continuation of tolls.—
1790 (4) Notwithstanding any other law to the contrary, pursuant
1791 to s. 11, Art. VII of the State Constitution, and subject to the
1792 requirements of subsection (2), the Department of Transportation
1793 may request the Division of Bond Finance to issue bonds secured
1794 by toll revenues collected on the Alligator Alley, the Sunshine
1795 Skyway Bridge~~, the Beeline-East Expressway, the Navarre Bridge,~~

1796 and the Pinellas Bayway to fund transportation projects located
1797 within the county or counties in which the project is located
1798 and contained in the adopted work program of the department.
1799 Section 33. Subsection (5) is added to section 338.227,
1800 Florida Statutes, to read:
1801 338.227 Turnpike revenue bonds.—
1802 (5) Notwithstanding s. 215.82, bonds issued pursuant to
1803 this section are not required to be validated pursuant to
1804 chapter 75, but may be validated at the option of the Division
1805 of Bond Finance. Any complaint for such validation must be filed
1806 in the circuit court of the county where the seat of state
1807 government is situated. The notice required to be published by
1808 s. 75.06 must be published only in the county where the
1809 complaint is filed. The complaint and order of the circuit court
1810 shall be served only on the state attorney of the circuit in
1811 which the action is pending.
1812 Section 34. Paragraph (c) of subsection (3) of section
1813 338.231, Florida Statutes, and subsections (5) and (6) of that
1814 section, are amended to read:
1815 338.231 Turnpike tolls, fixing; pledge of tolls and other
1816 revenues.—The department shall at all times fix, adjust, charge,
1817 and collect such tolls and amounts for the use of the turnpike
1818 system as are required in order to provide a fund sufficient
1819 with other revenues of the turnpike system to pay the cost of
1820 maintaining, improving, repairing, and operating such turnpike
1821 system; to pay the principal of and interest on all bonds issued
1822 to finance or refinance any portion of the turnpike system as
1823 the same become due and payable; and to create reserves for all
1824 such purposes.

1825 (3)
1826 (c) Notwithstanding any other provision of law to the
1827 contrary, any prepaid toll account of any kind which has
1828 remained inactive for 10 ~~3~~ years shall be presumed unclaimed and
1829 its disposition shall be handled by the Department of Financial
1830 Services in accordance with all applicable provisions of chapter
1831 717 relating to the disposition of unclaimed property, and the
1832 prepaid toll account shall be closed by the department.
1833 ~~(5) In each fiscal year while any of the bonds of the~~
1834 ~~Broward County Expressway Authority series 1984 and series 1986-~~
1835 ~~A remain outstanding, the department is authorized to pledge~~
1836 ~~revenues from the turnpike system to the payment of principal~~
1837 ~~and interest of such series of bonds and the operation and~~
1838 ~~maintenance expenses of the Sawgrass Expressway, to the extent~~
1839 ~~gross toll revenues of the Sawgrass Expressway are insufficient~~
1840 ~~to make such payments. The terms of an agreement relative to the~~
1841 ~~pledge of turnpike system revenue will be negotiated with the~~
1842 ~~parties of the 1984 and 1986 Broward County Expressway Authority~~
1843 ~~lease-purchase agreements, and subject to the covenants of those~~
1844 ~~agreements. The agreement must establish that the Sawgrass~~
1845 ~~Expressway is subject to the planning, management, and operating~~
1846 ~~control of the department limited only by the terms of the~~
1847 ~~lease-purchase agreements. The department shall provide for the~~
1848 ~~payment of operation and maintenance expenses of the Sawgrass~~
1849 ~~Expressway until such agreement is in effect. This pledge of~~
1850 ~~turnpike system revenues is subordinate to the debt service~~
1851 ~~requirements of any future issue of turnpike bonds, the payment~~
1852 ~~of turnpike system operation and maintenance expenses, and~~
1853 ~~subject to any subsequent resolution or trust indenture relating~~

1854 ~~to the issuance of such turnpike bonds.~~
1855 (5) ~~(6)~~ The use and disposition of revenues pledged to bonds
1856 are subject to ss. 338.22-338.241 and such regulations as the
1857 resolution authorizing the issuance of the bonds or such trust
1858 agreement may provide.
1859 Section 35. Paragraph (c) of subsection (7) of section
1860 339.175, Florida Statutes, is amended to read:
1861 339.175 Metropolitan planning organization.—
1862 (7) LONG-RANGE TRANSPORTATION PLAN.—Each M.P.O. must
1863 develop a long-range transportation plan that addresses at least
1864 a 20-year planning horizon. The plan must include both long-
1865 range and short-range strategies and must comply with all other
1866 state and federal requirements. The prevailing principles to be
1867 considered in the long-range transportation plan are: preserving
1868 the existing transportation infrastructure; enhancing Florida's
1869 economic competitiveness; and improving travel choices to ensure
1870 mobility. The long-range transportation plan must be consistent,
1871 to the maximum extent feasible, with future land use elements
1872 and the goals, objectives, and policies of the approved local
1873 government comprehensive plans of the units of local government
1874 located within the jurisdiction of the M.P.O. Each M.P.O. is
1875 encouraged to consider strategies that integrate transportation
1876 and land use planning to provide for sustainable development and
1877 reduce greenhouse gas emissions. The approved long-range
1878 transportation plan must be considered by local governments in
1879 the development of the transportation elements in local
1880 government comprehensive plans and any amendments thereto. The
1881 long-range transportation plan must, at a minimum:
1882 (c) Assess capital investment and other measures necessary

1883 to:
1884 1. Ensure the preservation of the existing metropolitan
1885 transportation system including requirements for the operation,
1886 resurfacing, restoration, and rehabilitation of major roadways
1887 and requirements for the operation, maintenance, modernization,
1888 and rehabilitation of public transportation facilities; and
1889 2. Make the most efficient use of existing transportation
1890 facilities to relieve vehicular congestion, improve safety, and
1891 maximize the mobility of people and goods. Such efforts shall
1892 include, but not be limited to, consideration of infrastructure
1893 and technological improvements necessary to accommodate advances
1894 in vehicle technology, such as autonomous vehicle technology and
1895 other developments.
1896
1897 In the development of its long-range transportation plan, each
1898 M.P.O. must provide the public, affected public agencies,
1899 representatives of transportation agency employees, freight
1900 shippers, providers of freight transportation services, private
1901 providers of transportation, representatives of users of public
1902 transit, and other interested parties with a reasonable
1903 opportunity to comment on the long-range transportation plan.
1904 The long-range transportation plan must be approved by the
1905 M.P.O.
1906 Section 36. Paragraph (c) is added to subsection (3) of
1907 section 339.64, Florida Statutes, and paragraph (a) of
1908 subsection (4) of that section is amended, to read:
1909 339.64 Strategic Intermodal System Plan.—
1910 (3)
1911 (c) The department also shall coordinate with federal,

1912 regional, and local partners, as well as industry
1913 representatives, to consider infrastructure and technological
1914 improvements necessary to accommodate advances in vehicle
1915 technology, such as autonomous vehicle technology and other
1916 developments, in Strategic Intermodal System facilities.
1917 (4) The Strategic Intermodal System Plan shall include the
1918 following:
1919 (a) A needs assessment. Such assessment shall include, but
1920 not be limited to, consideration of infrastructure and
1921 technological improvements necessary to accommodate advances in
1922 vehicle technology, such as autonomous vehicle technology and
1923 other developments.
1924 Section 37. Section 339.81, Florida Statutes, is created to
1925 read:
1926 339.81 Florida Shared-Use Nonmotorized Trail Network.—
1927 (1) The Legislature finds that increasing demands continue
1928 to be placed on the state's transportation system by a growing
1929 economy, continued population growth, and increasing tourism.
1930 The Legislature also finds that significant challenges exist in
1931 providing additional capacity to the conventional transportation
1932 system and will require enhanced accommodation of alternative
1933 travel modes to meet the needs of residents and visitors. The
1934 Legislature further finds that improving bicyclist and
1935 pedestrian safety for both residents and visitors remains a high
1936 priority. Therefore, the Legislature declares that the
1937 development of a nonmotorized trail network will increase
1938 mobility and recreational alternatives for residents and
1939 visitors of this state, enhance economic prosperity, enrich
1940 quality of life, enhance safety, and reflect responsible

1941 environmental stewardship. To that end, it is the intent of the
1942 Legislature that the department make use of its expertise in
1943 efficiently providing transportation projects to develop the
1944 Florida Shared-Use Nonmotorized Trail Network, consisting of a
1945 statewide network of nonmotorized trails which allows
1946 nonmotorized vehicles and pedestrians to access a variety of
1947 origins and destinations with limited exposure to motorized
1948 vehicles.
1949 (2) The Florida Shared-Use Nonmotorized Trail Network is
1950 created as a component of the Florida Greenways and Trails
1951 System established in chapter 260. The statewide network
1952 consists of multiuse trails or shared-use paths physically
1953 separated from motor vehicle traffic and constructed with
1954 asphalt, concrete, or another hard surface which, by virtue of
1955 design, location, extent of connectivity or potential
1956 connectivity, and allowable uses, provides nonmotorized
1957 transportation opportunities for bicyclists and pedestrians
1958 statewide between and within a wide range of points of origin
1959 and destinations, including, but not limited to, communities,
1960 conservation areas, state parks, beaches, and other natural or
1961 cultural attractions for a variety of trip purposes, including
1962 work, school, shopping, and other personal business, as well as
1963 social, recreational, and personal fitness purposes.
1964 (3) Network components do not include sidewalks, nature
1965 trails, loop trails wholly within a single park or natural area,
1966 or on-road facilities, such as bicycle lanes or routes other
1967 than:
1968 (a) On-road facilities that are no longer than one-half
1969 mile connecting two or more nonmotorized trails, if the

1970 provision of a non-motorized trail without the use of the on-
1971 road facility is not feasible, and if such on-road facilities
1972 are signed and marked for nonmotorized use; or
1973 (b) On-road components of the Florida Keys Overseas
1974 Heritage Trail.
1975 (4) The planning, development, operation, and maintenance
1976 of the Florida Shared-Use Nonmotorized Trail Network is declared
1977 to be a public purpose, and the department, together with other
1978 agencies of this state and all counties, municipalities, and
1979 special districts of this state, may spend public funds for such
1980 purposes and accept gifts and grants of funds, property, or
1981 property rights from public or private sources to be used for
1982 such purposes.
1983 (5) The department shall include the Florida Shared-Use
1984 Nonmotorized Trail Network in its work program developed
1985 pursuant to s. 339.135. For purposes of funding and maintaining
1986 projects within the network, the department shall allocate in
1987 its program and resource plan a minimum of $50 million annually,
1988 beginning in the 2015-2016 fiscal year.
1989 (6) The department may enter into a memorandum of agreement
1990 with a local government or other agency of the state to transfer
1991 maintenance responsibilities of an individual network component.
1992 The department may contract with a not-for-profit entity or
1993 private sector business or entity to provide maintenance
1994 services on an individual network component.
1995 (7) The department may adopt rules to aid in the
1996 development and maintenance of components of the network.
1997 Section 38. Section 339.82, Florida Statutes, is created to
1998 read:

1999 339.82 Shared-Use Nonmotorized Trail Network Plan.—
2000 (1) The department shall develop a Shared-Use Nonmotorized
2001 Trail Network Plan in coordination with the Department of
2002 Environmental Protection, metropolitan planning organizations,
2003 affected local governments and public agencies, and the Florida
2004 Greenways and Trails Council. The plan must be consistent with
2005 the Florida Greenways and Trails Plan developed under s. 260.014
2006 and must be updated at least once every 5 years.
2007 (2) The Shared-Use Nonmotorized Trail Network Plan must
2008 include all of the following:
2009 (a) A needs assessment, including, but not limited to, a
2010 comprehensive inventory and analysis of existing trails that may
2011 be considered for inclusion in the Shared-Use Nonmotorized Trail
2012 Network.
2013 (b) A project prioritization process that includes
2014 assigning funding priority to projects that:
2015 1. Are identified by the Florida Greenways and Trails
2016 Council as a priority within the Florida Greenways and Trails
2017 System under chapter 260;
2018 2. Facilitate an interconnected network of trails by
2019 completing gaps between existing facilities; and
2020 3. Maximize use of federal, local, and private funding and
2021 support mechanisms, including, but not limited to, donation of
2022 funds, real property, and maintenance responsibilities.
2023 (c) A map illustrating existing and planned facilities and
2024 identifying critical gaps between facilities.
2025 (d) A finance plan based on reasonable projections of
2026 anticipated revenues, including both 5-year and 10-year cost-
2027 feasible components.

2028 (e) Performance measures that include quantifiable
2029 increases in trail network access and connectivity.
2030 (f) A timeline for the completion of the base network using
2031 new and existing data from the department, the Department of
2032 Environmental Protection, and other sources.
2033 (g) A marketing plan prepared in consultation with the
2034 Florida Tourism Industry Marketing Corporation.
2035 Section 39. Section 339.83, Florida Statutes, is created to
2036 read:
2037 339.83 Sponsorship of Shared-Use Nonmotorized Trails.—
2038 (1) The department may enter into a concession agreement
2039 with a not-for-profit entity or private sector business or
2040 entity for commercial sponsorship signs, pavement markings, and
2041 exhibits on nonmotorized trails and related facilities
2042 constructed as part of the Shared-Use Nonmotorized Trail
2043 Network. The concession agreement may also provide for
2044 recognition of trail sponsors in any brochure, map, or website
2045 providing trail information. Trail websites may provide links to
2046 sponsors. Revenue from such agreements may be used for the
2047 maintenance of the nonmotorized trails and related facilities.
2048 (a) A concession agreement shall be administered by the
2049 department.
2050 (b)1. Signage, pavement markings, or exhibits erected
2051 pursuant to this section must comply with s. 337.407 and chapter
2052 479 and are limited as follows:
2053 a. One large sign, pavement marking, or exhibit, not to
2054 exceed 16 square feet in area, may be located at each trailhead
2055 or parking area.
2056 b. One small sign, pavement marking, or exhibit, not to

2057 exceed 4 square feet in area, may be located at each designated
2058 trail public access point where parking is not provided.
2059 c. Pavement markings denoting specified distances must be
2060 located at least 1 mile apart.
2061 2. Before installation, each sign, pavement marking, or
2062 exhibit must be approved by the department.
2063 3. The department shall ensure that the size, color,
2064 materials, construction, and location of all signs, pavement
2065 markings, and exhibits are consistent with the management plan
2066 for the property and the standards of the department, do not
2067 intrude on natural and historic settings, and contain a logo
2068 selected by the sponsor and the following sponsorship wording:
2069
2070 ...(Name of the sponsor)... proudly sponsors the costs
2071 of maintaining the ...(Name of the greenway or
2072 trail)....
2073
2074 4. Exhibits may provide additional information and
2075 materials including, but not limited to, maps and brochures for
2076 trail user services related or proximate to the trail. Pavement
2077 markings may display mile marker information.
2078 5. The costs of a sign, pavement marking, or exhibit,
2079 including development, construction, installation, operation,
2080 maintenance, and removal costs, shall be paid by the
2081 concessionaire.
2082 (c) A concession agreement shall be for a minimum of 1
2083 year, but may be for a longer period under a multiyear
2084 agreement, and may be terminated for just cause by the
2085 department upon 60 days' advance notice. Just cause for

2086 termination of a concession agreement includes, but is not
2087 limited to, violation of the terms of the concession agreement
2088 or this section.
2089 (2) Pursuant to s. 287.057, the department may contract for
2090 the provision of services related to the trail sponsorship
2091 program, including recruitment and qualification of businesses,
2092 review of applications, permit issuance, and fabrication,
2093 installation, and maintenance of signs, pavement markings, and
2094 exhibits. The department may reject all proposals and seek
2095 another request for proposals or otherwise perform the work. The
2096 contract may allow the contractor to retain a portion of the
2097 annual fees as compensation for its services.
2098 (3) This section does not create a proprietary or
2099 compensable interest in any sponsorship site or location for any
2100 permittee, and the department may terminate permits or change
2101 locations of sponsorship sites as it determines necessary for
2102 construction or improvement of facilities.
2103 (4) The department may adopt rules to establish
2104 requirements for qualification of businesses, qualification and
2105 location of sponsorship sites, and permit applications and
2106 processing. The department may adopt rules to establish other
2107 criteria necessary to implement this section and to provide for
2108 variances when necessary to serve the interest of the public or
2109 when required to ensure equitable treatment of program
2110 participants.
2111 Section 40. (1) The Office of Economic and Demographic
2112 Research shall evaluate and determine the economic benefits, as
2113 defined in s. 288.005(1), Florida Statutes, of the state's
2114 investment in the Department of Transportation's adopted work

2115 program developed in accordance with s. 339.135(5), Florida
2116 Statutes, for fiscal year 2015-2016, including the following 4
2117 fiscal years. At a minimum, a separate return on investment
2118 shall be projected for each of the following areas:
2119 (a) Roads and highways;
2120 (b) Rails;
2121 (c) Public transit;
2122 (d) Aviation; and
2123 (e) Seaports.
2124
2125 The analysis is limited to the funding anticipated by the
2126 adopted work program, but may address the continuing economic
2127 impact for those transportation projects in the 5 years beyond
2128 the conclusion of the adopted work program. The analysis must
2129 also evaluate the number of jobs created, the increase or
2130 decrease in personal income, and the impact on gross domestic
2131 product from the direct, indirect, and induced effects on the
2132 state's investment in each area.
2133 (2) The Department of Transportation and each of its
2134 district offices shall provide the Office of Economic and
2135 Demographic Research full access to all data necessary to
2136 complete the analysis, including any confidential data.
2137 (3) The Office of Economic and Demographic Research shall
2138 submit the analysis to the President of the Senate and the
2139 Speaker of the House of Representatives by January 1, 2016.
2140 Section 41. Section 341.0532, Florida Statutes, is
2141 repealed.
2142 Section 42. The Division of Law Revision and Information is
2143 directed to create chapter 345, Florida Statutes, consisting of

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2144 ss. 345.0001-345.0014, Florida Statutes, to be entitled the
2145 "Northwest Florida Regional Transportation Finance Authority."
2146 Section 43. Section 345.0001, Florida Statutes, is created
2147 to read:
2148 345.0001 Short title.—This act may be cited as the
2149 "Northwest Florida Regional Transportation Finance Authority
2150 Act."
2151 Section 44. Section 345.0002, Florida Statutes, is created
2152 to read:
2153 345.0002 Definitions.—As used in this chapter, the term:
2154 (1) "Agency of the state" means the state and any
2155 department of, or any corporation, agency, or instrumentality
2156 created, designated, or established by, the state.
2157 (2) "Area served" means Escambia County. However, upon a
2158 contiguous county's consent to inclusion within the area served
2159 by the authority and with the agreement of the authority, the
2160 term shall also include the geographical area of such county
2161 contiguous to Escambia County.
2162 (3) "Authority" means the Northwest Florida Regional
2163 Transportation Finance Authority, a body politic and corporate,
2164 and an agency of the state, established under this chapter.
2165 (4) "Bonds" means the notes, bonds, refunding bonds, or
2166 other evidences of indebtedness or obligations, in temporary or
2167 definitive form, which the authority may issue under this
2168 chapter.
2169 (5) "Department" means the Department of Transportation.
2170 (6) "Division" means the Division of Bond Finance of the
2171 State Board of Administration.
2172 (7) "Federal agency" means the United States, the President

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2173 of the United States, and any department of, or any bureau,
2174 corporation, agency, or instrumentality created, designated, or
2175 established by, the United States Government.
2176 (8) "Members" means the governing body of the authority,
2177 and the term "member" means one of the individuals constituting
2178 such governing body.
2179 (9) "Regional system" or "system" means, generally, a
2180 modern system of roads, bridges, causeways, tunnels, and mass
2181 transit services within the area of the authority, with access
2182 limited or unlimited as the authority may determine, and the
2183 buildings and structures and appurtenances and facilities
2184 related to the system, including all approaches, streets, roads,
2185 bridges, and avenues of access for the system.
2186 (10) "Revenues" means the tolls, revenues, rates, fees,
2187 charges, receipts, rentals, contributions, and other income
2188 derived from or in connection with the operation or ownership of
2189 a regional system, including the proceeds of any use and
2190 occupancy insurance on any portion of the system, but excluding
2191 state funds available to the authority and any other municipal
2192 or county funds available to the authority under an agreement
2193 with a municipality or county.
2194 Section 45. Section 18. Section 345.0003, Florida Statutes,
2195 is created to read:
2196 345.0003 Regional transportation finance authority
2197 formation and membership.—
2198 (1) Escambia County, alone or together with any consenting
2199 contiguous county, may form a regional finance authority for the
2200 purposes of constructing, maintaining, and operating
2201 transportation projects in the northwest region of this state.

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2202 The authority shall be governed in accordance with this chapter.
2203 The area served by the authority may not be expanded beyond
2204 Escambia County without the approval of the county commission of
2205 each contiguous county that will be a part of the authority.
2206 (2) The governing body of the authority shall consist of a
2207 board of voting members as follows:
2208 (a) The county commission of each county in the area served
2209 by the authority shall appoint two members. Each member must be
2210 a resident of the county from which he or she is appointed and,
2211 if possible, must represent the business and civic interests of
2212 the community.
2213 (b) The Governor shall appoint an equal number of members
2214 to the board as those appointed by the county commissions. The
2215 members appointed by the Governor must be residents of the area
2216 served by the authority.
2217 (c) The district secretary of the department serving in the
2218 district that includes Escambia County.
2219 (3) The term of office of each member shall be for 4 years
2220 or until his or her successor is appointed and qualified.
2221 (4) A member may not hold an elected office during the term
2222 of his or her membership.
2223 (5) A vacancy occurring in the governing body before the
2224 expiration of the member's term shall be filled for the
2225 remainder of the unexpired term by the respective appointing
2226 authority in the same manner as the original appointment.
2227 (6) Before entering upon his or her official duties, each
2228 member must take and subscribe to an oath before an official
2229 authorized by law to administer oaths that he or she will
2230 honestly, faithfully, and impartially perform the duties of his

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2231 or her office as a member of the governing body of the authority
2232 and that he or she will not neglect any duties imposed on him or
2233 her by this chapter.
2234 (7) The Governor may remove from office a member of the
2235 authority for misconduct, malfeasance, misfeasance, or
2236 nonfeasance in office.
2237 (8) Members of the authority shall designate a chair from
2238 among the membership.
2239 (9) Members of the authority shall serve without
2240 compensation, but are entitled to reimbursement for per diem and
2241 other expenses in accordance with s. 112.061 while in
2242 performance of their official duties.
2243 (10) A majority of the members of the authority shall
2244 constitute a quorum, and resolutions enacted or adopted by a
2245 vote of a majority of the members present and voting at any
2246 meeting are effective without publication, posting, or any
2247 further action of the authority.
2248 Section 46. Section 345.0004, Florida Statutes, is created
2249 to read:
2250 345.0004 Powers and duties.—
2251 (1) The authority shall plan, develop, finance, construct,
2252 reconstruct, improve, own, operate, and maintain a regional
2253 system in the area served by the authority. The authority may
2254 not exercise these powers with respect to an existing system for
2255 transporting people and goods by any means that is owned by
2256 another entity without the consent of that entity. If the
2257 authority acquires, purchases, or inherits an existing entity,
2258 the authority shall inherit and assume all rights, assets,
2259 appropriations, privileges, and obligations of the existing

2260 entity.
2261 (2) The authority may exercise all powers necessary,
2262 appurtenant, convenient, or incidental to the carrying out of
2263 the purposes of this section, including, but not limited to, the
2264 following rights and powers:
2265 (a) To sue and be sued, implead and be impleaded, and
2266 complain and defend in all courts in its own name.
2267 (b) To adopt and use a corporate seal.
2268 (c) To have the power of eminent domain, including the
2269 procedural powers granted under chapters 73 and 74.
2270 (d) To acquire, purchase, hold, lease as a lessee, and use
2271 any property, real, personal, or mixed, tangible or intangible,
2272 or any interest therein, necessary or desirable for carrying out
2273 the purposes of the authority.
2274 (e) To sell, convey, exchange, lease, or otherwise dispose
2275 of any real or personal property acquired by the authority,
2276 including air rights, which the authority and the department
2277 have determined is not needed for the construction, operation,
2278 and maintenance of the system.
2279 (f) To fix, alter, charge, establish, and collect rates,
2280 fees, rentals, and other charges for the use of any system owned
2281 or operated by the authority, which rates, fees, rentals, and
2282 other charges must be sufficient to comply with any covenants
2283 made with the holders of any bonds issued under this act. This
2284 right and power may be assigned or delegated by the authority to
2285 the department.
2286 (g) To borrow money; to make and issue negotiable notes,
2287 bonds, refunding bonds, and other evidences of indebtedness or
2288 obligations, in temporary or definitive form, to finance all or

2289 part of the improvement of the authority's system and
2290 appurtenant facilities, including the approaches, streets,
2291 roads, bridges, and avenues of access for the system and for any
2292 other purpose authorized by this chapter, the bonds to mature no
2293 more than 30 years after the date of the issuance; to secure the
2294 payment of such bonds or any part thereof by a pledge of its
2295 revenues, rates, fees, rentals, or other charges, including
2296 municipal or county funds received by the authority under an
2297 agreement between the authority and a municipality or county;
2298 and, in general, to provide for the security of the bonds and
2299 the rights and remedies of the holders of the bonds. However,
2300 municipal or county funds may not be pledged for the
2301 construction of a project for which a toll is to be charged
2302 unless the anticipated tolls are reasonably estimated by the
2303 governing board of the municipality or county, on the date of
2304 its resolution pledging the funds, to be sufficient to cover the
2305 principal and interest of such obligations during the period
2306 when the pledge of funds is in effect.
2307 1. The authority shall reimburse a municipality or county
2308 for sums spent from municipal or county funds used for the
2309 payment of the bond obligations.
2310 2. If the authority elects to fund or refund bonds issued
2311 by the authority before the maturity of the bonds, the proceeds
2312 of the funding or refunding bonds, pending the prior redemption
2313 of the bonds to be funded or refunded, shall be invested in
2314 direct obligations of the United States, and the outstanding
2315 bonds may be funded or refunded by the issuance of bonds under
2316 this chapter.
2317 (h) To make contracts of every name and nature, including,

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2318 but not limited to, partnerships providing for participation in
2319 ownership and revenues, and to execute each instrument necessary
2320 or convenient for the conduct of its business.
2321 (i) Without limitation of the foregoing, to cooperate with,
2322 to accept grants from, and to enter into contracts or other
2323 transactions with any federal agency, the state, or any agency
2324 or any other public body of the state.
2325 (j) To employ an executive director, attorney, staff, and
2326 consultants. Upon the request of the authority, the department
2327 shall furnish the services of a department employee to act as
2328 the executive director of the authority.
2329 (k) To accept funds or other property from private
2330 donations.
2331 (l) To act and do things necessary or convenient for the
2332 conduct of its business and the general welfare of the
2333 authority, in order to carry out the powers granted to it by
2334 this act or any other law.
2335 (3) The authority may not pledge the credit or taxing power
2336 of the state or a political subdivision or agency of the state.
2337 Obligations of the authority may not be considered to be
2338 obligations of the state or of any other political subdivision
2339 or agency of the state. Except for the authority, the state or
2340 any political subdivision or agency of the state is not liable
2341 for the payment of the principal of or interest on such
2342 obligations.
2343 (4) The authority may not, other than by consent of the
2344 affected county or an affected municipality, enter into an
2345 agreement that would legally prohibit the construction of a road
2346 by the county or the municipality.

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2347 (5) The authority shall comply with the statutory
2348 requirements of general application which relate to the filing
2349 of a report or documentation required by law, including the
2350 requirements of ss. 189.015, 189.016, 189.051, and 189.08.
2351 Section 47. Section 345.0005, Florida Statutes, is created
2352 to read:
2353 345.0005 Bonds.—
2354 (1) Bonds may be issued on behalf of the authority pursuant
2355 to the State Bond Act in such principal amount as the authority
2356 determines is necessary to achieve its corporate purposes,
2357 including construction, reconstruction, improvement, extension,
2358 and repair of the regional system; the acquisition cost of real
2359 property; interest on bonds during construction and for a
2360 reasonable period thereafter; and establishment of reserves to
2361 secure bonds.
2362 (2) Bonds issued on behalf of the authority under
2363 subsection (1) must:
2364 (a) Be authorized by resolution of the members of the
2365 authority and bear such date or dates; mature at such time or
2366 times not exceeding 30 years after their respective dates; bear
2367 interest at a rate or rates not exceeding the maximum rate fixed
2368 by general law for authorities; be in such denominations; be in
2369 such form, either coupon or fully registered; carry such
2370 registration, exchangeability, and interchangeability
2371 privileges; be payable in such medium of payment and at such
2372 place or places; be subject to such terms of redemption; and be
2373 entitled to such priorities of lien on the revenues and other
2374 available moneys as such resolution or any resolution after the
2375 bonds' issuance provides.

2376 (b) Be sold at public sale in the manner provided in the
2377 State Bond Act. Temporary bonds or interim certificates may be
2378 issued to the purchaser or purchasers of such bonds pending the
2379 preparation of definitive bonds and may contain such terms and
2380 conditions as determined by the authority.
2381 (3) A resolution that authorizes bonds may specify
2382 provisions that must be part of the contract with the holders of
2383 the bonds as to:
2384 (a) The pledging of all or any part of the revenues,
2385 available municipal or county funds, or other charges or
2386 receipts of the authority derived from the regional system.
2387 (b) The construction, reconstruction, improvement,
2388 extension, repair, maintenance, and operation of the system, or
2389 any part or parts of the system, and the duties and obligations
2390 of the authority with reference thereto.
2391 (c) Limitations on the purposes to which the proceeds of
2392 the bonds, then or thereafter issued, or of any loan or grant by
2393 any federal agency or the state or any political subdivision of
2394 the state may be applied.
2395 (d) The fixing, charging, establishing, revising,
2396 increasing, reducing, and collecting of tolls, rates, fees,
2397 rentals, or other charges for use of the services and facilities
2398 of the system or any part of the system.
2399 (e) The setting aside of reserves or sinking funds and the
2400 regulation and disposition of such reserves or sinking funds.
2401 (f) Limitations on the issuance of additional bonds.
2402 (g) The terms of any deed of trust or indenture securing
2403 the bonds, or under which the bonds may be issued.
2404 (h) Any other or additional matters, of like or different

2405 character, which in any way affect the security or protection of
2406 the bonds.
2407 (4) The authority may enter into deeds of trust,
2408 indentures, or other agreements with banks or trust companies
2409 within or without the state, as security for such bonds, and
2410 may, under such agreements, assign and pledge any of the
2411 revenues and other available moneys, including any available
2412 municipal or county funds, under the terms of this chapter. The
2413 deed of trust, indenture, or other agreement may contain
2414 provisions that are customary in such instruments or that the
2415 authority may authorize, including, but without limitation,
2416 provisions that:
2417 (a) Pledge any part of the revenues or other moneys
2418 lawfully available.
2419 (b) Apply funds and safeguard funds on hand or on deposit.
2420 (c) Provide for the rights and remedies of the trustee and
2421 the holders of the bonds.
2422 (d) Provide for the terms of the bonds or for resolutions
2423 authorizing the issuance of the bonds.
2424 (e) Provide for any additional matters, of like or
2425 different character, which affect the security or protection of
2426 the bonds.
2427 (5) Bonds issued under this act are negotiable instruments
2428 and have the qualities and incidents of negotiable instruments
2429 under the law merchant and the negotiable instruments law of the
2430 state.
2431 (6) A resolution that authorizes the issuance of authority
2432 bonds and pledges the revenues of the system must require that
2433 revenues of the system be periodically deposited into

2434 appropriate accounts in sufficient sums to pay the costs of
2435 operation and maintenance of the system for the current fiscal
2436 year as set forth in the annual budget of the authority and to
2437 reimburse the department for any unreimbursed costs of operation
2438 and maintenance of the system from prior fiscal years before
2439 revenues of the system are deposited into accounts for the
2440 payment of interest or principal owing or that may become owing
2441 on such bonds.
2442 (7) State funds may not be used or pledged to pay the
2443 principal of or interest on any authority bonds, and all such
2444 bonds must contain a statement on their face to this effect.
2445 Section 48. Section 345.0006, Florida Statutes, is created
2446 to read:
2447 345.0006 Remedies of bondholders.—
2448 (1) The rights and the remedies granted to authority
2449 bondholders under this chapter are in addition to and not in
2450 limitation of any rights and remedies lawfully granted to such
2451 bondholders by the resolution or indenture providing for the
2452 issuance of bonds, or by any deed of trust, indenture, or other
2453 agreement under which the bonds may be issued or secured. If the
2454 authority defaults in the payment of the principal or interest
2455 on the bonds issued under this chapter after such principal or
2456 interest becomes due, whether at maturity or upon call for
2457 redemption, as provided in the resolution or indenture, and such
2458 default continues for 30 days, or if the authority fails or
2459 refuses to comply with this chapter or any agreement made with,
2460 or for the benefit of, the holders of the bonds, the holders of
2461 25 percent in aggregate principal amount of the bonds then
2462 outstanding are entitled as of right to the appointment of a

2463 trustee to represent such bondholders for the purposes of the
2464 default if the holders of 25 percent in aggregate principal
2465 amount of the bonds then outstanding first give written notice
2466 to the authority and to the department of their intention to
2467 appoint a trustee.
2468 (2) The trustee and a trustee under a deed of trust,
2469 indenture, or other agreement may, or upon the written request
2470 of the holders of 25 percent or such other percentages specified
2471 in any deed of trust, indenture, or other agreement, in
2472 principal amount of the bonds then outstanding, shall, in any
2473 court of competent jurisdiction, in its own name:
2474 (a) By mandamus or other suit, action, or proceeding at
2475 law, or in equity, enforce all rights of the bondholders,
2476 including the right to require the authority to fix, establish,
2477 maintain, collect, and charge rates, fees, rentals, and other
2478 charges, adequate to carry out any agreement as to, or pledge
2479 of, the revenues, and to require the authority to carry out any
2480 other covenants and agreements with or for the benefit of the
2481 bondholders, and to perform its and their duties under this
2482 chapter.
2483 (b) Bring suit upon the bonds.
2484 (c) By action or suit in equity, require the authority to
2485 account as if it were the trustee of an express trust for the
2486 bondholders.
2487 (d) By action or suit in equity, enjoin any acts or things
2488 that may be unlawful or in violation of the rights of the
2489 bondholders.
2490 (3) A trustee, if appointed under this section or acting
2491 under a deed of trust, indenture, or other agreement, and

2492 regardless of whether all bonds have been declared due and
2493 payable, is entitled to the appointment of a receiver. The
2494 receiver may enter upon and take possession of the system or the
2495 facilities or any part or parts of the system, the revenues, and
2496 other pledged moneys, for and on behalf of and in the name of,
2497 the authority and the bondholders. The receiver may collect and
2498 receive revenues and other pledged moneys in the same manner as
2499 the authority. The receiver shall deposit such revenues and
2500 moneys in a separate account and apply all such revenues and
2501 moneys remaining after allowance for payment of all costs of
2502 operation and maintenance of the system in such manner as the
2503 court directs. In a suit, action, or proceeding by the trustee,
2504 the fees, counsel fees, and expenses of the trustee, and the
2505 receiver, if any, and all costs and disbursements allowed by the
2506 court must be a first charge on any revenues after payment of
2507 the costs of operation and maintenance of the system. The
2508 trustee also has all other powers necessary or appropriate for
2509 the exercise of any functions specifically described in this
2510 section or incident to the representation of the bondholders in
2511 the enforcement and protection of their rights.
2512 (4) A receiver appointed pursuant to this section to
2513 operate and maintain the system or a facility or a part of a
2514 facility may not sell, assign, mortgage, or otherwise dispose of
2515 any of the assets belonging to the authority. The powers of the
2516 receiver are limited to the operation and maintenance of the
2517 system or any facility or part of a facility and to the
2518 collection and application of revenues and other moneys due the
2519 authority, in the name and for and on behalf of the authority
2520 and the bondholders. A holder of bonds or a trustee does not

2521 have the right in any suit, action, or proceeding, at law or in
2522 equity, to compel a receiver, or a receiver may not be
2523 authorized or a court may not direct a receiver, to sell,
2524 assign, mortgage, or otherwise dispose of any assets of whatever
2525 kind or character belonging to the authority.
2526 Section 49. Section 345.0007, Florida Statutes, is created
2527 to read:
2528 345.0007 Department to construct, operate, and maintain
2529 facilities.—
2530 (1) The department is the agent of the authority for the
2531 purpose of performing all phases of a project, including, but
2532 not limited to, constructing improvements and extensions to the
2533 system, with the exception of the transit facilities. The
2534 division and the authority shall provide to the department
2535 complete copies of the documents, agreements, resolutions,
2536 contracts, and instruments that relate to the project and shall
2537 request that the department perform the construction work,
2538 including the planning, surveying, design, and actual
2539 construction of the completion of, extensions of, and
2540 improvements to the system. After the issuance of bonds to
2541 finance construction of an improvement or addition to the
2542 system, the division and the authority shall transfer to the
2543 credit of an account of the department in the State Treasury the
2544 necessary funds for construction. The department shall proceed
2545 with construction and use the funds for the purpose authorized
2546 by law for construction of roads and bridges. The authority may
2547 alternatively, with the consent and approval of the department,
2548 elect to appoint a local agency certified by the department to
2549 administer federal aid projects in accordance with federal law

2550 as the authority's agent for the purpose of performing each
2551 phase of a project.
2552 (2) Notwithstanding subsection (1), the department is the
2553 agent of the authority for the purpose of operating and
2554 maintaining the system, with the exception of transit
2555 facilities. The costs incurred by the department for operation
2556 and maintenance shall be reimbursed from revenues of the system.
2557 The appointment of the department as agent for the authority
2558 does not create an independent obligation on the part of the
2559 department to operate and maintain a system. The authority shall
2560 remain obligated as principal to operate and maintain its
2561 system, and the authority's bondholders do not have an
2562 independent right to compel the department to operate or
2563 maintain the authority's system.
2564 (3) The authority shall fix, alter, charge, establish, and
2565 collect tolls, rates, fees, rentals, and other charges for the
2566 authority's facilities, as otherwise provided in this chapter.
2567 Section 50. Section 345.0008, Florida Statutes, is created
2568 to read:
2569 345.0008 Department contributions to authority projects.—
2570 (1) Subject to appropriation by the Legislature, the
2571 department may, at the request of the authority, pay all or part
2572 of the cost of financial, engineering, or traffic feasibility
2573 studies or of the design, financing, acquisition, or
2574 construction of an authority project or portion of the system
2575 that is included in the 10-year Strategic Intermodal Plan.
2576 (a) Pursuant to chapter 216, the department shall include
2577 funding for such payments in its legislative budget request. The
2578 request for funding may be included in the 5-year Tentative Work

2579 Program developed under s. 339.135; however, it must appear as a
2580 distinct funding item in the legislative budget request and must
2581 be supported by a financial feasibility test provided by the
2582 department.
2583 (b) Funding provided for authority projects shall appear in
2584 the General Appropriations Act as a distinct fixed capital
2585 outlay item and must clearly identify the related authority
2586 project.
2587 (c) The department may not make a budget request to fund
2588 the acquisition or construction of a proposed authority project
2589 unless the estimated net revenues of the proposed project will
2590 be sufficient to pay at least 50 percent of the annual debt
2591 service on the bonds associated with the project by the end of
2592 12 years of operation and at least 100 percent of the debt
2593 service on the bonds by the end of 30 years of operation.
2594 (2) The department may use its engineers and other
2595 personnel, including consulting engineers and traffic engineers,
2596 to conduct the feasibility studies authorized under subsection
2597 (1).
2598 (3) The department may participate in authority-funded
2599 projects that, at a minimum:
2600 (a) Serve national, statewide, or regional functions and
2601 function as part of an integrated regional transportation
2602 system.
2603 (b) Are identified in the capital improvements element of a
2604 comprehensive plan that has been determined to be in compliance
2605 with part II of chapter 163. Further, the project shall be in
2606 compliance with local government comprehensive plan policies
2607 relative to corridor management.

2608 (c) Are consistent with the Strategic Intermodal System
2609 Plan developed under s. 339.64.
2610 (d) Have a commitment for local, regional, or private
2611 financial matching funds as a percentage of the overall project
2612 cost.
2613 (4) Before approval, the department must determine that the
2614 proposed project:
2615 (a) Is in the public's best interest;
2616 (b) Does not require state funding, unless the project is
2617 on the State Highway System;
2618 (c) Has adequate safeguards in place to ensure that no
2619 additional costs will be imposed on or service disruptions will
2620 affect the traveling public and residents of this state if the
2621 department cancels or defaults on the agreement; and
2622 (d) Has adequate safeguards in place to ensure that the
2623 department and the authority have the opportunity to add
2624 capacity to the proposed project and other transportation
2625 facilities serving similar origins and destinations.
2626 (5) An obligation or expense incurred by the department
2627 under this section is a part of the cost of the authority
2628 project for which the obligation or expense was incurred. The
2629 department may require that money contributed by the department
2630 under this section be repaid from tolls of the project on which
2631 the money was spent, other revenue of the authority, or other
2632 sources of funds.
2633 (6) The department shall receive from the authority a share
2634 of the authority's net revenues equal to the ratio of the
2635 department's total contributions to the authority under this
2636 section to the sum of: the department's total contributions

2637 under this section; contributions by any local government to the
2638 cost of revenue-producing authority projects; and the sale
2639 proceeds of authority bonds after payment of costs of issuance.
2640 For the purpose of this subsection, the net revenues of the
2641 authority are determined by deducting from gross revenues the
2642 payment of debt service, administrative expenses, operations and
2643 maintenance expenses, and all reserves required to be
2644 established under any resolution under which authority bonds are
2645 issued.
2646 Section 51. Section 345.0009, Florida Statutes, is created
2647 to read:
2648 345.0009 Acquisition of lands and property.—
2649 (1) For the purposes of this chapter, the authority may
2650 acquire private or public property and property rights,
2651 including rights of access, air, view, and light, by gift,
2652 devise, purchase, condemnation by eminent domain proceedings, or
2653 transfer from another political subdivision of the state, as the
2654 authority may find necessary for any of the purposes of this
2655 chapter, including, but not limited to, any lands reasonably
2656 necessary for securing applicable permits, areas necessary for
2657 management of access, borrow pits, drainage ditches, water
2658 retention areas, rest areas, replacement access for landowners
2659 whose access is impaired due to the construction of a facility,
2660 and replacement rights-of-way for relocated rail and utility
2661 facilities; for existing, proposed, or anticipated
2662 transportation facilities on the system or in a transportation
2663 corridor designated by the authority; or for the purposes of
2664 screening, relocation, removal, or disposal of junkyards and
2665 scrap metal processing facilities. Each authority shall also

2666 have the power to condemn any material and property necessary
2667 for such purposes.
2668 (2) The authority shall exercise the right of eminent
2669 domain conferred under this section in the manner provided by
2670 law.
2671 (3) An authority that acquires property for a
2672 transportation facility or in a transportation corridor is not
2673 liable under chapter 376 or chapter 403 for preexisting soil or
2674 groundwater contamination due solely to its ownership. This
2675 section does not affect the rights or liabilities of any past or
2676 future owners of the acquired property or the liability of any
2677 governmental entity for the results of its actions which create
2678 or exacerbate a pollution source. The authority and the
2679 Department of Environmental Protection may enter into
2680 interagency agreements for the performance, funding, and
2681 reimbursement of the investigative and remedial acts necessary
2682 for property acquired by the authority.
2683 Section 52. Section 345.001, Florida Statutes, is created
2684 to read:
2685 345.001 Cooperation with other units, boards, agencies, and
2686 individuals.—A county, municipality, drainage district, road and
2687 bridge district, school district, or any other political
2688 subdivision, board, commission, or individual in, or of, the
2689 state may make and enter into a contract, lease, conveyance,
2690 partnership, or other agreement with the authority which
2691 complies with this chapter. The authority may make and enter
2692 into contracts, leases, conveyances, partnerships, and other
2693 agreements with any political subdivision, agency, or
2694 instrumentality of the state and any federal agency,

2695 corporation, or individual to carry out the purposes of this
2696 chapter.
2697 Section 53. Section 345.0011, Florida Statutes, is created
2698 to read:
2699 345.0011 Covenant of the state.—The state pledges to, and
2700 agrees with, any person, firm, or corporation, or federal or
2701 state agency subscribing to or acquiring the bonds to be issued
2702 by the authority for the purposes of this chapter that the state
2703 will not limit or alter the rights vested by this chapter in the
2704 authority and the department until all bonds at any time issued,
2705 together with the interest thereon, are fully paid and
2706 discharged insofar as the rights vested in the authority and the
2707 department affect the rights of the holders of bonds issued
2708 under this chapter. The state further pledges to, and agrees
2709 with, the United States that if a federal agency constructs or
2710 contributes any funds for the completion, extension, or
2711 improvement of the system, or any parts of the system, the state
2712 will not alter or limit the rights and powers of the authority
2713 and the department in any manner that is inconsistent with the
2714 continued maintenance and operation of the system or the
2715 completion, extension, or improvement of the system, or that
2716 would be inconsistent with the due performance of any agreements
2717 between the authority and any such federal agency, and the
2718 authority and the department shall continue to have and may
2719 exercise all powers granted in this section, so long as the
2720 powers are necessary or desirable to carry out the purposes of
2721 this chapter and the purposes of the United States in the
2722 completion, extension, or improvement of the system, or any part
2723 of the system.

2724 Section 54. Section 345.0012, Florida Statutes, is created
2725 to read:
2726 345.0012 Exemption from taxation.—The authority created
2727 under this chapter is for the benefit of the people of the
2728 state, for the increase of their commerce and prosperity, and
2729 for the improvement of their health and living conditions. The
2730 authority performs essential governmental functions under this
2731 chapter, therefore, the authority is not required to pay any
2732 taxes or assessments of any kind or nature upon any property
2733 acquired or used by it for such purposes, or upon any rates,
2734 fees, rentals, receipts, income, or charges received by it.
2735 Also, the bonds issued by the authority, their transfer and the
2736 income from their issuance, including any profits made on the
2737 sale of the bonds, shall be free from taxation by the state or
2738 by any political subdivision, taxing agency, or instrumentality
2739 of the state. The exemption granted by this section does not
2740 apply to any tax imposed by chapter 220 on interest, income, or
2741 profits on debt obligations owned by corporations.
2742 Section 55. Section 345.0013, Florida Statutes, is created
2743 to read:
2744 345.0013 Eligibility for investments and security.—Bonds or
2745 other obligations issued under this chapter are legal
2746 investments for banks, savings banks, trustees, executors,
2747 administrators, and all other fiduciaries, and for all state,
2748 municipal, and other public funds, and are also securities
2749 eligible for deposit as security for all state, municipal, or
2750 other public funds, notwithstanding any other law to the
2751 contrary.
2752 Section 56. Section 345.0014, Florida Statutes, is created

2753 to read:
2754 345.0014 Applicability.—
2755 (1) The powers conferred by this chapter are in addition to
2756 the powers conferred by other laws and do not repeal any other
2757 general or special law or local ordinance, but supplement them,
2758 and provide a complete method for the exercise of the powers
2759 granted in this chapter. The extension and improvement of a
2760 system, and the issuance of bonds under this chapter to finance
2761 all or part of the cost of such extension or improvement, may be
2762 accomplished through compliance with this chapter without regard
2763 to or necessity for compliance with the limitations or
2764 restrictions contained in any other general, special, or local
2765 law, including, but not limited to, s. 215.821. Approval of any
2766 bonds issued under this act by the qualified electors or
2767 qualified electors who are freeholders in the state or in any
2768 political subdivision of the state is not required for the
2769 issuance of such bonds under this chapter.
2770 (2) This act does not repeal, rescind, or modify any other
2771 law relating to the State Board of Administration, the
2772 Department of Transportation, or the Division of Bond Finance of
2773 the State Board of Administration; however, this chapter
2774 supersedes any other law that is inconsistent with its
2775 provisions, including, but not limited to, s. 215.821.
2776 Section 57. (1) LEGISLATIVE FINDINGS AND INTENT.—The
2777 Legislature recognizes that the existing fuel tax structure used
2778 to derive revenues for the funding of transportation projects in
2779 this state will soon be inadequate to meet the state's needs. To
2780 address this emerging need, the Legislature directs the Center
2781 for Urban Transportation Research to establish an extensive

2782 study on the impact of implementing a system that charges
2783 drivers based on the vehicle miles traveled as an alternative,
2784 sustainable source of transportation funding and to establish
2785 the framework for implementation of a pilot demonstration
2786 project. The Legislature recognizes that, over time, the current
2787 fuel tax structure has become less viable as the primary funding
2788 source for transportation projects. While the fuel tax has
2789 functioned as a true user fee for decades, significant increases
2790 in mandated vehicle fuel efficiency and the introduction of
2791 electric and hybrid vehicles have significantly eroded the
2792 revenues derived from this tax. The Legislature also recognizes
2793 that there are legitimate privacy concerns related to a tax
2794 mechanism that would charge users of the highway system on the
2795 basis of miles traveled. Other concerns include the cost of
2796 implementing such a system and institutional issues associated
2797 with revenue sharing. Therefore, it is the intent of the
2798 Legislature that this study and demonstration design will, at a
2799 minimum, address these issues. To accomplish this task, the
2800 Center for Urban Transportation Research in consultation with
2801 the Florida Transportation Commission shall establish a project
2802 advisory board to assist the center in analyzing this
2803 alternative funding concept and in developing specific elements
2804 of the pilot project that will demonstrate the feasibility of
2805 transitioning Florida to a transportation funding system based
2806 on vehicle miles traveled.
2807 (2) VEHICLE-MILES-TRAVELED STUDY.—The Center for Urban
2808 Transportation Research shall conduct a study on the viability
2809 of implementing a system in this state which charges drivers
2810 based on their vehicle miles traveled as an alternative to the

2811 present fuel tax structure to fund transportation projects. The
2812 study will inventory previous research and findings from pilot
2813 projects being conducted in other states. The study will address
2814 at a minimum previous work conducted in these broad areas:
2815 assessment of technologies; behavioral and privacy concerns;
2816 equity impacts; and policy implications of a vehicle miles
2817 traveled road charging system. The effort will also quantify the
2818 current costs to collect traditional highway user fees. This
2819 study will synthesize findings of completed research and
2820 demonstrations in the area of vehicle-miles-traveled charges and
2821 analyze their applicability to Florida. The Center for Urban
2822 Transportation Research shall present the findings of this study
2823 phase to the Legislature no later than January 30, 2016.
2824 (3) VEHICLE-MILES-TRAVELED PILOT PROJECT DESIGN.—
2825 (a) In the course of the study, the Center for Urban
2826 Transportation Research in consultation with the Florida
2827 Transportation Commission shall establish the framework for a
2828 pilot project that will evaluate the feasibility of implementing
2829 a system that charges drivers based on their vehicle miles
2830 traveled.
2831 (b) In the design of the pilot project framework, the
2832 Center for Urban Transportation Research shall address at a
2833 minimum these elements: the geographic location for the pilot;
2834 special fleets or classes of vehicles; evaluation criteria for
2835 the demonstration; consumer choice in the method of reporting
2836 miles traveled; privacy options for participants in the pilot
2837 project; the recording of miles traveled with and without
2838 locational information; records retention and destruction; and
2839 cyber security.

2840 (c) Contingent upon legislative appropriation, the Center
2841 for Urban Transportation Research may expend up to $400,000 for
2842 the study and pilot project design.
2843 (d) The pilot project design shall be completed no later
2844 than December 31, 2016, and submitted in a report to the
2845 Legislature so that implementation of a pilot project can occur
2846 in 2017.
2847 Section 58. For the purpose of incorporating the amendment
2848 made by this act to section 333.01, Florida Statutes, in a
2849 reference thereto, subsection (6) of section 350.81, Florida
2850 Statutes, is reenacted to read:
2851 350.81 Communications services offered by governmental
2852 entities.—
2853 (6) To ensure the safe and secure transportation of
2854 passengers and freight through an airport facility, as defined
2855 in s. 159.27(17), an airport authority or other governmental
2856 entity that provides or is proposing to provide communications
2857 services only within the boundaries of its airport layout plan,
2858 as defined in s. 333.01(6), to subscribers which are integral
2859 and essential to the safe and secure transportation of
2860 passengers and freight through the airport facility, is exempt
2861 from this section. An airport authority or other governmental
2862 entity that provides or is proposing to provide shared-tenant
2863 service under s. 364.339, but not dial tone enabling subscribers
2864 to complete calls outside the airport layout plan, to one or
2865 more subscribers within its airport layout plan which are not
2866 integral and essential to the safe and secure transportation of
2867 passengers and freight through the airport facility is exempt
2868 from this section. An airport authority or other governmental

2869 entity that provides or is proposing to provide communications
2870 services to one or more subscribers within its airport layout
2871 plan which are not integral and essential to the safe and secure
2872 transportation of passengers and freight through the airport
2873 facility, or to one or more subscribers outside its airport
2874 layout plan, is not exempt from this section. By way of example
2875 and not limitation, the integral, essential subscribers may
2876 include airlines and emergency service entities, and the
2877 nonintegral, nonessential subscribers may include retail shops,
2878 restaurants, hotels, or rental car companies.
2879 Section 59. This act shall take effect July 1, 2015.

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 Appropriations

BILL: CS/SB 1554

INTRODUCER: Transportation Committee and Senator Brandes

SUBJECT: Transportation

DATE: April 20, 2015 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Price	Eichin	TR	**Fav/CS**
2.	Sneed	Miller	ATD	**Recommend: Fav/CS**
3.	Sneed	Kynoch	AP	**Pre-meeting**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1554 reflects the Florida Department of Transportation's (FDOT) 2015 Legislative Package, as well as other transportation-related issues. More specifically, the bill:

- Increases from $15 million to $25 million the annual funding for the Florida Seaport Transportation and Economic Development (FSTED) program.
- Removes Port Citrus as an authorized member of the FSTED Council, as well as obsolete provisions regarding a related port feasibility study.
- Allows commercial motor vehicle operators to purchase temporary registration permits and provides for a reduced non-registration penalty under certain circumstances.
- Extends the allowable length of a trailer transporting manufactured buildings under a special permit from 54 feet to 80 feet.
- Extends the allowable length of certain semitrailers from 53 feet to 57 feet under certain conditions.
- Provides an exemption from required minimum following distance to users of driver-assistive truck platooning technology, a system that controls inter-vehicle spacing between two truck tractor-semitrailer combinations.
- Directs the Office of Economic and Demographic Research to evaluate and determine the economic benefits of the state's investment in the FDOT Work Program.
- Allows turnpike bonds to be validated at the option of the Division of Bond Finance, and limits the location of publication of bond-validation notices to Leon County.
- Substantially revises chapter 333, Florida Statutes, relating to airport zoning regulations.

- Authorizes the FDOT to assume certain review responsibilities under the National Environmental Policy Act (NEPA) with respect to highway projects, as authorized by federal law, and includes a limited waiver of the state's immunity from lawsuits in federal courts pursuant to the Eleventh Amendment to the U.S. Constitution, which are associated with the assumed responsibilities under NEPA.
- Requires consideration of infrastructure and technological improvements necessary to accommodate advances in vehicle technology and revises existing statutes with regard to the definition and use of autonomous vehicle technology.
- Clarifies provisions relating to pedestrians and crosswalks in an effort to improve safety.
- Increases from three years to ten years the period after which a dormant prepaid toll account is presumed unclaimed.
- Creates the Shared-Use Nonmotorized Trail (SunTrail) Network as a component of the Florida Greenways and Trail System.
- Requires the Center for Urban Transportation Research to conduct a study, design a pilot project, and provide a report regarding the feasibility and means of implementing a vehicle-miles-traveled funding mechanism for transportation projects.
- Creates the Northwest Florida Regional Transportation Finance Authority Act, authorizing Escambia and Santa Rosa Counties, to form a regional transportation finance authority to develop transportation projects in the northwest region of the state.
- Revises the membership of a legislatively-created independent special district regulating for-hire transportation.
- Revises provisions relating to staffing and responsibilities of the Fort Meyers Urban Office of the FDOT.
- Modernizes language relating to FDOT's provision of 511 services.
- Removes obsolete language relating to the FDOT secretary's appointment of an inspector general.
- Repeals obsolete language relating to transportation corridors.
- Deletes references to toll facilities no longer owned by the FDOT.
- Repeals obsolete bond language relating to the already-repealed Broward County Expressway Authority.
- Makes other technical and conforming revisions.

The fiscal impact of the bill is indeterminate but likely insignificant. Please see Section V for specific details.

The bill provides an effective date of July 1, 2015.

II. Present Situation:

Due to the disparate issues in the bill, the present situation for each section is discussed below in conjunction with the Effect of Proposed Changes.

III. Effect of Proposed Changes:

Florida Seaport Transportation and Economic Development Program (Sections 4 and 5)

Present Situation

Florida has 15 public seaports,[1] and Florida law reflects a number of seaport and seaport-related funding provisions. Section 311.07(2), F.S., requires a minimum of $15 million per year from the State Transportation Trust Fund (STTF) to fund the Florida Seaport Transportation and Economic Development (FSTED) Program.[2] The program represents a collaborative relationship between the Florida Department of Transportation (FDOT) and the seaports. FSTED funds are to be used on approved projects on a 50-50 matching basis.[3] Funding grants under the FSTED program are limited to the following port facilities or port transportation projects:

- Transportation facilities within the jurisdiction of the port.
- The dredging or deepening of channels, turning basins, or harbors.
- The construction or rehabilitation of wharves, docks, structures, jetties, piers, storage facilities, cruise terminals, automated people mover systems, or any facilities necessary or useful in connection with the foregoing.
- The acquisition of vessel tracking systems, container cranes, or other mechanized equipment used in the movement of cargo or passengers in international commerce.
- The acquisition of land to be used for port purposes.
- The acquisition, improvement, enlargement, or extension of existing port facilities.
- Environmental protection projects: which are necessary because of requirements imposed by a state agency as a condition of a permit or other form of state approval; which are necessary for environmental mitigation required as a condition of a state, federal, or local environmental permit; which are necessary for the acquisition of spoil disposal sites; or which result from the funding of eligible projects.
- Transportation facilities which are not otherwise part of FDOT's adopted Work Program. [4]
- Intermodal access projects.
- Construction or rehabilitation of port facilities, excluding any park or recreational facility, in ports listed in s. 311.09(1), F.S.,[5] with operating revenues of $5 million or less, provided that such project creates economic development opportunities, capital improvements, and positive financial returns to such ports.
- Seaport master plan or strategic plan development updates, including the purchase of data to support such plans or other provisions of the Community Planning Act.[6]

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[1] Jacksonville (JaxPort), Port Canaveral, Port Citrus, Port of Fort Pierce, Port of Palm Beach, Port Everglades, Port of Miami, Port Manatee, Port of St. Petersburg, Port of Tampa, Port St. Joe, Port Panama City, Port of Pensacola, Port of Key West, and Port of Fernandino. Listed in s. 311.09(1), F.S.

[2] See also s. 311.09(9), directing the FDOT to include no less than $15 million annually in its legislative budget request for the FSTED Program.

[3] S. 311.07(3)(a), F.S.

[4] DOT's work program is adopted pursuant to s. 339.135, F.S.

[5] Jacksonville (JaxPort), Port Canaveral, Port Citrus, Port of Fort Pierce, Port of Palm Beach, Port Everglades, Port of Miami, Port Manatee, Port of St. Petersburg, Port of Tampa, Port St. Joe, Port Panama City, Port of Pensacola, Port of Key West, and Port of Fernandino.

[6] Part II of ch. 163, F.S.

In order for a project to be eligible for consideration by the FSTED Council, a project must be consistent with the port's comprehensive master plan, which is incorporated as part of the approved local government comprehensive plan.

The FSTED program is managed by the FSTED Council, which consists of the port director, or director's designee of the 15 public seaports, the Secretary of FDOT or his or her designee, and the Executive Director of the Department of Economic Opportunity or his or her designee.[7]

Effect of Proposed Changes

Sections 4 and 5 amend s. 311.07(2) and s. 311.09(9), F.S., respectively, to increase the annual funding from the State Transportation Trust Fund for the FSTED Program from $15 million to $25 million. The bill requires FDOT to include no less than the $25 million in its annual legislative budget request to fund the program.

Port Citrus (Section 5)

Present Situation

The Florida Legislature in 2011 included a representative of Port Citrus as a member of the FSTED Council. Port Citrus was authorized to apply for a grant for a feasibility study through the FSTED Council until July 14, 2014, regarding the establishment of a port in Citrus County.

According to a recent article, by late 2011, Citrus County established a port authority and joined the Florida Ports Council and Gulf Ports Association of the Americas, with annual dues of $15,000. Backers of Port Citrus "envisioned development of a port near a key cut in the Cross Florida Barge Canal."[8] According to the article, the study found that the barge canal would be a good location for a marina, but not for a port, because the canal's 12-foot depth is too shallow. Efforts are underway to pursue a possible marina. However, members of the current Citrus County Commission have raised questions about whether the dues paid for membership in the groups joined are appropriate, noting that a marina does not need to be designated as a port.[9]

On January 24, 2015, the Citrus County Board of County Commissions, acting as the Citrus County Port Authority, voted to abolish Port Citrus. The Port Authority has requested statutory revision to reflect the abolishment.[10]

Effect of Proposed Changes

Section 5 amends s. 311.09(1) and repeals s. 311.09(12), F.S., to remove a representative of Port Citrus as an authorized member of the FSTED Council, as well as the dated provisions relating to application for a grant to conduct the feasibility study.

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[7] S. 311.09(1), F.S.
[8] See *Port Citrus talk: Sink or stay afloat?*, January 24, 2015, Citrus County Chronicle Online: http://www.chronicleonline.com/content/port-citrus-talk-sink-or-stay-afloat. Last visited March 19, 2015.
[9] *Id.*
[10] See Citrus Port Authority correspondence dated January 29, 2015. On file in the Senate Transportation Committee.

Commercial Motor Vehicles/Ports of Entry/Operating Credentials (Sections 6 and 11)

Present Situation

Interstate operators of commercial motor vehicles (CMVs) are required to obtain a number of credentials. Generally, for example, interstate operators of CMVs are required to obtain an International Fuel Tax Agreement (IFTA) license and decal[11] and, in some cases, to obtain overweight or over-dimensional permits.[12] Some states allow the purchase of some or all necessary credentials at weigh stations located close to routes entering their borders and at other locations, and these states are known as "port of entry" or "POE" states.[13] Because these credentials must be obtained prior to entering Florida, the state is known as a "non-POE" state.[14] If a CMV enters the state without proper credentials and the operator seeks to purchase them at any weigh station, the applicable fine is assessed depending on the type of credential at issue. Only then is the operator allowed to purchase the necessary credential.[15]

Another credential required before entering Florida is registration under the International Registration Plan (IRP). The IRP[16] is a plan for registering vehicles that are operated in two or more IRP-member jurisdictions while displaying just one registration license plate for each vehicle.

> All IRP member jurisdictions have agreed to allow one jurisdiction to collect the registration fees (apportioned fees) for each jurisdiction at one time. These fees are then distributed among the other IRP jurisdictions according to:
> - Percentage of mileage traveled in each jurisdiction;
> - Vehicle identification information; and
> - Maximum weight.
>
> Under the IRP, interstate truck operators are required to file an application with their base jurisdiction. The base jurisdiction, in turn, issues one registration cab card and one tag for the vehicle. In member jurisdictions, the single apportioned license plate and cab card are the only registration credentials required to operate interstate and intrastate.[17]

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[11] See ss. 207.004 and 316.545(4), F.S. The International Fuel Tax Agreement (IFTA) is an agreement among the states and the Canadian provinces to simplify the reporting of interstate fuel taxes. The motor carrier's base jurisdiction issues the IFTA license and decals, allowing the carrier to file one quarterly tax return reflecting the net tax and any refund due on fuel used in all jurisdictions.

[12] See s. 316.550, F.S.

[13] *See* the *Florida Port of Entry Feasibility Study*, September 2014, prepared for the FDOT, at 3.1 and 3.2. Copy on file in the Senate Transportation Committee. According to the study, 28 states are non-POE states, and 22 states and the District of Columbia consider themselves to be POE jurisdictions. Alabama is a POE state; Georgia is not. Further, the definitions of "POE" vary greatly by state.

[14] *Id.* at 1.1.

[15] *See* the FDOT 2015 Legislative Proposal form, *Port-of-Entry*, on file in the Senate Transportation Committee.

[16] Section 320.01(23), F.S., defines the IRP to mean "a registration reciprocity agreement among states of the United States and provinces of Canada providing for payment of license fees on the basis of fleet miles operated in various jurisdictions."

[17] See the Florida Department of Highway Safety and Motor Vehicles *International Registration Plan Trucking Manual*, at 5. On file in the Senate Transportation Committee.

A "Full Reciprocity Plan" was instituted effective January 1, 2015, under which registrants are billed only for jurisdictions in which actual miles were accrued during the reporting period. If no miles were accrued in a given jurisdiction, registrants are billed based on the average distance of all registrants in each jurisdiction. Upon registration, the cab cards will reflect all jurisdictions.[18]

Section 320.0715(1), F.S., requires all apportionable vehicles[19] domiciled in this state to register under the International Registration Plan and to display the apportioned license plate. If a CMV domiciled elsewhere could be lawfully operated in this state because IRP registration had been obtained prior to entering Florida, but was not, a ten-day Florida trip permit may be obtained for $30. The permit allows the vehicle to be operated in interstate or intrastate commerce for the ten-day period.

A CMV not registered under the application provisions of ch. 320, F.S., is subject to a penalty of five cents per pound on the weight that exceeds 35,000 pounds on laden truck tractor-semitrailer combinations or tandem trailer truck combinations, 10,000 pounds on laden straight trucks or straight truck-trailer combinations, or 10,000 pounds on any unladen CMV.[20] Operators of CMVs that fail to obtain the temporary trip permit prior to entering Florida are fined accordingly and then allowed to purchase the temporary trip permit. All such penalties and permit fees are credited to the State Transportation Trust Fund to be used for repair and maintenance of Florida's roads and for enforcement purposes.[21]

Effect of Proposed Changes

The bill defines "port-of-entry" and reduces the existing penalty for IRP registration violations.

Section 6 creates s. 316.003(94), F.S., to define "port-of-entry" as a designated location that allows drivers of commercial motor vehicles to purchase temporary registration permits necessary to operate legally within Florida, and to direct the FDOT to determine the locations and the designated routes to such locations.

Section 11 amends s. 316.545(2)(b), F.S., to provide that if a CMV enters the state at a designated POE or is operating on an FDOT-designated route to a POE, and if the ten-day IRP trip permit is obtained at the POE, the penalty is limited to the difference between the CMV's gross weight and the declared gross vehicle weight at five cents per pound.

The penalty no longer is calculated based on five cents per pound of weight in excess of 35,000 pounds or 10,000 pounds, depending on the type of truck, combination, or whether the truck is

[18] *Id.*

[19] Section 320.01(24), F.S., defines "apportionable vehicle" to mean "any vehicle [with certain exceptions] which is used or intended for use in two or more member jurisdictions that allocate or proportionally register vehicles and which is used for the transportation of persons for hire or is designed, used, or maintained primarily for the transportation of property and: (a) Is a power unit having a gross vehicle weight in excess of 26,000 pounds; (b) Is a power unit having three or more axles, regardless of weight; or (c) Is sued in combination, when the weight of such combination exceeds 26,000 pounds gross vehicle weight."

[20] See 316.545(2)(b), F.S.

[21] See s. 316.545(6), F.S.

laden, but on the difference between declared and actual weight. Existing penalties for failure to obtain other required credentials remain unchanged, including, but not limited to, IFTA violations and overweight and over-dimensional permit violations.

The FDOT advises three potential POE locations are under consideration:

- I-10 at the first eastbound weigh station entering the state;
- I-75 at the first southbound weigh station entering the state; and
- I-95 at the first southbound weigh station entering the state.

The designated route for each location would be the portion of the interstate from the state line to the weigh station.[22]

Commercial Motor Vehicles/Trailer Lengths/Manufactured Building/Special Permits (Section 10)

Present Situation

The Office of Commercial Vehicle Enforcement of the Florida Department of Highway Safety and Motor Vehicles (FDHSMV) administers a Weight Enforcement program. Protection of the public's investment in the highway system is the primary purpose of the program. To prevent heavy trucks from causing unreasonable damage to roads and bridges, maximum weight and size limits are established in ch. 316, F.S.[23] Section 316.515, F.S., sets out the maximum width, height, and length limitations, and s. 316.545, F.S., addresses unlawful weight.

The FDOT or a local authority may issue a special permit to operate or move a vehicle or combination of a size or weight exceeding the maximums specified. Issuance of such a permit must not be contrary to the public interest and is at the discretion of the FDOT or the local authority.[24] Significant penalties can result from failure to obtain a special permit or failure to comply with the specific terms of the permit.[25]

Generally, as to truck tractor-semitrailer combinations and length, the extreme overall outside dimension of the combination may not exceed 48 feet, measured from the front of the unit to the rear of the unit and the load carried.[26] However, a semitrailer that is more than 48 feet but not more than 53 feet may operate on non-restricted public roads, if the distance between the kingpin and the rear axle or axle group does not exceed a certain number of feet[27] and the vehicle is equipped with required rear end protection.

In addition, the FDOT is authorized to issue a special permit for a truck tractor-semitrailer combination if the total number of over-width deliveries of manufactured buildings may be reduced by permitting the use of an over-length trailer not exceeding 54 feet.[28] Issuance of this

[22] *Supra,* note 14.
[23] See the FDHSMV website: http://www.flhsmv.gov/fhp/CVE/WeightEnforcment.htm/. Last visited March 3, 2015.
[24] See s. 316.550, F.S.
[25] See s. 316.550(10), F.S.
[26] Section 316.550(3)(b)1., F.S.
[27] Generally, forty-one feet. For a semitrailer used exclusively or primarily to transportation vehicles in connection with motorsports competition events, 46 feet. Section 316.515(3)(b), F.S.
[28] Section 316.515(14), F.S.

type of over-length special permit does not exempt the combination vehicle from existing weight limitations or special permit requirements if the weight of the combination exceeds the maximums specified in ch. 316, F.S.

Effect of Proposed Changes

Section 10 amends s. 316.515(3)(b), F.S., to increase from 53 to 57 feet the allowable extreme overall outside dimension of a semitrailer exceeding 48 feet, if specified conditions are met. The Federal Highway Administration (FHWA) has reviewed the proposed language and deems it compliant with federal regulations.[29]

Section 10 also amends s. 316.515(14), F.S., to insert "multiple sections or single units" with reference to manufactured buildings transported on permitted, over-length trailers, and to increase the allowable over-length trailer from 54 to 80 feet.

The Federal Highway Administration has reviewed the proposed language and opined that it does not appear to conflict with federal regulations, as long as weight restrictions are not exceeded.[30] Transporters of manufactured buildings on truck tractor-semitrailer combinations continue to be required to obtain a permit for such combinations, even with a trailer length of 80 feet. Overweight permits also continue to be required when applicable. Issuance of such permits remains within the discretion of the FDOT.

Driver-Assistive Truck Platooning (Sections 6, 7, and 9)

Present Situation

In August of 2014, the National Highway Traffic Safety Administration (NHTSA) issued an advance notice of proposed rulemaking, following NHTSA's earlier announcement that the agency will begin working on a regulatory proposal to require vehicle-to-vehicle (V2V) devices in passenger cars and light trucks in a future year. V2V is a crash avoidance technology, relying on communication of information between nearby vehicles to warn drivers about dangerous situations that could lead to a crash.[31] NHTSA advises that, "Using V2V technology, vehicles ranging from cars to trucks and buses to trains could one day be able to communicate important safety and mobility information to one another that can help save lives, prevent injuries, ease traffic congestion, and improve the environment."[32]

One form of V2V technology is known as driver-assistive truck platooning (DATP), which allows trucks to communicate with each other and to travel as close as thirty feet apart with automatic acceleration and braking. A draft is created, reducing wind resistance and cutting down on fuel consumption.[33]

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[29] See the FHWA email, March 17, 2015. On filed in the Senate Transportation Committee.
[30] See the FHWA email, February 11, 2015. On file in the Senate Transportation Committee.
[31] See the U.S. Department of Transportation Fact Sheet on Vehicle-To-Vehicle Communication Technology. On file in the Senate Transportation Committee.
[32] See the NHTSA website: http://www.safercar.gov/v2v/index.html. Last visited March 16, 2015.
[33] See the GBT Global News website: http://www.gobytrucknews.com/driver-survey-platooning/123. Last visited March 16, 2015.

> The DATP concept is based on a system that controls inter-vehicle spacing based on information from forward-looking radars and direct vehicle-to-vehicle communications. Braking and other operational data is constantly exchanged between the trucks, enabling the control system to automatically adjust engine and brakes in real-time. This allows equipped trucks to travel closer together than manual operations would safely allow. Platooning technology is increasingly a subject of interest in the truck community, with multiple companies developing prototypes.[34]

One such system uses integrated sensors, controls, and wireless communications for "connected" trucks. The system is cloud-based, determining in real time whether specific trucks are clear to engage in platooning operations. The system synchronizes acceleration and braking between tractor-trailers, leaving steering to the drivers, but eliminating braking distance otherwise caused by lags in the front or rear driver's response time. The following vehicle is provided video showing the lead truck's line of sight while the lead vehicle is provided video showing the area behind the following truck. If another vehicle enters between platooning trucks, the system will automatically increase following distance or delink the trucks and then relink once the cut-in risk has passed. If data transfer between platooning trucks ceases, the driver is immediately notified that manual acceleration and braking control is about to resume.[35]

Section 316.0895(2), F.S., currently deems it unlawful for the driver of any motor truck, motor truck drawing another vehicle, or vehicle towing another vehicle or trailer, when traveling upon a roadway outside of a business or residence district, to follow within 300 feet of another motor truck, motor truck drawing another vehicle, or vehicle towing another vehicle or trailer. That subsection expressly does not prevent overtaking and passing and does not apply upon any lane specially designated for use by motor trucks or other slow-moving vehicles.

Effect of Proposed Changes

Section 6 creates s. 316.003(95), F.S., to define driver-assistive truck platooning.

Section 7 amends s. 316.0895 (2), F.S., to exclude from the 300-foot distance limitation two-truck tractor-semitrailer combinations, equipped and connected with driver-assistive truck platooning technology and operating on a multilane, limited access facility. The exclusion applies only if the owner or operator complies with the financial responsibility requirement of s. 316.86, F.S., which requires submission to the DHSMV of proof of insurance acceptable to the DHSMV in the amount of $5 million. Tandem trailer trucks are not included in the authorized exclusion.

Section 9 amends s. 316.303(1) and (3), respectively, to allow vehicles equipped and operating with driver-assistive truck platooning technology to be equipped with video equipment visible from the driver's seat, and to authorize an electronic display used by the operator of a vehicle equipped and operating with truck platooning technology.

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[34] See the American Transportation Research Institute website: http://atri-online.org/2014/11/17/atri-seeks-input-on-driver-assistive-truck-platooning/. Last visited March 16, 2015.

[35] *See* http://www.peloton-tech.com/faq/. Last visited March 16, 2015.

Return on Transportation Investment (Section 40)

Present Situation

Section 334.046, F.S., provides prevailing principles to be considered in planning and developing an integrated, balanced statewide transportation system. The principles are preserving the existing transportation infrastructure, enhancing Florida's economic competitiveness, and improving travel choices to ensure mobility.

As to economic competitiveness, the statute requires the FDOT to ensure a clear understanding of the economic consequences of transportation investments and how such investments affect the state's economic competitiveness. The FDOT is directed to develop a macroeconomic analysis of the linkages between transportation investment and economic performance and a method to quantifiably measure the economic benefits of the district-work-program investments. The FDOT must analyze the state's and districts' economic performance relative to competition, the business environment viewed from the perspective of companies evaluating the state as a place in which to do business, and the state's capacity to sustain long-term growth.[36]

The FDOT in January 2015 completed its "Macroeconomic Analysis of Florida's Transportation Investments,"[37] estimating the economic effects of its Work Program for fiscal years 2013-2014 through 2017-2018. The analysis indicates that almost all Work Program spending was covered, including highway, rail, seaport, and transit modes. According to the analysis, "on average, every dollar invested in the Work Program will yield about $4.40 in economic benefits for Florida from the beginning of the Work Program to FY 2043."[38]

Effect of Proposed Changes

Section 40 directs the Office of Economic and Demographic Research (EDR) to evaluate and determine the economic benefits[39] of the state's investment in the FDOT Adopted Work Program for fiscal year 2015-2016, including the following four fiscal years. At a minimum, a separate return on investment shall be projects for roads and highways, rails, public transit, aviation, and seaports.

The analysis is limited to funding anticipated by the Adopted Work Program but may address the continuing economic impact of the transportation projects in the five years beyond the conclusion of the Adopted Work Program. The number of jobs created, the increase or decrease in personal income, and the impact on gross domestic product from the direct, indirect, and induced effects on the state's investment in each area must be evaluated.

The FDOT and each of its district offices are required to provide the EDR full access to all data necessary to complete the analysis, including any confidential data, and the EDR must provide

[36] Section 334.046(4)(b), F.S.
[37] The analysis is available at: http://www.dot.state.fl.us/planning/weeklybriefs/2015/011915.shtm. Last visited March 16, 2015.
[38] *Id*. at 1.
[39] Defined per the bill in s. 288.005, F.S., meaning the direct, indirect, and induced gains in state revenues as a percentage of the state's investment. The state's investment includes state grants, tax exemptions, tax refunds, tax credits, and other state incentives.

the analysis to the President of the Senate and Speaker of the House of Representatives by January 1, 2016.

Turnpike Revenue Bonds/Bond Validation (Sections 2 and 7)

Present Situation

The Division of Bond Finance (DBF) is authorized to issue bonds on behalf of the FDOT to finance or refinance the cost of legislatively approved turnpike projects. Such bonds must be validated under ch. 75, F.S., through proceedings instituted by attorneys for the DBF.[40] In any action to validate bonds issued pursuant to s. 338.227, F.S., the complaint must be filed in the circuit court of Leon County; the notice required by s. 75.06, F.S., must be published in a newspaper of general circulation *in Leon County and in two other newspapers of general circulation in the state*;[41] and the complaint and order of the circuit court must be served only on the state attorney of the circuit in which the action is pending (the Second Circuit).

Section 75.06(2), F.S., requires the clerk, before the date set for hearing on a complaint to validate turnpike bonds, to publish a copy of the court's order requiring appearance at the hearing in Leon County at least once each week for two consecutive weeks, commencing with the first publication, which may not be less than 20 days before the date set for hearing, *in a newspaper in each of the counties where the proceeds of the bonds are to be expended, and in a newspaper published in Leon County.*[42]

However, if publication pursuant to s. 215.82, F.S., would require publication in more newspapers than would publication pursuant to s. 75.06, F.S., then publication pursuant to s. 75.06, F.S., controls.[43] The required publication is dependent upon the geographic reach of the project(s) for which funding through bond issuance is sought.

According to the DBF:

> Bond validation is a judicial procedure through which the legality of a proposed bond issue may be determined in advance of its issuance. It serves to assure bondholders that future court proceedings will not invalidate a government's pledge to repay the bonds. Validation is generally not necessary for established borrowing programs, such as Turnpike bonds, where any legal issues relating to the bonds have been resolved previously. Validation is optional for almost all bonds issued by the Division of Bond Finance, including Public Education Capital Outlay Bonds and University Revenue Bonds. If a constitutional or statutory question arises for a proposed bond issue, a complaint for validation may be filed in circuit court even if validation is not required.[44]

[40] See s. 215.82(1), F.S.
[41] Emphasis added.
[42] Emphasis added.
[43] See s. 215.82(2), F.S.
[44] See copy of email from Ben Watkins, Director, Florida Division of Bond Finance, to House staff dated January 27, 2015. On file in the Senate Transportation Committee.

Effect of Proposed Changes

The bill in general leaves validation of turnpike bonds to the discretion of the DBF and limits provisions relating to publication of the required notice.

Section 2 amends s. 215.82(2), F.S., to strike the reference to s. 338.227, F.S., in favor of the language in newly created s. 338.227(5), F.S.

Section 7 creates subsection (5) of s. 338.227, F.S., to:

- Provide turnpike bonds issued pursuant to that section are not required to be validated pursuant to ch. 75, F.S., notwithstanding s. 215.82, F.S.;
- Provide for validation at the option of the DBF; and
- Require the notice under s. 75.06, F.S., to be published only in Leon County.

Airport Zoning/Chapter 333 Re-Write (Sections 12 through 26)

Chapter 333, Florida Statutes, contains airport zoning provisions relating to the management of airspace and land use at or near airports. Generally, the chapter:

- Addresses permitting for structures exceeding federal obstruction standards;
- Requires adoption of certain airport zoning regulations;
- Provides a process for seeking variances from the zoning regulations;
- Sets out a process for appeal of decisions based on the zoning regulations;
- Requires boards of adjustment to hear and decide appeals;
- Provides for judicial review of any board of adjustment decision; and
- Establishes penalties and remedies for violations.

The FDOT in 2012 created a stakeholder working group to address problems with implementing this chapter. Representatives from airports, local planning and zoning departments, the Florida Defense Alliance, the League of Cities, the Florida Airports Council, the real estate development community, and the FDOT participated in the working group. The FDOT advises the working group determined that ch. 333, F.S., "contains outdated and inconsistent provisions when compared to applicable federal regulations, contains internal inconsistencies, and requires a local government airport protection zoning process that can be cumbersome and confusing."

As examples, the FDOT reports the need to update current definitions consistent with federal regulations, advises that zoning variances and permitting processes are mixed in the chapter, and notes that required creation of separate boards often duplicate existing local governing body structures and functions. The result is inconsistent local application of the provisions governing airspace and land use at or near airports with outcomes that may be unpredictable.[45]

The FDOT advises it expects no substantive changes as a result of the bill's proposed revisions; e.g., the existing requirements for issuance of permits are substantively unchanged. The number of permits issued or denied is not expected to change. Rather, the changes are designed to

[45] See the FDOT 2015 Agency Proposal, *Airspace and Land Use at Public Airports*. On file in the Senate Transportation Committee.

facilitate more uniform permitting, appeals, and review processes applied at the local level and provide clarity and predictability for those subject to airport zoning regulations.[46]

Definitions

Present Situation

Section 333.01, F.S., contains definitions related to airport zoning that need updating for internal chapter consistency and for consistency with federal regulations.

Effect of Proposed Changes

Section 12 amends s. 333.01, F.S., to provide, revise, and delete definitions to:

- Reflect terminology used in federal regulations;
- Provide for consistency with Federal Aviation Administration (FAA) advisements;
- Define terms used but undefined elsewhere in the chapter and delete terms not used elsewhere in the chapter;
- Remove antiquated terminology;
- Delete variances from definitions to reflect the streamlined permitting process effected in the bill; and
- Otherwise provide clarity through editorial and grammatical changes.

Permitting for Structures Exceeding Federal Obstruction Standards

Present Situation

The Code of Federal Regulations (CFR) sets forth standards for structures that present a hazard within an area in an airport due to obstruction of the airspace required for aircraft to take off, maneuver, or land. Section 333.025, F.S., requires a permit from the FDOT for any proposed construction or alteration of a structure that would exceed the federal standards, if the standards will be exceeded within a 10-nautical mile radius of the geographical center of a publicly owned or operated airport, a military airport, or an airport licensed by the state for public use.[47] A permit from the FDOT is not required if a political subdivision[48] has adopted adequate airspace protection regulations and filed them with the FDOT. The facilities at airports shown on the airport master plan, or on an airport layout plan submitted to the Federal Aviation Administration (FAA) or comparable military documents, are to be protected. Certain planned or proposed facilities are also protected.

The FDOT must issue or deny a permit within 30 days of receipt of an application for erection, alteration, or modification of any structure that would exceed the federal obstruction standards. The FDOT is required to consider a list of factors in determining whether to issue or deny a permit. As a permit condition, the FDOT is directed to require obstruction and lighting of the permitted structure. The FDOT is prohibited from approving a permit to erect a structure unless the applicant submits both documentation showing compliance with federal notification requirements and a valid aeronautical evaluation.

[46] Conversation with FDOT Legislative and Legal Staff during joint meeting with Senate and House staff, January 30, 2015.
[47] Public airports are licensed under the provisions of ch. 330, F.S.
[48] Generally, a local governmental entity. Section 333.03(9), F.s

Effect of Proposed Changes

Section 13 amends s. 333.025, F.S., to replace the term "geographic center" with "airport reference point," which is located at the approximate geometric center of all usable runways and to update references to current federal regulations. Per the FDOT, the airport reference point is not the same as the geographic center of the airport.[49]

When a political subdivision has adopted adequate airport protection zoning regulations which are on file with the FDOT *and* the political subdivision has established a permitting process, a permit from the FDOT is not required for a structure. To evaluate the technical consistency of a permit application submitted to a local government, the bill provides a 15-day FDOT review period concurrent with the established local permitting process. Cranes, construction equipment, and other temporary structures in use or in place for a period not exceeding 18 consecutive months are exempt from the FDOT review, unless the FDOT requests review.

The FDOT is required to review permit applications in conformity with s. 120.60, F.S., relating to licensing. The list of factors to be considered by the FDOT when granting or denying a permit is revised to remove ambiguity and duplication, and to provide clarity. The FDOT must require the owner of the permitted structure or vegetation to install, operate, and maintain marking and lighting in conformance with FAA standards, at the owner's expense. A reference to aeronautical "evaluation" is revised to aeronautical "study" in accordance with the new definition. The denial of a permit is subjected to the administrative review provisions of the Administrative Procedures Act.

Adoption of Airport Zoning Regulations

Present Situation

Section 333.03, F.S., requires political subdivisions with an airport hazard area[50] to adopt, administer, and enforce airport zoning regulations for the area. If the airport is owned or controlled by a political subdivisions and has a hazard area outside of its territorial limits, the owning or controlling political subdivision and the political subdivision within which the hazard area is located must either adopt zoning regulations by interlocal agreement or create a joint airport zoning board with the power to do so. The airport zoning regulations must, at a minimum, require:

- A variance for erection, alteration, or modification of any structure that would exceed the federal obstruction standards;
- Obstruction marking and lighting per s. 333.07(3);

[49] See the FDOT document provided to staff, *Proposed ch. 333, F.S. Amendments and Legislative Support Documentation*. On file in the Senate Transportation Committee.

[50] The bill defines "airport hazard" to mean any area of land or water upon which an airport hazard might be established. "Airport hazard area" is defined in the bill to mean any obstruction which exceeds the federal obstruction standards in the specified sections of the Code of Federal Regulations and which obstructs the airspace required for the flight of aircraft in taking off, maneuvering, or landing; or is otherwise hazardous to such activity and for which no permit has been obtained. The bill generally defines "obstruction" to mean any object of natural growth, terrain, or permanent or temporary construction or alteration thereof, existing or proposed, that exceeds the federal obstruction standards.

- Documentation of compliance with federal proposed construction notification and a valid aeronautical evaluation submitted by each person applying for a variance;
- Consideration of the same list of factors when determining whether to issue or deny a variance as required of the FDOT when considering permit applications; and
- That no variance be approved solely on the basis that a proposed structure will not exceed the federal obstruction standards.

The FDOT is required to issue copies of the federal obstruction standards in the CFR to each political subdivision with an airport hazard area, and issue certain airport zoning maps at no cost.

Interim land use compatibility zoning regulations must be adopted, unless the political subdivision has adopted land development regulations addressing the use of land consistent with this section. Interim land use compatibility zoning regulations must consider whether sanitary landfills are located within certain areas and whether any landfill will attract or sustain hazardous bird movements, with attendant reporting requirements and bird management considerations. If a public-use airport has conducted a specified federal noise study, residential construction and construction of certain educational facilities are prohibited within the area defined by the study to be incompatible with such construction. If no study is conducted, the same construction is prohibited within a certain distance.

Airport zoning regulations restricting new incompatible uses, activities, or construction within runway clear zones must be adopted, including uses that result in congregations of people, emissions of light or smoke, or attract birds. Certain limited exceptions for construction of educational facilities in specified areas are authorized.

Effect of Proposed Changes

Section 14 amends s. 333.03, F.S., to eliminate the duplicative requirement for obtaining a variance for structures that would exceed federal obstruction standards, in favor of a local permitting process. Every political subdivision having an airport hazard area is required to adopt, by either of the two authorized methods, airport *protection* zoning regulations. In addition to editorial and grammatical revisions, this section revises language to:

- Replace references to a “variance” with “permit.”
- Update references to the federal obstruction standards contained in the CFR;
- Replace aeronautical “evaluation” with “study” consistent with the new definition;
- Remove the FDOT’s duty to provide copies of the federal obstruction standards and issue maps and replace it with making the FDOT available to provide assistance with respect to the standards;
- Eliminate the reporting requirements related to birds at airports near landfills in favor of requiring the landfill operator to incorporate bird management techniques;
- Allow alternative noise studies approved by the FAA, and their application;
- Include substantial modification of existing incompatible uses in the required adopted regulations restricting such uses within runway *protection* zones;
- Remove the limited exceptions for construction of educational facilities
- Require all updates and amendments to local airport codes to be filed with the FDOT within 30 days after adoption.
- Delete outdated language; and

- Authorize an airport authority, local government, or other governing body operating a public-use airport to adopt more restrictive airport protection zoning regulations, per the FDOT, to allow restrictions appropriate to the local context of the airport.[51]

Guidelines Regarding Land Use Near Airports

Present Situation

Section 333.065, F.S., requires the FDOT, after consultation with the Department of Economic Opportunity, local governments, and other interested persons, to adopt by rule recommended guidelines regarding compatible land uses in the vicinity of airports. The guidelines must use certain acceptable and established quantitative measures.

Effect of Proposed Changes

Section 18 repeals s. 333.065, F.S. The FDOT advises the deletion reflects completion of the FDOT's Airport Compatible Land Use Guidebook.[52]

Permits, Variances, and Appeals

Present Situation

Section 333.07, F.S., authorizes any adopted airport zoning regulations to require a permit be obtained before any new structure or use is constructed or established and before any existing use or structure may be substantially changed or repaired. All such regulations must require a permit before any nonconforming structure or tree may be replaced, substantially altered or repaired, rebuilt, allowed to grow higher, or replanted.

If a nonconforming use, structure, or tree has been abandoned or is more than 80 percent torn down or deteriorated, a permit may not be issued under certain conditions. The owner of a nonconforming structure or tree may be compelled, at the owner's expense, to under certain actions necessary to conform to the regulations. If the owner does not, the required action may be accomplished by the administrative agency and the costs may be assessed against the nonconforming object or the land on which it is located. If the assessment is not paid within 90 days, a lien at the annual rate of 6 percent interest is applied.

Any person desiring to erect any structure, increase the height of any structure, permit the growth of any tree, or otherwise use his or her property in violation of the adopted airport zoning regulations is authorized to apply to a board of adjustment for a variance from the regulations. The FDOT has 45 days to comment or waive that right. Conditions for allowance of variations are provided. The FDOT is authorized to appeal any variance granted and to apply for judicial relief.

As a condition of any granted permit or variance, the administrative agency or board of adjustment must require the structure or tree owner to install, operate, and maintain at the

[51] *Supra*, note 48.
[52] *Supra*, note 48.

owner's expense marking and lighting necessary to indicate to aircraft pilots the presence of an obstruction.

Section 333.08, F.S., authorizes any person or taxpayer affected by any decision of an administrative agency in its administration of adopted airport zoning regulations or of any governing body of a political subdivision, or the Department of Transportation, or any joint airport zoning board, may appeal to the board of adjustment authorized to hear and decide appeals from the decisions of such administrative agency.

Effect of Proposed Changes

Section 19 amends s. 333.07, F.S., to streamline the permitting process, repeal the duplicative variance process, and facilitate implementation of the permitting process by local entities. More specifically, rather than authorizing any adopted airport zoning regulations to require a permit be obtained before any new structure or use is constructed or established and before any existing use or structure may be substantially changed or repaired, the bill simply requires a permit to erect, construct, alter, increase the height of any structure, permit the growth of any vegetation, or otherwise use his or her property in violation of the adopted regulations.

The political subdivision or its administrative agency must consider virtually the same standards as must be considered by the FDOT when issuing or denying a permit for structures exceeding federal obstruction standards. All variance provisions are removed in favor of the permitting process. In addition, the provisions relating to a lien resulting from an owner's failure to take action to bring a nonconforming structure or tree into regulatory compliance are removed. The FDOT's 45-day comment period is removed in favor of the shortened 15-day period of review for technical consistency described above. Obstruction marking and lighting is required in conformance with specific standards established by the FAA. Outdated language is repealed.

Section 20 repeals s. 333.08, F.S., authorizing and providing requirements for appeals of zoning regulation decisions, in favor of relocated, modified appeals language in s. 333.09, F.S.

Section 22 repeals s. 333.10, F.S., currently requiring all adopted airport zoning regulations to provide for a board of adjustment to hear and decide appeals and variances, consistent with repeal of the variance provisions in favor of the local government permitting and appeals process established by the bill in revised s. 333.09, F.S.

Administration of Airport Zoning Regulations

Present Situation

Section 333.09, F.S., requires all adopted airport zoning regulations to provide for administration and enforcement by an administrative agency, which may be an agency created by the regulations; or by any official, board, or other existing agency of the political subdivision adopting the regulations; or by one of the subdivisions that participated in creating a joint airport zoning board adopting the regulations. The duties of any such administrative agency include hearing and deciding all permits under s. 333.07, F.S., but not any of the powers delegated to the board of adjustment.

Effect of Proposed Changes

Section 21 amends s. 333.09, F.S., to remove the list of entities that may be an administrative agency, per the FDOT, to reflect correct community planning terminology.[53] Administration and enforcement is left to the affected political subdivision or its administrative agency. Also removed is the prohibition against an administrative agency exercising the powers delegated to the board of adjustment.

Political subdivisions required to adopt airport zoning regulations must establish a process to:

- Issue or deny permits consistent with s. 333.07, F.S., including requests for exceptions to airport zoning regulations;
- Notify the FDOT of receipt of a complete permit application; and
- Enforce any permit, order, requirement, decision, or determination made by the administrative agency with respect the airport zoning regulations.

If a zoning board or permitting body already exists within a political subdivision, the zoning board or permitting body may implement the permitting and appeals process. Otherwise, the political subdivision must implement the permitting and appeals process.

Any person, political subdivision or its administrative agency, or any joint airport zoning board, may use the process established for an appeal. Appeals must be taken with a reasonable time provided by the political subdivision or its administrative agency by filing a notice of appeal specifying the grounds for appeal. An appeal stays all proceedings in the underlying action, unless the entity from which the appeal is taken certifies pursuant to the rules for appeal that a stay would cause imminent peril to life or property. In such case, proceedings may be stayed only by an order from the political subdivision or its administrative agency following notice to the entity from which the appeal is taken and for good cause shown.

The political subdivision or its administrative agency must set a reasonable time for a hearing and provide notice to the public and the parties in interest. A party may appear in person, by agent, or by attorney. The subdivision or agency may reverse, affirm, or modify the underlying order, requirement, decision, or determination from which the appeal is taken in accordance with the provisions of ch. 333, F.S.

Judicial Review

Present Situation

Section 333.11, F.S., authorizes any person aggrieved or any taxpayer affected by a decision of a board of adjustment, any governing body of a political subdivision, the FDOT, any joint airport zoning board, or any administrative agency to apply for judicial relief in the judicial circuit court where the board of adjustment is located. That section provides procedural provisions related to the board of adjustment, describes the court's authorized review of a decision by a board of adjustment, and prohibits judicial review in provisions related to a board of adjustment.

[53] *Supra*, note 48.

Effect of Proposed Changes

Section 23 amends s. 333.11, F.S., to remove the FDOT from authorization to apply for judicial relief and reference to the board of adjustment, but otherwise leave the authorization to apply for judicial review in place. Any person, political subdivision or its administrative agency, or any joint zoning board is authorized to apply for judicial relief. The judicial review prohibition is revised. An appellant is required to exhaust all remedies through application for local government permits, exceptions, and appeals before seeking judicial review. These revisions reflect the elimination of the requirement that adopted airport zoning regulations provide for a board of adjustment, consistent with repeal of the variance provisions in favor of the local government permitting and appeals process established by the bill in revised s. 333.09, F.S.

Transition Provisions

Section 25 of the bill creates s. 333.135, F.S., to:

- Provide that a provision of airport zoning regulation in effect on July 1, 2015, and in conflict with the revised ch. 333, F.S., must be amended to conform by July 1, 2016.
- Requires any political subdivision with an airport that has not adopted airport zoning regulations to do so by October 1, 2017, consistent with the chapter.
- Require the FDOT to administer the permitting process as provided in s. 333.025, F.S., for political subdivisions that have not yet adopted the required regulations.

Technical Revisions

The following sections of the bill primarily make grammatical and editorial revisions to existing language in ch. 333, F.S., and modify sections of the chapter for internal consistency with definitions.

Section 15 amends s. 333.04, F.S., to replace the following phrases as follows:

- "Zoning ordinance" with "plan or policy."
- "Trees" with "vegetation."

Section 16 amends s. 333.05, F.S., to reference amended or deleted regulations and administering and enforcing regulations, in addition to those adopted.

Section 17 amends s. 333.06, F.S., to replace references to "runway clear zones" with "runway protection zones, and "tree" to "vegetation."

Section 24 amends s. 333.12, F.S., to provide editorial changes; replace the term "navigation easement" with "avigation easement;"[54] and replace "tree" with "vegetation."

Section 26 repeals s. 333.14, the short title citing of ch. 333, F.S., as the "Airport Zoning Law of 1945."

Section 58 reenacts s. 350.81, F.S., to incorporate the amendment to s. 333.01, F.S.

[54] The bill describes "avigation" easement as an easement conveying the airspace over another property for use by the airport.

National Environmental Policy Act/Delegation of Responsibilities to States (Section 28)

Present Situation

The National Environmental Policy Act (NEPA) "establishes national environmental policy for the protection, maintenance, and enhancement of the environment and provides a process for implementing the goals within the federal agencies." Federal agencies are required to prepare detailed statements assessing the environmental impact of and alternatives to major federal actions that significantly affect the environment. [55]

NEPA requirements also apply to state highway projects eligible for federal funding. According to the FDOT, when a highway project is advanced and is federally eligible, project development occurs consistent with NEPA requirements, in consultation with and subject to the oversight of the Federal Highway Administration (FHWA). The FDOT utilizes two processes to meet NEPA requirements. One process, the Efficient Transportation Decision Making process, is used during the project's planning phase to initiate contact with agencies and other stakeholders and obtain multiple-party input and information used to inform the second process. The Project Development and Environment (PD&E) process is used to analyze, perform outreach, guide agency coordination, and meet regulatory requirements before a project may be advanced. The FDOT prepares necessary documents, analyzes alternatives, consults with agencies, and makes recommendations. This information is provided to the FHWA, which is the lead agency for review, comment, and ultimate approval.[56]

Following an initial pilot project conducted in California, Congress in 2012 enacted the Moving Ahead for Progress in the 21st Century Act, which established a permanent surface transportation project delivery program.[57] Under the program, in which Texas is already participating, the U.S. Department of Transportation (USDOT) secretary may assign, and any state may assume, pursuant to a written agreement, all or part of the secretary's responsibilities under NEPA with respect to projects or classes of projects. The written agreement must provide that the state:

- Agrees to assume all or part of the described responsibilities;
- Expressly consents, on behalf of the state, to accept the jurisdiction of the Federal courts for the compliance, discharge, and enforcement of any responsibility of the secretary assumed by the state;[58]
- Certifies that state laws and regulations are in effect that authorize the state to take the actions necessary to carry out the responsibilities; and
- Agrees to maintain the financial resources necessary to carry out the responsibilities.[59]

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[55] See the U.S. Environmental Protection Agency website: http://www.epa.gov/compliance/basics/nepa.html. Last visited March 17, 2015.

[56] See the FDOT 2015 Legislative Proposal form, *Authorization to Participate in Certain Federal Transportation Programs*. On file in the Senate Transportation Committee.

[57] 23 U.S.C. s. 327 (2013).

[58] This requirement apparently exists to address the Eleventh Amendment to the U.S. Constitution, which generally prohibits suits in law or equity against one of the United States by its citizens, citizens of another state, or subjects of any foreign state.

[59] *Supra*, note 56.

The USDOT secretary is authorized to terminate the participation of any state if the state is not adequately carrying out the responsibilities and the secretary notifies the state of the determination of noncompliance. If the state fails to take corrective action as determined by the USDOT secretary within 30 days after notice, the agreement is terminated.[60]

With respect to the consent to Federal court jurisdiction, the FDOT advises:

> This waiver is limited to only those actions delegated to the Department by the USDOT and related to carrying out its NEPA duties on state highway projects. Challenges to NEPA decision making are filed in federal district court pursuant to the Federal Administrative Procedures Act and are limited to a review of the underlying administrative record. The standard for review is whether the Department's action is arbitrary and capricious. To the extent that a challenger is successful, the remedy is to require additional review, analysis and documentation to support the action. The state's exposure is further limited by 23 USC 327(a)(2)(G), which provides that a state assuming the responsibilities of the Secretary [of the USDOT] under this section for a specific project may use funds apportioned to the State under section 104(b)(2) for attorneys' fees directly attributable to eligible activities associated with the project.[61]

Effect of Proposed Changes

Section 28 amends s. 334.044, F.S., to authorize the FDOT to assume responsibilities of the USDOT under 23 U.S.C. s. 327 with respect to highway projects, and with respect to related responsibilities for environmental review, consultation, or other action required under any federal environmental law pertaining to review or approval of a highway project, within Florida. The FDOT is authorized to enter into one or more agreements with the U.S. Secretary of Transportation related to the federal surface transportation project delivery program for the delivery of transportation projects, including highway projects. The FDOT is authorized to adopt implementing rules and to adopt relevant federal environmental standards as the standards for this state for the program. The FDOT advises the delegation allows direct consultation between the FDOT and federal regulatory agencies and maximizes efficiency by consolidating all NEPA reviews under the FDOT.

Sovereign immunity to civil suit in federal court is waived consistent with 23 U.S.C. s. 327 and limited to the compliance, discharge, or enforcement of a responsibility assumed by the FDOT. The FDOT advises its district offices would continue to conduct the PD&E process, with the FHWA's project review, legal sufficiency, and approval authority delegated to the FDOT's Central Office and with the FHWA retaining program level oversight. The waiver of sovereign immunity is limited only to those actions delegated to the FDOT and related to carrying out its NEPA duties on state highway projects. The standard for review is whether the FDOT's action is arbitrary and capricious. The remedy for a successful challenge is to require additional review, analysis, and documentation to support the project. Further, a state assuming the NEPA

[60] *Id.*
[61] *Supra*, note 55.

responsibilities may use certain apportioned state funds for attorneys' fees directly attributable to eligible activities associated with a project.[62]

Autonomous Vehicles (Sections 9, 10, 35, and 36)

Present Situation

Autonomous or "self-driving" vehicles are those operated "without direct driver input to control the steering, acceleration, and braking and … designed so that the driver is not expected to constantly monitor the roadway while operating in self-driving mode."[63] According to the National Highway Traffic Safety Administration, autonomous vehicles have the potential to improve highway safety, increase environmental benefits, expand mobility, and create new economic opportunities for jobs and investment.[64]

A review of material obtained via a simple Internet search reveals that common availability and use of such vehicles was not previously anticipated for at least a couple of decades. However, some expect increased availability and use in the relative near future, perhaps no longer than in the next five years.[65]

Transportation Planning and Autonomous Vehicles

Current law requires metropolitan planning organizations (MPOs) to develop a long-range transportation plan addressing at least a 20-year planning horizon. The plans must be consistent, to the maximum extent feasible, with local government comprehensive plans of the local governments located within the jurisdiction of the MPO.

Section 339.64, F.S., requires the FDOT to develop and update every five years, in cooperation with MPOs, regional planning councils, local governments, and other transportation providers, a Strategic Intermodal System (SIS) Plan. The plan must be consistent with the Florida Transportation Plan.[66]

Current law makes no specific mention of taking into consideration planning for infrastructure and technological improvements necessary to accommodate advances in vehicle technology, such as autonomous vehicles, in developing MPO long-range transportation plans or when updating the SIS Plan.

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[62] *Supra*, note 56.

[63] See the National Highway Traffic Safety Administration's Press Release: *U.S. Department of Transportation Releases Policy on Automated Vehicle Development.* On file in the Senate Transportation Committee.

[64] See NHTSA's statement of policy on automated vehicles.

[65] *See*, e.g.: *Autonomous Cars are Closer Than You Think*: http://techcrunch.com/2015/01/18/autonomous-cars-are-closer-than-you-think/. Last visited February 21, 2015.

[66] The Florida Transportation Plan is a statewide transportation plan that considers the needs of the entire state transportation system and examines the use of all modes of transportation to meet such needs. The purpose of the plan is to establish and define the state's long-range transportation goals and objectives over a period of at least 20 years. See s. 339.155, F.S.

Electronic Displays in Autonomous Vehicles
A motor vehicle operated on the highways of this state may not be equipped with television-type receiving equipment that is visible from the driver's seat. The prohibition does not apply to an electronic display used in conjunction with a vehicle navigation system.[67]

Definitions
The definitions of the terms "autonomous vehicle" and "autonomous technology" are currently contained together in one subsection of s. 316.003, F.S.

Effect of Proposed Changes

Section 35 amends s. 339.175(3)(c)2., F.S., to include in an MPO's capital investment assessment the goal of improving safety while making the most efficient use of existing transportation facilities. In addition, MPOs are required to consider in developing long-range transportation plans infrastructure and technological improvements necessary to accommodate advances in vehicle technology, such as autonomous vehicle technology and other developments.

Similarly, section 36 amends s. 339.64, F.S., to require the FDOT to coordinate with federal, regional, and local partners, as well as industry representatives, to consider when updating the SIS Plan infrastructure and technological improvements to the SIS necessary to accommodate advances in vehicle technology. The bill also requires the same consideration to be included in the needs assessment.

Section 9 amends s. 316.303(1) and (3), F.S., respectively, to allow autonomous vehicles to be equipped with television-type receiving equipment visible from the driver's seat, and to authorize an operator of an autonomous vehicle to use an electronic display in conjunction with a vehicle navigation system, both while the vehicle is being operated in autonomous mode.

Section 10 amends s. 316.003, F.S., to separate the definitions of the terms "autonomous vehicle" and "autonomous technology," currently contained in one subsection, to facilitate ease of reference.

Pedestrian Safety/Crosswalks (Sections 6 and 8)

Present Situation

The FDOT advises that it conducts public opinion surveys and on-the-street observation surveys to elicit feedback relating to pedestrian safety.

> It is the opinion of the department's safety office that these results indicate that both the general population and law enforcement have a challenging time with the crosswalk definition as it is written.[68]

Current law defines "crosswalk" to mean:

[67] See s. 316.303(1) and (3), F.S.
[68] See the FDOT email to Senate and House Committee staff, February 9, 2015. On file in the Senate Transportation Committee.

- That part of the roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway, measured from the curbs or, in the absence of curbs, from the edges of the traversable roadway.
- Any portion of a roadway at an intersection *or elsewhere* distinctly indicated for pedestrian crossing by lines or other markings on the surface.[69]

This definition is quite similar, but not identical, to the definition contained in the Manual on Uniform Traffic Control Devices (MUTCD), which is a national, uniform system of traffic control devices adopted by the American Association of State Highway Officials. States must adopt the 2009 National MUTCD as their legal standard for traffic control devices within two years from the effective date.[70] The FDOT has adopted the MUTCD pursuant to direction in s. 316.0745, F.S., which in part recognizes the potential need for revisions to a uniform system "to meet local and state needs." Further, a review of the MUTCD reveals numerous references to the need to exercise engineering judgment in applying the provisions of the MUTCD, depending upon factors such as traffic volume, terrain, and posted speed limit, etc.

According to a Federal Highway Administration (FHWA) Study:

> Pedestrians have a right to cross roads safely, and planners and engineers have a professional responsibility to plan, design, and install safe and convenient crossing facilities. Pedestrians should be included as design users for all streets.
>
> Providing marked crosswalks traditionally has been one measure used in an attempt to facilitate crossings. Such crosswalks commonly are used at uncontrolled locations (i.e., sites not controlled by a traffic signal or stop sign) and sometimes at *midblock* locations.[71]

While current Florida law, the MUTCD, and the FHWA recognize the existence of midblock crosswalks, the term, "midblock crosswalk," is not currently defined in the Florida Statutes.

The FDOT also seeks to revise the current definition of "sidewalk"; *i.e.*, "That portion of a street between the curbline, or the lateral line, of a roadway and the adjacent property lines, intended for use by pedestrians."[72]

Section 316.130, F.S., generally requires a pedestrian to obey the instructions of any applicable official traffic control device, including, but not limited, to signals and signage at crosswalks. That section also contains direction to drivers with respect to stopping or yielding to pedestrians

[69] See s. 316.003(6), F.S. Emphasis added.
[70] See the FHWA website: http://mutcd.fhwa.dot.gov/index.htm. Last visited February 18, 2015.
[71] Emphasis added. See *Safety Effects of Marked Versus Unmarked Crosswalks at Uncontrolled Locations, Final Report and Recommended Guidelines*, 2005, at 1. On file in the Senate Transportation Committee.
[72] See s. 316.003(47), F.S.

at intersections having a traffic control signal in place,[73] at crosswalks where signage so indicates,[74] and at crosswalks with no traffic control signals and no signage.[75]

Generally, a driver must stop and remain stopped when encountering a pedestrian at these crosswalks when the pedestrian steps in or is in the crosswalk and is upon the half of the roadway upon which the vehicle is traveling or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger. However, pedestrians crossing a roadway at a point where a pedestrian tunnel or overhead pedestrian crossing has been provided must yield to all vehicles on the roadway.[76]

Effect of Proposed Changes

The current definitions of "crosswalk" and "sidewalk" are revised in an attempt to clarify the terms with more easily understood language. The provisions relating to stopping for pedestrians at crosswalks where signage so indicates; i.e., crosswalks with stop signs, and at crosswalks with no traffic control signals and no signage are edited and collapsed into one subsection for clarity and brevity.

Section 6 amends s. 316.003(6), F.S., by deleting the current two-part definition of "crosswalk" and replacing it as follows:

- "Unmarked crosswalk" is defined to mean an unmarked part of the roadway at an intersection used by pedestrians for crossing the roadway.
- "Marked crosswalk" is defined to mean pavement marking lines on the roadway surface, which may include contrasting pavement texture, style, or colored[77] portions of the roadway at an intersection used by pedestrians for crossing the roadway.
- "Midblock crosswalk" is defined to mean a location between intersections where the roadway surface is marked by pavement marking lines on the roadway surface, which may include contrasting pavement texture, style or colored portion of the roadway at a signalized or unsignalized crosswalk used for pedestrian roadway crossings and may include a pedestrian refuge island.

The bill also amends s. 316.003(47), F.S., to define "sidewalk" to mean: "That portion of a street intended for use by pedestrians, adjacent to the roadway between the curb or edge of the roadway and the property line. The current definitions of "crosswalk" and "sidewalk" are revised with "plain language." According to the FDOT, plain language provides pedestrians with tools necessary to make safer choices, which often results in fewer crashes. In addition, law enforcement officials are assisted in enforcing compliance with relevant laws. The FDOT further advises these changes will not result in fewer crosswalks getting marked; rather, the sole purpose is to utilize plain language to assist pedestrians and law enforcement.[78]

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[73] Section 316.130(7)(a), F.S.
[74] Section 316.130(7)(b), F.S.
[75] Section 316.130(7)(c), F.S.
[76] *Id.*
[77] The current MUTCD definition of "crosswalk" also references "contrasting pavement texture, style, or color." *Supra*, note 69. The definition is found on p. 13 of the MUTCD, available by link on the FHWA website.
[78] *Supra*, note 69.

Section 8 amends s. 316.130(7)(b), F.S., to make that paragraph applicable to crosswalk locations where the approach is not controlled by a traffic signal or by, in plain language, a stop sign. A driver continues to be required to stop and remain stopped when encountering a pedestrian at these crosswalks when the pedestrian steps in or is in the crosswalk and is upon the half of the roadway upon which the vehicle is traveling and, the bill adds, when turning, or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger. Such locations may include midblock crosswalks. Paragraph (c) relating to crosswalks with no traffic control signals or signs is repealed, but a pedestrian's duty to yield to all vehicles on the roadway when crossing at a point where a pedestrian tunnel or overhead pedestrian crossing has been provided is retained and moved to paragraph (b).

Turnpike Tolls/Dormant Prepaid Accounts (Section 34)

Present Situation

SunPass is the Florida Turnpike's electronic, prepaid tolls program. SunPass is accepted on all Florida toll roads and nearly all toll bridges. The system uses electronic devices, called transponders, which are attached to the inside of a vehicle's windshield. The transponder sends a signal when the vehicle goes through a tolling location, and the toll is deducted from the customer's pre-paid account. The pre-paid accounts may be set up and replenished with a credit card or with cash.[79]

Under current law, any prepaid toll account of any kind which has been inactive for three years is presumed unclaimed. The Department of Financial Services (DFS) is required to process any such inactive account in accordance with applicable provisions of ch. 717, F.S., relating to the disposition of unclaimed property, and the FDOT is directed to close such accounts.[80]

Effect of Proposed Changes

Section 34 amends s. 338.231(3)(c), F.S., to increase the period after which a dormant prepaid toll account is presumed unclaimed from three years to ten years, thereby delaying disposition by the DFS and closing of the account by the FDOT. The FDOT advises:

> [T]he deletion is desired because, with multi-state toll interoperability already implemented, and national toll interoperability mandated by federal law,[81] prepaid customers may live outside Florida and use their Florida prepaid toll account only when vacationing or otherwise visiting the state.
>
> We believe that the affected citizens and businesses would react positively to the proposal as funds on a prepaid toll account continue to be managed by the Department. This provides the customers that have had no activity

[79] *See* SunPass website, *Frequently Asked Questions:* https://www.sunpass.com/faq. Last visited February 11, 2015.
[80] See s. 338.231(3)(c), F.S.
[81] The Moving Ahead for Progress in the 21st Century Act (MAP-21) requires implementation of technologies or business practices that provide for the interoperability of electronic toll collection on all Federal-aid highway toll facilities by October 1, 2016. See the FHWA website, *Investment* heading, *Tolling [1512]* subheading: http://www.fhwa.dot.gov/map21/summaryinfo.cfm. Last visited February 13, 2015.

on a prepaid toll account for the 10 year time with continued direct access to the same agency with whom they established the account.[82]

Shared-Use Nonmotorized Trail (SunTrail) Network (Sections 3, 30, 37, 38, and 39)

Present Situation

Trail Development

The development of Florida's bicycle and pedestrian infrastructure did not begin in earnest until the late 20th Century. With the deregulation of the American railroad industry by the Staggers Rail Act of 1980[83], the state was presented with an immediate abundance of abandoned rail corridors. With the assistance of organizations such as The Rails-to-Trails Conservancy and The Trust for Public Land, the Florida Department of Transportation (FDOT), and the Florida Department of Environmental Protection (FDEP) coordinated to develop numerous abandoned rail corridors as shared-use "rail-trails" for nonmotorized transportation and recreation. Many of Florida's premier nonmotorized trails, including the Pinellas Trail, Tallahassee-St. Marks Trail, and the West Orange Trail, are a result of rail-trail conversions.

The second major thrust in trail development came in 1991 when Congress shifted transportation policy. The Intermodal Surface Transportation Efficiency Act, for the first time, identified pedestrian and bicycle facilities as components of the nation's transportation infrastructure, and created a dedicated funding source for multiuse trails and paths. With local governments serving as project sponsors,[84] many of the resulting projects are community-centric, short-distance trails, initiated by local governments and other governmental entities not traditionally associated with transportation development, such as water management districts and school districts.

Trail Connectivity

Although locales throughout the state benefited from federal trail funding, an unintended consequence of trail development being initiated by numerous state entities and local governments is a collection of random trails rather than a statewide system. As a result, many trails lack connectivity with other trails and often serve no meaningful origins and destinations. Trail users are often required to use roads, sidewalks, and highways to connect trails or complete a trip. Many trail trips are "out-and-back" trips in which the origin and destination are the same. Such trips serve little to no transportation function and do not realize the full economic potential of a trail network.

A widely accepted tenet in trail development holds that the longer a given trail is, the greater its propensity for becoming a "destination trail," and the greater distance users will travel to use. Users traveling farther stay in the area longer and, consequently, increase spending in the area. Users of the Great Allegheny Passage/C&O Towpath, a 335-mile system of biking and hiking trails that connects Pittsburgh to Washington, DC, travel an average of 131 miles to a trailhead.

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[82] See the FDOT 2015 Legislative Proposal, *Dormant Accounts/Tolls/SunPass*. On file in the Senate Transportation Committee.

[83] Staggers Rail Act of 1980, Pub. L. 96-448, 94 Stat. 1895. Approved 1980-10-14.

[84] Resources for the Future Backgrounder "Federal Funding for Conservation and Recreation Trails" Joe Maher, February 2009 (http://www.rff.org/RFF/Documents/RFF-BCK-ORRG_DOT.pdf).

Those traveling 50 miles or more had daily expenditures approximately twice that of users that traveled less.[85]

Recognizing this potential, the Florida Greenways and Trails Foundation (FGTF),[86] recently announced its priority to "close the gaps" on a 275-mile corridor between the Canaveral National Seashore near Titusville and St. Petersburg.[87] The "Coast-to-Coast Connector" will link communities along this destination trail, providing a year-round eco-tourism engine throughout the region. The Connector includes two of the state's most popular trails, the Pinellas Trail and the West Orange Trail, each of which have served approximately one million users per year and fueled the economic transformation of trail communities, particularly Dunedin and Winter Garden. Components of the Connector will also serve other planned trails including multi-day loop trails such as the 250-mile Heart of Florida Greenway[88] and the 300-mile St. Johns River-to-Sea Loop.[89]

Trail Benefits

In addition to the intrinsic values nonmotorized travel bring to community mobility, sustainable transportation, and personal health, trails provide the framework for, and access to, conservation lands and wildlife corridors. Trails also produce numerous quantifiable economic benefits:

- *Trails increase the value of nearby properties.* Based on an analysis of comparable trails from across the country, the presence of Miami-Dade County's Ludlam Trail will increase properties values within 1/2 mile of the trail, 0.32 percent to 0.73 percent faster than other properties throughout the county. This translates into a total property value increase over a 25 year period of between $121 million and $282 million.[90] A survey co-sponsored by the National Association of Home Builders and the National Association of Realtors found that proximity to nonmotorized trails came in second only to highway access when recent home buyers were asked about the "importance of community amenities."[91] A study of property values near trails in Delaware found that properties within 50 meters of the bike paths sell for $8,800 more than other similar homes.[92]
- *Trails boost spending at local businesses.* An economic impact analysis of Orange County trails found that in 2010, average spending per trail user is $20 per visit, representing food and beverages, transportation, books and maps, bike maintenance, rentals and more. The West Orange Trail supported 61 jobs, and represented an estimated economic impact of $5

[85]The Great Allegheny Passage Economic Impact Study (2007–2008) Detailed Report The Progress Fund/Job #07-294b 91 March 9, 2009, page 70. (http://www.atatrail.org/docs/GAPeconomicImpactStudy200809.pdf)

[86] The FGTF, a direct support organization, exists to support the mission and programs of the Florida Department of Environmental Protection's Office of Greenways and Trails (OGT) as it continues toward establishing a statewide system of greenways and trails for recreation, conservation and alternative transportation.

[87] Florida Greenways and Trails Foundation Website: Coast-to-Coast Connector (http://fgtf.org/coast-to-coast/) (Last visited: 2/25/15)

[88] Florida Greenways and Trails Foundation Website: Heart of Florida Greenway (http://fgtf.org/maps/hof/overview.pdf) (Last visited 2/25/15)

[89]St. Johns River-to-Sea Loop Trail Status Update, September 2011. ETM, Inc. http://www.etminc.com/SJR2C/sg_userfiles/SJR2C_Summary_Report_09-19-11.pdf

[90] Miami-Dade County Trail Benefits Study: Ludlam Trail Case Study (http://atfiles.org/files/pdf/Miami-Dade-Ludlam-Trail-Benefits.pdf)

[91] (http://www.americantrails.org/resources/benefits/homebuyers02.html)

[92] Lindsey et al, "Property Values, Recreation Values, and Urban Greenways," Journal of Park and Recreation Administration, V22(3) pp.69-90.

million for Downtown Winter Garden. Longer, "destination trails," increase spending and benefit hotels, bed and breakfasts, and outdoor outfitters. A study of the Great Allegheny Passage, a 132-mile corridor in Pennsylvania, found that users reporting longer average travel distances to the trail, were more likely to spend successive days on or near the trail. Those who reported an overnight stay in conjunction with their trip averaged spending $203 per person.[93] A survey on the Greenbrier River Trail, an 81-mile corridor in West Virginia, found an overwhelming majority of trail users were highly educated professionals with high income levels, 2/3 were from outside of West Virginia, 93 percent were staying in the area from one to four days, 58 percent spent between $100 and $500 in the area, and 93 percent indicated that they were highly likely to plan a return trip.[94]

- *Trails influence business location and relocations decisions.* Companies often choose to locate in communities that offer a high level of amenities to employees as a means of attracting and retaining top-level workers. Trails can make communities attractive to businesses looking to expand or relocate both because of the amenities they offer to employees and the opportunities they offer to cater to trail visitors.[95]
- *Trails revitalize depressed areas.* In Dunedin, Florida, after the abandoned CSX railroad was transformed into the Pinellas Trail, the downtown went from a 30 percent storefront vacancy rate to a 95 percent storefront occupancy.[96]
- *Trails provide sustainable tourism opportunities.* The Outer Banks of North Carolina generates $60 million in economic activity through bicycle tourism. The one-time investment of $6.7 million on bicycle infrastructure has resulted in an annual nine-to-one return. Outer Banks shows bicycle tourists tend to be affluent (half earn more than $100,000 a year, 87 percent earn more than $50,000) and educated (40 percent have a masters or doctoral degree). More than half of survey respondents said bicycling had a strong influence on their decision to return to the area. Two-thirds of respondents said that riding on bike facilities made them feel safer and three-fourths said that more paths, shoulders and lanes should be built.[97] A trail can be regarded as a product that is able to provide a sustainable form of tourism resting on a 'quadruple bottom line' of environmental, social, economic and climate responsiveness."[98]
- *Trail development creates more jobs than road development.* A national comparison of the number of jobs created per $1 million spent on various types of transportation projects found

[93] *The Great Allegheny Passage Economic Impact Study* (2007–2008) Detailed Report The Progress Fund/Job #07-294b 91 March 9, 2009, page 91 (http://www.atatrail.org/docs/GAPeconomicImpactStudy200809.pdf)
[94] *Maximizing Economic Benefits from a Rails-to-Trails Project in Southern West Virginia – A Case Study of the Greenbrier River Trail*, May 2001. Raymond Busbee, Ph.D. Marshall University.
[95] Economic Impacts of Protecting Rivers, Trails, and Greenway Corridors: Corporate Relocation and Retention. Rivers, Trails and Conservation Assistance Program, National Park Service 1995
[96] FDEP Presentation: "*The Impact of Trails on Communities*" Office of Greenways and Trails. (http://www.opportunityflorida.com/pdf/Jim%20Wood%20-%20Trails%20and%20Economic%20Impact%20-%20Rural%20Summit.pdf)
[97] Lawrie, et al, "*Pathways to Prosperity: the economic impact of investments in bicycling facilities*," N.C. Department of Transportation Division of Bicycle and Pedestrian Transportation, Technical Report, July 2004. http://www.ncdot.org/transit/bicycle/safety/safety_economicimpact.html.
[98] Reis, A.C.; Jellum, C. (2012). Rail trails development: a conceptual model for sustainable tourism. Tourism Planning and Development,9(2): 133-148

that for every $1 million spent on the development of multi-use trails, 9.57 jobs were created while road-only development yielded 7.75 jobs.[99]

Effect of Proposed Changes

Generally, the bill creates the Shared-Use Nonmotorized Trail (SunTrail) Network as a component of the Florida Greenways and Trail System. The FDOT is given primary responsibility for developing and maintaining the SunTrail network, although provisions are included to allow the FDOT to outsource maintenance and to enter into trail sponsorship agreements with public and private entities. Specific provisions of the bill follow.

Section 3 amends s. 260.0144 F.S., to remove SunTrail components from existing provisions for sponsorship of state trails by not-for-profit or private sector entities. Other greenways and trails remain eligible for sponsorship under the section. Section 11 of the bill creates a new s. 339.83, F.S., to provide for sponsorship of SunTrail components.

Section 30 amends s. 335.065, F.S., to remove the FDOT's authority to enter contracts for commercial sponsorship of multi-use trails. This authority is provided in new section 339.83, F.S., which expands sponsorship opportunities for SunTrail components.

Section 37 creates s. 339.81, F.S., to establish the Florida SunTrail Network as a component of the Florida Greenways and Trails System established in ch. 260 of the Florida Statutes. SunTrail components will provide nonmotorized travel opportunities between and within communities, conservation areas, state parks, beaches and other natural and cultural attractions.

SunTrail components will not include sidewalks, nature trails, or loop trails in a single park. Bicycle lanes on roadways may not be considered components of the SunTrail network unless the lane is used to connect two or more nonmotorized trails and is no more than one-half mile long. Exceptions are provided to include some on-road components of the Florida Keys Overseas Heritage Trail within the SunTrail Network.

The FDOT will include SunTrail projects within its five-year work program. The FDOT and other agencies and units of government are authorized to expend funds and accept gifts and grants of funds, property, and property rights for the development of the SunTrail network. The FDOT is authorized to enter into memoranda of agreement with other governmental entities and contract with private entities to provide maintenance services on individual components of the network and may adopt rules to assist in developing and maintaining the network.

Section 38 creates s. 339.82, F.S., directing the FDOT to develop the SunTrail Network Plan in coordination with FDEP, MPOs, local governments, other public agencies, and the Florida Greenways and Trails Council. The plan must include:

- A needs assessment, including a comprehensive inventory of existing facilities;
- A process that prioritizes projects that:
  - Are identified by the Florida Greenways and Trails Council as priority projects;
  - Connect components by closing gaps in the network; and

[99] Pedestrian And Bicycle Infrastructure: A National Study Of Employment Impacts Heidi Garrett-Peltier Political Economy Research Institute University of Massachusetts, Amherst June 2011

  - Maximize use of federal, local, and private funds;
- A map showing existing and planned facilities;
- A finance plan in five- and ten-year cost-feasible increments;
- Performance measures focusing on trail access and connectivity;
- A timeline for completion of the base network; and
- A marketing plan prepared in conjunction with Visit Florida.

Section 39 creates s. 339.83, F.S., to provide for sponsorship of SunTrail components by not-for-profit or private sector entities. The bill provides guidance on sponsor signs, markings, and exhibits and provides for trail marketing materials to recognize sponsors.

Vehicle Miles Traveled Pilot (Section 57)

Present Situation

Concern regarding the sustainability of transportation funding sources remains as a focus of attention in the transportation arena. A number of factors have together caused a reduction in transportation revenues:

- The bulk of federal surface transportation funding comes from the federal taxes on gasoline and diesel fuel assessed on a per-gallon basis, and the tax rates are not adjusted for inflation.
- The total number of vehicle miles traveled (VMT) has declined in recent years, resulting in fewer gallons of gas and diesel sold upon which to assess federal, state, and local taxes. This number is not expected to return to previously realized growth levels.
- Vehicle fuel efficiency continues to increase, also lowering the demand for gallons of gas and diesel.[100]

Various alternatives to the existing gas and diesel taxes have been considered. One alternative is to replace those taxes with a "vehicle-miles-traveled tax" or a "mileage-based user fee":

> Mileage-based user fees (MBUF) are an alternative way to finance the construction and maintenance of roads. Rather than the current gas tax method, which is based on the amount of fuel purchased at the pump, a VMT tax is based on how many miles are driven.[101]

According to the Mileage-based User Fee Alliance (MBUFA), use of a distance-traveled mechanism is already being successfully implemented in several European nations and in New Zealand. Domestically, "…states are taking a lead in helping to resolve many of the implementation questions by working with academia, industry partners and each other to devise mileage-based user fee pilot projects around the country."[102]

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[100] See the Center for Urban Transportation Research, *Florida MPOAC Transportation Revenue Study*, July 2012. On file in the Senate Transportation Committee.
[101] See Mileage-Based User Fee Alliance website: http://mbufa.org/about.html. Last visited February 26, 2015.
[102] See MBUFA website: http://mbufa.org/where.html. Last visited February 26, 2015. Colorado, Minnesota, Nevada, New York City, Texas, Washington, the University of Iowa, and the I-95 Corridor Coalition have all undertaken efforts with respect to a mileage-based fee.

The State of Oregon appears to have made the most progress in the United States, having already completed two pilots and planning implementation of a voluntary program, beginning July 1, 2015, using 5,000 vehicles.[103] Interest has been expressed in developing a Florida-specific, implementable pilot project to determine the efficacy of a VMT fee as a viable alternative to per-gallon gas and diesel taxes.

Effect of Proposed Changes

Section 57 directs the Center for Urban Transportation Research at the University of South Florida (CUTR) to conduct a study on the viability of implementing a system that charges drivers based on their vehicle miles traveled (VMT), as an alternative to the present fuel tax structure, to fund transportation projects. The study is to inventory previous research and findings from pilot projects conducted in other states.

At a minimum, the study must address previous work conducted in the following broad areas.

- Assessment of technologies;
- Behavioral and privacy concerns;
- Equity impacts; and
- Policy implications of a VMT road charging system.

The study must also quantify the current costs to collect traditional highway user fees, synthesize findings of completed research and demonstrations, and analyze their applicability to Florida. The CUTR must present the findings of the study phase to the Legislature by January 30, 2016.

In the course of the study, and in consultation with the Florida Transportation Commission, the CUTR is directed to establish the framework for a pilot project that will evaluate the feasibility of implementing a VMT charging system. In designing the framework, the CUTR is directed to address at a minimum the following elements:

- The geographic location for the pilot;
- Special fleets or classes of vehicles;
- Evaluation criteria for the demonstration;
- Consumer choice in the method of reporting miles traveled;
- Privacy options for participants in the pilot project;
- The recording of miles traveled with and without locational information;
- Records retention and destruction; and
- Cyber security.

The pilot project design must be completed by December 31, 2016, and submitted in a report to the Legislature, so that implementation can occur in 2017.

[103] See *Oregon's VMT Pilot to Begin its Third Phase – Road usage Charge Program Update*: http://www.nlc.org/media-center/news-search/oregon%E2%80%99s-vmt-pilot-to-begin-its-third-phase-road-usage-charge-program-update. Last visited February 26, 2015.

Northwest Florida Regional Transportation Finance Authority (Sections 42 through 56)

Present Situation

Escambia and Santa Rosa counties, are currently served by the Northwest Florida Transportation Corridor Authority and the Santa Rosa Bay Bridge Authority. According to a report by the Florida Transportation Commission (FTC), the NFTCA is not currently operating any facility and is operating under an agreement using federal funding for administration, professional services, and regional transportation planning. The Santa Rosa Bay Bridge Authority owns the Garcon Point Bridge in southwest Santa Rosa County. Florida's Turnpike Enterprise provides toll operations.[104]

Effect of Proposed Changes

The bill creates ch. 345 of the Florida Statutes, the Northwest Florida Regional Transportation Finance Authority Act, consisting of ss. 345.0001 – 345.0014, F.S. The bill authorizes Escambia County, alone or together with a consenting Santa Rosa County, to form a regional finance authority in the northwest region of the state. The governing body of the Authority consists of two resident members from each participating county appointed by the county commission of each county, an equal number to be appointed by the Governor, and the FDOT's District Three secretary. County commission appointees must represent the business and civic interests of the relevant community, if possible.

The Authority is authorized to construct, operate, and maintain a regional system in the area served, except for an existing system for transporting people and goods owned by another non-consenting entity. Broad powers are granted to the Authority, including, but not limited to:

- The exercise of eminent domain;
- The establishment and collection of rates and fees, which power may be assigned or delegated to the FDOT;
- The power to borrow money and issue bonds[105] to finance the system and to secure the payment of such bonds by a pledge of system revenues, including any municipal or county funds received by the Authority under an agreement with the municipality or county.
- The power to enter into contracts, including, but not limited to, partnerships providing for participation in system ownership and revenues;
- The power to employ an executive director, attorney, staff, and consultants, with the FDOT furnishing the services of an FDOT employee to act as the executive director upon the request of the Authority.

[104] Florida Transportation Commission, *Transportation Authority Monitoring and Oversight Fiscal Year 2013 Report*, at 163, *available at*: http://www.ftc.state.fl.us/reports/TAMO.shtm. Last visited February 16, 2015.

[105] A resolution authorizing issuance of bonds on behalf of the authority under the State Bond Act and pledging system revenues must require periodic deposits of system revenues into appropriate accounts in amounts sufficient to pay the costs of O&M for the current fiscal year and to reimburse the FDOT for any unreimbursed O&M costs from prior fiscal years before revenues of the system are deposited for payment of principal and interest on such bonds.

The FDOT is deemed the Authority's agent for performing all construction, extension, and improvement phases of a project. After the issuance of bonds to finance construction, the Division of Bond Finance and the Authority are required to transfer the necessary funds to the credit of the State Transportation Trust Fund. Alternatively, with the FDOT's consent and approval, the Authority may appoint a local, FDOT-certified agency to administer federal-aid projects.

The FDOT is also deemed the Authority's agent for operating and maintaining the system, except for transit facilities, and the costs incurred by the FDOT must be reimbursed from system revenues. However, the Authority remains obligated as principal to operate and maintain the system.

At the request of the Authority and subject to appropriation by the Legislature, the FDOT may pay the cost of financial, engineering, or traffic feasibility studies or of the design, financing, acquisition, or construction of an Authority project that is included in the ten-year Strategic Intermodal System (SIS) Plan.[106] The FDOT is required to include funding for such payments in its legislative budget request. The request for funding may be included in the FDOT's five-year Tentative Work Program. However, the request must appear as a distinct funding item in the legislative budget request and be supported by a financial feasibility test.

The FDOT may not make a budget request unless the estimated net revenues of the proposed project will be sufficient to pay at least 50 percent of the annual debt service on the bonds associated with the project by the end of 12 years of operation, and at least 100 percent of the same by the end of 30 years of operation.[107] Funding for a project must appear in the General Appropriations Act as a distinct fixed capital outlay item and must clearly identify the related project.

The FDOT may participate in projects that, at a minimum, serve national, statewide, or regional functions; are identified in the capital improvements element of a comprehensive plan; comply with local government policies in such plans relative to corridor management; are consistent with the SIS; and have a local, regional, or private financial match.

Before approving a proposed project, the FDOT must determine that the project:

- Is in the public's best interest;
- Does not require the use of state funds, unless the project is on the State Highway System;
- Has adequate safeguards in place to ensure no additional imposed costs or service disruptions if the FDOT cancels or defaults on the agreement, and to ensure that the FDOT and the Authority have the opportunity to add capacity to the project and other transportation facilities serving similar origins and destinations.

[106] The Strategic Intermodal System (SIS) is the statewide network of high priority transportation facilities, including the state's largest and most significant airports, spaceports, deepwater seaports, freight rail terminals, interregional rail and bus terminals, rail corridors, urban fixed guideway transit corridors, waterways, and highways. The SIS is the state's highest statewide priority for transportation capacity improvements. See the FDOT SIS brochure, available at: http://www.dot.state.fl.us/planning/sis/Strategicplan/. Last visited February 17, 2015.

[107] Equivalent to the economic feasibility test for proposed Turnpike projects under s. 338.221(8)(a), F.S.

The FDOT may require any contribution to be repaid from tolls of the project, other Authority revenue, or other sources of funds. The FDOT must receive a share of the Authority's net revenues equal to the ratio of the FDOT's total contributions to the Authority to the sum of:

- The FDOT's total contributions;
- Any local government contributions to the cost of revenue-producing Authority projects; and
- The sale proceeds of Authority bonds after payment of costs of issuance.

The Authority is exempt from paying any taxes or assessments upon any Authority property, rates, fees, or income, etc., or upon bonds issued by the Authority. Issuance of bonds to finance the cost of extension or improvement of a system is authorized without compliance with any other law.

Independent Special Districts Regulating Vehicles For Hire (Section 31)

Present Situation

The Hillsborough County Public Transportation Commission (HPTC) is a legislatively-created independent special district regulating vehicles for hire. The HPTC regulates such vehicles in that county pursuant to authority granted to counties in s. 125.01(1)(n), F.S., to license and regulate taxis, jitneys, limousines for hire, rental cars, and other passenger vehicles for hire that operate in the unincorporated areas of the county. The Commission appears to be the only independent special district with such responsibilities.[108]

The HPTC currently has seven members.[109] The Board of County Commissioners appoints three members from the board, the City Council of Tampa appoints two members, and the City Commission of Plant City and the City Council of Temple Terrace appoint one member each. Each member serves a two-year term.

Effect of Proposed Changes

Section 31 creates s. 335.21, F.S., to revise the appointment of membership to a legislatively-created independent special district regulating vehicles for hire, notwithstanding any provision of local law. The Governor appoints four members, the city council of the largest municipality in the district appoints one member, and the board of county commissioners of the county in which the district is located appoints two members. All seven members must be residents of the county they serve. Entities authorized under s. 163.567, F.S., or under chapters 343, 348, or 349, F.S.; e.g., generally, regional transportation authorities and expressway and bridge authorities, are excluded from the revised appointment provisions.

Fort Myers Urban Office/Staffing and Responsibilities (Section 1)

Present Situation

Current law organizes the operations of the FDOT into seven districts, each headed by a district secretary, as well as a turnpike enterprise and a rail enterprise. Section 20.23(4)(b), F.S., authorizes each district secretary to appoint up to three district directors. Section 20.23(4)(d),

[108] The HPTC is an independent special district first created in 1983. See ch. 83-423, Laws of Florida.
[109] See ch. 2001-299, Laws of Florida.

F.S., makes the district director for the Fort Myers Urban Office of the FDOT responsible for developing the five-year Transportation Plan for Charlotte, Collier, DeSoto, Glades, Hendry, and Lee Counties, and makes the Urban Office responsible for providing policy, direction, local government coordination, and planning for those counties. The office and the counties are contained within FDOT's District One, which currently provides policy, direction, and planning for all counties in District One, not just those listed above.

The FDOT also has Urban Area offices located in Jacksonville and Orlando. The FDOT advises all urban offices are satellite offices for their main District Office, and all are under the direction of the respective District Secretary. However, only the Fort Myer's Urban Office is referenced in statute with express direction as to staffing and responsibilities.

The FDOT advises that insertion of the specific staffing and responsibility assignment was in the nature of a precursor to what might have, but did not, become an FDOT District Eight. No district director is currently physically housed in the Fort Myers Urban Office. Responsibility for providing policy, direction, and planning for the listed counties occurs at the District One level, leaving the Fort Myers Urban Office largely responsible for local government coordination in support of those activities, as well as coordination of joint participation and local funding agreements for transportation projects, in the listed counties.[110]

Effect of Proposed Changes

Section 1 repeals s. 20.23(4)(d), F.S., to remove the Fort Myers Urban Office District Director responsibility for developing the five-year Transportation Plan for the specified counties and remove the specified Urban Office responsibilities. The FDOT advises the existence of the Fort Myers Urban Office is in no way affected, and the office will continue to provide local government coordination in the specified counties. The FDOT advises the revisions provide flexibility to make efficient best-practices human resource decisions, while it continues to provide service in the specified counties.[111]

511 Traveler Information Services (Sections 27, 28, and 29)

Present Situation

511 is a national abbreviated dialing code assigned by the Federal Communications Commission (FCC) to be used exclusively for access to travel information services.[112] The code enables a caller to connect to a location in a network without using a seven or ten-digit telephone number. The network is pre-programmed to translate a three-digit code into the appropriate seven or ten-digit code and route the call accordingly.[113]

All of Florida's interstates, toll roads, and other major metropolitan roadways are covered by the 511 system. Currently, in addition to provision of services via the toll-free 511 telephone system, motorists may also receive travel information by:

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[110] Conversation with FDOT Legislative and Legal Staff during joint meeting with Senate and House staff, January 30, 2015.
[111] See the FDOT 2015 Legislative Proposal form, *Fort Myers Urban Office.* On file in the Senate Transportation Committee.
[112] See Federal Communications Commission Order No. 00-256*, Third Report and Order and Order on Reconsideration*, July 21, 2000. Copy on file in the Senate Transportation Committee.
[113] *Id.*, at 4.

- Visiting FL511.com for interactive roadway maps showing traffic congestion and crashes, travel times, and traffic camera views;
- Downloading a free mobile app available on Google Play or Apple App Store; or
- Following one of the 12 statewide, regional, or roadway specific Twitter feeds (#FL511).[114]

The FDOT, as the state's lead agency for implementing 511 services and the point of contact for coordinating 511 services with *telecommunications*[115] service providers, is statutorily tasked with the following duties:

- Implementation and administration of 511 services in the state;
- Coordination with other transportation authorities in the state to provide multimodal traveler information through 511 services and other means;
- Development of uniform standards and criteria for the collection and dissemination of traveler information using the 511 number or other interactive voice response systems; and
- Entrance into joint participation agreements or contracts with highway authorities and public transit districts to share the costs of implementation and administration.[116]

"511" or "511 services" are currently defined as three-digit *telecommunications dialing to access interactive voice response telephone*[117] traveler information services as defined by the FCC Order No. 00-256, July 1, 2000.[118] "Interactive voice response" is defined as a software application that accepts a combination of voice *telephone* input and touch-tone keypad selection and provides appropriate responses in the form of voice, fax, callback, e-mail, and other media.[119] The FDOT's existing rulemaking authority is similarly limited to coordination of 511 traveler information *phone* services.[120] And the FDOT's existing powers and duties likewise limit the FDOT's provision of services to *interactive voice response telephone systems access.*[121]

The referenced duties and definitions are essentially limited to *telephonic* access to traveler information and do not recognize the additional methods by which travelers may obtain the information using more recent technology, such as a web site, mobile apps, Twitter accounts, and text alerts.

Effect of Proposed Changes

The bill in general revises 511 traveler information services statutes to remove language limiting the provision of services through only telephonic access. These revisions recognize newer technologies and methods for providing traveler information.

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[114] See 511News.com January 20, 2015, press release http://www.511news.com/news-releases/fdots-511-on-the-lookout-to-help-birdwatchers-travel-to-space-coast/ for additional information on Florida 511 features. Last visited February 4, 2015.
[115] Emphasis added.
[116] See s. 334.60, F.S.
[117] Emphasis added.
[118] See s. 334.03(36), F.S.
[119] See s. 334.03(37), F.S.
[120] See s. 334.60, F.S.
[121] See s. 334.044(31), F.S.

Section 27 amends s. 334.03(36), F.S., to remove from the definition reference to *three-digit telecommunications dialing to access interactive voice response telephone* traveler information in favor of *all* traveler information services. That section also amends s. 334.03(37), F.S., to repeal the definition of "interactive voice response," as the phrase is no longer to be used.

Section 28 amends s. 334.044(31), F.S., to revise the FDOT's 511 oversight duty by deleting reference to *the provision of interactive voice response telephone systems* and a reference to the 511 *number*, leaving the FDOT responsible for oversight via the 511 *services* as assigned by the FCC.

Section 29 amends s. 334.60, F.S., striking reference to the FDOT's coordination *with telecommunications service providers*, to allow the FDOT's continued coordination of *all* traveler information services with providers using newer technologies and methods. A reference to the 511 *number or other interactive voice response systems* is removed, in favor of 511 *services*, and a reference to *phone* services is deleted.

The FDOT advises that the effectiveness of disseminating traveler information through interactive voice response is becoming less advantageous. While the FDOT may decide to discontinue providing an interactive voice response system, traveler information will be provided via the most advanced technologies, thereby ensuring distribution of information to the largest possible audience. Armed with the information, users are able to make informed travel decisions, which improves safety and mobility on Florida roadways.[122]

Inspector General Appointment (Section 1)

Present Situation

Prior to 2014, agency inspectors general were appointed by and reported to agency heads. The Legislature in 2014 revised the law with respect to agency inspector general appointment to provide, for agencies such as the FDOT under the jurisdiction of the Governor, agency inspectors general are to be appointed by and report to the Chief Inspector General.[123] Section 20.23(3)(d), F.S., continues to require the FDOT Secretary to appoint an inspector general directly responsible to and serving at the pleasure of the Secretary, in direct conflict with the revisions made in 2014 to s. 20.55, F.S.

Effect of Proposed Changes

Section 1 repeals s. 20.23(3)(d), F.S., to remove the directly conflicting and obsolete direction to the FDOT Secretary regarding inspector general appointment, thereby conforming to the revisions to s. 20.55, F.S., made by the 2014 Legislature.

[122] See the FDOT 2015 Legislative Proposal form, *Modify definition/responsibilities of 511*, on file in the Senate Transportation Committee.
[123] See Enrolled HB 1385 (2014).

Transportation Corridors (Section 41)

Present Situation

Section 341.0532, F.S., enacted in 2003, currently defines "statewide transportation corridor" as a system of transportation infrastructure that collectively provides for the efficient movement of significant volumes of intrastate, interstate, and international commerce by seamlessly linking multiple modes of transport. That section also lists eight corridors deemed "Florida's statewide transportation corridors."

In the same year, the Legislature enacted the Strategic Intermodal System (SIS). [124] SIS facilities collectively serve 56 percent of State Highway System traffic, 70 percent of State Highway System truck traffic, 89 percent of interregional bus and rail passengers, 99 percent of commercial air passengers and cargo, and 100 percent of rail and waterborne freight tonnage and cruise ship passengers.[125] SIS facilities are designated by the FDOT based on criteria provided in ss. 339.61 through 339.64, F.S. The corridors currently listed in s. 341.0532, F.S., with limited exception,[126] are also part of the SIS. Section 341.0532, F.S., is not referenced elsewhere in the Florida Statutes, and the FDOT advises that section is not used in performing any of its duties and responsibilities. The statute appears to be obsolete.

Effect of Proposed Changes

Section 41 repeals s. 341.0532, F.S., which created Florida's statewide transportation corridors. The corridors continue to be managed through their inclusion in the SIS.

Obsolete References/Beeline-East Expressway and Navarre Bridge (Section 32)

Present Situation

Section 338.165(4), F.S., authorizes the FDOT to request the DBF to issue bonds secured by toll revenues collected on the Alligator Alley, the Sunshine Skyway Bridge, the Beeline-East Expressway, the Navarre Bridge, and the Pinellas Bayway to fund transportation projects located within the county or counties in which the project is located and contained in the FDOT's adopted work program. The Beeline-East Expressway (re-named the Beachline East Expressway) became part of the Turnpike Enterprise on July 1, 2012, pursuant to ch. 2012-128, L.O.F.[127] The Navarre Bridge is now county-owned and no longer used for toll revenue. The references to each facility in s. 338.165(4), F.S., are now obsolete.

Effect of Proposed Changes

Section 32 s. 338.165(4), F.S., to remove obsolete references to the Beeline-East Expressway and the Navarre Bridge within the FDOT's authority to request issuance of bonds secured by toll revenues from certain toll facilities, as the expressway and bridge are no longer owned by the FDOT.

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[124] See the web link, *supra*, note 105, for additional information on the SIS.
[125] See the 2014 FDOT *Strategic Intermodal System Briefing*. On file in the Senate Transportation Committee.
[126] See the FDOT email, March 2, 2015. On file in the Senate Transportation Committee.
[127] See s. 338.165(10), F.S.

Broward County Expressway Authority/Obsolete Bond Language (Section 34)

Present Situation

The Broward County Expressway Authority built the Sawgrass Expressway, a 23-mile facility in Broward County. The expressway opened to traffic in 1986 and extends from I-75 in Weston to its interchange with the Florida Turnpike and Southwest 10th Street in Deerfield Beach. In 1990, the FDOT acquired the expressway, and it became a part of Florida's Turnpike System.[128] The Expressway Authority was abolished in 2011.[129] Section 338.221(5), F.S., generally authorizes the FDOT, in each fiscal year during which any of the Broward County Expressway Authority bond series 1984 and series 1986-A remain outstanding, to pledge revenues from the turnpike system to the payment of such bonds and the operation and maintenance of the Sawgrass Expressway. No such bonds are currently outstanding, and the language is obsolete.

Effect of Proposed Changes

Section 34 repeals the obsolete language in s. 338.231(5), F.S., relating to bonds of the abolished Broward County Expressway Authority.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The following sections of CS/SB 1554 will have the indicated impact on the private sector:

Sections 3, 30, 37, 38, and 39: Significant positive economic development is expected from development of the SunTrail Network.

[128] See the FDOT website: http://www.floridasturnpike.com/about_system.cfm#7. Last visited February 23, 2015.
[129] See s. 18, ch. 2011-64, Laws of Florida.

Section 4 and 5: Increased FSTED funding may generate a positive economic impact for the private sector.

Sections 6 and 11: The trucking industry is expected to experience a positive fiscal impact due to the decreased fines assessed for IRP violations.

Sections 6 and 8: To the extent that the bill reduces the number and severity of bicycle and pedestrian deaths and injuries, a positive but indeterminate fiscal impact to bicyclists and pedestrians is expected.

C. Government Sector Impact:

The following sections of the bill will have the indicated impacts:

Sections 3, 30, 37, 38, and 39: Funding for the SunTrail Network in the amount of $50 million is authorized for Fiscal Year 2015-2016 in SB 2500 (the Senate's General Appropriation Bill for Fiscal Year 2015-2016).

Sections 4 and 5: The additional $10 million in FSTED funding will assist seaports with various projects and is expected to generate a positive economic impact by helping to increase the competitiveness of Florida's seaports. Projects planned for various ports include dredging, berth rehabilitation, and the expansion of facilities. The additional FSTED funding will require the FDOT to reallocate budget authority within the state's $9.3 billion transportation work program.

Sections 6 and 11: The FDOT advises it expects a negative annual fiscal impact of approximately $1.6 million due to a decrease in the fines assessed for IRP violations.[130] A portion of the decrease, approximately $500,000, is attributed to the revised IRP Full Reciprocity Plan.

Section 10: The FDOT may experience an indeterminate positive fiscal impact if the increased allowable trailer length used to transport manufactured buildings results in issuance of more special permits.

Section 40: According to the Office of Economic and Demographic Research (EDR), the additional workload and resources associated with the evaluation and determination of the economic benefits of the state's investment in the FDOT Adopted Work Program annually can be absorbed by existing staff. The FDOT and its district offices may experience additional workload to provide the necessary data to EDR; however, the workload is currently indeterminate.

Sections 35 and 36: MPOs may experience minimal expenses in considering autonomous vehicle technology when developing long-range transportation plans. Likewise for the FDOT when updating the SIS Plan.

[130] See the FDOT's response to House committee staff's *DOT Package Questions from Committee Staff*, on file in the Senate Transportation Committee.

Section 57: The bill authorizes the Center for Urban Transportation Research at the University of South Florida to expend up to $400,000 for the vehicle miles traveled study and pilot project design, contingent upon legislative appropriation. There is no funding in SB 2500 for this study.

Sections 42 through 56: The fiscal impact of authorizing creation of the Northwest Florida Regional Transportation Finance Authority is indeterminate.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 20.23, 215.82, 260.0144, 311.07, 311.09, 316.003, 316.0895, 316.130, 316.303, 316.515, 316.545, 333.01, 333.025, 333.03, 333.04, 333.05, 333.06, 333.07, 333.09, 333.11, 333.12, 334.03, 334.044, 334.60, 335.065, 338.165, 338.227, 338.231, 339.175, and 339.64.

This bill creates the following sections of the Florida Statutes: 333.135, 335.21, 339.81, 339.82, 339.83, 345.0001, 345.0002, 345.0003, 345.0004, 345.0005, 345.0006, 345.0007, 345.0008, 345.0009, 345.001, 345.0011, 345.0012, 345.0013, and 345.0014.

This bill repeals the following sections of the Florida Statutes: 333.065, 333.08, 333.10, 333.14, and 341.0532.

This bill reenacts section 350.81 of the Florida Statutes.

The bill creates three undesignated sections of Florida law.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS by Transportation on March 29, 2015:
The CS modifies the bill by:

- Revising several sections of the bill dealing with ch. 333, F.S., relating to airport zoning regulations, to make final glitch corrections and provide uniformity in the language;
- Authorizing the FDOT to assume responsibilities under the National Environmental Policy Act with respect to highway projects, as authorized by federal law;

- Providing that the provisions revising the membership of a legislatively-created independent special district do not apply to certain entities;
- Adding provisions of SB 1186 requiring a vehicle-miles-traveled study, requiring consideration of infrastructure and technological improvements necessary to accommodate advances in vehicle technology, creating the Northwest Florida Regional Transportation Authority Act, extending the allowable length of certain trailers, and repealing obsolete language;
- Defining "driver-assistive truck platooning," excluding certain vehicles equipped with such technology from provisions relating to vehicles following too closely, and including such vehicles in the provisions relating to television-type or other electronic displays visible to a driver.
- Removing Port Citrus from membership on the FSTED Council and repealing related provisions;
- Removing authorization of a public transit provider to contract with a transportation network company to provide public transit services;
- Removing direction to the Commission for the Transportation Disadvantaged and the Center for Urban Transportation Research to develop and implement a pilot program with a public transit provider to provide paratransit services; and
- Extending from 53 to 57 feet the allowable length of certain semitrailers authorized to operate on public roads.

B. Amendments:

None.

By the Committee on Transportation; and Senator Brandes

A bill to be entitled

An act relating to transportation; amending s. 20.23, F.S.; deleting the requirement that the Secretary of Transportation appoint an inspector general pursuant to s. 20.055, F.S.; deleting the requirement that the district director for the Fort Myers Urban Office of the Department of Transportation be responsible for developing the 5-year Transportation Plan and other duties for specified counties; amending s. 215.82, F.S.; deleting a cross-reference; amending s. 260.0144, F.S.; providing that certain commercial sponsorship may be displayed on state greenway and trail facilities not included within the Florida Shared-Use Nonmotorized Trail Network; deleting provisions relating to the authorization of sponsored state greenways and trails at specified facilities or property; amending s. 311.07, F.S.; increasing the minimum amount that shall be made available annually from the State Transportation Fund to fund the Florida Seaport Transportation and Economic Development Program; amending s. 311.09, F.S.; reducing the number of members of the Florida Seaport Transportation and Economic Development Council; removing Port Citrus from the council membership; increasing the amount per year the department must include in its annual legislative budget request for the Florida Seaport Transportation and Economic Development Program; deleting obsolete language; amending s. 316.003, F.S.; defining and redefining terms; amending s. 316.0895,

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

F.S.; providing that provisions prohibiting a driver from following certain vehicles within a certain distance do not apply to truck tractor-semitrailer combinations under certain conditions; providing for financial responsibility; amending s. 316.130, F.S.; revising traffic regulations relating to pedestrians crossing roadways; amending s. 316.303, F.S.; providing exceptions to the prohibition of certain television-type receiving equipment and certain electronic displays in vehicles; amending s. 316.515, F.S.; extending the allowable length of certain semitrailers authorized to operate on public roads under certain conditions; authorizing the Department of Transportation to permit truck tractor-semitrailer combinations where the total number of overwidth deliveries of manufactured buildings may be reduced by the transport of multiple sections or single units on an overlength trailer of no more than a specified length under certain circumstances; amending s. 316.545, F.S.; providing a specified penalty for commercial motor vehicles that obtain temporary registration permits entering the state at, or operating on designated routes to, a port-of-entry location; amending s. 333.01, F.S.; defining and redefining terms; amending s. 333.025, F.S.; revising requirements relating to securing a permit for the proposed construction or alteration of structures that would exceed specified federal obstruction standards; requiring such permits only within an airport hazard

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

59 area if the proposed construction is within a set
60 radius of a certain airport reference point; providing
61 that existing, planned, and proposed facilities at
62 public-use airports contained in certain plans or
63 documents will be protected from structures that
64 exceed federal obstruction standards; providing that a
65 permit is not required when political subdivisions
66 have adopted adequate airport protection zoning
67 regulations and have established a permitting process,
68 subject to certain requirements; providing for a
69 review period by the department to run concurrent with
70 such permitting process, subject to certain
71 requirements and exemptions; specifying certain
72 factors the department shall consider in determining
73 whether to issue or deny a permit; directing the
74 department to require an owner of a permitted
75 obstruction or vegetation to install, operate, and
76 maintain marking and lighting subject to certain
77 requirements; prohibiting a permit from being approved
78 solely on the basis that a proposed structure will not
79 exceed specified federal obstruction standards;
80 providing certain administrative review for the denial
81 of a permit; amending s. 333.03, F.S.; revising the
82 requirements relating to the adoption of airport
83 protection zoning regulations by certain political
84 subdivisions; revising the requirements of such
85 adopted airport protection zoning regulations;
86 providing that the department is available to assist
87 political subdivisions with regard to federal

88 obstruction standards; revising requirements relating
89 to airport land use compatibility zoning regulations
90 that address, at a minimum, landfill locations and
91 noise contours; requiring adoption of airport zoning
92 regulations that restrict substantial modifications to
93 existing incompatible uses within runway protection
94 zones; requiring that updates and amendments to local
95 airport zoning codes, rules, and regulations be filed
96 with the department within a certain time after
97 adoption; revising requirements relating to
98 educational structures or sites; providing that a
99 governing body operating a public-use airport may
100 establish more restrictive airport protection zoning
101 regulations for certain purposes; amending s. 333.04,
102 F.S.; revising provisions relating to comprehensive
103 plan or policy regulations, including airport
104 protection zoning regulations under certain
105 circumstances; amending s. 333.05, F.S.; revising
106 provisions relating to the procedure for adoption,
107 amendment, or deletion of airport zoning regulations;
108 revising provisions relating to airport zoning
109 commissions; amending s. 333.06, F.S.; revising
110 provisions relating to airport zoning requirements,
111 and airport master plans that are prepared by certain
112 public-use airports; repealing s. 333.065, F.S.,
113 relating to guidelines regarding land use near
114 airports; amending s. 333.07, F.S.; revising
115 provisions relating to permits for use of structures
116 or vegetation in violation of airport protection

117 zoning regulations; specifying factors a political
118 subdivision or its administrative agency must consider
119 when determining whether to issue or deny a permit;
120 deleting provisions relating to applying for a
121 variance from zoning regulations; revising provisions
122 relating to obstruction marking and lighting
123 requirements when a political subdivision or its
124 administrative agency issues a permit; repealing s.
125 333.08, F.S., relating to appeals in regard to airport
126 zoning regulations; amending s. 333.09, F.S.;
127 requiring all airport zoning regulations to provide
128 for the administration and enforcement of such
129 regulations by the affected political subdivisions or
130 an administrative agency created by the subdivisions;
131 requiring a political subdivision that must adopt
132 airport zoning regulations to provide a permitting
133 process subject to certain requirements and
134 exceptions; providing for an appeals process for
135 decisions in the administration of airport zoning
136 regulations, subject to certain requirements;
137 repealing s. 333.10, F.S., relating to boards of
138 adjustment provided for by all airport zoning
139 regulations; amending s. 333.11, F.S.; revising
140 provisions relating to judicial review for decisions
141 made by any governing body of a political subdivision,
142 joint airport zoning board, or administrative agency;
143 requiring the appellant to exhaust all its remedies
144 through application for local government permits,
145 exceptions, and appeals before judicial appeal is

146 permitted; amending s. 333.12, F.S.; revising
147 provisions relating to the acquisition of air rights;
148 providing that a certain political subdivision may
149 acquire air right, avigation easement, other estate,
150 or interest in a nonconforming structure or use that
151 presents an air hazard and cannot be removed, lowered,
152 or otherwise terminated, subject to certain
153 requirements; creating s. 333.135, F.S.; requiring
154 that certain airport zoning regulations be amended to
155 conform by a certain date; requiring certain political
156 subdivisions to adopt airport zoning regulations by a
157 certain date; directing the department to administer
158 the permitting process for local governments that have
159 not adopted airport protection zoning regulations;
160 repealing s. 333.14, F.S., relating to a short title;
161 amending s. 334.03, F.S.; redefining the term “511” or
162 “511 services”; deleting the term “interactive voice
163 response”; amending s. 334.044, F.S.; removing the
164 provision of interactive voice response telephone
165 systems accessible via the 511 number that may be
166 included in traveler information systems; removing a
167 requirement that applied uniform standards and
168 criteria for collection and dissemination of traveler
169 information using interactive voice response systems;
170 authorizing the department to assume certain
171 responsibilities under the National Environmental
172 Policy Act with respect to highway projects within the
173 state and certain related responsibilities relating to
174 review or approval of a highway project; authorizing

175 the department to enter into certain agreements
176 related to the federal surface transportation project
177 delivery program under certain federal law;
178 authorizing the department to adopt implementing
179 rules; authorizing the department to adopt certain
180 relevant federal environmental standards; providing a
181 limited waiver of sovereign immunity to civil suit in
182 federal court consistent with certain federal law;
183 amending s. 334.60, F.S.; revising provisions relating
184 to the 511 traveler information system; amending s.
185 335.065, F.S.; deleting provisions relating to certain
186 commercial sponsorship displays on multiuse trails and
187 related facilities; deleting provisions relating to
188 funding a statewide system of interconnected multiuse
189 trails; creating s. 335.21, F.S.; requiring the
190 governing body of any independent special district
191 created to regulate the operation of public vehicles
192 on public highways to consist of a certain number of
193 members; providing appointment requirements for such
194 members; providing exceptions; amending s. 338.165,
195 F.S.; removing an option to issue certain bonds
196 secured by toll revenues collected on the Beeline-East
197 Expressway and the Navarre Bridge; amending s.
198 338.227, F.S.; providing that bonds issued are not
199 required to be validated pursuant to ch. 75, F.S., but
200 may be validated at the option of the Division of Bond
201 Finance; providing filing, notice, and service
202 requirements relating to complaints for such
203 validation; amending s. 338.231, F.S.; increasing the

204 number of years before an inactive prepaid toll
205 account shall be presumed unclaimed; deleting
206 provisions relating to using the revenues from the
207 turnpike system to pay the principal and interest of a
208 specified series of bonds and certain expenses of the
209 Sawgrass Expressway; amending s. 339.175, F.S.;
210 requiring certain long-range transportation plans to
211 include assessment of capital investment and other
212 measures necessary to make the most efficient use of
213 existing transportation facilities to improve safety;
214 requiring the assessments to include consideration of
215 infrastructure and technological improvements
216 necessary to accommodate advances in vehicle
217 technology; amending s. 339.64, F.S.; requiring the
218 Department of Transportation to coordinate with
219 certain partners and industry representatives to
220 consider infrastructure and technological improvements
221 necessary to accommodate advances in vehicle
222 technology in Strategic Intermodal System facilities;
223 requiring the Strategic Intermodal System Plan to
224 include a needs assessment regarding such
225 infrastructure and technological improvements;
226 creating s. 339.81, F.S.; creating the Florida Shared-
227 Use Nonmotorized Trail Network; specifying the
228 composition, purpose, and requirements of the network;
229 authorizing the department certain powers related to
230 the planning, development, operation, and maintenance
231 of the network; creating s. 339.82, F.S.; directing
232 the department to develop a Shared-Use Nonmotorized

233 Trail Network Plan, subject to certain requirements;
234 creating s. 339.83, F.S.; creating a trail sponsorship
235 program, subject to certain requirements and
236 restrictions; directing the Office of Economic and
237 Demographic Research to evaluate and determine the
238 economic benefits of the state's investment in the
239 Department of Transportation's adopted work program
240 for a certain timeframe, subject to certain
241 requirements; directing the Department of
242 Transportation and each of its district offices to
243 provide the Office of Economic and Demographic
244 Research full access to certain data; requiring the
245 Office of Economic and Demographic Research to submit
246 the analysis to the Legislature by a certain date;
247 repealing s. 341.0532, F.S., relating to statewide
248 transportation corridors; providing a directive to the
249 Division of Law Revision and Information; creating s.
250 345.0001, F.S.; providing a short title; creating s.
251 345.0002, F.S.; defining terms; creating s. 345.0003,
252 F.S.; authorizing certain counties to form the
253 Northwest Florida Regional Transportation Finance
254 Authority to construct, maintain, or operate
255 transportation projects in a given region of the
256 state; specifying procedural requirements; creating s.
257 345.0004, F.S.; specifying the powers and duties of
258 the authority, subject to certain restrictions;
259 requiring that the authority comply with certain
260 reporting and documentation requirements; creating s.
261 345.0005, F.S.; authorizing the issuing of bonds on

262 behalf of the authority under the State Bond Act and
263 by the authority itself; specifying requirements and
264 restrictions for such bonds under certain
265 circumstances; creating s. 345.0006, F.S.; providing
266 rights and remedies of bondholders; creating s.
267 345.0007, F.S.; designating the Department of
268 Transportation as the agent of the authority for
269 specified purposes; authorizing the administration and
270 management of projects by the department; limiting the
271 powers of the department as an agent; establishing the
272 fiscal responsibilities of the authority; creating s.
273 345.0008, F.S.; authorizing the department to provide
274 for or commit its resources for the authority project
275 or system, if approved by the Legislature, subject to
276 legislative budget request procedures and prohibitions
277 and appropriation procedures; authorizing the payment
278 of expenses incurred by the department on behalf of
279 the authority; requiring the department to receive a
280 share of the revenue from the authority; providing
281 calculations for disbursement of revenues; creating s.
282 345.0009, F.S.; authorizing the authority to acquire
283 private or public property and property rights for a
284 project or plan; establishing the rights and
285 liabilities and remedial actions relating to property
286 acquired for a transportation project or corridor;
287 creating s. 345.001, F.S.; authorizing contracts
288 between governmental entities and the authority;
289 creating s. 345.0011, F.S.; pledging that the state
290 will not limit or alter the vested rights of the

291 authority or the department with regard to any issued
292 bonds or other rights relating to the bonds if such
293 vested rights affect the rights of bondholders;
294 creating s. 345.0012, F.S.; exempting the authority
295 from certain taxes and assessments; providing
296 exceptions; creating s. 345.0013, F.S.; providing that
297 bonds or obligations issued under this chapter are
298 legal investments for specified entities; creating s.
299 345.0014, F.S.; providing applicability; providing
300 legislative findings and intent relating to
301 transportation funding; directing the Center for Urban
302 Transportation Research to conduct a study on
303 implementing a system in this state which charges
304 drivers based on their vehicle miles traveled as an
305 alternative to the present fuel tax structure to fund
306 transportation projects; specifying requirements of
307 the study; requiring that the findings of the study be
308 presented to the Legislature by a certain date;
309 directing the center, in consultation with the Florida
310 Transportation Commission, to establish the framework
311 for a pilot project that will evaluate the feasibility
312 of implementing a system that charges drivers based on
313 their vehicle miles traveled; specifying requirements
314 for the design of the pilot project framework;
315 authorizing the center to expend up to a certain
316 amount for the study and pilot project design
317 contingent upon legislative appropriation; requiring
318 that the pilot project design be completed by a
319 certain date and submitted in a report to the

320 Legislature; reenacting s. 350.81(6), F.S., relating
321 to the definition of the term "airport layout plan,"
322 to incorporate the amendment made to s. 333.01, F.S.,
323 in a reference thereto; providing an effective date.
324
325 Be It Enacted by the Legislature of the State of Florida:
326
327 Section 1. Paragraph (d) of subsection (3) and paragraph
328 (d) of subsection (4) of section 20.23, Florida Statutes, are
329 amended to read:
330 20.23 Department of Transportation.—There is created a
331 Department of Transportation which shall be a decentralized
332 agency.
333 (3)
334 ~~(d) The secretary shall appoint an inspector general~~
335 ~~pursuant to s. 20.055 who shall be directly responsible to the~~
336 ~~secretary and shall serve at the pleasure of the secretary.~~
337 (4)
338 ~~(d) The district director for the Fort Myers Urban Office~~
339 ~~of the Department of Transportation is responsible for~~
340 ~~developing the 5-year Transportation Plan for Charlotte,~~
341 ~~Collier, DeSoto, Glades, Hendry, and Lee Counties. The Fort~~
342 ~~Myers Urban Office also is responsible for providing policy,~~
343 ~~direction, local government coordination, and planning for those~~
344 ~~counties.~~
345 Section 2. Subsection (2) of section 215.82, Florida
346 Statutes, is amended to read:
347 215.82 Validation; when required.—
348 (2) Any bonds issued pursuant to this act which are

349 validated shall be validated in the manner provided by chapter
350 75. In actions to validate bonds to be issued in the name of the
351 State Board of Education under s. 9(a) and (d), Art. XII of the
352 State Constitution and bonds to be issued pursuant to chapter
353 259, the Land Conservation Act of 1972, the complaint shall be
354 filed in the circuit court of the county where the seat of state
355 government is situated, the notice required to be published by
356 s. 75.06 shall be published only in the county where the
357 complaint is filed, and the complaint and order of the circuit
358 court shall be served only on the state attorney of the circuit
359 in which the action is pending. In any action to validate bonds
360 issued pursuant to s. 1010.62 or issued pursuant to s. 9(a)(1),
361 Art. XII of the State Constitution or issued pursuant to s.
362 215.605 ~~or s. 338.227~~, the complaint shall be filed in the
363 circuit court of the county where the seat of state government
364 is situated, the notice required to be published by s. 75.06
365 shall be published in a newspaper of general circulation in the
366 county where the complaint is filed and in two other newspapers
367 of general circulation in the state, and the complaint and order
368 of the circuit court shall be served only on the state attorney
369 of the circuit in which the action is pending; provided,
370 however, that if publication of notice pursuant to this section
371 would require publication in more newspapers than would
372 publication pursuant to s. 75.06, such publication shall be made
373 pursuant to s. 75.06.
374 Section 3. Section 260.0144, Florida Statutes, is amended
375 to read:
376 260.0144 Sponsorship of state greenways and trails.—The
377 department may enter into a concession agreement with a not-for-

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378 profit entity or private sector business or entity for
379 commercial sponsorship to be displayed on state greenway and
380 trail facilities not included within the Florida Shared-Use
381 Nonmotorized Trail Network established in chapter 339 ~~or~~
382 ~~property specified in this section~~. The department may establish
383 the cost for entering into a concession agreement.
384 (1) A concession agreement shall be administered by the
385 department and must include the requirements found in this
386 section.
387 (2)(a) Space for a commercial sponsorship display may be
388 provided through a concession agreement on certain state-owned
389 greenway or trail facilities or property.
390 (b) Signage or displays erected under this section shall
391 comply with the provisions of s. 337.407 and chapter 479, and
392 shall be limited as follows:
393 1. One large sign or display, not to exceed 16 square feet
394 in area, may be located at each trailhead or parking area.
395 2. One small sign or display, not to exceed 4 square feet
396 in area, may be located at each designated trail public access
397 point.
398 (c) Before installation, each name or sponsorship display
399 must be approved by the department.
400 (d) The department shall ensure that the size, color,
401 materials, construction, and location of all signs are
402 consistent with the management plan for the property and the
403 standards of the department, do not intrude on natural and
404 historic settings, and contain only a logo selected by the
405 sponsor and the following sponsorship wording:
406

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407 ...(Name of the sponsor)... proudly sponsors the costs
408 of maintaining the ...(Name of the greenway or
409 trail)....
410
411 ~~(c) Sponsored state greenways and trails are authorized at~~
412 ~~the following facilities or property:~~
413 ~~1. Florida Keys Overseas Heritage Trail.~~
414 ~~2. Blackwater Heritage Trail.~~
415 ~~3. Tallahassee-St. Marks Historic Railroad State Trail.~~
416 ~~4. Nature Coast State Trail.~~
417 ~~5. Withlacoochee State Trail.~~
418 ~~6. General James A. Van Fleet State Trail.~~
419 ~~7. Palatka Lake Butler State Trail.~~
420 (e) ~~(f)~~ The department may enter into commercial sponsorship
421 agreements for other state greenways or trails as authorized in
422 this section. A qualified entity that desires to enter into a
423 commercial sponsorship agreement shall apply to the department
424 on forms adopted by department rule.
425 (f) ~~(g)~~ All costs of a display, including development,
426 construction, installation, operation, maintenance, and removal
427 costs, shall be paid by the concessionaire.
428 (3) A concession agreement shall be for a minimum of 1
429 year, but may be for a longer period under a multiyear
430 agreement, and may be terminated for just cause by the
431 department upon 60 days' advance notice. Just cause for
432 termination of a concession agreement includes, but is not
433 limited to, violation of the terms of the concession agreement
434 or any provision of this section.
435 (4) Commercial sponsorship pursuant to a concession

436 agreement is for public relations or advertising purposes of the
437 not-for-profit entity or private sector business or entity, and
438 may not be construed by that not-for-profit entity or private
439 sector business or entity as having a relationship to any other
440 actions of the department.
441 (5) This section does not create a proprietary or
442 compensable interest in any sign, display site, or location.
443 (6) Proceeds from concession agreements shall be
444 distributed as follows:
445 (a) Eighty-five percent shall be deposited into the
446 appropriate department trust fund that is the source of funding
447 for management and operation of state greenway and trail
448 facilities and properties.
449 (b) Fifteen percent shall be deposited into the State
450 Transportation Trust Fund for use in the Traffic and Bicycle
451 Safety Education Program and the Safe Paths to School Program
452 administered by the Department of Transportation.
453 (7) The department may adopt rules to administer this
454 section.
455 Section 4. Subsection (2) of section 311.07, Florida
456 Statutes, is amended to read:
457 311.07 Florida seaport transportation and economic
458 development funding.—
459 (2) A minimum of $25 ~~$15~~ million per year shall be made
460 available from the State Transportation Trust Fund to fund the
461 Florida Seaport Transportation and Economic Development Program.
462 The Florida Seaport Transportation and Economic Development
463 Council created in s. 311.09 shall develop guidelines for
464 project funding. Council staff, the Department of

465 Transportation, and the Department of Economic Opportunity shall
466 work in cooperation to review projects and allocate funds in
467 accordance with the schedule required for the Department of
468 Transportation to include these projects in the tentative work
469 program developed pursuant to s. 339.135(4).
470 Section 5. Subsections (1), (9), and (12) of section
471 311.09, Florida Statutes, are amended to read:
472 311.09 Florida Seaport Transportation and Economic
473 Development Council.—
474 (1) The Florida Seaport Transportation and Economic
475 Development Council is created within the Department of
476 Transportation. The council consists of the following 16 ~~17~~
477 members: the port director, or the port director's designee, of
478 each of the ports of Jacksonville, Port Canaveral, ~~Port Citrus,~~
479 Fort Pierce, Palm Beach, Port Everglades, Miami, Port Manatee,
480 St. Petersburg, Tampa, Port St. Joe, Panama City, Pensacola, Key
481 West, and Fernandina; the secretary of the Department of
482 Transportation or his or her designee; and the director of the
483 Department of Economic Opportunity or his or her designee.
484 (9) The Department of Transportation shall include at least
485 $25 ~~no less than $15~~ million per year in its annual legislative
486 budget request for the Florida Seaport Transportation and
487 Economic Development Program funded under s. 311.07. Such budget
488 shall include funding for projects approved by the council which
489 have been determined by each agency to be consistent. The
490 department shall include the specific approved Florida Seaport
491 Transportation and Economic Development Program projects to be
492 funded under s. 311.07 during the ensuing fiscal year in the
493 tentative work program developed pursuant to s. 339.135(4). The

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494 total amount of funding to be allocated to Florida Seaport
495 Transportation and Economic Development Program projects under
496 s. 311.07 during the successive 4 fiscal years shall also be
497 included in the tentative work program developed pursuant to s.
498 339.135(4). The council may submit to the department a list of
499 approved projects that could be made production-ready within the
500 next 2 years. The list shall be submitted by the department as
501 part of the needs and project list prepared pursuant to s.
502 339.135(2)(b). However, the department shall, upon written
503 request of the Florida Seaport Transportation and Economic
504 Development Council, submit work program amendments pursuant to
505 s. 339.135(7) to the Governor within 10 days after the later of
506 the date the request is received by the department or the
507 effective date of the amendment, termination, or closure of the
508 applicable funding agreement between the department and the
509 affected seaport, as required to release the funds from the
510 existing commitment. Notwithstanding s. 339.135(7)(c), any work
511 program amendment to transfer prior year funds from one approved
512 seaport project to another seaport project is subject to the
513 procedures in s. 339.135(7)(d). Notwithstanding any provision of
514 law to the contrary, the department may transfer unexpended
515 budget between the seaport projects as identified in the
516 approved work program amendments.
517 ~~(12) Until July 1, 2014, Citrus County may apply for a~~
518 ~~grant through the Florida Seaport Transportation and Economic~~
519 ~~Development Council to perform a feasibility study regarding the~~
520 ~~establishment of a port in Citrus County. The council shall~~
521 ~~evaluate such application pursuant to subsections (5)-(8) and,~~
522 ~~if approved, the Department of Transportation shall include the~~

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523 ~~feasibility study in its budget request pursuant to subsection~~
524 ~~(9). If the study determines that a port in Citrus County is not~~
525 ~~feasible, the membership of Port Citrus on the council shall~~
526 ~~terminate.~~
527 Section 6. Subsections (6), (47), and present subsection
528 (90) of section 316.003, Florida Statutes, are amended, present
529 subsections (91), (92), and (93) of that section are
530 redesignated as subsections (93), (95), and (96), respectively,
531 and new subsections (90), (92), and (94) are added to that
532 section, to read:
533 316.003 Definitions.—The following words and phrases, when
534 used in this chapter, shall have the meanings respectively
535 ascribed to them in this section, except where the context
536 otherwise requires:
537 (6) CROSSWALK.—
538 (a) Unmarked crosswalk.—An unmarked part of the roadway at
539 an intersection used by pedestrians for crossing the roadway
540 ~~That part of a roadway at an intersection included within the~~
541 ~~connections of the lateral lines of the sidewalks on opposite~~
542 ~~sides of the highway, measured from the curbs or, in the absence~~
543 ~~of curbs, from the edges of the traversable roadway~~.
544 (b) Marked crosswalk.—Pavement marking lines on the roadway
545 surface, which may include contrasting pavement texture, style,
546 or colored portions of the roadway at an intersection used by
547 pedestrians for crossing the roadway ~~Any portion of a roadway at~~
548 ~~an intersection or elsewhere distinctly indicated for pedestrian~~
549 ~~crossing by lines or other markings on the surface~~.
550 (c) Midblock crosswalk.—A location between intersections
551 where the roadway surface is marked by pavement marking lines,

552 which may include contrasting pavement texture, style or colored
553 portion of the roadway at a signalized or unsignalized crosswalk
554 used for pedestrian roadway crossings and may include a
555 pedestrian refuge island.
556 (47) SIDEWALK.—That portion of a street ~~between the~~
557 ~~curbline, or the lateral line, of a roadway and the adjacent~~
558 ~~property lines,~~ intended for use by pedestrians, adjacent to the
559 roadway between the curb or edge of the roadway and the property
560 line.
561 (90) AUTONOMOUS TECHNOLOGY.—Technology installed on a motor
562 vehicle which has the capability to drive the vehicle on which
563 the technology is installed without the active control of or
564 monitoring by a human operator.
565 (91) ~~(90)~~ AUTONOMOUS VEHICLE.—Any vehicle equipped with
566 autonomous technology. ~~The term "autonomous technology" means~~
567 ~~technology installed on a motor vehicle that has the capability~~
568 ~~to drive the vehicle on which the technology is installed~~
569 ~~without the active control or monitoring by a human operator.~~
570 The term excludes a motor vehicle enabled with active safety
571 systems or driver assistance systems, including, without
572 limitation, a system to provide electronic blind spot
573 assistance, crash avoidance, emergency braking, parking
574 assistance, adaptive cruise control, lane keep assistance, lane
575 departure warning, or traffic jam and queuing assistant, unless
576 any such system alone or in combination with other systems
577 enables the vehicle on which the technology is installed to
578 drive without the active control or monitoring by a human
579 operator.
580 (92) DRIVER-ASSISTIVE TRUCK PLATOONING TECHNOLOGY.—Vehicle

automation technology that integrates sensor array, wireless communications, vehicle controls, and specialized software to synchronize acceleration and braking between up to two truck tractor-semitrailer combinations, while leaving each vehicle's steering control and systems command in the control of the vehicle's driver.

(94) PORT-OF-ENTRY.—A designated location that allows drivers of commercial motor vehicles to purchase temporary registration permits necessary to operate legally within the state. The locations and the designated routes to such locations shall be determined by the Department of Transportation.

Section 7. Subsection (2) of section 316.0895, Florida Statutes, is amended to read:

316.0895 Following too closely.—

(2) It is unlawful for the driver of any motor truck, motor truck drawing another vehicle, or vehicle towing another vehicle or trailer, when traveling upon a roadway outside of a business or residence district, to follow within 300 feet of another motor truck, motor truck drawing another vehicle, or vehicle towing another vehicle or trailer. The provisions of this subsection shall not be construed to prevent overtaking and passing nor shall the same apply upon any lane specially designated for use by motor trucks or other slow-moving vehicles. This subsection does not apply to two truck tractor-semitrailer combinations equipped and connected with driver-assistive truck-platooning technology, as defined in s. 316.003, and operating on a multilane limited access facility, if the owner or operator complies with the financial responsibility requirement of s. 316.86.

Section 8. Paragraphs (b) and (c) of subsection (7) of section 316.130, Florida Statutes, are amended to read:

316.130 Pedestrians; traffic regulations.—

(7)

(b) The driver of a vehicle at any crosswalk location where the approach is not controlled by a traffic signal or stop sign must ~~signage so indicates shall~~ stop and remain stopped to allow a pedestrian to cross a roadway when the pedestrian is in the crosswalk or steps into the crosswalk and is upon the half of the roadway upon which the vehicle is traveling or turning, or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger. Any pedestrian crossing a roadway at a point where a pedestrian tunnel or overhead pedestrian crossing has been provided must yield the right-of-way to all vehicles upon the roadway.

~~(c) When traffic control signals are not in place or in operation and there is no signage indicating otherwise, the driver of a vehicle shall yield the right-of-way, slowing down or stopping if need be to so yield, to a pedestrian crossing the roadway within a crosswalk when the pedestrian is upon the half of the roadway upon which the vehicle is traveling or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger. Any pedestrian crossing a roadway at a point where a pedestrian tunnel or overhead pedestrian crossing has been provided shall yield the right-of-way to all vehicles upon the roadway.~~

Section 9. Subsections (1) and (3) of section 316.303, Florida Statutes, are amended to read:

316.303 Television receivers.—

639 (1) No motor vehicle operated on the highways of this state
640 shall be equipped with television-type receiving equipment so
641 located that the viewer or screen is visible from the driver's
642 seat, unless the vehicle is equipped with autonomous technology,
643 as defined in s. 316.003(90), and is being operated in
644 autonomous mode, as provided in s. 316.85(2); or unless the
645 vehicle is equipped and operating with driver-assistive truck-
646 platooning technology, as defined in s. 316.003(92).
647 (3) This section does not prohibit the use of an electronic
648 display used in conjunction with a vehicle navigation system; or
649 an electronic display used by an operator of a vehicle equipped
650 with autonomous technology, as defined in s. 316.003(90), while
651 the vehicle is being operated in autonomous mode, as provided in
652 s. 316.85(2); or an electronic display used by the operator of a
653 vehicle equipped and operating with driver-assistive truck
654 platooning technology, as defined in s. 316.003(92).
655 Section 10. Paragraph (b) of subsection (3) and subsection
656 (14) of section 316.515, Florida Statutes, are amended to read:
657 316.515 Maximum width, height, length.—
658 (3) LENGTH LIMITATION.—Except as otherwise provided in this
659 section, length limitations apply solely to a semitrailer or
660 trailer, and not to a truck tractor or to the overall length of
661 a combination of vehicles. No combination of commercial motor
662 vehicles coupled together and operating on the public roads may
663 consist of more than one truck tractor and two trailing units.
664 Unless otherwise specifically provided for in this section, a
665 combination of vehicles not qualifying as commercial motor
666 vehicles may consist of no more than two units coupled together;
667 such nonqualifying combination of vehicles may not exceed a

668 total length of 65 feet, inclusive of the load carried thereon,
669 but exclusive of safety and energy conservation devices approved
670 by the department for use on vehicles using public roads.
671 Notwithstanding any other provision of this section, a truck
672 tractor-semitrailer combination engaged in the transportation of
673 automobiles or boats may transport motor vehicles or boats on
674 part of the power unit; and, except as may otherwise be mandated
675 under federal law, an automobile or boat transporter semitrailer
676 may not exceed 50 feet in length, exclusive of the load;
677 however, the load may extend up to an additional 6 feet beyond
678 the rear of the trailer. The 50-feet length limitation does not
679 apply to non-stinger-steered automobile or boat transporters
680 that are 65 feet or less in overall length, exclusive of the
681 load carried thereon, or to stinger-steered automobile or boat
682 transporters that are 75 feet or less in overall length,
683 exclusive of the load carried thereon. For purposes of this
684 subsection, a "stinger-steered automobile or boat transporter"
685 is an automobile or boat transporter configured as a semitrailer
686 combination wherein the fifth wheel is located on a drop frame
687 located behind and below the rearmost axle of the power unit.
688 Notwithstanding paragraphs (a) and (b), any straight truck or
689 truck tractor-semitrailer combination engaged in the
690 transportation of horticultural trees may allow the load to
691 extend up to an additional 10 feet beyond the rear of the
692 vehicle, provided said trees are resting against a retaining bar
693 mounted above the truck bed so that the root balls of the trees
694 rest on the floor and to the front of the truck bed and the tops
695 of the trees extend up over and to the rear of the truck bed,
696 and provided the overhanging portion of the load is covered with

697 protective fabric.
698 (b) *Semitrailers.*—
699 1. A semitrailer operating in a truck tractor-semitrailer
700 combination may not exceed 48 feet in extreme overall outside
701 dimension, measured from the front of the unit to the rear of
702 the unit and the load carried thereon, exclusive of safety and
703 energy conservation devices approved by the department for use
704 on vehicles using public roads, unless it complies with
705 subparagraph 2. A semitrailer which exceeds 48 feet in length
706 and is used to transport divisible loads may operate in this
707 state only if issued a permit under s. 316.550 and if such
708 trailer meets the requirements of this chapter relating to
709 vehicle equipment and safety. Except for highways on the tandem
710 trailer truck highway network, public roads deemed unsafe for
711 longer semitrailer vehicles or those roads on which such longer
712 vehicles are determined not to be in the interest of public
713 convenience shall, in conformance with s. 316.006, be restricted
714 by the Department of Transportation or by the local authority to
715 use by semitrailers not exceeding a length of 48 feet, inclusive
716 of the load carried thereon but exclusive of safety and energy
717 conservation devices approved by the department for use on
718 vehicles using public roads. Truck tractor-semitrailer
719 combinations shall be afforded reasonable access to terminals;
720 facilities for food, fuel, repairs, and rest; and points of
721 loading and unloading.
722 2. A semitrailer which is more than 48 feet but not more
723 than 57 ~~53~~ feet in extreme overall outside dimension, as
724 measured pursuant to subparagraph 1., may operate on public
725 roads, except roads on the State Highway System which are

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726 restricted by the Department of Transportation or other roads
727 restricted by local authorities, if:
728 a. The distance between the kingpin or other peg that locks
729 into the fifth wheel of a truck tractor and the center of the
730 rear axle or rear group of axles does not exceed 41 feet, or, in
731 the case of a semitrailer used exclusively or primarily to
732 transport vehicles in connection with motorsports competition
733 events, the distance does not exceed 46 feet from the kingpin to
734 the center of the rear axles; and
735 b. It is equipped with a substantial rear-end underride
736 protection device meeting the requirements of 49 C.F.R. s.
737 393.86, "Rear End Protection."
738 (14) MANUFACTURED BUILDINGS.—The Department of
739 Transportation may, in its discretion and upon application and
740 good cause shown therefor that the same is not contrary to the
741 public interest, issue a special permit for truck tractor-
742 semitrailer combinations where the total number of overwidth
743 deliveries of manufactured buildings, as defined in s.
744 553.36(13), may be reduced by permitting the use of multiple
745 sections or single units on an overlength trailer of no more
746 than 80 ~~54~~ feet.
747 Section 11. Paragraph (b) of subsection (2) of section
748 316.545, Florida Statutes, is amended to read:
749 316.545 Weight and load unlawful; special fuel and motor
750 fuel tax enforcement; inspection; penalty; review.—
751 (2)
752 (b) The officer or inspector shall inspect the license
753 plate or registration certificate of the commercial vehicle, as
754 defined in s. 316.003(66), to determine if its gross weight is

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755 in compliance with the declared gross vehicle weight. If its
756 gross weight exceeds the declared weight, the penalty shall be 5
757 cents per pound on the difference between such weights. In those
758 cases when the commercial vehicle, as defined in s. 316.003(66),
759 is being operated over the highways of the state with an expired
760 registration or with no registration from this or any other
761 jurisdiction or is not registered under the applicable
762 provisions of chapter 320, the penalty herein shall apply on the
763 basis of 5 cents per pound on that scaled weight which exceeds
764 35,000 pounds on laden truck tractor-semitrailer combinations or
765 tandem trailer truck combinations, 10,000 pounds on laden
766 straight trucks or straight truck-trailer combinations, or
767 10,000 pounds on any unladen commercial motor vehicle. A
768 commercial motor vehicle entering the state at a designated
769 port-of-entry location, as defined in s. 316.003(94), or
770 operating on designated routes to a port-of-entry location,
771 which obtains a temporary registration permit shall be assessed
772 a penalty limited to the difference between its gross weight and
773 the declared gross vehicle weight at 5 cents per pound. If the
774 license plate or registration has not been expired for more than
775 90 days, the penalty imposed under this paragraph may not exceed
776 $1,000. In the case of special mobile equipment as defined in s.
777 316.003(48), which qualifies for the license tax provided for in
778 s. 320.08(5)(b), being operated on the highways of the state
779 with an expired registration or otherwise not properly
780 registered under the applicable provisions of chapter 320, a
781 penalty of $75 shall apply in addition to any other penalty
782 which may apply in accordance with this chapter. A vehicle found
783 in violation of this section may be detained until the owner or

784 operator produces evidence that the vehicle has been properly
785 registered. Any costs incurred by the retention of the vehicle
786 shall be the sole responsibility of the owner. A person who has
787 been assessed a penalty pursuant to this paragraph for failure
788 to have a valid vehicle registration certificate pursuant to the
789 provisions of chapter 320 is not subject to the delinquent fee
790 authorized in s. 320.07 if such person obtains a valid
791 registration certificate within 10 working days after such
792 penalty was assessed.
793 Section 12. Section 333.01, Florida Statutes, is amended to
794 read:
795 333.01 Definitions.—For the purpose of this chapter, the
796 following words, terms, and phrases shall have the following
797 meanings ~~herein given, unless otherwise specifically defined, or~~
798 ~~unless another intention clearly appears, or the context~~
799 ~~otherwise requires~~:
800 (1) "Aeronautical study" means a Federal Aviation
801 Administration review conducted pursuant to 14 C.F.R. part 77,
802 concerning the effect of proposed construction or alteration on
803 the use of air navigation facilities or navigable airspace by
804 aircraft. ~~"Aeronautics" means transportation by aircraft; the~~
805 ~~operation, construction, repair, or maintenance of aircraft,~~
806 ~~aircraft power plants and accessories, including the repair,~~
807 ~~packing, and maintenance of parachutes; the design,~~
808 ~~establishment, construction, extension, operation, improvement,~~
809 ~~repair, or maintenance of airports, restricted landing areas, or~~
810 ~~other air navigation facilities, and air instruction.~~
811 (2) "Airport" means any area of land or water designed and
812 set aside for the landing and taking off of aircraft and

utilized or to be utilized in the interest of the public for such purpose.

(3) "Airport hazard" means any obstruction that exceeds ~~structure or tree or use of land which would exceed~~ the federal obstruction standards as contained in 14 C.F.R. ss. 77.15, 77.17, 77.19, 77.21, and 77.23 ~~77.21, 77.23, 77.25, 77.28, and 77.29~~ and which obstructs the airspace required for the flight of aircraft in taking off, maneuvering, or landing, or that is otherwise hazardous to such taking off, maneuvering, or landing of aircraft and for which no person has ~~previously~~ obtained a permit ~~or variance~~ pursuant to s. 333.025 or s. 333.07.

(4) "Airport hazard area" means any area of land or water upon which an airport hazard might be established ~~if not prevented as provided in this chapter~~.

(5) "Airport land use compatibility zoning" means airport zoning regulations governing ~~restricting~~ the use of land adjacent to or in the immediate vicinity of airports in the manner provided ~~enumerated~~ in ss. 333.03(2) ~~s. 333.03(2) to activities~~ and (3) ~~purposes compatible with the continuation of normal airport operations including landing and takeoff of aircraft in order to promote public health, safety, and general welfare~~.

(6) "Airport layout plan" means a scaled ~~detailed, scale engineering~~ drawing or set of drawings in either paper or electronic form of the existing~~, including pertinent dimensions, of an airport's current~~ and planned airport facilities which provides a graphic representation of the existing and long-term development plan for the airport and demonstrates the preservation and continuity of safety, utility, and efficiency

of the airport~~, their locations, and runway usage~~.

(7) "Airport master plan" means a comprehensive plan for an airport that describes the immediate and long-term development plans to meet future aviation demand.

(8) "Airport protection zoning" means airport zoning regulations governing airport hazards in the manner provided in s. 333.03.

(9) "Department" means the Department of Transportation as created by s. 20.23.

(10) "Educational facility" means any structure, land, or use thereof that includes a public or private kindergarten through grade 12 school, charter school, magnet school, college campus, or university campus. Space used for educational purposes within a multitenant building may not be treated as an educational facility for the purpose of this chapter.

(11) "Landfill" has the same meaning as in s. 403.703.

(12)~~(7)~~ "Obstruction" means any object of natural growth, terrain, or permanent or temporary construction or alteration, including equipment or materials used and any permanent or temporary apparatus, or alteration of any permanent or temporary existing structure by a change in its height, including existing or proposed appurtenances, or lateral dimensions, including equipment or material used therein, which exceeds ~~existing or proposed manmade object or object of natural growth or terrain that violates~~ the standards contained in 14 C.F.R. ss. 77.15, 77.17, 77.19, 77.21, and 77.23 ~~77.21, 77.23, 77.25, 77.28, and 77.29~~.

(13)~~(8)~~ "Person" means any individual, firm, copartnership, corporation, company, association, joint-stock association, or

871 body politic, and includes any trustee, receiver, assignee, or
872 other similar representative thereof.
873 (14) ~~(9)~~ "Political subdivision" means the local government
874 of any county, city, town, village, or other subdivision or
875 agency thereof, or any district or special district, port
876 commission, port authority, or other such agency authorized to
877 establish or operate airports in the state.
878 (15) "Public-use airport" means an airport, publicly or
879 privately owned and licensed by the state, which is open for use
880 by the public.
881 (16) ~~(10)~~ "Runway protection ~~clear~~ zone" or "RPZ" means an
882 area at ground level beyond the ~~a~~ runway end which is intended
883 to enhance the safety and protection of people and property on
884 the ground ~~clear zone as defined in 14 C.F.R. s. 151.9(b)~~.
885 (17) ~~(11)~~ "Structure" means any object, constructed,
886 erected, altered, or installed ~~by humans~~, including, but without
887 limitation ~~thereof~~, buildings, towers, smokestacks, utility
888 poles, power generation equipment, and overhead transmission
889 lines.
890 (18) "Substantial modification" means any repair,
891 reconstruction, rehabilitation, or improvement of a structure
892 when the actual cost of the repair, reconstruction,
893 rehabilitation, or improvement of the structure equals or
894 exceeds 50 percent of the market value of the structure.
895 ~~(12) "Tree" includes any plant of the vegetable kingdom.~~
896 Section 13. Section 333.025, Florida Statutes, is amended
897 to read:
898 333.025 Permit required for structures exceeding federal
899 obstruction standards.—

900 (1) A person proposing the construction or alteration ~~In~~
901 ~~order to prevent the erection~~ of structures hazardous ~~dangerous~~
902 to air navigation, subject to the provisions of subsections (2),
903 (3), and (4), must ~~each person shall~~ secure from the department
904 ~~of Transportation~~ a permit for the proposed construction or
905 ~~erection,~~ alteration~~, or modification~~ of any structure the
906 result of which would exceed the federal obstruction standards
907 as contained in 14 C.F.R. ss. 77.15, 77.17, 77.19, 77.21, and
908 77.23 ~~77.21, 77.23, 77.25, 77.28, and 77.29~~. However, permits
909 from the department ~~of Transportation~~ will be required only
910 within an airport hazard area where federal obstruction
911 standards are exceeded and if the proposed construction is
912 within a 10-nautical-mile radius of the airport reference point,
913 located at the approximate geometric ~~geographical~~ center of all
914 useable runways of public-use airports or ~~a publicly owned or~~
915 ~~operated airport,~~ a military airport~~, or an airport licensed by~~
916 ~~the state for public use~~.
917 (2) Existing, planned, and proposed ~~Affected airports will~~
918 ~~be considered as having those~~ facilities at public-use airports
919 contained in an ~~which are shown on the~~ airport master plan, on
920 ~~or~~ an airport layout plan submitted to the Federal Aviation
921 Administration Airport District Office, or in comparable
922 military documents~~, and~~ will be ~~so~~ protected from structures
923 that exceed federal obstruction standards. ~~Planned or proposed~~
924 ~~public-use airports which are the subject of a notice or~~
925 ~~proposal submitted to the Federal Aviation Administration or to~~
926 ~~the Department of Transportation shall also be protected.~~
927 (3) Permit requirements of subsection (1) do ~~shall~~ not
928 apply to structures ~~projects~~ which received construction permits

929 from the Federal Communications Commission for structures
930 exceeding federal obstruction standards prior to May 20, 1975~~,~~
931 ~~provided such structures now exist~~; nor does subsection (1)
932 ~~shall it~~ apply to previously approved structures now existing,
933 or any necessary replacement or repairs to such existing
934 structures, so long as the height and location is unchanged.
935 (4) When political subdivisions have adopted adequate
936 airport ~~airspace~~ protection zoning regulations in compliance
937 with s. 333.03~~,~~ and such regulations are on file with the
938 department ~~of Transportation~~, and have established a permitting
939 process in compliance with s. 333.09(2), a permit for such
940 structure shall not be required from the department ~~of~~
941 ~~Transportation~~. To evaluate technical consistency with this
942 section, there is a 15-day department review period concurrent
943 with the permitting process prescribed by s. 333.09. Upon
944 receipt of a complete permit application, the local government
945 shall forward to the department's Aviation Office by certified
946 mail, return receipt requested, or by delivery service that
947 provides a receipt evidencing delivery, a copy of the
948 application. Cranes, construction equipment, and other temporary
949 structures, in use or in place for a period not to exceed 18
950 consecutive months, are exempt from this requirement, unless
951 requested by the department's Aviation Office.
952 (5) The department ~~of Transportation~~ shall, within 30 days
953 of the receipt of an application for a permit, issue or deny a
954 permit for the construction or ~~erection,~~ alteration~~, or~~
955 ~~modification~~ of any structure ~~the result of~~ which would exceed
956 federal obstruction standards as contained in 14 C.F.R. ss.
957 77.15, 77.17, 77.19, 77.21, and 77.23 ~~77.21, 77.23, 77.25,~~

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958 ~~77.28, and 77.29~~. The department shall review permit
959 applications in conformity with s. 120.60.
960 (6) In determining whether to issue or deny a permit, the
961 department shall consider:
962 (a) The safety of persons on the ground and in the air ~~The~~
963 ~~nature of the terrain and height of existing structures~~.
964 (b) The safe and efficient use of navigable airspace ~~Public~~
965 ~~and private interests and investments~~.
966 (c) The nature of the terrain and height of existing
967 structures ~~The character of flying operations and planned~~
968 ~~developments of airports~~.
969 (d) Whether the construction of the proposed structure
970 would impact the state licensing standards for a public-use
971 airport, contained in chapter 330 and chapter 14-60, Florida
972 Administrative Code ~~Federal airways as designated by the Federal~~
973 ~~Aviation Administration~~.
974 (e) The character of existing and planned flight operations
975 and developments at public-use airports ~~Whether the construction~~
976 ~~of the proposed structure would cause an increase in the minimum~~
977 ~~descent altitude or the decision height at the affected airport~~.
978 (f) Federal airways; visual flight rules, flyways and
979 corridors; and instrument approaches as designated by the
980 Federal Aviation Administration ~~Technological advances~~.
981 (g) Whether the construction of the proposed structure
982 would cause an increase in the minimum descent altitude or the
983 decision height at the affected airport ~~The safety of persons on~~
984 ~~the ground and in the air~~.
985 (h) The cumulative effects on navigable airspace of all
986 existing structures and all other known and proposed structures

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987 in the area ~~Land use density~~.
988 ~~(i) The safe and efficient use of navigable airspace.~~
989 ~~(j) The cumulative effects on navigable airspace of all~~
990 ~~existing structures, proposed structures identified in the~~
991 ~~applicable jurisdictions' comprehensive plans, and all other~~
992 ~~known proposed structures in the area.~~
993 (7) When issuing a permit under this section, the
994 department ~~of Transportation~~ shall~~, as a specific condition of~~
995 ~~such permit,~~ require the owner ~~obstruction marking and lighting~~
996 of the permitted structure or vegetation to install, operate,
997 and maintain thereon, at his or her own expense, marking and
998 lighting in conformance with the specific standards established
999 by the Federal Aviation Administration ~~structure as provided in~~
1000 ~~s. 333.07(3)(b)~~.
1001 (8) The department may ~~of Transportation shall~~ not approve
1002 a permit for the construction or alteration ~~erection~~ of a
1003 structure unless the applicant submits both documentation
1004 showing compliance with the federal requirement for notification
1005 of proposed construction or alteration and a valid aeronautical
1006 study ~~evaluation~~, and no permit shall be approved solely on the
1007 basis that such proposed structure will not exceed federal
1008 obstruction standards as contained in 14 C.F.R. ss. 77.15,
1009 77.17, 77.19, 77.21, or 77.23 ~~77.21, 77.23, 77.25, 77.28, or~~
1010 ~~77.29~~, or any other federal aviation regulation.
1011 (9) The denial of a permit under this section is subject to
1012 the administrative review provisions of chapter 120.
1013 Section 14. Section 333.03, Florida Statutes, is amended to
1014 read:
1015 333.03 Requirement ~~Power~~ to adopt airport zoning

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1016 regulations.—
1017 (1)(a) Every ~~In order to prevent the creation or~~
1018 ~~establishment of airport hazards, every~~ political subdivision
1019 having an airport hazard area within its territorial limits
1020 shall~~, by October 1, 1977,~~ adopt, administer, and enforce~~, under~~
1021 ~~the police power and~~ in the manner and upon the conditions
1022 ~~hereinafter~~ prescribed in this section, airport protection
1023 zoning regulations for ~~such~~ airport hazards ~~hazard area~~.
1024 (b) Where an airport is owned or controlled by a political
1025 subdivision and an ~~any~~ airport hazard area ~~appertaining to such~~
1026 ~~airport~~ is located wholly or partly outside the territorial
1027 limits of the ~~said~~ political subdivision, the political
1028 subdivision owning or controlling the airport and any ~~the~~
1029 political subdivision within which the airport hazard area is
1030 located, must ~~shall~~ either:
1031 1. By interlocal agreement, ~~in accordance with the~~
1032 ~~provisions of chapter 163,~~ adopt, administer, and enforce a set
1033 of airport protection zoning regulations applicable to the
1034 airport hazard area ~~in question~~; or
1035 2. By ordinance, regulation, or resolution duly adopted,
1036 create a joint airport zoning board, which must ~~board shall have~~
1037 ~~the same power to~~ adopt, administer, and enforce a set of
1038 airport protection zoning regulations applicable to the airport
1039 hazard area in each ~~question as that vested in paragraph (a) in~~
1040 ~~the~~ political subdivision in ~~within~~ which the airport hazard
1041 ~~such~~ area is located. Each such joint airport zoning board shall
1042 have as members two representatives appointed by each
1043 participating political subdivision ~~participating in its~~
1044 ~~creation~~ and, in addition, a chair elected by a majority of the

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1045 members so appointed. The ~~However, the~~ airport manager or
1046 representative of each airport in ~~managers of~~ the ~~affected~~
1047 participating political subdivisions shall serve on the board in
1048 a nonvoting capacity.
1049 (c) Airport protection zoning regulations adopted under
1050 paragraph (a) must ~~shall~~, at ~~as a~~ minimum, require:
1051 1. A permit ~~variance~~ for the ~~erection,~~ construction or
1052 alteration~~, or modification~~ of any structure that ~~which~~ would
1053 cause the structure to exceed the federal obstruction standards
1054 as contained in 14 C.F.R. ss. 77.15, 77.17, 77.19, 77.21, and
1055 77.23. ~~77.21, 77.23, 77.25, 77.28, and 77.29;~~
1056 2. Obstruction marking and lighting for structures
1057 exceeding the federal obstruction standards as contained in 14
1058 C.F.R. ss. 77.15, 77.17, 77.19, 77.21, and 77.23, as specified
1059 in s. 333.07(3).~~;~~
1060 3. Documentation showing compliance with the federal
1061 requirement for notification of proposed construction or
1062 alteration and a valid aeronautical study ~~evaluation~~ submitted
1063 by each person applying for a permit. ~~variance;~~
1064 4. Consideration of the criteria in s. 333.025(6), when
1065 determining whether to issue or deny a permit. ~~variance; and~~
1066 5. That a permit may not ~~no variance shall~~ be approved
1067 solely on the basis that the ~~such~~ proposed structure will not
1068 exceed federal obstruction standards as contained in 14 C.F.R.
1069 ss. 77.15, 77.17, 77.19, 77.21, or 77.23 ~~77.21, 77.23, 77.25,~~
1070 ~~77.28, or 77.29~~, or any other federal aviation regulation.
1071 (d) The department is available to provide assistance to
1072 political subdivisions with regard to federal obstruction
1073 standards ~~shall issue copies of the federal obstruction~~

1074 ~~standards as contained in 14 C.F.R. ss. 77.21, 77.23, 77.25,~~
1075 ~~77.28, and 77.29 to each political subdivision having airport~~
1076 ~~hazard areas and, in cooperation with political subdivisions,~~
1077 ~~shall issue appropriate airport zoning maps depicting within~~
1078 ~~each county the maximum allowable height of any structure or~~
1079 ~~tree. Material distributed pursuant to this subsection shall be~~
1080 ~~at no cost to authorized recipients~~.
1081 (2) In the manner provided in subsection (1), ~~interim~~
1082 airport land use compatibility zoning regulations must ~~shall~~ be
1083 adopted, administered, and enforced. Airport land-use
1084 compatibility zoning ~~When political subdivisions have adopted~~
1085 ~~land development~~ regulations must, at a minimum, ~~in accordance~~
1086 ~~with the provisions of chapter 163 which~~ address the ~~use of land~~
1087 ~~in the manner consistent with the provisions herein, adoption of~~
1088 ~~airport land use compatibility regulations pursuant to this~~
1089 ~~subsection shall not be required. Interim airport land use~~
1090 ~~compatibility zoning regulations shall consider the~~ following:
1091 (a) Prohibiting any new and restricting any existing
1092 ~~Whether sanitary~~ landfills ~~are located~~ within the following
1093 areas:
1094 1. Within 10,000 feet from the nearest point of any runway
1095 used or planned to be used by turbine ~~turbojet or turboprop~~
1096 aircraft.
1097 2. Within 5,000 feet from the nearest point of any runway
1098 used only by nonturbine ~~piston-type~~ aircraft.
1099 3. Outside the perimeters defined in subparagraphs 1. and
1100 2., but still within the lateral limits of the civil airport
1101 imaginary surfaces defined in 14 C.F.R. part 77.19 ~~77.25~~. Case-
1102 by-case review of such landfills is advised.

1103 (b) Where ~~Whether~~ any landfill is located and constructed
1104 so that it attracts or sustains hazardous bird movements from
1105 feeding, water, or roosting areas into, or across, the runways
1106 or approach and departure patterns of aircraft, ~~. The political~~
1107 ~~subdivision shall request from the airport authority or other~~
1108 ~~governing body operating the airport a report on such bird~~
1109 ~~feeding or roosting areas that at the time of the request are~~
1110 ~~known to the airport. In preparing its report, the authority, or~~
1111 ~~other governing body, shall consider whether~~ the landfill
1112 operator will be required to incorporate bird management
1113 techniques or other practices to minimize bird hazards to
1114 airborne aircraft. ~~The airport authority or other governing body~~
1115 ~~shall respond to the political subdivision no later than 30 days~~
1116 ~~after receipt of such request.~~
1117 (c) Where an airport authority or other governing body
1118 operating a ~~publicly owned,~~ public-use airport has conducted a
1119 noise study in accordance with the provisions of 14 C.F.R. part
1120 150, or where the public-use airport owner has established noise
1121 contours pursuant to another public study approved by the
1122 Federal Aviation Administration, incompatible uses, as
1123 established in 14 C.F.R. part 150, appendix A noise study, or as
1124 a part of an alternative FAA-approved public study, may not be
1125 permitted within the noise contours established by that study,
1126 except where such use is specifically contemplated by such study
1127 with appropriate mitigation or similar techniques described in
1128 the study ~~neither residential construction nor any educational~~
1129 ~~facility as defined in chapter 1013, with the exception of~~
1130 ~~aviation school facilities, shall be permitted within the area~~
1131 ~~contiguous to the airport defined by an outer noise contour that~~

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1132 ~~is considered incompatible with that type of construction by 14~~
1133 ~~C.F.R. part 150, Appendix A or an equivalent noise level as~~
1134 ~~established by other types of noise studies~~.
1135 (d) Where an airport authority or other governing body
1136 operating a ~~publicly owned,~~ public-use airport has not conducted
1137 a noise study, neither residential construction nor any
1138 educational facility ~~as defined in chapter 1013~~, with the
1139 exception of aviation school facilities, shall be permitted
1140 within an area contiguous to the airport measuring one-half the
1141 length of the longest runway on either side of and at the end of
1142 each runway centerline.
1143 (3) In the manner provided in subsection (1), airport
1144 zoning regulations ~~shall be adopted~~ which restrict new
1145 incompatible uses~~, activities,~~ or substantial modifications to
1146 existing incompatible uses ~~construction~~ within runway protection
1147 ~~clear~~ zones shall be adopted ~~, including uses, activities, or~~
1148 ~~construction in runway clear zones which are incompatible with~~
1149 ~~normal airport operations or endanger public health, safety, and~~
1150 ~~welfare by resulting in congregations of people, emissions of~~
1151 ~~light or smoke, or attraction of birds. Such regulations shall~~
1152 ~~prohibit the construction of an educational facility of a public~~
1153 ~~or private school at either end of a runway of a publicly owned,~~
1154 ~~public-use airport within an area which extends 5 miles in a~~
1155 ~~direct line along the centerline of the runway, and which has a~~
1156 ~~width measuring one-half the length of the runway~~. ~~Exceptions~~
1157 ~~approving construction of an educational facility within the~~
1158 ~~delineated area shall only be granted when the political~~
1159 ~~subdivision administering the zoning regulations makes specific~~
1160 ~~findings detailing how the public policy reasons for allowing~~

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1161 ~~the construction outweigh health and safety concerns prohibiting~~
1162 ~~such a location.~~
1163 ~~(4) The procedures outlined in subsections (1), (2), and~~
1164 ~~(3) for the adoption of such regulations are supplemental to any~~
1165 ~~existing procedures utilized by political subdivisions in the~~
1166 ~~adoption of such regulations.~~
1167 (4) ~~(5)~~ The department ~~of Transportation~~ shall provide
1168 technical assistance to any political subdivision requesting
1169 assistance in the preparation of an airport zoning regulation
1170 ~~code~~. A copy of all local airport zoning codes, rules, ~~and~~
1171 regulations, and amendments and proposed and granted permits
1172 ~~variances thereto,~~ shall be filed with the department. All
1173 updates and amendments to local airport zoning codes, rules, and
1174 regulations must be filed with the department within 30 days
1175 after adoption.
1176 (5) ~~(6)~~ ~~Nothing in~~ Subsection (2) and ~~or~~ subsection (3) may
1177 not ~~shall be construed to~~ require the removal, alteration, sound
1178 conditioning, or other change, or to interfere with the
1179 continued use or adjacent expansion of any educational structure
1180 or site in existence on July 1, 1993~~, or be construed to~~
1181 ~~prohibit the construction of any new structure for which a site~~
1182 ~~has been determined as provided in former s. 235.19, as of July~~
1183 ~~1, 1993~~.
1184 (6) This section may not preclude an airport authority,
1185 local government, or other governing body operating a public-use
1186 airport from establishing airport protection zoning regulations
1187 more restrictive than herein prescribed in order to protect the
1188 safety and welfare of the public in the air and on the ground.
1189 Section 15. Section 333.04, Florida Statutes, is amended to

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1190 read:
1191 333.04 Comprehensive zoning regulations; most stringent to
1192 prevail where conflicts occur.—
1193 (1) INCORPORATION.—In the event that a political
1194 subdivision has adopted, or hereafter adopts, a comprehensive
1195 plan or policy ~~zoning ordinance~~ regulating, among other things,
1196 the height of buildings, structures, and natural objects, and
1197 uses of property, any airport zoning regulations applicable to
1198 the same area or portion thereof may be incorporated in and made
1199 a part of such comprehensive plans or policies ~~zoning~~
1200 ~~regulations~~, and be administered and enforced in connection
1201 therewith.
1202 (2) CONFLICT.—In the event of conflict between any airport
1203 zoning regulations adopted under this chapter and any other
1204 regulations applicable to the same area, whether the conflict be
1205 with respect to the height of structures or vegetation ~~trees~~,
1206 the use of land, or any other matter, and whether such
1207 regulations were adopted by the political subdivision which
1208 adopted the airport zoning regulations or by some other
1209 political subdivision, the more stringent limitation or
1210 requirement shall govern and prevail.
1211 Section 16. Section 333.05, Florida Statutes, is amended to
1212 read:
1213 333.05 Procedure for adoption of zoning regulations.—
1214 (1) NOTICE AND HEARING.—~~No~~ Airport zoning regulations may
1215 not ~~shall~~ be adopted, amended, or deleted ~~changed~~ under this
1216 chapter except by action of the legislative body of the
1217 political subdivision ~~in question~~, or the joint board provided
1218 in s. 333.03(1)(b) by the political subdivisions ~~bodies~~ therein

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1219 provided and set forth, after a public hearing in relation
1220 thereto, at which parties in interest and citizens shall have an
1221 opportunity to be heard. Notice of the hearing shall be
1222 published at least once a week for 2 consecutive weeks in an
1223 official paper, or a paper of general circulation, in the
1224 political subdivision or subdivisions where ~~in which are located~~
1225 the airport zoning regulations are ~~areas~~ to be adopted, amended,
1226 or deleted ~~zoned~~.
1227 (2) AIRPORT ZONING COMMISSION.—Prior to the initial zoning
1228 of any airport area under this chapter the political subdivision
1229 or joint airport zoning board which is to adopt, administer, and
1230 enforce the regulations shall appoint a commission, to be known
1231 as the airport zoning commission, to recommend the boundaries of
1232 the various zones to be established and the regulations to be
1233 adopted therefor. Such commission shall make a preliminary
1234 report and hold public hearings thereon before submitting its
1235 final report, and the legislative body of the political
1236 subdivision or the joint airport zoning board shall not hold its
1237 public hearings or take any action until it has received the
1238 final report of such commission, and at least 15 days shall
1239 elapse between the receipt of the final report of the commission
1240 and the hearing to be held by the latter board. Where a planning
1241 ~~city plan~~ commission, airport commission, or comprehensive
1242 zoning commission already exists, it may be appointed as the
1243 airport zoning commission.
1244 Section 17. Section 333.06, Florida Statutes, is amended to
1245 read:
1246 333.06 Airport zoning requirements.—
1247 (1) REASONABLENESS.—All airport zoning regulations adopted

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1248 under this chapter shall be reasonable and ~~none~~ shall not impose
1249 any requirement or restriction which is not reasonably necessary
1250 to effectuate the purposes of this chapter. In determining what
1251 regulations it may adopt, each political subdivision and joint
1252 airport zoning board shall consider, among other things, the
1253 character of the flying operations expected to be conducted at
1254 the airport, the nature of the terrain within the airport hazard
1255 area and runway protection ~~clear~~ zones, the character of the
1256 neighborhood, the uses to which the property to be zoned is put
1257 and adaptable, and the impact of any new use, activity, or
1258 construction on the airport's operating capability and capacity.
1259 (2) INDEPENDENT JUSTIFICATION.—The purpose of all airport
1260 zoning regulations adopted under this chapter is to provide both
1261 airspace protection and land uses ~~use~~ compatible with airport
1262 operations. Each aspect of this purpose requires independent
1263 justification in order to promote the public interest in safety,
1264 health, and general welfare. Specifically, construction in a
1265 runway protection ~~clear~~ zone which does not exceed airspace
1266 height restrictions is not conclusive ~~evidence per se~~ that such
1267 use, activity, or construction is compatible with airport
1268 operations.
1269 (3) NONCONFORMING USES.—No airport protection zoning
1270 regulations adopted under this chapter shall require the
1271 removal, lowering, or other change or alteration of any
1272 structure or vegetation ~~tree~~ not conforming to the regulations
1273 when adopted or amended, or otherwise interfere with the
1274 continuance of any nonconforming use, except as provided in s.
1275 333.07(1) and (3).
1276 (4) ADOPTION OF AIRPORT MASTER PLAN AND NOTICE TO AFFECTED

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1277 LOCAL GOVERNMENTS.—An airport master plan shall be prepared by
1278 each public-use ~~publicly owned and operated~~ airport licensed by
1279 the department ~~of Transportation~~ under chapter 330. The
1280 authorized entity having responsibility for governing the
1281 operation of the airport, when either requesting from or
1282 submitting to a state or federal governmental agency with
1283 funding or approval jurisdiction a "finding of no significant
1284 impact," an environmental assessment, a site-selection study, an
1285 airport master plan, or any amendment to an airport master plan,
1286 shall submit simultaneously a copy of said request, submittal,
1287 assessment, study, plan, or amendments by certified mail to all
1288 affected local governments. For the purposes of this subsection,
1289 "affected local government" is defined as any city or county
1290 having jurisdiction over the airport and any city or county
1291 located within 2 miles of the boundaries of the land subject to
1292 the airport master plan.
1293 Section 18. Section 333.065, Florida Statutes, is repealed.
1294 Section 19. Section 333.07, Florida Statutes, is amended to
1295 read:
1296 333.07 Local government permitting of airspace obstructions
1297 ~~Permits and variances~~.—
1298 (1) PERMITS.—
1299 (a) Any person proposing to erect, construct, or alter any
1300 structure, increase the height of any structure, permit the
1301 growth of any vegetation, or otherwise use his or her property
1302 in violation of the airport protection zoning regulations
1303 adopted under this chapter shall apply for a permit. A ~~Any~~
1304 ~~airport zoning regulations adopted under this chapter may~~
1305 ~~require that a permit be obtained before any new structure or~~

1306 ~~use may be constructed or established and before any existing~~
1307 ~~use or structure may be substantially changed or substantially~~
1308 ~~altered or repaired. In any event, however, all such regulations~~
1309 ~~shall provide that before any nonconforming structure or tree~~
1310 ~~may be replaced, substantially altered or repaired, rebuilt,~~
1311 ~~allowed to grow higher, or replanted, a permit must be secured~~
1312 ~~from the administrative agency authorized to administer and~~
1313 ~~enforce the regulations, authorizing such replacement, change,~~
1314 ~~or repair. No~~ permit may not ~~shall~~ be issued ~~granted~~ that would
1315 allow the establishment or creation of an airport hazard or
1316 would permit a nonconforming structure or vegetation ~~tree~~ or
1317 nonconforming use to be made or become higher or to become a
1318 greater hazard to air navigation than it was when the applicable
1319 regulation was adopted or than it is when the application for a
1320 permit is made.
1321 (b) Whenever the political subdivision or its
1322 administrative agency determines that a nonconforming use or
1323 nonconforming structure or vegetation ~~tree~~ has been abandoned or
1324 is more than 80 percent torn down, destroyed, deteriorated, or
1325 decayed, a ~~no~~ permit may not ~~shall~~ be granted that would allow
1326 the ~~said~~ structure or vegetation ~~tree~~ to exceed the applicable
1327 height limit or otherwise deviate from the zoning regulations.~~;~~
1328 ~~and,~~ Whether an application is made for a permit under this
1329 subsection or not, the ~~said agency may by appropriate action,~~
1330 ~~compel the~~ owner of the nonconforming structure or vegetation
1331 may be required ~~tree~~, at his or her own expense, to lower,
1332 remove, reconstruct, alter, or equip such object as may be
1333 necessary to conform to the regulations. If the owner of the
1334 nonconforming structure or vegetation neglects or refuses ~~tree~~

1335 ~~shall neglect or refuse~~ to comply with the ~~such~~ order for 10
1336 days after notice ~~thereof~~, the ~~said~~ agency may report the
1337 violation to the political subdivision involved therein. The~~,~~
1338 ~~which~~ subdivision, through its appropriate agency, may proceed
1339 to have the object so lowered, removed, reconstructed, altered,
1340 or equipped, and assess the cost and expense thereof upon the
1341 object or the land where ~~whereon~~ it is or was located~~, and,~~
1342 ~~unless such an assessment is paid within 90 days from the~~
1343 ~~service of notice thereof on the owner or the owner's agent, of~~
1344 ~~such object or land, the sum shall be a lien on said land, and~~
1345 ~~shall bear interest thereafter at the rate of 6 percent per~~
1346 ~~annum until paid, and shall be collected in the same manner as~~
1347 ~~taxes on real property are collected by said political~~
1348 ~~subdivision, or, at the option of said political subdivision,~~
1349 ~~said lien may be enforced in the manner provided for enforcement~~
1350 ~~of liens by chapter 85~~.
1351 ~~(c) Except as provided herein, applications for permits~~
1352 ~~shall be granted, provided the matter applied for meets the~~
1353 ~~provisions of this chapter and the regulations adopted and in~~
1354 ~~force hereunder.~~
1355 (2) CONSIDERATIONS WHEN ISSUING OR DENYING PERMITS.—In
1356 determining whether to issue or deny a permit, the political
1357 subdivision or its administrative agency must consider the
1358 following, as applicable:
1359 (a) The safety of persons on the ground and in the air.
1360 (b) The safe and efficient use of navigable airspace.
1361 (c) The nature of the terrain and height of existing
1362 structures.
1363 (d) The construction or alteration of the proposed

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1364 structure on the state licensing standards for a public-use
1365 airport, contained in chapter 330 and chapter 14-60 of the
1366 Florida Administrative Code.
1367 (e) The character of existing and planned flight operations
1368 and developments at public-use airports.
1369 (f) Federal airways; visual flight rules, flyways and
1370 corridors; and instrument approaches as designated by the
1371 Federal Aviation Administration.
1372 (g) The construction or alteration of the proposed
1373 structure on the minimum descent altitude or the decision height
1374 at the affected airport.
1375 (h) The cumulative effects on navigable airspace of all
1376 existing structures, and all other known proposed structures in
1377 the area.
1378 (i) Requirements contained in s. 333.03(2) and (3).
1379 (j) Additional requirements adopted by the local
1380 jurisdiction pertinent to evaluation and protection of airspace
1381 and airport operations.
1382 ~~(2) VARIANCES.—~~
1383 ~~(a) Any person desiring to erect any structure, increase~~
1384 ~~the height of any structure, permit the growth of any tree, or~~
1385 ~~otherwise use his or her property in violation of the airport~~
1386 ~~zoning regulations adopted under this chapter or any land~~
1387 ~~development regulation adopted pursuant to the provisions of~~
1388 ~~chapter 163 pertaining to airport land use compatibility, may~~
1389 ~~apply to the board of adjustment for a variance from the zoning~~
1390 ~~regulations in question. At the time of filing the application,~~
1391 ~~the applicant shall forward to the department by certified mail,~~
1392 ~~return receipt requested, a copy of the application. The~~

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1393 ~~department shall have 45 days from receipt of the application to~~
1394 ~~comment and to provide its comments or waiver of that right to~~
1395 ~~the applicant and the board of adjustment. The department shall~~
1396 ~~include its explanation for any objections stated in its~~
1397 ~~comments. If the department fails to provide its comments within~~
1398 ~~45 days of receipt of the application, its right to comment is~~
1399 ~~waived. The board of adjustment may proceed with its~~
1400 ~~consideration of the application only upon the receipt of the~~
1401 ~~department's comments or waiver of that right as demonstrated by~~
1402 ~~the filing of a copy of the return receipt with the board.~~
1403 ~~Noncompliance with this section shall be grounds to appeal~~
1404 ~~pursuant to s. 333.08 and to apply for judicial relief pursuant~~
1405 ~~to s. 333.11. Such variances may only be allowed where a literal~~
1406 ~~application or enforcement of the regulations would result in~~
1407 ~~practical difficulty or unnecessary hardship and where the~~
1408 ~~relief granted would not be contrary to the public interest but~~
1409 ~~would do substantial justice and be in accordance with the~~
1410 ~~spirit of the regulations and this chapter. However, any~~
1411 ~~variance may be allowed subject to any reasonable conditions~~
1412 ~~that the board of adjustment may deem necessary to effectuate~~
1413 ~~the purposes of this chapter.~~
1414 ~~(b) The Department of Transportation shall have the~~
1415 ~~authority to appeal any variance granted under this chapter~~
1416 ~~pursuant to s. 333.08, and to apply for judicial relief pursuant~~
1417 ~~to s. 333.11.~~
1418 (3) OBSTRUCTION MARKING AND LIGHTING.—
1419 (a) In issuing a ~~granting any~~ permit ~~or variance~~ under this
1420 section, the political subdivision or its administrative agency
1421 ~~or board of adjustment~~ shall require the owner of the structure

1422 or vegetation ~~tree in question~~ to install, operate, and maintain
1423 thereon, at his or her own expense, ~~such~~ marking and lighting in
1424 conformance with the specific standards established by the
1425 Federal Aviation Administration ~~as may be necessary to indicate~~
1426 ~~to aircraft pilots the presence of an obstruction~~.
1427 (b) Such marking and lighting shall conform to the specific
1428 standards established by rule by the department ~~of~~
1429 ~~Transportation~~.
1430 ~~(c) Existing structures not in compliance on October 1,~~
1431 ~~1988, shall be required to comply whenever the existing marking~~
1432 ~~requires refurbishment, whenever the existing lighting requires~~
1433 ~~replacement, or within 5 years of October 1, 1988, whichever~~
1434 ~~occurs first.~~
1435 Section 20. Section 333.08, Florida Statutes, is repealed.
1436 Section 21. Section 333.09, Florida Statutes, is amended to
1437 read:
1438 333.09 Administration of airport zoning regulations.—
1439 (1) ADMINISTRATION AND ENFORCEMENT.—All airport zoning
1440 regulations adopted under this chapter shall provide for the
1441 administration and enforcement of such regulations by the
1442 political subdivisions or their ~~by an~~ administrative agency
1443 ~~which may be an agency created by such regulations or any~~
1444 ~~official, board, or other existing agency of the political~~
1445 ~~subdivision adopting the regulations or of one of the political~~
1446 ~~subdivisions which participated in the creation of the joint~~
1447 ~~airport zoning board adopting the regulations, if satisfactory~~
1448 ~~to that political subdivision, but in no case shall such~~
1449 ~~administrative agency be or include any member of the board of~~
1450 ~~adjustment~~. The duties of any administrative agency designated

1451 pursuant to this chapter shall include that of hearing and
1452 deciding all permits under s. 333.07 ~~s. 333.07(1), deciding all~~
1453 ~~matters under s. 333.07(3),~~ as they pertain to such agency, and
1454 all other matters under this chapter applying to said agency~~,~~
1455 ~~but such agency shall not have or exercise any of the powers~~
1456 ~~herein delegated to the board of adjustment~~.
1457 (2) LOCAL GOVERNMENT PROCESS.—
1458 (a) Any political subdivision required to adopt airport
1459 zoning regulations under this chapter must provide a process to:
1460 1. Issue or deny permits consistent with s. 333.07,
1461 including requests for exceptions to airport zoning regulations.
1462 2. Notify the department of receipt of a complete permit
1463 application consistent with s. 333.025(4).
1464 3. Enforce any permit, order, requirement, decision, or
1465 determination made by the administrative agency with respect to
1466 the airport zoning regulations.
1467 (b) Where a zoning board or permitting body already exists
1468 within a political subdivision, the zoning board or permitting
1469 body may implement the permitting and appeals process.
1470 Otherwise, the political subdivision shall implement the
1471 permitting and appeals process in a manner consistent with its
1472 constitutional powers and areas of jurisdiction.
1473 (3) APPEALS.—
1474 (a) Any person, political subdivision or its administrative
1475 agency, or any joint airport zoning board, which contends that
1476 the decision made by a political subdivision or its
1477 administrative agency is an improper application of airport
1478 zoning regulations may use the process established for an
1479 appeal.

1480 (b) All appeals taken under this section must be taken
1481 within a reasonable time, as provided by the political
1482 subdivision or its administrative agency, by filing with the
1483 entity from which appeal is taken a notice of appeal specifying
1484 the grounds for appeal.
1485 (c) An appeal stays all proceedings in the underlying
1486 action, unless the entity from which the appeal is taken
1487 certifies pursuant to the rules for appeal that by reason of the
1488 facts stated in the certificate, a stay would, in its opinion,
1489 cause imminent peril to life or property. In that case,
1490 proceedings may not be stayed except by an order of the
1491 political subdivision or its administrative agency following
1492 notice to the entity from which the appeal is taken and on good
1493 cause shown.
1494 (d) The political subdivision or its administrative agency
1495 must set a reasonable time for the hearing of appeals, give
1496 public notice and due notice to the parties in interest, and
1497 decide the same within a reasonable time. At the hearing, a
1498 party may appear in person, by agent, or by attorney.
1499 (e) The political subdivision or its administrative agency
1500 may, in conformity with the provisions of this chapter, reverse,
1501 affirm, or modify the underlying order, requirement, decision,
1502 or determination from which the appeal is taken.
1503 Section 22. Section 333.10, Florida Statutes, is repealed.
1504 Section 23. Section 333.11, Florida Statutes, is amended to
1505 read:
1506 333.11 Judicial review.—
1507 (1) Any person, ~~aggrieved, or taxpayer affected, by any~~
1508 ~~decision of a board of adjustment, or any governing body of a~~

1509 political subdivision or its administrative agency, or ~~the~~
1510 ~~Department of Transportation or~~ any joint airport zoning board
1511 affected by a decision of a political subdivision~~,~~ or its ~~of any~~
1512 administrative agency ~~hereunder~~, may apply for judicial relief
1513 to the circuit court in the judicial circuit where the political
1514 subdivision ~~board of adjustment~~ is located within 30 days after
1515 rendition of the decision ~~by the board of adjustment~~. Review
1516 shall be by petition for writ of certiorari, which shall be
1517 governed by the Florida Rules of Appellate Procedure.
1518 ~~(2) Upon presentation of such petition to the court, it may~~
1519 ~~allow a writ of certiorari, directed to the board of adjustment,~~
1520 ~~to review such decision of the board. The allowance of the writ~~
1521 ~~shall not stay the proceedings upon the decision appealed from,~~
1522 ~~but the court may, on application, on notice to the board, on~~
1523 ~~due hearing and due cause shown, grant a restraining order.~~
1524 ~~(3) The board of adjustment shall not be required to return~~
1525 ~~the original papers acted upon by it, but it shall be sufficient~~
1526 ~~to return certified or sworn copies thereof or of such portions~~
1527 ~~thereof as may be called for by the writ. The return shall~~
1528 ~~concisely set forth such other facts as may be pertinent and~~
1529 ~~material to show the grounds of the decision appealed from and~~
1530 ~~shall be verified.~~
1531 (2) ~~(4)~~ The court shall have exclusive jurisdiction to
1532 affirm, modify, or set aside the decision brought up for review~~,~~
1533 ~~in whole or in part,~~ and if need be, to order further
1534 proceedings by the political subdivision or its administrative
1535 agency ~~board of adjustment~~. The findings of fact by the
1536 political subdivision or its administrative agency ~~board~~, if
1537 supported by substantial evidence, shall be accepted by the

1538 court as conclusive. An~~, and no~~ objection to a decision of the
1539 political subdivision or its administrative agency may not ~~board~~
1540 ~~shall~~ be considered by the court unless such objection was
1541 raised in the underlying proceeding ~~shall have been urged before~~
1542 ~~the board, or, if it was not so urged, unless there were~~
1543 ~~reasonable grounds for failure to do so~~.
1544 (3) ~~(5)~~ If ~~In any case in which~~ airport zoning regulations
1545 adopted under this chapter~~, although generally reasonable,~~ are
1546 held by a court to interfere with the use and enjoyment of a
1547 particular structure or parcel of land to such an extent, or to
1548 be so onerous in their application to such a structure or parcel
1549 of land, as to constitute a taking or deprivation of that
1550 property in violation of the State Constitution or the
1551 Constitution of the United States, such holding shall not affect
1552 the application of such regulations to other structures and
1553 parcels of land, or such regulations as are not involved in the
1554 particular decision.
1555 (4) ~~(6)~~ ~~No~~ Judicial appeal ~~shall be or~~ is not permitted
1556 under this section~~,~~ to any courts until the appellant has
1557 exhausted all its remedies through application for local
1558 government permits, exceptions, and appeals~~, as herein provided,~~
1559 ~~save and except an appeal from a decision of the board of~~
1560 ~~adjustment, the appeal herein provided being from such final~~
1561 ~~decision of such board only, the appellant being hereby required~~
1562 ~~to exhaust his or her remedies hereunder of application for~~
1563 ~~permits, exceptions and variances, and appeal to the board of~~
1564 ~~adjustment, and gaining a determination by said board, before~~
1565 ~~being permitted to appeal to the court hereunder~~.
1566 Section 24. Section 333.12, Florida Statutes, is amended to

1567 read:
1568 333.12 Acquisition of air rights.—When ~~In any case which:~~
1569 ~~it is desired to remove, lower or otherwise terminate~~ a
1570 nonconforming structure or use presents an air hazard and the
1571 structure cannot be removed, lowered, or otherwise terminated;
1572 or the approach protection necessary cannot, because of
1573 constitutional limitations, be provided by airport regulations
1574 under this chapter; or it appears advisable that the necessary
1575 approach protection be provided by acquisition of property
1576 rights rather than by airport zoning regulations, the political
1577 subdivision within which the property or nonconforming use is
1578 located, or the political subdivision owning or operating the
1579 airport or being served by it, may acquire, by purchase, grant,
1580 or condemnation in the manner provided by chapter 73, such air
1581 right, avigation ~~navigation~~ easement conveying the airspace over
1582 another property for use by the airport, or other estate,
1583 portion or interest in the property or nonconforming structure
1584 or use or such interest in the air above such property,
1585 vegetation ~~tree~~, structure, or use, in question, as may be
1586 necessary to effectuate the purposes of this chapter, and in so
1587 doing, if by condemnation, to have the right to take immediate
1588 possession of the property, interest in property, air right, or
1589 other right sought to be condemned, at the time, and in the
1590 manner and form, and as authorized by chapter 74. In the case of
1591 the purchase of any property, ~~or any~~ easement, or estate or
1592 interest therein or the acquisition of the same by the power of
1593 eminent domain, the political subdivision making such purchase
1594 or exercising such power shall in addition to the damages for
1595 the taking, injury, or destruction of property also pay the cost

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1596 of the removal and relocation of any structure or any public
1597 utility which is required to be moved to a new location.
1598 Section 25. Section 333.135, Florida Statutes, is created
1599 to read:
1600 333.135 Transition provisions.—
1601 (1) A provision of an airport zoning regulation in effect
1602 on July 1, 2015, that conflicts with this chapter must be
1603 amended to conform to the requirements of this chapter by July
1604 1, 2016.
1605 (2) By October 1, 2017, a political subdivision having an
1606 airport within its territorial limits, which has not adopted
1607 airport zoning regulations, must adopt airport zoning
1608 regulations which are consistent with this chapter.
1609 (3) For those political subdivisions that have not yet
1610 adopted airport zoning regulations pursuant to this chapter, the
1611 department shall administer the permitting process as provided
1612 in s. 333.025.
1613 Section 26. Section 333.14, Florida Statutes, is repealed.
1614 Section 27. Subsections (36) and (37) of section 334.03,
1615 Florida Statutes, are amended to read:
1616 334.03 Definitions.—When used in the Florida Transportation
1617 Code, the term:
1618 (36) "511" or "511 services" means all ~~three-digit~~
1619 ~~telecommunications dialing to access interactive voice response~~
1620 ~~telephone~~ traveler information services provided in the state to
1621 include, but not be limited to, the terms ~~as~~ defined by the
1622 Federal Communications Commission in FCC Order No. 00-256, July
1623 31, 2000.
1624 ~~(37) "Interactive voice response" means a software~~

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1625 ~~application that accepts a combination of voice telephone input~~
1626 ~~and touch-tone keypad selection and provides appropriate~~
1627 ~~responses in the form of voice, fax, callback, e-mail, and other~~
1628 ~~media.~~
1629 Section 28. Subsection (31) of section 334.044, Florida
1630 Statutes, is amended, and subsection (34) of that section is
1631 created, to read:
1632 334.044 Department; powers and duties.—The department shall
1633 have the following general powers and duties:
1634 (31) To provide oversight of traveler information systems
1635 ~~that may include the provision of interactive voice response~~
1636 ~~telephone systems accessible~~ via ~~the~~ 511 services ~~number~~ as
1637 assigned by the Federal Communications Commission for traveler
1638 information services. The department shall ensure that uniform
1639 standards and criteria for the collection and dissemination of
1640 traveler information are applied ~~using interactive voice~~
1641 ~~response systems~~.
1642 (34) The department may assume responsibilities of the
1643 United States Department of Transportation with respect to
1644 highway projects within the state under the National
1645 Environmental Policy Act of 1969 (42 U.S.C. s. 4321 et seq.) and
1646 with respect to related responsibilities for environmental
1647 review, consultation, or other action required under any federal
1648 environmental law pertaining to review or approval of a highway
1649 project within the state. The department may assume
1650 responsibilities under 23 U.S.C. s. 327 and enter into one or
1651 more agreements, including memoranda of understanding, with the
1652 United States Secretary of Transportation related to the federal
1653 surface transportation project delivery program for the delivery

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1654 of highway projects, as provided by 23 U.S.C. s. 327. The
1655 department may adopt rules to implement this subsection and may
1656 adopt relevant federal environmental standards as the standards
1657 for this state for a program described in this subsection.
1658 Sovereign immunity to civil suit in federal court is waived
1659 consistent with 23 U.S.C. s. 327 and limited to the compliance,
1660 discharge, or enforcement of a responsibility assumed by the
1661 department under this subsection.
1662 Section 29. Section 334.60, Florida Statutes, is amended to
1663 read:
1664 334.60 511 traveler information system.—The department is
1665 the state's lead agency for implementing 511 services and is the
1666 state's point of contact for coordinating all 511 services ~~with~~
1667 ~~telecommunications service providers~~.
1668 (1) The department shall:
1669 (a) ~~(1)~~ Implement and administer 511 services in the state;
1670 (b) ~~(2)~~ Coordinate with other transportation authorities in
1671 the state to provide multimodal traveler information through 511
1672 services and other means;
1673 (c) ~~(3)~~ Develop uniform standards and criteria for the
1674 collection and dissemination of traveler information using ~~the~~
1675 511 services ~~number or other interactive voice response systems~~;
1676 and
1677 (d) ~~(4)~~ Enter into joint participation agreements or
1678 contracts with highway authorities and public transit districts
1679 to share the costs of implementing and administering 511
1680 services in the state. The department may also enter into other
1681 agreements or contracts with private firms relating to the 511
1682 services to offset the costs of implementing and administering

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1683 511 services in the state.
1684 (2) The department shall adopt rules to administer the
1685 coordination of 511 traveler information ~~phone~~ services in the
1686 state.
1687 Section 30. Subsections (3) and (4) of section 335.065,
1688 Florida Statutes, are amended to read:
1689 335.065 Bicycle and pedestrian ways along state roads and
1690 transportation facilities.—
1691 (3) The department, in cooperation with the Department of
1692 Environmental Protection, shall establish a statewide integrated
1693 system of bicycle and pedestrian ways in such a manner as to
1694 take full advantage of any such ways which are maintained by any
1695 governmental entity. ~~The department may enter into a concession~~
1696 ~~agreement with a not-for-profit entity or private sector~~
1697 ~~business or entity for commercial sponsorship displays on~~
1698 ~~multiuse trails and related facilities and use any concession~~
1699 ~~agreement revenues for the maintenance of the multiuse trails~~
1700 ~~and related facilities. Commercial sponsorship displays are~~
1701 ~~subject to the requirements of the Highway Beautification Act of~~
1702 ~~1965 and all federal laws and agreements, when applicable. For~~
1703 ~~the purposes of this section, bicycle facilities may be~~
1704 ~~established as part of or separate from the actual roadway and~~
1705 ~~may utilize existing road rights-of-way or other rights-of-way~~
1706 ~~or easements acquired for public use.~~
1707 ~~(a) A concession agreement shall be administered by the~~
1708 ~~department and must include the requirements of this section.~~
1709 ~~(b)1. Signage or displays erected under this section shall~~
1710 ~~comply with s. 337.407 and chapter 479 and shall be limited as~~
1711 ~~follows:~~

1712 ~~a. One large sign or display, not to exceed 16 square feet~~
1713 ~~in area, may be located at each trailhead or parking area.~~
1714 ~~b. One small sign or display, not to exceed 4 square feet~~
1715 ~~in area, may be located at each designated trail public access~~
1716 ~~point.~~
1717 ~~2. Before installation, each name or sponsorship display~~
1718 ~~must be approved by the department.~~
1719 ~~3. The department shall ensure that the size, color,~~
1720 ~~materials, construction, and location of all signs are~~
1721 ~~consistent with the management plan for the property and the~~
1722 ~~standards of the department, do not intrude on natural and~~
1723 ~~historic settings, and contain only a logo selected by the~~
1724 ~~sponsor and the following sponsorship wording:~~
1725
1726 ~~...(Name of the sponsor)... proudly sponsors the costs~~
1727 ~~of maintaining the ...(Name of the greenway or~~
1728 ~~trail)....~~
1729
1730 ~~4. All costs of a display, including development,~~
1731 ~~construction, installation, operation, maintenance, and removal~~
1732 ~~costs, shall be paid by the concessionaire.~~
1733 ~~(c) A concession agreement shall be for a minimum of 1~~
1734 ~~year, but may be for a longer period under a multiyear~~
1735 ~~agreement, and may be terminated for just cause by the~~
1736 ~~department upon 60 days' advance notice. Just cause for~~
1737 ~~termination of a concession agreement includes, but is not~~
1738 ~~limited to, violation of the terms of the concession agreement~~
1739 ~~or this section.~~
1740 ~~(4)(a) The department may use appropriated funds to support~~

1741 ~~the establishment of a statewide system of interconnected~~
1742 ~~multiuse trails and to pay the costs of planning, land~~
1743 ~~acquisition, design, and construction of such trails and related~~
1744 ~~facilities. The department shall give funding priority to~~
1745 ~~projects that:~~
1746 ~~1. Are identified by the Florida Greenways and Trails~~
1747 ~~Council as a priority within the Florida Greenways and Trails~~
1748 ~~System under chapter 260.~~
1749 ~~2. Support the transportation needs of bicyclists and~~
1750 ~~pedestrians.~~
1751 ~~3. Have national, statewide, or regional importance.~~
1752 ~~4. Facilitate an interconnected system of trails by~~
1753 ~~completing gaps between existing trails.~~
1754 ~~(b) A project funded under this subsection shall:~~
1755 ~~1. Be included in the department's work program developed~~
1756 ~~in accordance with s. 339.135.~~
1757 ~~2. Be operated and maintained by an entity other than the~~
1758 ~~department upon completion of construction. The department is~~
1759 ~~not obligated to provide funds for the operation and maintenance~~
1760 ~~of the project.~~
1761 Section 31. Section 335.21, Florida Statutes, is created to
1762 read:
1763 335.21 Governing bodies of independent special districts
1764 regulating the operation of public vehicles on public highways.—
1765 Notwithstanding any provision of local law, the membership of
1766 the governing body of any independent special district created
1767 for the purpose of regulating the operation of public vehicles
1768 upon the public highways under the jurisdiction of any such
1769 independent special district shall consist of seven members.

1770 Four members shall be appointed by the Governor, one member
1771 shall be appointed by the governing body of the largest
1772 municipality situated within the jurisdiction of the independent
1773 special district, and two members shall be appointed by the
1774 governing body of the county in which the independent special
1775 district has jurisdiction. All appointees must be residents of
1776 the county in which the independent special district has
1777 jurisdiction. This section does not apply to any entity
1778 authorized under s. 163.567 or under chapter 343, chapter 348,
1779 or chapter 349.
1780 Section 32. Subsection (4) of section 338.165, Florida
1781 Statutes, is amended to read:
1782 338.165 Continuation of tolls.—
1783 (4) Notwithstanding any other law to the contrary, pursuant
1784 to s. 11, Art. VII of the State Constitution, and subject to the
1785 requirements of subsection (2), the Department of Transportation
1786 may request the Division of Bond Finance to issue bonds secured
1787 by toll revenues collected on the Alligator Alley, the Sunshine
1788 Skyway Bridge~~, the Beeline-East Expressway, the Navarre Bridge,~~
1789 and the Pinellas Bayway to fund transportation projects located
1790 within the county or counties in which the project is located
1791 and contained in the adopted work program of the department.
1792 Section 33. Subsection (5) is added to section 338.227,
1793 Florida Statutes, to read:
1794 338.227 Turnpike revenue bonds.—
1795 (5) Notwithstanding s. 215.82, bonds issued pursuant to
1796 this section are not required to be validated pursuant to
1797 chapter 75, but may be validated at the option of the Division
1798 of Bond Finance. Any complaint for such validation must be filed

1799 in the circuit court of the county where the seat of state
1800 government is situated. The notice required to be published by
1801 s. 75.06 must be published only in the county where the
1802 complaint is filed. The complaint and order of the circuit court
1803 shall be served only on the state attorney of the circuit in
1804 which the action is pending.
1805 Section 34. Paragraph (c) of subsection (3) of section
1806 338.231, Florida Statutes, and subsections (5) and (6) of that
1807 section, are amended to read:
1808 338.231 Turnpike tolls, fixing; pledge of tolls and other
1809 revenues.—The department shall at all times fix, adjust, charge,
1810 and collect such tolls and amounts for the use of the turnpike
1811 system as are required in order to provide a fund sufficient
1812 with other revenues of the turnpike system to pay the cost of
1813 maintaining, improving, repairing, and operating such turnpike
1814 system; to pay the principal of and interest on all bonds issued
1815 to finance or refinance any portion of the turnpike system as
1816 the same become due and payable; and to create reserves for all
1817 such purposes.
1818 (3)
1819 (c) Notwithstanding any other provision of law to the
1820 contrary, any prepaid toll account of any kind which has
1821 remained inactive for 10 ~~3~~ years shall be presumed unclaimed and
1822 its disposition shall be handled by the Department of Financial
1823 Services in accordance with all applicable provisions of chapter
1824 717 relating to the disposition of unclaimed property, and the
1825 prepaid toll account shall be closed by the department.
1826 ~~(5) In each fiscal year while any of the bonds of the~~
1827 ~~Broward County Expressway Authority series 1984 and series 1986-~~

1828 ~~A remain outstanding, the department is authorized to pledge~~
1829 ~~revenues from the turnpike system to the payment of principal~~
1830 ~~and interest of such series of bonds and the operation and~~
1831 ~~maintenance expenses of the Sawgrass Expressway, to the extent~~
1832 ~~gross toll revenues of the Sawgrass Expressway are insufficient~~
1833 ~~to make such payments. The terms of an agreement relative to the~~
1834 ~~pledge of turnpike system revenue will be negotiated with the~~
1835 ~~parties of the 1984 and 1986 Broward County Expressway Authority~~
1836 ~~lease-purchase agreements, and subject to the covenants of those~~
1837 ~~agreements. The agreement must establish that the Sawgrass~~
1838 ~~Expressway is subject to the planning, management, and operating~~
1839 ~~control of the department limited only by the terms of the~~
1840 ~~lease purchase agreements. The department shall provide for the~~
1841 ~~payment of operation and maintenance expenses of the Sawgrass~~
1842 ~~Expressway until such agreement is in effect. This pledge of~~
1843 ~~turnpike system revenues is subordinate to the debt service~~
1844 ~~requirements of any future issue of turnpike bonds, the payment~~
1845 ~~of turnpike system operation and maintenance expenses, and~~
1846 ~~subject to any subsequent resolution or trust indenture relating~~
1847 ~~to the issuance of such turnpike bonds.~~
1848 (5) ~~(6)~~ The use and disposition of revenues pledged to bonds
1849 are subject to ss. 338.22-338.241 and such regulations as the
1850 resolution authorizing the issuance of the bonds or such trust
1851 agreement may provide.
1852 Section 35. Paragraph (c) of subsection (7) of section
1853 339.175, Florida Statutes, is amended to read:
1854 339.175 Metropolitan planning organization.—
1855 (7) LONG-RANGE TRANSPORTATION PLAN.—Each M.P.O. must
1856 develop a long-range transportation plan that addresses at least

1857 a 20-year planning horizon. The plan must include both long-
1858 range and short-range strategies and must comply with all other
1859 state and federal requirements. The prevailing principles to be
1860 considered in the long-range transportation plan are: preserving
1861 the existing transportation infrastructure; enhancing Florida's
1862 economic competitiveness; and improving travel choices to ensure
1863 mobility. The long-range transportation plan must be consistent,
1864 to the maximum extent feasible, with future land use elements
1865 and the goals, objectives, and policies of the approved local
1866 government comprehensive plans of the units of local government
1867 located within the jurisdiction of the M.P.O. Each M.P.O. is
1868 encouraged to consider strategies that integrate transportation
1869 and land use planning to provide for sustainable development and
1870 reduce greenhouse gas emissions. The approved long-range
1871 transportation plan must be considered by local governments in
1872 the development of the transportation elements in local
1873 government comprehensive plans and any amendments thereto. The
1874 long-range transportation plan must, at a minimum:
1875 (c) Assess capital investment and other measures necessary
1876 to:
1877 1. Ensure the preservation of the existing metropolitan
1878 transportation system including requirements for the operation,
1879 resurfacing, restoration, and rehabilitation of major roadways
1880 and requirements for the operation, maintenance, modernization,
1881 and rehabilitation of public transportation facilities; and
1882 2. Make the most efficient use of existing transportation
1883 facilities to relieve vehicular congestion, improve safety, and
1884 maximize the mobility of people and goods. Such efforts shall
1885 include, but not be limited to, consideration of infrastructure

1886 and technological improvements necessary to accommodate advances
1887 in vehicle technology, such as autonomous vehicle technology and
1888 other developments.
1889
1890 In the development of its long-range transportation plan, each
1891 M.P.O. must provide the public, affected public agencies,
1892 representatives of transportation agency employees, freight
1893 shippers, providers of freight transportation services, private
1894 providers of transportation, representatives of users of public
1895 transit, and other interested parties with a reasonable
1896 opportunity to comment on the long-range transportation plan.
1897 The long-range transportation plan must be approved by the
1898 M.P.O.
1899 Section 36. Paragraph (c) is added to subsection (3) of
1900 section 339.64, Florida Statutes, and paragraph (a) of
1901 subsection (4) of that section is amended, to read:
1902 339.64 Strategic Intermodal System Plan.—
1903 (3)
1904 (c) The department also shall coordinate with federal,
1905 regional, and local partners, as well as industry
1906 representatives, to consider infrastructure and technological
1907 improvements necessary to accommodate advances in vehicle
1908 technology, such as autonomous vehicle technology and other
1909 developments, in Strategic Intermodal System facilities.
1910 (4) The Strategic Intermodal System Plan shall include the
1911 following:
1912 (a) A needs assessment. Such assessment shall include, but
1913 not be limited to, consideration of infrastructure and
1914 technological improvements necessary to accommodate advances in

1915 vehicle technology, such as autonomous vehicle technology and
1916 other developments.
1917 Section 37. Section 339.81, Florida Statutes, is created to
1918 read:
1919 339.81 Florida Shared-Use Nonmotorized Trail Network.—
1920 (1) The Florida Shared-Use Nonmotorized Trail Network is
1921 created as a component of the Florida Greenways and Trails
1922 System established in chapter 260. The network consists of
1923 multiuse trails or shared-use paths physically separated from
1924 motor vehicle traffic and constructed with asphalt, concrete, or
1925 another hard surface which, by virtue of design, location,
1926 extent of connectivity or potential connectivity, and allowable
1927 uses, provide nonmotorized transportation opportunities for
1928 bicyclists and pedestrians between and within a wide range of
1929 points of origin and destinations, including, but not limited
1930 to, communities, conservation areas, state parks, beaches, and
1931 other natural or cultural attractions for a variety of trip
1932 purposes, including work, school, shopping, and other personal
1933 business, as well as social, recreational, and personal fitness
1934 purposes.
1935 (2) Network components do not include sidewalks, nature
1936 trails, loop trails wholly within a single park or natural area,
1937 or on-road facilities, such as bicycle lanes or routes other
1938 than:
1939 (a) On-road facilities that are no greater than one-half
1940 mile in length connecting two or more nonmotorized trails, if
1941 the provision of non-road facilities is unfeasible and if such
1942 on-road facilities are signed and marked for nonmotorized use;
1943 or

1944 (b) On-road components of the Florida Keys Overseas
1945 Heritage Trail.
1946 (3) The department shall include a project to be
1947 constructed as part of the Shared-Use Nonmotorized Trail Network
1948 in its work program developed pursuant to s. 339.135.
1949 (4) The planning, development, operation, and maintenance
1950 of the Shared-Use Nonmotorized Trail Network is declared to be a
1951 public purpose, and the department, together with other agencies
1952 of this state and all counties, municipalities, and special
1953 districts of this state, may spend public funds for such
1954 purposes and may accept gifts and grants of funds, property, or
1955 property rights from public or private sources to be used for
1956 such purposes.
1957 (5) The department may enter into a memorandum of agreement
1958 with a local government or other agency of the state to transfer
1959 maintenance responsibilities of an individual network component.
1960 The department may contract with a not-for-profit entity or
1961 private sector business or entity to provide maintenance
1962 services on an individual network component.
1963 (6) The department may adopt rules to aid in the
1964 development and maintenance of components of the network.
1965 Section 38. Section 339.82, Florida Statutes, is created to
1966 read:
1967 339.82 Shared-Use Nonmotorized Trail Network Plan.—
1968 (1) The department shall develop a Shared-Use Nonmotorized
1969 Trail Network Plan in coordination with the Department of
1970 Environmental Protection, metropolitan planning organizations,
1971 affected local governments and public agencies, and the Florida
1972 Greenways and Trails Council. The plan must be consistent with

1973 the Florida Greenways and Trails Plan developed under s. 260.014
1974 and must be updated at least once every 5 years.
1975 (2) The Shared-Use Nonmotorized Trail Network Plan must
1976 include all of the following:
1977 (a) A needs assessment, including, but not limited to, a
1978 comprehensive inventory and analysis of existing trails that may
1979 be considered for inclusion in the Shared-Use Nonmotorized Trail
1980 Network.
1981 (b) A project prioritization process that includes
1982 assigning funding priority to projects that:
1983 1. Are identified by the Florida Greenways and Trails
1984 Council as a priority within the Florida Greenways and Trails
1985 System under chapter 260;
1986 2. Facilitate an interconnected network of trails by
1987 completing gaps between existing facilities; and
1988 3. Maximize use of federal, local, and private funding and
1989 support mechanisms, including, but not limited to, donation of
1990 funds, real property, and maintenance responsibilities.
1991 (c) A map illustrating existing and planned facilities and
1992 identifying critical gaps between facilities.
1993 (d) A finance plan based on reasonable projections of
1994 anticipated revenues, including both 5-year and 10-year cost-
1995 feasible components.
1996 (e) Performance measures that include quantifiable
1997 increases in trail network access and connectivity.
1998 (f) A timeline for the completion of the base network using
1999 new and existing data from the department, the Department of
2000 Environmental Protection, and other sources.
2001 (g) A marketing plan prepared in consultation with the

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2002 Florida Tourism Industry Marketing Corporation.
2003 Section 39. Section 339.83, Florida Statutes, is created to
2004 read:
2005 339.83 Sponsorship of Shared-Use Nonmotorized Trails.—
2006 (1) The department may enter into a concession agreement
2007 with a not-for-profit entity or private sector business or
2008 entity for commercial sponsorship signs, pavement markings, and
2009 exhibits on nonmotorized trails and related facilities
2010 constructed as part of the Shared-Use Nonmotorized Trail
2011 Network. The concession agreement may also provide for
2012 recognition of trail sponsors in any brochure, map, or website
2013 providing trail information. Trail websites may provide links to
2014 sponsors. Revenue from such agreements may be used for the
2015 maintenance of the nonmotorized trails and related facilities.
2016 (a) A concession agreement shall be administered by the
2017 department.
2018 (b)1. Signage, pavement markings, or exhibits erected
2019 pursuant to this section must comply with s. 337.407 and chapter
2020 479 and are limited as follows:
2021 a. One large sign, pavement marking, or exhibit, not to
2022 exceed 16 square feet in area, may be located at each trailhead
2023 or parking area.
2024 b. One small sign, pavement marking, or exhibit, not to
2025 exceed 4 square feet in area, may be located at each designated
2026 trail public access point where parking is not provided.
2027 c. Pavement markings denoting specified distances must be
2028 located at least 1 mile apart.
2029 2. Before installation, each sign, pavement marking, or
2030 exhibit must be approved by the department.

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2031 3. The department shall ensure that the size, color,
2032 materials, construction, and location of all signs, pavement
2033 markings, and exhibits are consistent with the management plan
2034 for the property and the standards of the department, do not
2035 intrude on natural and historic settings, and contain a logo
2036 selected by the sponsor and the following sponsorship wording:
2037
2038 ...(Name of the sponsor)... proudly sponsors the costs
2039 of maintaining the ...(Name of the greenway or
2040 trail)....
2041
2042 4. Exhibits may provide additional information and
2043 materials including, but not limited to, maps and brochures for
2044 trail user services related or proximate to the trail. Pavement
2045 markings may display mile marker information.
2046 5. The costs of a sign, pavement marking, or exhibit,
2047 including development, construction, installation, operation,
2048 maintenance, and removal costs, shall be paid by the
2049 concessionaire.
2050 (c) A concession agreement shall be for a minimum of 1
2051 year, but may be for a longer period under a multiyear
2052 agreement, and may be terminated for just cause by the
2053 department upon 60 days' advance notice. Just cause for
2054 termination of a concession agreement includes, but is not
2055 limited to, violation of the terms of the concession agreement
2056 or this section.
2057 (2) Pursuant to s. 287.057, the department may contract for
2058 the provision of services related to the trail sponsorship
2059 program, including recruitment and qualification of businesses,

2060 review of applications, permit issuance, and fabrication,
2061 installation, and maintenance of signs, pavement markings, and
2062 exhibits. The department may reject all proposals and seek
2063 another request for proposals or otherwise perform the work. The
2064 contract may allow the contractor to retain a portion of the
2065 annual fees as compensation for its services.
2066 (3) This section does not create a proprietary or
2067 compensable interest in any sponsorship site or location for any
2068 permittee, and the department may terminate permits or change
2069 locations of sponsorship sites as it determines necessary for
2070 construction or improvement of facilities.
2071 (4) The department may adopt rules to establish
2072 requirements for qualification of businesses, qualification and
2073 location of sponsorship sites, and permit applications and
2074 processing. The department may adopt rules to establish other
2075 criteria necessary to implement this section and to provide for
2076 variances when necessary to serve the interest of the public or
2077 when required to ensure equitable treatment of program
2078 participants.
2079 Section 40. (1) The Office of Economic and Demographic
2080 Research shall evaluate and determine the economic benefits, as
2081 defined in s. 288.005(1), Florida Statutes, of the state's
2082 investment in the Department of Transportation's adopted work
2083 program developed in accordance with s. 339.135(5), Florida
2084 Statutes, for fiscal year 2015-2016, including the following 4
2085 fiscal years. At a minimum, a separate return on investment
2086 shall be projected for each of the following areas:
2087 (a) Roads and highways;
2088 (b) Rails;

2089 (c) Public transit;
2090 (d) Aviation; and
2091 (e) Seaports.
2092
2093 The analysis is limited to the funding anticipated by the
2094 adopted work program, but may address the continuing economic
2095 impact for those transportation projects in the 5 years beyond
2096 the conclusion of the adopted work program. The analysis must
2097 also evaluate the number of jobs created, the increase or
2098 decrease in personal income, and the impact on gross domestic
2099 product from the direct, indirect, and induced effects on the
2100 state's investment in each area.
2101 (2) The Department of Transportation and each of its
2102 district offices shall provide the Office of Economic and
2103 Demographic Research full access to all data necessary to
2104 complete the analysis, including any confidential data.
2105 (3) The Office of Economic and Demographic Research shall
2106 submit the analysis to the President of the Senate and the
2107 Speaker of the House of Representatives by January 1, 2016.
2108 Section 41. Section 341.0532, Florida Statutes, is
2109 repealed.
2110 Section 42. The Division of Law Revision and Information is
2111 directed to create chapter 345, Florida Statutes, consisting of
2112 ss. 345.0001-345.0014, Florida Statutes, to be entitled the
2113 "Northwest Florida Regional Transportation Finance Authority."
2114 Section 43. Section 345.0001, Florida Statutes, is created
2115 to read:
2116 345.0001 Short title.—This act may be cited as the
2117 "Northwest Florida Regional Transportation Finance Authority

2118 Act."
2119 Section 44. Section 345.0002, Florida Statutes, is created
2120 to read:
2121 345.0002 Definitions.—As used in this chapter, the term:
2122 (1) "Agency of the state" means the state and any
2123 department of, or any corporation, agency, or instrumentality
2124 created, designated, or established by, the state.
2125 (2) "Area served" means Escambia County. However, upon a
2126 contiguous county's consent to inclusion within the area served
2127 by the authority and with the agreement of the authority, the
2128 term shall also include the geographical area of such county
2129 contiguous to Escambia County.
2130 (3) "Authority" means the Northwest Florida Regional
2131 Transportation Finance Authority, a body politic and corporate,
2132 and an agency of the state, established under this chapter.
2133 (4) "Bonds" means the notes, bonds, refunding bonds, or
2134 other evidences of indebtedness or obligations, in temporary or
2135 definitive form, which the authority may issue under this
2136 chapter.
2137 (5) "Department" means the Department of Transportation.
2138 (6) "Division" means the Division of Bond Finance of the
2139 State Board of Administration.
2140 (7) "Federal agency" means the United States, the President
2141 of the United States, and any department of, or any bureau,
2142 corporation, agency, or instrumentality created, designated, or
2143 established by, the United States Government.
2144 (8) "Members" means the governing body of the authority,
2145 and the term "member" means one of the individuals constituting
2146 such governing body.

2147 (9) "Regional system" or "system" means, generally, a
2148 modern system of roads, bridges, causeways, tunnels, and mass
2149 transit services within the area of the authority, with access
2150 limited or unlimited as the authority may determine, and the
2151 buildings and structures and appurtenances and facilities
2152 related to the system, including all approaches, streets, roads,
2153 bridges, and avenues of access for the system.
2154 (10) "Revenues" means the tolls, revenues, rates, fees,
2155 charges, receipts, rentals, contributions, and other income
2156 derived from or in connection with the operation or ownership of
2157 a regional system, including the proceeds of any use and
2158 occupancy insurance on any portion of the system, but excluding
2159 state funds available to the authority and any other municipal
2160 or county funds available to the authority under an agreement
2161 with a municipality or county.
2162 Section 45. Section 18. Section 345.0003, Florida Statutes,
2163 is created to read:
2164 345.0003 Regional transportation finance authority
2165 formation and membership.—
2166 (1) Escambia County, alone or together with any consenting
2167 contiguous county, may form a regional finance authority for the
2168 purposes of constructing, maintaining, and operating
2169 transportation projects in the northwest region of this state.
2170 The authority shall be governed in accordance with this chapter.
2171 The area served by the authority may not be expanded beyond
2172 Escambia County without the approval of the county commission of
2173 each contiguous county that will be a part of the authority.
2174 (2) The governing body of the authority shall consist of a
2175 board of voting members as follows:

2176 (a) The county commission of each county in the area served
2177 by the authority shall appoint two members. Each member must be
2178 a resident of the county from which he or she is appointed and,
2179 if possible, must represent the business and civic interests of
2180 the community.
2181 (b) The Governor shall appoint an equal number of members
2182 to the board as those appointed by the county commissions. The
2183 members appointed by the Governor must be residents of the area
2184 served by the authority.
2185 (c) The district secretary of the department serving in the
2186 district that includes Escambia County.
2187 (3) The term of office of each member shall be for 4 years
2188 or until his or her successor is appointed and qualified.
2189 (4) A member may not hold an elected office during the term
2190 of his or her membership.
2191 (5) A vacancy occurring in the governing body before the
2192 expiration of the member's term shall be filled for the
2193 remainder of the unexpired term by the respective appointing
2194 authority in the same manner as the original appointment.
2195 (6) Before entering upon his or her official duties, each
2196 member must take and subscribe to an oath before an official
2197 authorized by law to administer oaths that he or she will
2198 honestly, faithfully, and impartially perform the duties of his
2199 or her office as a member of the governing body of the authority
2200 and that he or she will not neglect any duties imposed on him or
2201 her by this chapter.
2202 (7) The Governor may remove from office a member of the
2203 authority for misconduct, malfeasance, misfeasance, or
2204 nonfeasance in office.

2205 (8) Members of the authority shall designate a chair from
2206 among the membership.
2207 (9) Members of the authority shall serve without
2208 compensation, but are entitled to reimbursement for per diem and
2209 other expenses in accordance with s. 112.061 while in
2210 performance of their official duties.
2211 (10) A majority of the members of the authority shall
2212 constitute a quorum, and resolutions enacted or adopted by a
2213 vote of a majority of the members present and voting at any
2214 meeting are effective without publication, posting, or any
2215 further action of the authority.
2216 Section 46. Section 345.0004, Florida Statutes, is created
2217 to read:
2218 345.0004 Powers and duties.—
2219 (1) The authority shall plan, develop, finance, construct,
2220 reconstruct, improve, own, operate, and maintain a regional
2221 system in the area served by the authority. The authority may
2222 not exercise these powers with respect to an existing system for
2223 transporting people and goods by any means that is owned by
2224 another entity without the consent of that entity. If the
2225 authority acquires, purchases, or inherits an existing entity,
2226 the authority shall inherit and assume all rights, assets,
2227 appropriations, privileges, and obligations of the existing
2228 entity.
2229 (2) The authority may exercise all powers necessary,
2230 appurtenant, convenient, or incidental to the carrying out of
2231 the purposes of this section, including, but not limited to, the
2232 following rights and powers:
2233 (a) To sue and be sued, implead and be impleaded, and

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2234 complain and defend in all courts in its own name.
2235 (b) To adopt and use a corporate seal.
2236 (c) To have the power of eminent domain, including the
2237 procedural powers granted under chapters 73 and 74.
2238 (d) To acquire, purchase, hold, lease as a lessee, and use
2239 any property, real, personal, or mixed, tangible or intangible,
2240 or any interest therein, necessary or desirable for carrying out
2241 the purposes of the authority.
2242 (e) To sell, convey, exchange, lease, or otherwise dispose
2243 of any real or personal property acquired by the authority,
2244 including air rights, which the authority and the department
2245 have determined is not needed for the construction, operation,
2246 and maintenance of the system.
2247 (f) To fix, alter, charge, establish, and collect rates,
2248 fees, rentals, and other charges for the use of any system owned
2249 or operated by the authority, which rates, fees, rentals, and
2250 other charges must be sufficient to comply with any covenants
2251 made with the holders of any bonds issued under this act. This
2252 right and power may be assigned or delegated by the authority to
2253 the department.
2254 (g) To borrow money; to make and issue negotiable notes,
2255 bonds, refunding bonds, and other evidences of indebtedness or
2256 obligations, in temporary or definitive form, to finance all or
2257 part of the improvement of the authority's system and
2258 appurtenant facilities, including the approaches, streets,
2259 roads, bridges, and avenues of access for the system and for any
2260 other purpose authorized by this chapter, the bonds to mature no
2261 more than 30 years after the date of the issuance; to secure the
2262 payment of such bonds or any part thereof by a pledge of its

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2263 revenues, rates, fees, rentals, or other charges, including
2264 municipal or county funds received by the authority under an
2265 agreement between the authority and a municipality or county;
2266 and, in general, to provide for the security of the bonds and
2267 the rights and remedies of the holders of the bonds. However,
2268 municipal or county funds may not be pledged for the
2269 construction of a project for which a toll is to be charged
2270 unless the anticipated tolls are reasonably estimated by the
2271 governing board of the municipality or county, on the date of
2272 its resolution pledging the funds, to be sufficient to cover the
2273 principal and interest of such obligations during the period
2274 when the pledge of funds is in effect.
2275 1. The authority shall reimburse a municipality or county
2276 for sums spent from municipal or county funds used for the
2277 payment of the bond obligations.
2278 2. If the authority elects to fund or refund bonds issued
2279 by the authority before the maturity of the bonds, the proceeds
2280 of the funding or refunding bonds, pending the prior redemption
2281 of the bonds to be funded or refunded, shall be invested in
2282 direct obligations of the United States, and the outstanding
2283 bonds may be funded or refunded by the issuance of bonds under
2284 this chapter.
2285 (h) To make contracts of every name and nature, including,
2286 but not limited to, partnerships providing for participation in
2287 ownership and revenues, and to execute each instrument necessary
2288 or convenient for the conduct of its business.
2289 (i) Without limitation of the foregoing, to cooperate with,
2290 to accept grants from, and to enter into contracts or other
2291 transactions with any federal agency, the state, or any agency

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2292 or any other public body of the state.
2293 (j) To employ an executive director, attorney, staff, and
2294 consultants. Upon the request of the authority, the department
2295 shall furnish the services of a department employee to act as
2296 the executive director of the authority.
2297 (k) To accept funds or other property from private
2298 donations.
2299 (l) To act and do things necessary or convenient for the
2300 conduct of its business and the general welfare of the
2301 authority, in order to carry out the powers granted to it by
2302 this act or any other law.
2303 (3) The authority may not pledge the credit or taxing power
2304 of the state or a political subdivision or agency of the state.
2305 Obligations of the authority may not be considered to be
2306 obligations of the state or of any other political subdivision
2307 or agency of the state. Except for the authority, the state or
2308 any political subdivision or agency of the state is not liable
2309 for the payment of the principal of or interest on such
2310 obligations.
2311 (4) The authority may not, other than by consent of the
2312 affected county or an affected municipality, enter into an
2313 agreement that would legally prohibit the construction of a road
2314 by the county or the municipality.
2315 (5) The authority shall comply with the statutory
2316 requirements of general application which relate to the filing
2317 of a report or documentation required by law, including the
2318 requirements of ss. 189.015, 189.016, 189.051, and 189.08.
2319 Section 47. Section 345.0005, Florida Statutes, is created
2320 to read:

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2321 345.0005 Bonds.—
2322 (1) Bonds may be issued on behalf of the authority pursuant
2323 to the State Bond Act in such principal amount as the authority
2324 determines is necessary to achieve its corporate purposes,
2325 including construction, reconstruction, improvement, extension,
2326 and repair of the regional system; the acquisition cost of real
2327 property; interest on bonds during construction and for a
2328 reasonable period thereafter; and establishment of reserves to
2329 secure bonds.
2330 (2) Bonds issued on behalf of the authority under
2331 subsection (1) must:
2332 (a) Be authorized by resolution of the members of the
2333 authority and bear such date or dates; mature at such time or
2334 times not exceeding 30 years after their respective dates; bear
2335 interest at a rate or rates not exceeding the maximum rate fixed
2336 by general law for authorities; be in such denominations; be in
2337 such form, either coupon or fully registered; carry such
2338 registration, exchangeability, and interchangeability
2339 privileges; be payable in such medium of payment and at such
2340 place or places; be subject to such terms of redemption; and be
2341 entitled to such priorities of lien on the revenues and other
2342 available moneys as such resolution or any resolution after the
2343 bonds' issuance provides.
2344 (b) Be sold at public sale in the manner provided in the
2345 State Bond Act. Temporary bonds or interim certificates may be
2346 issued to the purchaser or purchasers of such bonds pending the
2347 preparation of definitive bonds and may contain such terms and
2348 conditions as determined by the authority.
2349 (3) A resolution that authorizes bonds may specify

2350 provisions that must be part of the contract with the holders of
2351 the bonds as to:
2352 (a) The pledging of all or any part of the revenues,
2353 available municipal or county funds, or other charges or
2354 receipts of the authority derived from the regional system.
2355 (b) The construction, reconstruction, improvement,
2356 extension, repair, maintenance, and operation of the system, or
2357 any part or parts of the system, and the duties and obligations
2358 of the authority with reference thereto.
2359 (c) Limitations on the purposes to which the proceeds of
2360 the bonds, then or thereafter issued, or of any loan or grant by
2361 any federal agency or the state or any political subdivision of
2362 the state may be applied.
2363 (d) The fixing, charging, establishing, revising,
2364 increasing, reducing, and collecting of tolls, rates, fees,
2365 rentals, or other charges for use of the services and facilities
2366 of the system or any part of the system.
2367 (e) The setting aside of reserves or sinking funds and the
2368 regulation and disposition of such reserves or sinking funds.
2369 (f) Limitations on the issuance of additional bonds.
2370 (g) The terms of any deed of trust or indenture securing
2371 the bonds, or under which the bonds may be issued.
2372 (h) Any other or additional matters, of like or different
2373 character, which in any way affect the security or protection of
2374 the bonds.
2375 (4) The authority may enter into deeds of trust,
2376 indentures, or other agreements with banks or trust companies
2377 within or without the state, as security for such bonds, and
2378 may, under such agreements, assign and pledge any of the

2379 revenues and other available moneys, including any available
2380 municipal or county funds, under the terms of this chapter. The
2381 deed of trust, indenture, or other agreement may contain
2382 provisions that are customary in such instruments or that the
2383 authority may authorize, including, but without limitation,
2384 provisions that:
2385 (a) Pledge any part of the revenues or other moneys
2386 lawfully available.
2387 (b) Apply funds and safeguard funds on hand or on deposit.
2388 (c) Provide for the rights and remedies of the trustee and
2389 the holders of the bonds.
2390 (d) Provide for the terms of the bonds or for resolutions
2391 authorizing the issuance of the bonds.
2392 (e) Provide for any additional matters, of like or
2393 different character, which affect the security or protection of
2394 the bonds.
2395 (5) Bonds issued under this act are negotiable instruments
2396 and have the qualities and incidents of negotiable instruments
2397 under the law merchant and the negotiable instruments law of the
2398 state.
2399 (6) A resolution that authorizes the issuance of authority
2400 bonds and pledges the revenues of the system must require that
2401 revenues of the system be periodically deposited into
2402 appropriate accounts in sufficient sums to pay the costs of
2403 operation and maintenance of the system for the current fiscal
2404 year as set forth in the annual budget of the authority and to
2405 reimburse the department for any unreimbursed costs of operation
2406 and maintenance of the system from prior fiscal years before
2407 revenues of the system are deposited into accounts for the

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2408 payment of interest or principal owing or that may become owing
2409 on such bonds.
2410 (7) State funds may not be used or pledged to pay the
2411 principal of or interest on any authority bonds, and all such
2412 bonds must contain a statement on their face to this effect.
2413 Section 48. Section 345.0006, Florida Statutes, is created
2414 to read:
2415 345.0006 Remedies of bondholders.—
2416 (1) The rights and the remedies granted to authority
2417 bondholders under this chapter are in addition to and not in
2418 limitation of any rights and remedies lawfully granted to such
2419 bondholders by the resolution or indenture providing for the
2420 issuance of bonds, or by any deed of trust, indenture, or other
2421 agreement under which the bonds may be issued or secured. If the
2422 authority defaults in the payment of the principal or interest
2423 on the bonds issued under this chapter after such principal or
2424 interest becomes due, whether at maturity or upon call for
2425 redemption, as provided in the resolution or indenture, and such
2426 default continues for 30 days, or if the authority fails or
2427 refuses to comply with this chapter or any agreement made with,
2428 or for the benefit of, the holders of the bonds, the holders of
2429 25 percent in aggregate principal amount of the bonds then
2430 outstanding are entitled as of right to the appointment of a
2431 trustee to represent such bondholders for the purposes of the
2432 default if the holders of 25 percent in aggregate principal
2433 amount of the bonds then outstanding first give written notice
2434 to the authority and to the department of their intention to
2435 appoint a trustee.
2436 (2) The trustee and a trustee under a deed of trust,

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2437 indenture, or other agreement may, or upon the written request
2438 of the holders of 25 percent or such other percentages specified
2439 in any deed of trust, indenture, or other agreement, in
2440 principal amount of the bonds then outstanding, shall, in any
2441 court of competent jurisdiction, in its own name:
2442 (a) By mandamus or other suit, action, or proceeding at
2443 law, or in equity, enforce all rights of the bondholders,
2444 including the right to require the authority to fix, establish,
2445 maintain, collect, and charge rates, fees, rentals, and other
2446 charges, adequate to carry out any agreement as to, or pledge
2447 of, the revenues, and to require the authority to carry out any
2448 other covenants and agreements with or for the benefit of the
2449 bondholders, and to perform its and their duties under this
2450 chapter.
2451 (b) Bring suit upon the bonds.
2452 (c) By action or suit in equity, require the authority to
2453 account as if it were the trustee of an express trust for the
2454 bondholders.
2455 (d) By action or suit in equity, enjoin any acts or things
2456 that may be unlawful or in violation of the rights of the
2457 bondholders.
2458 (3) A trustee, if appointed under this section or acting
2459 under a deed of trust, indenture, or other agreement, and
2460 regardless of whether all bonds have been declared due and
2461 payable, is entitled to the appointment of a receiver. The
2462 receiver may enter upon and take possession of the system or the
2463 facilities or any part or parts of the system, the revenues, and
2464 other pledged moneys, for and on behalf of and in the name of,
2465 the authority and the bondholders. The receiver may collect and

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2466 receive revenues and other pledged moneys in the same manner as
2467 the authority. The receiver shall deposit such revenues and
2468 moneys in a separate account and apply all such revenues and
2469 moneys remaining after allowance for payment of all costs of
2470 operation and maintenance of the system in such manner as the
2471 court directs. In a suit, action, or proceeding by the trustee,
2472 the fees, counsel fees, and expenses of the trustee, and the
2473 receiver, if any, and all costs and disbursements allowed by the
2474 court must be a first charge on any revenues after payment of
2475 the costs of operation and maintenance of the system. The
2476 trustee also has all other powers necessary or appropriate for
2477 the exercise of any functions specifically described in this
2478 section or incident to the representation of the bondholders in
2479 the enforcement and protection of their rights.
2480 (4) A receiver appointed pursuant to this section to
2481 operate and maintain the system or a facility or a part of a
2482 facility may not sell, assign, mortgage, or otherwise dispose of
2483 any of the assets belonging to the authority. The powers of the
2484 receiver are limited to the operation and maintenance of the
2485 system or any facility or part of a facility and to the
2486 collection and application of revenues and other moneys due the
2487 authority, in the name and for and on behalf of the authority
2488 and the bondholders. A holder of bonds or a trustee does not
2489 have the right in any suit, action, or proceeding, at law or in
2490 equity, to compel a receiver, or a receiver may not be
2491 authorized or a court may not direct a receiver, to sell,
2492 assign, mortgage, or otherwise dispose of any assets of whatever
2493 kind or character belonging to the authority.
2494 Section 49. Section 345.0007, Florida Statutes, is created

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2495 to read:
2496 345.0007 Department to construct, operate, and maintain
2497 facilities.—
2498 (1) The department is the agent of the authority for the
2499 purpose of performing all phases of a project, including, but
2500 not limited to, constructing improvements and extensions to the
2501 system, with the exception of the transit facilities. The
2502 division and the authority shall provide to the department
2503 complete copies of the documents, agreements, resolutions,
2504 contracts, and instruments that relate to the project and shall
2505 request that the department perform the construction work,
2506 including the planning, surveying, design, and actual
2507 construction of the completion of, extensions of, and
2508 improvements to the system. After the issuance of bonds to
2509 finance construction of an improvement or addition to the
2510 system, the division and the authority shall transfer to the
2511 credit of an account of the department in the State Treasury the
2512 necessary funds for construction. The department shall proceed
2513 with construction and use the funds for the purpose authorized
2514 by law for construction of roads and bridges. The authority may
2515 alternatively, with the consent and approval of the department,
2516 elect to appoint a local agency certified by the department to
2517 administer federal aid projects in accordance with federal law
2518 as the authority's agent for the purpose of performing each
2519 phase of a project.
2520 (2) Notwithstanding subsection (1), the department is the
2521 agent of the authority for the purpose of operating and
2522 maintaining the system, with the exception of transit
2523 facilities. The costs incurred by the department for operation

2524 and maintenance shall be reimbursed from revenues of the system.
2525 The appointment of the department as agent for the authority
2526 does not create an independent obligation on the part of the
2527 department to operate and maintain a system. The authority shall
2528 remain obligated as principal to operate and maintain its
2529 system, and the authority's bondholders do not have an
2530 independent right to compel the department to operate or
2531 maintain the authority's system.
2532 (3) The authority shall fix, alter, charge, establish, and
2533 collect tolls, rates, fees, rentals, and other charges for the
2534 authority's facilities, as otherwise provided in this chapter.
2535 Section 50. Section 345.0008, Florida Statutes, is created
2536 to read:
2537 345.0008 Department contributions to authority projects.—
2538 (1) Subject to appropriation by the Legislature, the
2539 department may, at the request of the authority, pay all or part
2540 of the cost of financial, engineering, or traffic feasibility
2541 studies or of the design, financing, acquisition, or
2542 construction of an authority project or portion of the system
2543 that is included in the 10-year Strategic Intermodal Plan.
2544 (a) Pursuant to chapter 216, the department shall include
2545 funding for such payments in its legislative budget request. The
2546 request for funding may be included in the 5-year Tentative Work
2547 Program developed under s. 339.135; however, it must appear as a
2548 distinct funding item in the legislative budget request and must
2549 be supported by a financial feasibility test provided by the
2550 department.
2551 (b) Funding provided for authority projects shall appear in
2552 the General Appropriations Act as a distinct fixed capital

2553 outlay item and must clearly identify the related authority
2554 project.
2555 (c) The department may not make a budget request to fund
2556 the acquisition or construction of a proposed authority project
2557 unless the estimated net revenues of the proposed project will
2558 be sufficient to pay at least 50 percent of the annual debt
2559 service on the bonds associated with the project by the end of
2560 12 years of operation and at least 100 percent of the debt
2561 service on the bonds by the end of 30 years of operation.
2562 (2) The department may use its engineers and other
2563 personnel, including consulting engineers and traffic engineers,
2564 to conduct the feasibility studies authorized under subsection
2565 (1).
2566 (3) The department may participate in authority-funded
2567 projects that, at a minimum:
2568 (a) Serve national, statewide, or regional functions and
2569 function as part of an integrated regional transportation
2570 system.
2571 (b) Are identified in the capital improvements element of a
2572 comprehensive plan that has been determined to be in compliance
2573 with part II of chapter 163. Further, the project shall be in
2574 compliance with local government comprehensive plan policies
2575 relative to corridor management.
2576 (c) Are consistent with the Strategic Intermodal System
2577 Plan developed under s. 339.64.
2578 (d) Have a commitment for local, regional, or private
2579 financial matching funds as a percentage of the overall project
2580 cost.
2581 (4) Before approval, the department must determine that the

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2582 proposed project:
2583 (a) Is in the public's best interest;
2584 (b) Does not require state funding, unless the project is
2585 on the State Highway System;
2586 (c) Has adequate safeguards in place to ensure that no
2587 additional costs will be imposed on or service disruptions will
2588 affect the traveling public and residents of this state if the
2589 department cancels or defaults on the agreement; and
2590 (d) Has adequate safeguards in place to ensure that the
2591 department and the authority have the opportunity to add
2592 capacity to the proposed project and other transportation
2593 facilities serving similar origins and destinations.
2594 (5) An obligation or expense incurred by the department
2595 under this section is a part of the cost of the authority
2596 project for which the obligation or expense was incurred. The
2597 department may require that money contributed by the department
2598 under this section be repaid from tolls of the project on which
2599 the money was spent, other revenue of the authority, or other
2600 sources of funds.
2601 (6) The department shall receive from the authority a share
2602 of the authority's net revenues equal to the ratio of the
2603 department's total contributions to the authority under this
2604 section to the sum of: the department's total contributions
2605 under this section; contributions by any local government to the
2606 cost of revenue-producing authority projects; and the sale
2607 proceeds of authority bonds after payment of costs of issuance.
2608 For the purpose of this subsection, the net revenues of the
2609 authority are determined by deducting from gross revenues the
2610 payment of debt service, administrative expenses, operations and

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2611 maintenance expenses, and all reserves required to be
2612 established under any resolution under which authority bonds are
2613 issued.
2614 Section 51. Section 345.0009, Florida Statutes, is created
2615 to read:
2616 345.0009 Acquisition of lands and property.—
2617 (1) For the purposes of this chapter, the authority may
2618 acquire private or public property and property rights,
2619 including rights of access, air, view, and light, by gift,
2620 devise, purchase, condemnation by eminent domain proceedings, or
2621 transfer from another political subdivision of the state, as the
2622 authority may find necessary for any of the purposes of this
2623 chapter, including, but not limited to, any lands reasonably
2624 necessary for securing applicable permits, areas necessary for
2625 management of access, borrow pits, drainage ditches, water
2626 retention areas, rest areas, replacement access for landowners
2627 whose access is impaired due to the construction of a facility,
2628 and replacement rights-of-way for relocated rail and utility
2629 facilities; for existing, proposed, or anticipated
2630 transportation facilities on the system or in a transportation
2631 corridor designated by the authority; or for the purposes of
2632 screening, relocation, removal, or disposal of junkyards and
2633 scrap metal processing facilities. Each authority shall also
2634 have the power to condemn any material and property necessary
2635 for such purposes.
2636 (2) The authority shall exercise the right of eminent
2637 domain conferred under this section in the manner provided by
2638 law.
2639 (3) An authority that acquires property for a

2640 transportation facility or in a transportation corridor is not
2641 liable under chapter 376 or chapter 403 for preexisting soil or
2642 groundwater contamination due solely to its ownership. This
2643 section does not affect the rights or liabilities of any past or
2644 future owners of the acquired property or the liability of any
2645 governmental entity for the results of its actions which create
2646 or exacerbate a pollution source. The authority and the
2647 Department of Environmental Protection may enter into
2648 interagency agreements for the performance, funding, and
2649 reimbursement of the investigative and remedial acts necessary
2650 for property acquired by the authority.
2651 Section 52. Section 345.001, Florida Statutes, is created
2652 to read:
2653 345.001 Cooperation with other units, boards, agencies, and
2654 individuals.—A county, municipality, drainage district, road and
2655 bridge district, school district, or any other political
2656 subdivision, board, commission, or individual in, or of, the
2657 state may make and enter into a contract, lease, conveyance,
2658 partnership, or other agreement with the authority which
2659 complies with this chapter. The authority may make and enter
2660 into contracts, leases, conveyances, partnerships, and other
2661 agreements with any political subdivision, agency, or
2662 instrumentality of the state and any federal agency,
2663 corporation, or individual to carry out the purposes of this
2664 chapter.
2665 Section 53. Section 345.0011, Florida Statutes, is created
2666 to read:
2667 345.0011 Covenant of the state.—The state pledges to, and
2668 agrees with, any person, firm, or corporation, or federal or

2669 state agency subscribing to or acquiring the bonds to be issued
2670 by the authority for the purposes of this chapter that the state
2671 will not limit or alter the rights vested by this chapter in the
2672 authority and the department until all bonds at any time issued,
2673 together with the interest thereon, are fully paid and
2674 discharged insofar as the rights vested in the authority and the
2675 department affect the rights of the holders of bonds issued
2676 under this chapter. The state further pledges to, and agrees
2677 with, the United States that if a federal agency constructs or
2678 contributes any funds for the completion, extension, or
2679 improvement of the system, or any parts of the system, the state
2680 will not alter or limit the rights and powers of the authority
2681 and the department in any manner that is inconsistent with the
2682 continued maintenance and operation of the system or the
2683 completion, extension, or improvement of the system, or that
2684 would be inconsistent with the due performance of any agreements
2685 between the authority and any such federal agency, and the
2686 authority and the department shall continue to have and may
2687 exercise all powers granted in this section, so long as the
2688 powers are necessary or desirable to carry out the purposes of
2689 this chapter and the purposes of the United States in the
2690 completion, extension, or improvement of the system, or any part
2691 of the system.
2692 Section 54. Section 345.0012, Florida Statutes, is created
2693 to read:
2694 345.0012 Exemption from taxation.—The authority created
2695 under this chapter is for the benefit of the people of the
2696 state, for the increase of their commerce and prosperity, and
2697 for the improvement of their health and living conditions. The

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2698 authority performs essential governmental functions under this
2699 chapter, therefore, the authority is not required to pay any
2700 taxes or assessments of any kind or nature upon any property
2701 acquired or used by it for such purposes, or upon any rates,
2702 fees, rentals, receipts, income, or charges received by it.
2703 Also, the bonds issued by the authority, their transfer and the
2704 income from their issuance, including any profits made on the
2705 sale of the bonds, shall be free from taxation by the state or
2706 by any political subdivision, taxing agency, or instrumentality
2707 of the state. The exemption granted by this section does not
2708 apply to any tax imposed by chapter 220 on interest, income, or
2709 profits on debt obligations owned by corporations.
2710 Section 55. Section 345.0013, Florida Statutes, is created
2711 to read:
2712 345.0013 Eligibility for investments and security.—Bonds or
2713 other obligations issued under this chapter are legal
2714 investments for banks, savings banks, trustees, executors,
2715 administrators, and all other fiduciaries, and for all state,
2716 municipal, and other public funds, and are also securities
2717 eligible for deposit as security for all state, municipal, or
2718 other public funds, notwithstanding any other law to the
2719 contrary.
2720 Section 56. Section 345.0014, Florida Statutes, is created
2721 to read:
2722 345.0014 Applicability.—
2723 (1) The powers conferred by this chapter are in addition to
2724 the powers conferred by other laws and do not repeal any other
2725 general or special law or local ordinance, but supplement them,
2726 and provide a complete method for the exercise of the powers

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2727 granted in this chapter. The extension and improvement of a
2728 system, and the issuance of bonds under this chapter to finance
2729 all or part of the cost of such extension or improvement, may be
2730 accomplished through compliance with this chapter without regard
2731 to or necessity for compliance with the limitations or
2732 restrictions contained in any other general, special, or local
2733 law, including, but not limited to, s. 215.821. Approval of any
2734 bonds issued under this act by the qualified electors or
2735 qualified electors who are freeholders in the state or in any
2736 political subdivision of the state is not required for the
2737 issuance of such bonds under this chapter.
2738 (2) This act does not repeal, rescind, or modify any other
2739 law relating to the State Board of Administration, the
2740 Department of Transportation, or the Division of Bond Finance of
2741 the State Board of Administration; however, this chapter
2742 supersedes any other law that is inconsistent with its
2743 provisions, including, but not limited to, s. 215.821.
2744 Section 57. (1) LEGISLATIVE FINDINGS AND INTENT.—The
2745 Legislature recognizes that the existing fuel tax structure used
2746 to derive revenues for the funding of transportation projects in
2747 this state will soon be inadequate to meet the state's needs. To
2748 address this emerging need, the Legislature directs the Center
2749 for Urban Transportation Research to establish an extensive
2750 study on the impact of implementing a system that charges
2751 drivers based on the vehicle miles traveled as an alternative,
2752 sustainable source of transportation funding and to establish
2753 the framework for implementation of a pilot demonstration
2754 project. The Legislature recognizes that, over time, the current
2755 fuel tax structure has become less viable as the primary funding

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2756 source for transportation projects. While the fuel tax has
2757 functioned as a true user fee for decades, significant increases
2758 in mandated vehicle fuel efficiency and the introduction of
2759 electric and hybrid vehicles have significantly eroded the
2760 revenues derived from this tax. The Legislature also recognizes
2761 that there are legitimate privacy concerns related to a tax
2762 mechanism that would charge users of the highway system on the
2763 basis of miles traveled. Other concerns include the cost of
2764 implementing such a system and institutional issues associated
2765 with revenue sharing. Therefore, it is the intent of the
2766 Legislature that this study and demonstration design will, at a
2767 minimum, address these issues. To accomplish this task, the
2768 Center for Urban Transportation Research in consultation with
2769 the Florida Transportation Commission shall establish a project
2770 advisory board to assist the center in analyzing this
2771 alternative funding concept and in developing specific elements
2772 of the pilot project that will demonstrate the feasibility of
2773 transitioning Florida to a transportation funding system based
2774 on vehicle miles traveled.
2775 (2) VEHICLE-MILES-TRAVELED STUDY.—The Center for Urban
2776 Transportation Research shall conduct a study on the viability
2777 of implementing a system in this state which charges drivers
2778 based on their vehicle miles traveled as an alternative to the
2779 present fuel tax structure to fund transportation projects. The
2780 study will inventory previous research and findings from pilot
2781 projects being conducted in other states. The study will address
2782 at a minimum previous work conducted in these broad areas:
2783 assessment of technologies; behavioral and privacy concerns;
2784 equity impacts; and policy implications of a vehicle miles

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2785 traveled road charging system. The effort will also quantify the
2786 current costs to collect traditional highway user fees. This
2787 study will synthesize findings of completed research and
2788 demonstrations in the area of vehicle-miles-traveled charges and
2789 analyze their applicability to Florida. The Center for Urban
2790 Transportation Research shall present the findings of this study
2791 phase to the Legislature no later than January 30, 2016.
2792 (3) VEHICLE-MILES-TRAVELED PILOT PROJECT DESIGN.—
2793 (a) In the course of the study, the Center for Urban
2794 Transportation Research in consultation with the Florida
2795 Transportation Commission shall establish the framework for a
2796 pilot project that will evaluate the feasibility of implementing
2797 a system that charges drivers based on their vehicle miles
2798 traveled.
2799 (b) In the design of the pilot project framework, the
2800 Center for Urban Transportation Research shall address at a
2801 minimum these elements: the geographic location for the pilot;
2802 special fleets or classes of vehicles; evaluation criteria for
2803 the demonstration; consumer choice in the method of reporting
2804 miles traveled; privacy options for participants in the pilot
2805 project; the recording of miles traveled with and without
2806 locational information; records retention and destruction; and
2807 cyber security.
2808 (c) Contingent upon legislative appropriation, the Center
2809 for Urban Transportation Research may expend up to $400,000 for
2810 the study and pilot project design.
2811 (d) The pilot project design shall be completed no later
2812 than December 31, 2016, and submitted in a report to the
2813 Legislature so that implementation of a pilot project can occur

2814 in 2017.
2815 Section 58. For the purpose of incorporating the amendment
2816 made by this act to section 333.01, Florida Statutes, in a
2817 reference thereto, subsection (6) of section 350.81, Florida
2818 Statutes, is reenacted to read:
2819 350.81 Communications services offered by governmental
2820 entities.—
2821 (6) To ensure the safe and secure transportation of
2822 passengers and freight through an airport facility, as defined
2823 in s. 159.27(17), an airport authority or other governmental
2824 entity that provides or is proposing to provide communications
2825 services only within the boundaries of its airport layout plan,
2826 as defined in s. 333.01(6), to subscribers which are integral
2827 and essential to the safe and secure transportation of
2828 passengers and freight through the airport facility, is exempt
2829 from this section. An airport authority or other governmental
2830 entity that provides or is proposing to provide shared-tenant
2831 service under s. 364.339, but not dial tone enabling subscribers
2832 to complete calls outside the airport layout plan, to one or
2833 more subscribers within its airport layout plan which are not
2834 integral and essential to the safe and secure transportation of
2835 passengers and freight through the airport facility is exempt
2836 from this section. An airport authority or other governmental
2837 entity that provides or is proposing to provide communications
2838 services to one or more subscribers within its airport layout
2839 plan which are not integral and essential to the safe and secure
2840 transportation of passengers and freight through the airport
2841 facility, or to one or more subscribers outside its airport
2842 layout plan, is not exempt from this section. By way of example

2843 and not limitation, the integral, essential subscribers may
2844 include airlines and emergency service entities, and the
2845 nonintegral, nonessential subscribers may include retail shops,
2846 restaurants, hotels, or rental car companies.
2847 Section 59. This act shall take effect July 1, 2015.

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The Florida Senate

Committee Agenda Request

To: Senator Tom Lee, Chair
Committee on Appropriations

Subject: Committee Agenda Request

Date: April 14, 2015

I respectfully request that **Senate Bill #1554**, relating to **Transportation**, be placed on the:

☒ committee agenda at your earliest possible convenience.

☐ next committee agenda.

Senator Jeff Brandes
Florida Senate, District 22

File signed original with committee office

S-020 (03/2004)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/21/15
Meeting Date

1554
Bill Number (if applicable)

777084
Amendment Barcode (if applicable)

Topic 1554 - 777084

Name Casey Cook

Job Title Legislative Advocate

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Tallahassee FL 32302
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Phone 850 701 3701

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Speaking: ☐ For ☑ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

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 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

April 21, 2015
Meeting Date

SB 1554
Bill Number (if applicable)

☆ 777084
Amendment Barcode (if applicable)

Topic: Transportation

Name: Amy Mercer

Job Title: Executive Director

Address: 924 N. Gadsden Street
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Tallahassee FL 32303
City *State* *Zip*

Phone: 219-3631

Email: amercer@fpca.com

Speaking: ☐ For ☑ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing: The Florida Police Chiefs 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 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/21/15
Meeting Date

1554
Bill Number (if applicable)

850140
Amendment Barcode (if applicable)

Topic: 1554 - 850140 amendment

Name: Casey Cook

Job Title: Legislative Advocate

Address: PO Box 1757
Street

Tallahassee, FL 32302
City, State, Zip

Phone: 850 701 3701

Email: ccook@flcities.com

Speaking: ☐ For ☑ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

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.

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

April 21, 2015
Meeting Date

SB 1554
Bill Number (if applicable)

☆ 850140
Amendment Barcode (if applicable)

Topic: Transportation

Name: Amy Mercer

Job Title: Executive Director

Address: 924 N. Gadsden Street
Street

Tallahassee FL 32303
City *State* *Zip*

Phone: 219-3631

Email: amercer@fpca.com

Speaking: ☐ For ☑ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing: The Florida Police Chiefs Association

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/21/15
Meeting Date

SB 1554
Bill Number (if applicable)

317554
Amendment Barcode (if applicable)

Topic: Relating to transportation

Name: Suzanne Sewell

Job Title: President & CEO

Address: 2475 Apalachee Pkway
Street

Tallahassee FL 32301
City State Zip

Phone: 850-942-3500

Email: ssewell@floridaart.org

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

Waive Speaking: [ ] In Support [ ] Against
(The Chair will read this information into the record.)

Representing: FL Assoc. of Rehabilitation Facilities dba RESPECT of Florida

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

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

Meeting Date: _____

Bill Number (if applicable): 1554

Amendment Barcode (if applicable): 487104 - GARCIA

Topic: _____

Name: JESS MCCARTY

Job Title: ASS'T COUNTY ATTY

Address: 111 NW 1ST ST 2810
Street

MIAMI 33128
City State Zip

Phone: 305-979-7110

Email: JMM2@MIAMIDADE.GOV

Speaking: ☐ For ☑ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing: MIAMI-DADE COUNTY

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/21
Meeting Date

1554
Bill Number (if applicable)

487104
Amendment Barcode (if applicable)

Topic

Name ~~Mayor~~ Philip Levine

Job Title Mayor City of Miami Beach

Address 1700 Convention Center Drive
Street

Phone 305-673-7000

Miami Beach Fl 33139
City State Zip

Email

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

Waive Speaking: [ ] In Support [ ] Against
(The Chair will read this information into the record.)

Representing City of Miami Beach

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

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

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/21/15
Meeting Date

1554
Bill Number (if applicable)

487104
Amendment Barcode (if applicable)

Topic

Name James McDonald

Job Title Council Member Village of Pinecrest

Address 12645 Pinecrest Parkway
Street

Pinecrest FL 33156
City State Zip

Phone 305-234-2121

Email JMcdonald@Pinecrest-fl.gov

Speaking: ☐ For ☒ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/21/15
Meeting Date

1554
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic

Name Kyle Cockream

Job Title Exec Director

Address 4148 N. Armenia
Street

Tampa, Fl
City State Zip

Phone 813 350 6878

Email

Speaking: ☐ For ☐ Against ☑ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Hills. Cnty Public Transportation Comm

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/21/15
Meeting Date

S 1554
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic: TRANSPORTATION

Name: MICHAEL RUBIN

Job Title: VP GOVT AFFAIRS

Address: 502 E JEFFERSON ST
Street

TALL FL 32301
City State Zip

Phone: 850-222-8608

Email: Mike.Rubin@flpotb.org

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☑ In Support ☐ Against
(The Chair will read this information into the record.)

Representing: FLORIDA PORTS COUNCIL

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4 / 21/2015
Meeting Date

Topic _____ Bill Number 1554 *(if applicable)*

Name BRIAN PITTS Amendment Barcode _____ *(if applicable)*

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH
Street

SAINT PETERSBURG FLORIDA 33705
City *State* *Zip*

Phone 727-897-9291

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.

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/21/15
Meeting Date

1554
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic: Transportation

Name: Justin Day

Job Title: Director

Address: 701 S. Howard Ave, Suite 320-106
Street

Tampa, FL 33606
City, State, Zip

Phone: 850 222 8900

Email: jd@cordenaspartners.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing: Port Tampa Bay

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4.21.15
Meeting Date

SB 1554
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic: MIAMI-DADE MPO

Name: JAMES E. McDONALD

Job Title: COUNCIL Member, Village of Pinecrest

Address: _____
Street

_____
City *State* *Zip*

Phone: _____

Email: _____

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing: MIAMI-DADE 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.

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/21/15
Meeting Date

1554
Bill Number (if applicable)

[redacted]
Amendment Barcode (if applicable)

Topic: Amendment - DOT discretion on bonds

Name: Kelly Mallette

Job Title:

Address: 104 West Jefferson Street
Street

Tallahassee, FL 32301
City State Zip

Phone: (850) 224-3427

Email: kelly@rlbookpa.com

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

Waive Speaking: [ ] In Support [ ] Against
(The Chair will read this information into the record.)

Representing: Florida Association of Rehabilitation Facilities

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

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

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

April 21, 2015
Meeting Date

1554
Bill Number (if applicable)

[redacted]
Amendment Barcode (if applicable)

Topic

Name Dale Allen

Job Title Executive Director

Address 3186 Baringer Hill Drive
Street

Tallahassee Florida 32311
City State Zip

Phone 850-656-8050

Email wm.dale.allen@gmail.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Florida Greenways + Trails Foundation

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4-21-2015
Meeting Date

1554
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic: Transportation

Name: Edward G. Labrador

Job Title: Director, Intergovernmental Affairs

Address: 115 S. Andrews Avenue, Room 426
Street

Fort Lauderdale, FL 33301
City State Zip

Phone: 954-357-7575

Email: elabrador@broward.org

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☑ In Support ☐ Against
(The Chair will read this information into the record.)

Representing: Broward 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.

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S-001 (10/14/14)

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 Appropriations

BILL: SB 1582

INTRODUCER: Senator Richter

SUBJECT: Public Records/High-pressure Well Stimulation Chemical Disclosure Registry

DATE: April 20, 2015 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Gudeman	Uchino	EP	**Favorable**
2.	Peacock	McVaney	GO	**Favorable**
3.	Howard	Kynoch	AP	**Favorable**

I. Summary:

SB 1582 creates a new public records exemption for proprietary business information as defined in sections 377.24075(1)(a) through (e), Florida Statutes, and related to chemical disclosure registry or chemical disclosure information submitted to the Department of Environmental Protection (DEP) as part of a permit for high pressure well stimulation. This information is confidential and exempt from section 119.071(1), Florida Statutes, and Article I, section 24(a) of the Florida Constitution.

Under current law, if someone requests information that is "labelled" trade secret, the requestor must sue in circuit court based on the denial of the public records. Under this bill, if someone requests the otherwise presumed proprietary business information, including trade secrets, the owner of such information must sue in circuit court to ensure the information is not released. The bill provides certain exemptions and noticing requirements for a person who files an action in a circuit court.

The bill provides for repeal of the public records exemption on October 2, 2020, unless reviewed and reenacted by the Legislature. It also provides a statement of public necessity as required by the State Constitution.

Since 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 final passage.

There is no fiscal impact to state funds.

The bill shall take effect on the same date that SB 1468, or similar legislation, takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes law.

II. Present Situation:

Hydraulic Fracturing

Hydraulic fracturing is a technique that involves stimulating the well to extract oil and gas. Large amounts of fluid under pressure are injected into a wellbore to create and extend fractures in the rock formation. The fractures are held open by a slurry mixture which allows natural gas to flow from the fractures into the production well.[1]

The injected fluid is composed of water, proppants, and chemical additives. The composition of the injected fluid varies between rock formations but the majority of the fluid, 98 to 99.5 percent, is water. The proppants are made of sand, ceramic pellets, or other small incompressible particles that hold the fractures open. The chemical additives include bactericides, buffers, stabilizers, fluid-loss additives, and surfactants that improve the effectiveness of the fracturing process and prevent damage to the rock formation.[2]

The injection of the fracturing fluid is sequenced and the blend and proportions of the additives used vary depending on the characteristics of the rock formation. The acid stage consists of several thousand gallons of water mixed with hydrochloric acid or muriatic acid that work to clear cement debris and create an open path for the fracturing fluids. The pad stage consists of approximately 100,000 gallons of "slick-water," which is a friction reducing agent that reduces the pressure needed to pump fluid into the wellbore and facilitate the flow and placement of the proppant material. The prop sequence stage, which may include several sub-stages, uses several hundred thousand gallons of water mixed with varying sized particulates that keep the fractures open. Finally, there is a flushing stage that consists of enough water to adequately flush the excess proppant from the wellbore.[3]

Oil and Gas Regulation in Florida

The Oil and Gas Program in the Department of Environmental Protection (DEP) is the permitting authority for oil and gas wells under Part I of ch. 377.01, F.S. Section 377.22, F.S., directs the DEP to establish rules for the Oil and Gas Program that ensure human health, public safety, and the environment are protected from the exploration phase to well completion and abandonment phase. The DEP is also responsible for monitoring and reporting the well drilling and production activities from exploration to well abandonment.[4]

The DEP adopted Rules 62C-25 through 30, Florida Administrative Code (F.A.C.), to implement Part I of ch. 377, F.S. The rules include permitting procedures, bonding requirements, well spacing, well construction, production, injection, workovers, and well abandonment. The rule also requires each operator to submit a spill prevention and cleanup plan pursuant to Rule 62C-28.004(2), F.A.C. The plan must include the potential spill source, the protective measures to prevent a spill, and the location of emergency equipment in the event of a spill.

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[1] FracFocus Chemical Disclosure Registry, *Hydraulic Fracturing: The Process*, http://fracfocus.org/hydraulic-fracturing-how-it-works/hydraulic-fracturing-process. (Last visited Mar. 29, 2015).
[2] *Id*.
[3] *Id*.
[4] Section 377.21, F.S.

The requirements and procedures for well stimulation technology is not provided for in rule or statute; however, hydraulic fracturing, acidizing, or other chemical treatments of a well are activities that may be approved in a workover. A workover includes a variety of remedial operations that are conducted in order to increase well production. Rule 62C-25.002(61), F.A.C., defines a "work over" as "an operation involving a deepening, plug back, repair, cement squeeze, perforation, hydraulic fracturing, acidizing, or other chemical treatment which is performed in a production, disposal, or injection well in order to restore, sustain, or increase production, disposal, or injection rates." An operator is required to notify the DEP prior to commencing a workover procedure, unless it is for an emergency operation in which case the operator must notify the DEP during the operation or immediately thereafter.[5] The operator must submit a revised well record to the DEP within 30 days of the workover.[6]

Emergency Planning and Community Right to Know Act

In 1986, Congress enacted the Emergency Planning and Community Right-to-Know Act (EPCRA), which requires federal, local and state governments to report hazardous and toxic chemicals in order to increase the public's knowledge and access to information on chemicals at individual facilities. The EPCRA includes the Toxic Release Inventory (TRI), which is a publicly available database that contains information on chemical releases and waste management reported by certain industries. The U.S. Environmental Protection Agency (EPA) has not included oil and gas extraction as an industry that must report under the TRI because the EPA determined the oil and gas extraction industry is not a high priority for reporting. The decision is based on the fact that most of the information that the TRI requires is already reported by oil and gas providers to the individual state agencies and reporting for the hundreds and thousands of oil and gas sites would overwhelm the system.[7]

In March 2015, the Bureau of Land Management (BLM) published the final rule that would require companies that conduct hydraulic fracturing on lands managed by the BLM to disclose the composition of the fracturing fluid. Congress has also proposed legislation requiring the disclosure of chemicals under the Fracturing Responsibility and Awareness of Chemicals Act.[8]

To date, federal legislation has not been implemented to require the disclosure of chemicals used in hydraulic fracturing; therefore, many states have taken steps to develop their own chemical disclosure laws. The disclosure requirements that have been established in certain states include the information about the chemical additives and whether the disclosures are made to state agencies or available to the public, the composition of the chemicals, the protections provided in trade secrets, and when the disclosure of the chemicals is to take place in relation to the fracturing process.[9]

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[5] Fla. Admin. Code R. 62C-29.006 (1996).
[6] The Well Record is the DEP Oil and Gas Form 8.
[7] Pub. Law No. 99-499, H.R. 2005, 99th Cong. (Oct. 17, 1986).
[8] Fracturing Responsibility and Awareness of Chemicals Act, Final Rule, 80 Fed. Reg. 16128-16222 (Mar. 26, 2015)(to be codified at 43 C.F.R. pt. 3).
[9] Congressional Research Service, *Hydraulic Fracturing: Chemical Disclosure Requirements*, 2 (June 19, 2012), *available at* http://www.fas.org/sgp/crs/misc/R42461.pdf (last visited Mar. 29, 2015).

FracFocus Chemical Disclosure Registry

FracFocus is a national hydraulic fracturing chemical registry operated by the Ground Water Protection Council and the Interstate Oil and Gas Compact Commission. The registry provides public access to reported chemicals used for hydraulic fracturing. FracFocus does not replace state governmental information systems but is used by ten states as the primary means of state chemical disclosure. Currently there are approximately 95,000 well sites registered with the database.[10]

Public Records Law

Article I, s. 24(a) of the Florida Constitution sets the state's public policy regarding access to government records. The section guarantees every person a 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.[11] The records of the legislative, executive, and judicial branches are specifically included.[12]

The Florida Statutes also specify conditions under which public access must be provided to government records. The Public Records Act[13] guarantees every person's right to inspect and copy any state or local government public record[14] at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record.[15]

Only the Legislature may create an exemption to public records requirements.[16] This exemption must be created by general law and must specifically state the public necessity justifying the exemption.[17] Relevant to the bill, there is a difference between records the Legislature designates 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.[18] 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

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[10] *Supra* note 1.
[11] FLA. CONST., art. I, s. 24(a).
[12] *Id.*
[13] Chapter 119, F.S.
[14] 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 "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 *Locke v. Hawkes*, 595 So.2d 32 (Fla. 1992). The Legislature's records are public pursuant to section 11.0431, F.S.
[15] Section 119.07(1)(a), F.S.
[16] FLA. CONST., art. I, s. 24(c).
[17] *Id.*
[18] *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 1994), *review denied* 651 So.2d 1192 (Fla. 1995); and *Williams v. City of Minneola*, 575 So.2d 683 (Fla. 5th DCA 1991). *See also* Attorney General Opinion 85-62 (August 1, 1985).

than the persons or entities specifically designated in the statutory exemption.[19] 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 provisions[20] and must pass by a two-thirds vote of the members present and voting in each house of the Legislature.[21]

Open Government Sunset Review Act

The Open Government Sunset Review Act (OGSR) prescribes a legislative review process for newly created or substantially amended public records or open meetings exemptions.[22] The OGSR provides that an exemption automatically repeals on October 2nd of the fifth year after creation or substantial amendment; in order to save an exemption from repeal, the Legislature must reenact the exemption.[23]

The OGSR 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 necessary.[24] An exemption serves an identifiable purpose if it meets one of the following purposes *and* the Legislature finds that the purpose of the exemption outweighs open government policy and cannot be accomplished without the exemption:

- Allows the state or its political subdivision to effectively and efficiently administer a program, and administration would be significantly impaired without the exemption;[25]
- Protects information of a sensitive personal nature concerning individuals, the release of which would be defamatory to such individuals or cause unwarranted damage to the good name or reputation of such individuals or would jeopardize the safety of such individuals;[26] or
- Protects trade or business secrets.[27]

The OGSR also requires specified questions to be considered during the review process. In examining an exemption, the OGSR asks the Legislature to carefully question the purpose and necessity of reenacting the exemption. The specified questions are:[28]

- What specific records or meetings are affected by the exemption?
- Whom does the exemption uniquely affect, as opposed to the general public?
- What is the identifiable public purpose or goal of the exemption?
- Can the information contained in the records or discussed in the meeting be readily obtained by alternative means? If so, how?

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[19] *See WFTV, Inc. v. The School Board of Seminole, supra*, and *Wait v. Florida Power and Light Co*., 372 So.2d 420 (Fla. 1979).
[20] FLA. CONST. art. I, s. 24. However, the bill may contain multiple exemptions that relate to one subject.
[21] FLA. CONST., art. I, s. 24(c).
[22] Section 119.15, F.S. Section 119.15(4)(b), F.S., provides that an exemption is considered to be substantially amended if it is expanded to include more information or to include meetings. The OGSR does not apply to an exemption that is required by federal law or that applies solely to the Legislature or the State Court System pursuant to s. 119.15(2), F.S.
[23] Section 119.15(3), F.S.
[24] Section 119.15(6)(b), F.S.
[25] Section 119.15(6)(b)1., F.S.
[26] Section 119.15(6)(b)2., F.S. If this public purpose is cited as the basis of an exemption, only personal identifying information is exempt. *Id.*
[27] Section 119.15(6)(b)3., F.S.
[28] Section 119.15(6)(a)1.-6., F.S.

- Is the record or meeting protected by another exemption?
- Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

If, in reenacting an exemption, the exemption is expanded, then a public necessity statement and a two-thirds vote for passage are required.[29] If the exemption is reenacted without substantive changes or if the exemption is narrowed, then a public necessity statement and a two-thirds vote for passage are *not* required. If the Legislature allows an exemption to sunset, the previously exempt records will remain exempt unless provided for by law.[30]

Trade Secrets

A "trade secret" in accordance with s. 812.081(1)(c), F.S., is "any scientific, technical, or commercial information, including any design, process, procedure, list of suppliers, list of customers, business code, or improvement thereof. Irrespective of novelty, invention, patentability, the state of the prior art, and the level of skill in the business, art, or field to which the subject matter pertains."

Section 812.081, F.S., further defines a "trade secret" as information used in the operation of a business, which provides the business an advantage or an opportunity to obtain an advantage, over those who do not know or use it. The test provided for in statute, requires that a trade secret be actively protected from loss or public availability to any person not selected by the secret's owner to have access thereto, and be:

- Secret;
- Of value;
- For use or in use by the business; and
- Of advantage to the business, or providing an opportunity to obtain an advantage, over those who do not know or use it. [31]

Courts similarly use this factor test to determine whether a document is trade secret subject to protection from public records laws. In *Sepro Corp. v. Department of Environmental Protection*,[32] the court held that a document was subject to disclosure because the business failed the first prong of the test (that the document be secret) because it had not actively protected or held out the document as a trade secret.

The term "trade secret" is also defined in s. 688.002(4), F.S., of the Uniform Trade Secrets Act as:

> [I]nformation, including a formula, pattern, compilation, program, device, method, technique, or process that:

[29] FLA. CONST., art. I, s. 24(c).
[30] Section 119.15(7), F.S.
[31] Section 812.081(1)(c), F.S.
[32] 839 So. 2d 781 (Fla. 1st DCA 2003). The court noted that "[i]t is of no consequence that [a party furnishing information] wishes to maintain the privacy of particular materials filed with the department, unless such materials fall within a legislatively created exemption to Ch. 119, F.S." *Id*. at 784.

(a) Derives independent economic value, actual or potential, from not being generally known , and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and
(b) Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

Section 815.045, F.S., provides that trade secret information as defined in s. 812.081, F.S., and as provided for in s. 815.04(3), F.S., is confidential and exempt from the public records.

Currently, a trade secret owner who provides trade secret information to a state agency must take measures to maintain the secrecy, i.e., designate/label in writing that such documents/ information are a trade secret and should not be disclosed. If this information is requested through a public records request, the agency must not release the information; however, the person or entity requesting such information may file a lawsuit upon denial of the request for a court to determine whether or not the information is a trade secret and should be released.

Proprietary Business Information

Section 377.24075, F.S., provides that proprietary business information held by the DEP pursuant to its duties with respect to an application for a natural gas storage facility permit is confidential and exempt from s. 119.07(1), F.S., and Article I, section 24(a) of the Florida Constitution. The term "proprietary business information," means information that:[33]

- Is owned or controlled by the applicant or person affiliated with the applicant;
- Is intended to be private and is treated by the applicant as private;
- Has not been disclosed except as required by law or private agreement;
- Is not publicly available or otherwise readily ascertainable through proper means from another source in the same configuration as requested by the DEP;
- Includes trade secrets as defined in s. 688.002, F.S.;
- Includes leasing plans, real property acquisition plans, exploration budgets, or marketing studies; and
- Includes well design, completion plans, geologic and engineering studies, utilization strategies or operating plans.

III. Effect of Proposed Changes:

Section 1 amends s. 377.45, F.S., as created by SB 1468 (2015 Regular Session). The bill specifies that proprietary business information as defined in ss. 377.24075(1)(a) through (e), F.S., relating to the high pressure well stimulation chemical disclosure registry, or submitted to the Department of Environmental Protection (DEP) as part of a permit for high pressure well stimulation is confidential and exempt from s. 119.071(1), F.S., and Article I, section 24(a) of the Florida Constitution. A person submitting the information to the DEP must request the proprietary business information be kept confidential and exempt, inform the DEP of the basis for the claim of proprietary business information, and clearly mark each page of the document as "proprietary business information" to maintain the exemption.

[33] Sections 377.24075(1)(a)-(e), F.S.

The bill requires the DEP to notify the person who submitted a document marked "proprietary business information" if a public records request is made for the document. It provides the person 30 days after receipt of the notice to file an action in circuit court seeking a determination as to whether the document contains proprietary business information and an order barring public disclosure of the document. The DEP may not release the information if the action was timely filed until the pending legal action is concluded. The failure to timely file an action constitutes a waiver of any claim of confidentiality, and the DEP must release the information as requested.

The bill specifies proprietary business information may be disclosed:

- To another governmental entity that agrees in writing to maintain the confidential and exempt status of the information and verifies in writing that it has legal authority to do so; and
- When relevant in any proceeding under this section, a person involved in any proceeding under this section, including, but not limited to, an administrative law judge, a hearing officer, or a judge or justice, must maintain the confidentiality of information revealed at the proceeding.

The bill specifies the public records exemption created by the bill is subject to the Open Government Sunset Review Act in accordance with s. 119.15, F.S., and expires on October 2, 2020, unless reenacted by the Legislature.

Section 2 creates an undesignated section of law to provide legislative findings. The bill finds it is a public necessity that proprietary business information related to high pressure well stimulations provided to the DEP by the applicant or held by the DEP in connection with the online high pressure well stimulation chemical disclosure registry be made confidential and exempt from s 119.15, F.S, and Article I, section 24(a) of the Florida Constitution. The bill further specifies the information must remain confidential to avoid providing an unfair advantage to competitors and to prevent other entities from using the information without compensating or reimbursing the entity whose information was not made confidential and exempt.

Section 3 provides the act will take effect on the same date that SB 1468, or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

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 for final passage of a newly created public record exemption. The bill creates a public record exemption; thus, it requires a two-thirds vote for final passage.

Public Necessity Statement

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

Breadth of Exemption

Article I, s. 24(c) of the Florida Constitution requires a newly created public record exemption to be no broader than necessary to accomplish the stated purpose of the law. The bill makes confidential and exempt from public disclosure proprietary business information relating to high pressure well stimulations, submitted to the DEP as part of a permit application or held by the DEP in connection with the online high pressure well stimulation chemical disclosure registry.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

SB 1582 protects proprietary business information, which may provide a financial benefit to private companies engaged in high pressure well stimulation.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Section 377.24075, F.S., makes confidential and exempt "proprietary business information" relating to the application for a natural gas storage facility. The definition of "proprietary business information" in s. 377.24075(1)(a)-(e), F.S., is for proprietary business information with respect to an application for a natural gas storage facility permit. Certain parts of the definition may not apply to proprietary business information with respect to high pressure well stimulation.

VIII. Statutes Affected:

This bill substantially amends section 377.45 of the Florida Statutes.

IX. Additional Information:

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

None.

B. Amendments:

None.

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

859002

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/21/2015	.	
	.	
	.	
	.	

The Committee on Appropriations (Joyner) recommended the following:

1 **Senate Amendment (with title amendment)**
2
3 Delete everything after the enacting clause.
4
5 ========== T I T L E A M E N D M E N T ==========
6 And the title is amended as follows:
7 Delete everything before the enacting clause.

By Senator Richter

23-01893A-15 20151582__

A bill to be entitled

An act relating to public records; amending s. 377.45, F.S.; providing an exemption from public records requirements for proprietary business information relating to high pressure well stimulations obtained by the Department of Environmental Protection in connection with the department's online high pressure well stimulation chemical disclosure registry; providing procedures and requirements with respect to the granting of confidential and exempt status; providing for disclosure under specified circumstances; providing for future legislative review and repeal of the exemption under the Open Government Sunset Review Act; 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 (4) is added to section 377.45, Florida Statutes, as created by SB 1468, 2015 Regular Session, to read:

377.45 High pressure well stimulation chemical disclosure registry.—

(4)(a) Proprietary business information, as defined in s. 377.24075(1)(a)-(e) and relating to high pressure well stimulations, submitted to the department as part of a permit application or held by the department in connection with the online high pressure well stimulation chemical disclosure registry, is confidential and exempt from s. 119.07(1) and s.

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

23-01893A-15 20151582__

24(a), Art. I of the State Constitution if the person submitting such proprietary business information to the department:

1. Requests that the proprietary business information be kept confidential and exempt;

2. Informs the department of the basis for the claim of proprietary business information; and

3. Clearly marks each page of a document or specific portion of a document containing information claimed to be proprietary business information as "proprietary business information."

(b) If the department receives a public records request for a document that is marked proprietary business information under this section, the department must promptly notify the person who submitted the information as proprietary business information. The notice must inform the person that he or she has 30 days after receipt of the notice to file an action in circuit court seeking a determination as to whether the document in question contains proprietary business information and an order barring public disclosure of the document. If the person files an action within 30 days after receipt of notice of the public records request, the department may not release the document pending the outcome of the legal action. The failure to file an action within 30 days constitutes a waiver of any claim of confidentiality, and the department shall release the document as requested.

(c) Confidential and exempt proprietary business information may be disclosed:

1. To another governmental entity if the receiving entity agrees in writing to maintain the confidential and exempt status

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

59 of the information and has verified in writing its legal
60 authority to maintain such confidentiality; or
61 2. When relevant in any proceeding under this part. A
62 person involved in any proceeding under this section, including,
63 but not limited to, an administrative law judge, a hearing
64 officer, or a judge or justice, must maintain the
65 confidentiality of any proprietary business information revealed
66 at such proceeding.
67 (d) This subsection is subject to the Open Government
68 Sunset Review Act in accordance with s. 119.15 and shall stand
69 repealed on October 2, 2020, unless reviewed and saved from
70 repeal through reenactment by the Legislature.
71 Section 2. The Legislature finds that it is a public
72 necessity that proprietary business information, as defined in
73 s. 377.24075(1)(a)-(e), Florida Statutes, and relating to high
74 pressure well stimulations, submitted to the Department of
75 Environmental Protection as part of a permit application or held
76 by the department in connection with the online high pressure
77 well stimulation chemical disclosure registry, be made
78 confidential and exempt from s. 119.07(1), Florida Statutes, and
79 s. 24(a), Article I of the State Constitution. Proprietary
80 business information must be held confidential and exempt from
81 public records requirements because the disclosure of such
82 information would create an unfair competitive advantage for
83 persons receiving such information and would adversely impact
84 the service company, chemical supplier, or well owner or
85 operator that provides chemical ingredients for a well on which
86 high pressure well stimulations are performed. If such
87 confidential and exempt information regarding proprietary

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

88 business information were released pursuant to a public records
89 request, others would be allowed to take the benefit of the
90 proprietary business information without compensation or
91 reimbursement to the service company, chemical supplier, or well
92 owner or operator.
93 Section 3. This act shall take effect on the same date that
94 SB 1468 or similar legislation takes effect, if such legislation
95 is adopted in the same legislative session or an extension
96 thereof and becomes a law.

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

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Ethics and Elections, *Chair*
Banking and Insurance, *Vice Chair*
Appropriations
Appropriations Subcommittee on Health and Human Services
Commerce and Tourism
Regulated Industries
Rules

SENATOR GARRETT RICHTER
President Pro Tempore
23rd District

April 8, 2015

The Honorable Tom Lee, Chair
Committee on Appropriations
201 The Capitol
404 South Monroe Street
Tallahassee, FL 32399

Dear Chairman Lee:

Senate Bill 1582 relating to Public Records/High Pressure Well Stimulation Chemical Disclosure Registry, has been referred to your committee. I would appreciate your consideration to place this bill on your committee's agenda at the earliest opportunity.

Sincerely,

Garrett Richter

cc: Cindy Kynoch, 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*

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

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

4-21-2015
Meeting Date

1582
Bill Number (if applicable)

895002
Amendment Barcode (if applicable)

Topic

Name BRIAN PITTS

Job Title Trustee

Address 1119 Newton Ave S
Street

St Petersburg FL 33705
City State Zip

Phone 727/897-9291

Email justice2jesus@yahoo.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☑ In Support ☐ Against
(The Chair will read this information into the record.)

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 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4-21-15
Meeting Date

SB 1582
Bill Number (if applicable)

859002
Amendment Barcode (if applicable)

Topic: FRACKING DELETES ALL TRADE SECRET

Name: RAY BELLAMY

Job Title: PHYSICIAN

Address: 509 VINNEGE RIDE
Street

TALLAHASSEE, FLA 32303
City, State, Zip

Phone: 850-668-7967

Email: RAY.BELLAMY@MED.FSU.EDU

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

Waive Speaking: [ ] In Support [ ] Against
(The Chair will read this information into the record.)

Representing: PHYSICIANS FOR SOCIAL RESPONSIBILITY

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

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4-21-15
Meeting Date

Topic: Fracking -

Bill Number: 1582 *(if applicable)*

Name: Amy Datz

Amendment Barcode: 859002 *(if applicable)*

Job Title: Retired State Environmental Planner

Address: 1130 Ocestview Ave.
Street

Tallahassee FL. 32303
City *State* *Zip*

Phone: (850) 322-7599

E-mail: amalie Datz @ mac. com.

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

Representing: Environmental Caucas of Florida.

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

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

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

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/21/15
Meeting Date

1582
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic: Public Records / High Pressure Well Stimulation

Name: Mary-Lynn Culley

Job Title: Legislative Liaison

Address: 1674 University Pkwy.
Street

Sarasota, Fl. 34243
City, State, Zip

Phone: 941-928-0278

Email: aichildren@aol.com

Speaking: ☐ For ☑ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing: Advocacy Institute For Children

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4-21-15
Meeting Date

SB 1582
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic: Fracking - Trade Secrets

Name: Amy Datz

Job Title: Retired State Environmental Planner

Address: 1130 Crestview Ave.
Street

Tallahassee FL. 32303
City State Zip

Phone: 850 322-7599

Email: amaliedatz@mac.com.

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

Waive Speaking: [ ] In Support [ ] Against
(The Chair will read this information into the record.)

Representing: Environmental Caucus of Florida.

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

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

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4-21-15
Meeting Date

SB 1582
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic: PUBLIC RECORDS / HIGH-PRESSURE WELL

Name: RAY BELLAMY

Job Title: PHYSICIAN

Address: 509 VINNEDGE RIDGE
Street

TALLAHASSEE FLA 32303
City State Zip

Phone: 850-668-7967

Email: RAY.BELLAMY@MED.FSU.EDU

Speaking: ☐ For ☒ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing: PHYSICIANS FOR SOCIAL RESPONSIBILITY

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/21/15
Meeting Date

1582
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic SB 1582

Name Brian Lee

Job Title Leon Soil and Water Conservation District Supervisor

Address 1603 Saul's St
Street

Tallahassee FL 32308
City State Zip

Phone 850-766-7309

Email

Speaking: ☐ For ☑ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Leon Soil & Water Conservation District

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4-21-15
Meeting Date

1582
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic: Chemical Disclosure

Name: Kim Ross

Job Title: President Bethink Energy Florida

Address: 565 E Tennessee St
Street

Tallahassee, FL 32308
City, State, Zip

Phone: 850-888-2565

Email:

Speaking: ☐ For ☑ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing: Bethink Energy Florida

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

[redacted]/1582
Bill Number (if applicable)

4-21-15
Meeting Date

Amendment Barcode (if applicable)

Topic: Regulations on fracking

Name: Merrillee Malwitz-Jipson

Volunteer
Job Title: President for Our Santa fe River & Save Our Suwannee

Address: 2070 SW County Rd 138
Street

Fort White, FL 32038
City, State, Zip

Phone: 352-222-8893

Email: Merrillee@oursantariver.o

Speaking: ☐ For ☒ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing: Our Santa fe River & Save Our Suwannee

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.

S-001 (10/14/14)

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THE FLORIDA SENATE

APPEARANCE RECORD

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

April 21, 2015
Meeting Date

1582
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic: Public Records/High-pressure Well Stimulation Chemical Disclosure Registry

Name: John Dickert

Job Title: Retired Engineer

Address: 193 NW Hamilton Ave.
Street

Madison, FL 32340
City, State, Zip

Phone: 850-973-3699

Email: johnw512@yahoo.com

Speaking: ☐ For ☑ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing: Madison County citizens who want clean water

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

April 21, 2015
Meeting Date

1582
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic: Public Records/High-pressure Well Stimulation Chemical Disclosure Registry

Name: Gale Dickert

Job Title: Children's Advocate

Address: 193 NW Hamilton Ave.
Street

Madison, FL, 32340
City, State, Zip

Phone: 850-973-3699

Email: johnw512@yahoo.com

Speaking: ☐ For ☑ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing: Madison 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.

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/21/15
Meeting Date

1582
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic: PUB. RECORDS - OIL & GAS

Name: DAVID CULLEN

Job Title:

Address: 1674 UNIVERSITY PKWY #296
Street

SARASOTA FL 34243
City State Zip

Phone: 941.323.2404

Email: cullenrsea@aol.com

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

Waive Speaking: [ ] In Support [ ] Against
(The Chair will read this information into the record.)

Representing: SIERRA CLUB FLORIDA

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

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

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/21/2015
Meeting Date

1582
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic: PUBLIC RECORDS

Name: GAIL MARIE PERRY

Job Title: CHAIR

Address: PO BOX 17666
Street

POMPANO BEACH FLORIDA 33061
City State Zip

Phone: 954 850-4055

Email: workingfolk@hotmail.co

Speaking: ☐ For ☒ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing: Communications Workers of America

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/21/15
Meeting Date

SB 1582
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic: Regulation of Oil + Gas - Trade Secrets

Name: Andrew Ketchel

Job Title: Director of Legislative Affairs - DEP

Address: 3900 Commonwealth Blvd
Street

Tallahassee, FL 32303
City, State, Zip

Phone

Email

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

Waive Speaking: [X] In Support [ ] Against
(The Chair will read this information into the record.)

Representing: The Florida Department of Environmental Protection

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

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

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/21/15
Meeting Date

SB 1582
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic: Fracking Secrets

Name: Joy Bolton Herring

Job Title: Environmental Activist

Address: P.O. Box 13012
Street

Tallahassee FL 32317
City State Zip

Phone: (850) 567-9566

Email: joyboltonherring@gmail.com

Speaking: ☐ For ☑ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing: environmental lobby

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

Meeting Date: _____

Bill Number (if applicable): SB 1562

Amendment Barcode (if applicable): _____

Topic: _____

Name: Juan Pac

Job Title: Policy Coordinator

Address: 45 white head Cir
Street

Weston, FL
City, State, Zip

Phone: _____

Email: _____

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☑ Against
(The Chair will read this information into the record.)

Representing: Rethinker energy Florida

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4-21-15
Meeting Date

SB 1582
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic: Fracking - Trade Secrets

Name: DR. Ron Saff

Job Title: Physician

Address: Street

Tallahassee FL.
City State Zip

Phone

Email

Speaking: ☐ For ☒ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing: Physicians for Social Responsibility

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

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 Appropriations

BILL: PCS/CS/SB 7006 (462756)

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Health and Human Services); Community Affairs Committee; Education Pre-K - 12 Committee; and Senator Legg

SUBJECT: Early Learning

DATE: April 20, 2015 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	Scott	Klebacha		**ED Submitted as Committee Bill**
1.	Stearns	Yeatman	CA	**Fav/CS**
2.	Brown	Pigott	AHS	**Recommend: Fav/CS**
3.	Brown	Kynoch	AP	**Pre-meeting**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/CS/SB 7006 increases the health and safety standards and personnel requirements for Voluntary Prekindergarten Programs Education (VPK) programs and School Readiness programs. The bill:

- Requires licensure or, if the provider is a license-exempt faith-based provider or nonpublic school, a certificate of substantial compliance with specified child care licensing standards and submission to inspections by the Department of Children and Families (DCF);
- Requires providers of child care and VPK instructional services to notify parents of disciplinary action and conspicuously post Class I violation citations and inspection reports that result in disciplinary action, on the premises;
- Denies initial eligibility for programs to certain providers that had a Class I violation within the preceding 12 months prior to seeking eligibility and, if cited for a Class I violation, prevents an existing provider from renewing its eligibility for 12 months;
- Requires certain personnel to be at least 18 years of age and hold a high school diploma by January 1, 2017;
- Provides requirements for certain employees to be trained in first aid and cardiopulmonary resuscitation;
- Requires personnel to be trained in developmentally appropriate practices aligned to the age and needs of children served by the personnel;

- Requires the Office of Early Learning (OEL) to develop online training regarding School Readiness performance standards and requires provider personnel to complete the training;
- Requires OEL to conduct a pilot project assessing the early literacy skills of VPK participants who are English language learners;
- Provides that failure to report child abuse is a disqualifying offense for child care employment;
- Prohibits an operator of a program, who has been disciplined for serious licensing violations, from transferring ownership of a program to relatives;
- Authorizes Early Learning Coalitions (ELCs) to allow private providers to accept applications and determine child eligibility for the VPK program;
- Expands the DCF's authority to conduct abbreviated inspections to include family day care homes and large family child care homes; and
- Requires the Division of Law Revision and Information to change the terms "family day care" to "family child care" and "family day care home" to "family child care home."

The bill has a significant negative fiscal impact on the DCF. According to the DCF, the bill creates the need in Fiscal Year 2015-2016 for $1,252,441 and 18 full-time equivalent positions in order for the DCF to perform its required duties.

The bill provides an effective date of July 1, 2015.

II. Present Situation:

The Office of Early Learning

The Office of Early Learning (OEL), which is within the Office of Independent Education and Parental Choice, and which is accountable to the Commissioner of Education, administers the Voluntary Prekindergarten Education Program (VPK) and the School Readiness program at the state level.[1] The Florida Department of Children and Families (DCF) regulates child care providers who offer early learning because the DCF is the agency responsible for the state's child care provider licensing.[2]

Voluntary Prekindergarten Education Program

The VPK program is available to each child residing in the state who is four years old on or before September 1 of the school year, and VPK remains available to the child until the child is eligible for admission to public school kindergarten or is admitted to kindergarten, whichever occurs sooner.[3] Parents may choose either a school-year or summer VPK program offered by a public school or private prekindergarten provider, or a specialized instructional services program for a child with disabilities who is eligible for such a program.[4] A parent enrolling a child in

[1] Section 1001.213, F.S.
[2] *See* ss. 402.301-402.319, F.S.; Parts V and VI, ch. 1002, F.S.
[3] Section 1002.53, F.S.
[4] Section 1002.53(3), F.S. To be eligible for a specialized instructional services program, a child must be evaluated and determined to be eligible, have a current individual educational plan developed by the local school board, and be eligible under s. 1002.66, F.S., for the program. Section 1002.53(3)(d), F.S.

VPK must complete and submit an application to the early learning coalition (ELC),[5] not the individual program provider, which oversees the program.[6]

VPK may be offered by either a private prekindergarten provider or a public school. Local oversight of individual VPK providers is split with ELCs, which provide administration over programs delivered by private prekindergarten providers, and school districts, which administer public school VPK.[7] Each district school board determines which district schools will offer the school-year and summer VPK programs, and such schools must register with the ELC.[8]

A private prekindergarten VPK provider must register with the ELC and be a:

- Licensed child care facility;
- Licensed family day care home (FDCH);
- Licensed large family child care home (LFCCH);
- Nonpublic school; or
- License-exempt faith-based child care provider.[9]

In addition, a private prekindergarten provider must:

- Be accredited by an accrediting association that is a member of either the National Council for Private School Accreditation or the Florida Association of Academic Nonpublic Schools, or be accredited by the Southern Association of Colleges and Schools, the Western Association of Colleges and Schools, the North Central Association of Colleges and Schools, the Middle States Association of Colleges and Schools, or the New England Association of Colleges and Schools; and have written accreditation standards that meet the state's licensing requirements and require at least one on-site visit before accreditation is granted;[10]
- Hold a current Gold Seal Quality Care designation;[11] or
- Be licensed and demonstrate that the ELC has verified that the provider meets the VPK program's statutory requirements.[12]

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[5] An "early learning coalition" or "coalition" is described in s. 1002.83, F.S. Section 1002.51(4), F.S. Throughout the 67 counties, there are to be 31 or fewer early learning coalitions to provide access to enhancement services at the local level. Each coalition must consist of 15-30 members and have members who meet specific requirements described in statute. *See* s. 1002.83, F.S.

[6] Section 1002.53(4), F.S.

[7] *See* ss. 1002.53(6), 1002.55(1), 1002.61(1), and 1002.63(1), F.S.

[8] Sections 1002.61(3)(a) and (8); 1002.63(3) and (8), F.S. Each school district is able to limit the number of students enrolled in the school-year program at a public school, however, the school district must admit every eligible child, enrolled by a parent, within the district for the summer prekindergarten program. Section 1002.53(6)(b).

[9] Section 1002.55(3)(a) and (h), F.S.; *see also* s. 402.305, F.S. (regarding licensing standards for child care facilities); s. 402.3025, F.S. (regarding public and nonpublic schools); s. 402.313, F.S. (providing for family day care home licensing and requirements); s. 402.3131, F.S. (regarding licensure of large family child care homes); s. 402.316, F.S. (providing a licensure exemption for faith-based providers).

[10] Section 1002.55(3)(b)1., F.S.

[11] *Section* 1005(3)(b)2., F.S.; *see* s. 402.281, F.S.; rule 65C-22.009, F.A.C.; *see also* Florida Department of Children and Family Services, *Gold Seal Accreditation Process for Child Care Providers*, http://myflfamilies.com/service-programs/child-care/goldseal-acredprocess (last visited Jan. 15, 2015). DCF issues the Gold Seal Quality Care designation to child care facilities, LFCCHs, and FDCHs that are accredited by a nationally recognized accrediting association with standards that meet or exceed DCF-adopted standards. DCF's standards are based upon those of the National Association for the Education of Young Children, National Association of Family Child Care, and National Early Childhood Program Accreditation Commission. Section 402.281(1)-(3), F.S.

[12] Section 1002.55(3)(b)3., F.S.

School Readiness Program

The School Readiness program provides subsidized child care services and early childhood education for children of low-income families, children in protective services who are at risk of abuse, neglect, or abandonment, and children with disabilities.[13] The School Readiness program is a state/federal partnership between the OEL and the Office of Child Care of the United States Department of Health and Human Services.[14] The School Readiness program receives funding from various state and federal sources, including the federal Child Care and Development Fund (CCDF) block grant, the federal Temporary Assistance for Needy Families block grant, and general revenue and other state funds.[15] The program is administered by ELCs.[16]

To deliver the School Readiness program, a provider must be:
- A licensed child care facility;
- A licensed or registered family day care home (FDCH);
- A licensed large family child care home (LFCCH);
- A public school or nonpublic school;
- A license-exempt, faith-based child care provider;
- A before-school or after-school program; or
- An informal child care provider authorized in the state's CCDF plan.[17]

The present situation for the relevant provisions of the bill is discussed in the "Effect of Proposed Changes" section of this bill analysis.

III. Effect of Proposed Changes:

The bill increases the health and safety standards and personnel requirements for Voluntary Prekindergarten Programs Education (VPK) programs and School Readiness programs.

Requirements of the Office of Early Learning

Powers and Duties of the Office of Early Learning

Present Situation: The Office of Early Learning (OEL) is required to: independently exercise powers, duties, and functions prescribed by law; adopt rules for the establishment and operation of VPK and School Readiness programs; administer the VPK and School Readiness programs,

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[13] Section 1002.87, F.S.; *see* s. 1002.81(1), F.S. (defining what it means to be an "at-risk child").
[14] 42 U.S.C ss. 618, 9858-9858q; 45 C.F.R. ss. 98, 99; Part VI, ch. 1002, F.S.; U.S. Department of Health and Human Services, *Office of Child Care Fact Sheet*, *available at* http://www.acf.hhs.gov/sites/default/files/assets/FS_OCC_0.pdf.
[15] Specific Appropriations 78A and 79, s. 2, ch. 2013-40, L.O.F.; *see also* U.S. Department of Health and Human Services, *Office of Child Care Fact Sheet*, *available at* http://www.acf.hhs.gov/sites/default/files/assets/FS_OCC_0.pdf.
[16] *Sections 1002.83-1002.85, F.S.* There are currently 31 ELCs, which is the maximum permitted by law. Section 1002.83(1), F.S.; *see* Florida's Office of Early Learning, *Early Learning Coalition Directory* (Jan. 7, 2015), *available at* http://www.floridaearlylearning.com/sites/www/Uploads/files/Parents/CoalitionDirectory.pdf.
[17] Section 1002.88(1)(a), F.S. Generally speaking, informal child care is care provided by a relative. *See* Florida's Office of Early Learning, *Child Care and Development Fund (CCDF) Plan for Florida FFY 2014-15*, at 71 (Oct. 1, 2013), *available at* http://www.floridaearlylearning.com/sites/www/Uploads/files/Oel%20Resources/2014-2015_CCDF_Plan_%20Optimized.pdf.

and the operational requirements of the child care resource and referral network, at the state level; and minimize administrative staff to those needed to administer the duties of the office.[18]

Effect of the Bill: The bill adds additional requirements to the duties of the OEL. The additional duties are to: hire a general counsel who reports directly to the executive director of the office; hire an inspector general who reports directly to the executive director of the office and to the Chief Inspector General; and by July 1, 2017, develop and implement best practices for providing parental notification in the parent's native language to a parent whose native language is not English. The bill also requires the OEL to conduct a two-year pilot project studying the impact of assessing the early literacy skills of VPK participants who are English language learners, in both English and Spanish, and report its findings to the Governor, the President of the Senate, and the Speaker of the House of Representatives by July 1, 2016, and July 1, 2017.

The Standardized Voluntary Prekindergarten Contract

Present Situation: Through adopted rules, the OEL is required to have a standard, statewide provider contract for VPK that includes provisions on: provider probation, termination for cause and emergency termination; due-process procedures; and provide that during the pendency of an appeal, a provider may not continue to offer services.[19]

Effect of the Bill: The bill, in addition to current-law requirements, requires the standard statewide contract to:

- Mandate that each private VPK provider and each School Readiness provider must conspicuously post each citation for a Class I violation in an area visible to parents. The posting must use simple language to describe each violation with specificity and include a copy of the citation, as well as contact information for the Department of Children and Families (DCF) or the local licensing agency. Such posting must occur within 24 hours of receipt of the Class I violation citation. Additionally, the provider must post each inspection report on the premises until the next report is available; and
- Specify that child care personnel employed by the provider who are responsible for supervising children in care must be trained in appropriate practices, through DCF courses, aligned to the age and needs of children the employee oversees within 30 days of being assigned to children for which the personnel has not previously completed the training.

Additionally, the bill creates a new requirement for the OEL to develop and implement an on-line training course on the performance standards for School Readiness program provider personnel, and the bill requires personnel to complete the on-line training course.

Provider, Instructor, and Child Care Personnel Qualifications

Background Screening

Present Situation: Personnel at child care facilities must meet a minimum standard of having good moral character as determined by the requirement of level 2 employment screening under ch. 435, F.S.[20]

[18] Section 1001.213, F.S.
[19] Section 1002.75, F.S. (regarding VPK programs); s. 1002.82(2)(m), F.S. (regarding School Readiness Programs).
[20] Section 402.305(2), F.S.

Effect of the Bill: The bill adds that in addition to the list of offenses in s. 435.04, F.S., pertaining to level 2 screening, child care personnel undergoing background screening may not have an arrest awaiting final disposition and may not have been found guilty of, or entered a plea of nolo contendre or guilty to, and may not have been adjudicated delinquent and have a record that has been sealed or expunged, for an offense specified in s. 39.205, F.S., which relates to penalties associated with the absence of reporting of child abuse, abandonment, or neglect.

The bill applies the background screening requirement and language of s. 402.305(2)(a), F.S., as amended by the bill and described above, to each VPK instructor employed by a private VPK provider delivering a summer VPK program. As noted above, the bill amends the statute to add more prohibited offenses that are not included in current law, and current law does not address those offenses because the statute specifically refers to s. 435.04, F.S., without referencing s. 39.205, F.S.[21]

The bill also adds the requirement that before employing child care personnel, an employer must conduct employment history checks and document the findings.

Instructor Credentials

Present Situation: A private VPK instructor must hold a child development associate credential issued by the National Credentialing Program of the Council for Professional Recognition or a credential deemed equivalent by the DCF.[22] Currently, s. 1002.55, F.S., does not explicitly delineate requirements for VPK instructors relating to first aid and infant and child cardiopulmonary resuscitation, nor does the statute address a minimum age or high school diploma requirement for employment.

Effect of the Bill: The bill retains the current-law options that satisfy the minimum credential requirement and provides new credentials that would also satisfy the requirement. The additional credentials added to the list include associate and baccalaureate degrees in child-oriented focus areas and associate and baccalaureate degrees in unrelated areas with additional hours of experience in teaching or child care services.

The bill requires at least 50 percent of a private VPK provider's instructors at each location and at least 50 percent of child care personnel at each School Readiness provider location to be trained in first aid and child cardiopulmonary resuscitation, demonstrated by documentation of course completion, unless the instructor or personnel are not responsible for supervising children in care, by January 1, 2016. Additionally, instructors and personnel hired on or after January 1, 2016, must complete the training within 60 days of employment.

The bill also adds that, as of January 1, 2017, private VPK providers must employ child care personnel who have a high school diploma or its equivalent and are at least 18 years old, unless the personnel are not responsible for supervising children in care or are under direct supervision.

[21] *See* s. 1002.61(5), F.S.
[22] Section 1002.55(3)(c), F.S.

Transfer of Ownership

Present Situation: One week before the transfer of ownership of a child care facility, the transferor must notify the parent or caretaker of each child of the transfer. The DCF must establish rules relating to the methods by which such notice will occur and the minimum standards for implementing the notification and transfer.[23]

Effect of the Bill: The bill prohibits the transfer of a child care facility *or a large family child care home* to a relative of the operator if the license of the operator has been suspended or revoked by the DCF, the operator received notice from the DCF that reasonable cause existed to suspend or revoke the operator's license, or the operator has been placed on the United States Department of Agriculture National Disqualified List. The bill provides a definition of "relative," which includes immediate family members, grandparents, uncles, aunts, nephews, nieces, fathers-in-law, mothers-in-law, step-parents, step-siblings, and half-siblings.

Course Requirements for Operators and Substitute Operators of Family Day Care Homes and Large Family Child Care Homes

Present Situation: Operators of family day care homes must complete an approved 30-clock-hour introductory course in child care and demonstrate successful completion through passage of a competency examination before caring for children.[24]

Operators of large family child care homes must complete an approved 40-clock-hour introductory course in group child care and demonstrate successful completion through passage of a competency examination.[25]

Effect of the Bill: The bill adds that *substitute* operators must also meet the 30-clock-hour requirement that is currently in law for operators. Additionally, the bill states specific topics that must be included in the course, which are:

- State and local rules and regulations governing child care;
- Health, safety, and nutrition;
- Identifying and reporting child abuse and neglect;
- Child development;
- Observation of developmental behaviors; and
- Specialized areas including numeracy, early literacy, and language development of children from birth to five years of age.

The bill adds requirements to the 40-clock-hour introductory course that an operator of a large family child care home must complete. In addition to the existing requirement that the course focus on group child care, the course must include numeracy, early literacy, and language development of children from birth to five years of age.

[23] Section 402.305(18), F.S.
[24] Section 402.313(4), F.S.
[25] Section 402.3131(3), F.S.

Health and Safety

Inspection and Substantial Compliance with Licensing Standards

Present Situation: Licensing requirements, except for the requirements regarding screening of child care personnel, do not currently apply to a faith-based facility or educational programs accredited by (or by a member of) an organization that publishes and requires compliance with its standards for health, safety, and sanitation.[26] Nonpublic schools which are not licensed under ss. 402.301-402.319, F.S., are required to substantially comply with the minimum child care standards adopted pursuant to ss. 402.305-402.3057, F.S.[27]

Effect of the Bill: The bill requires child care facilities that are exempt from licensure requirements pursuant to s. 402.316, F.S., and which operate or apply to operate as a VPK or School Readiness provider, to substantially comply with the adopted minimum standards for child care facilities pursuant to ss. 402.305-402.3057, F.S., and obtain a certificate of substantial compliance from the DCF. Nonpublic schools which are not licensed are also required to obtain a certificate of substantial compliance. Such facilities must allow the DCF or the local licensing agency to monitor and enforce compliance. The bill adds that the DCF must establish a fee for inspection and compliance activities in an amount sufficient to cover costs, but the amount may not exceed the fee established for child care licensure under s. 402.315, F.S. The bill also provides penalties for the misrepresentation and misuse of certain information. The effect of this provision is that all providers will either be licensed or must be substantially compliant with existing licensing standards.

Present Situation: A licensed child care facility must allow the DCF to inspect facilities and personnel at reasonable times during regular business hours to ensure statutory compliance. An application for a license or the advertisement to the public for the provision of child care allows the DCF to enter or inspect a facility seeking licensure or renewal of licensure.[28]

DCF and local governmental agencies that license child care facilities must develop a plan to eliminate duplicative and unnecessary inspections of child care facilities and conduct abbreviated inspections for child care facilities that have no Class I or Class II deficiencies.

Effect of the Bill: The bill provides that the DCF's authority to inspect a licensed child care facility is expanded to include inspection of a "program regulated by" the DCF. This includes a child care facility which is exempted from licensure under s. 402.316, F.S., and which is a VPK or School Readiness provider or which seeks to become a VPK or School Readiness provider. Additionally, the bill provides that an application for authorization to operate a child care program that must substantially comply with child care standards under ch. 402, F.S., or renewal of such a license or authorization, also constitutes permission for the DCF to enter and inspect the premises.

The bill adds licensed family day care homes and licensed large family child care homes without a Class I or Class II violation to the facilities eligible for abbreviated inspections by the DCF and

[26] Section 402.316(1), F.S.
[27] Section 402.3025(2)(d)1., F.S.
[28] Section 402.311, F.S.

the local licensing agency. The bill also requires the DCF to adopt rules establishing criteria and procedures for abbreviated inspections and inspection schedules for announced and unannounced inspections.

Eligibility of a Private Provider to Deliver the Voluntary Prekindergarten Program

Present Situation: A private VPK provider must meet one of the following: be accredited by a particular accrediting body,[29] hold a Gold Seal Quality Care designation, or be licensed under particular statutes.[30] School Readiness facilities are also required to provide basic health and safety of its premises.[31]

Effect of the Bill: The bill adds an additional option for a private VPK provider's required status and states that the private VPK provider may be a child development center located on a military installation that is certified by the United States Department of Defense.

The bill also adds that each private VPK provider must provide basic health and safety on its premises and in its facilities. The bill provides standards that satisfy the requirement for specific VPK and School Readiness programs as follows:

- For a public school, compliance with s. 1003.22, F.S., (school-entry health examinations and immunizations) and s. 1013.12, F.S., (casualty, safety, sanitation, fire safety standards and inspection of property), is sufficient;
- For a nonpublic school, compliance with s. 402.3025(2)(d), F.S., (substantial compliance with statutory licensing standards) is sufficient;
- For a child care facility, a licensed family day care home, or a large family child care home, compliance with s. 402.305, F.S., (licensing standards), s. 402.313, F.S., (licensing of family day care homes requirements), or s. 402.3131, F.S., (licensing of large family child care homes requirements), is sufficient; and
- For a facility exempt from licensure, compliance with s. 402.316(4), F.S., (which is created by this bill) is sufficient.

In effect, this provision ensures that all providers are licensed or substantially compliant with existing statutory licensing standards.

Display of License or Registration by Family Day Care Homes

Present Situation: A licensed or registered family day care home is not required to display its license or registration.[32]

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[29] Section 1002.55(3)(b)1., F.S. A private VPK provider must be accredited by: "an accrediting association that is a member of the National Council for Private School Accreditation, or the Florida Association of Academic Nonpublic Schools, or be accredited by the Southern Association of Colleges and Schools, or Western Association of Colleges and Schools, or North Central Association of Colleges and Schools, or Middle States Association of Colleges and Schools, or New England Association of Colleges and Schools; and have written accreditation standards that meet or exceed the state's licensing requirements under ss. 402.305, 402.313, or 402.3131, F.S., and require at least one onsite visit to the provider or school before accreditation is granted." *Id.*

[30] Section 1002.55, F.S.

[31] Section 1002.88(1)(c), F.S.

[32] *See* s. 402.313, F.S.

Effect of the Bill: The bill requires each licensed or registered family day care home to conspicuously display its license or registration in the common area of the home.

The bill also creates specific requirements for the DCF to verify certain information upon receipt of registration from a family day care home. The DCF must verify that the home is in compliance with the background screening requirements and that the operator and the designated substitute have completed 30-clock-hour training courses (demonstrated through passage of a competency examination and required continuing education units or clock-hours).

Rulemaking Authority

Present Situation: Rulemaking authority is not provided to the DCF with regard to defining and enforcing substantial compliance with minimum standards for child care facilities for programs operating under s. 1002.55, F.S., (private school-year VPK programs), s. 1002.61, F.S., (public school and private VPK summer programs), and s. 1002.88, F.S., (School Readiness programs).[33]

Effect of the Bill: The bill provides the DCF with rulemaking authority to define and enforce substantial compliance with the minimum standards for child care facilities operating programs under the aforementioned statutes.

Eligibility to Deliver the Voluntary Prekindergarten Program

Present Situation: Denial of initial eligibility based upon a Class I violation within 12 months of seeking eligibility to deliver a VPK program and preventing renewal of such eligibility for a Class I violation, are not currently in law.

Effect of the Bill: The bill denies initial eligibility to a private provider seeking eligibility to deliver the VPK program if the provider has been cited for a Class I violation in the 12 months prior to seeking such eligibility. The bill also prevents an existing provider from renewing its eligibility for 12 months if cited for a Class I violation. This provision inhibits the growth of a provider's program if the provider has received a citation for the most severe grouping of violations within the past year.

Participant-Related Provisions

Voluntary Prekindergarten Eligibility and Enrollment

Present Situation: Each parent enrolling a child in the VPK program must complete and submit an application to the early learning coalition (ELC).[34]

Effect of the Bill: The bill allows application submission to a private VPK provider if the provider is authorized by the ELC to determine student eligibility for VPK enrollment, which is a new authority for private VPK providers. The bill also provides the actions a provider must take upon receipt of an application, requires retention of the original application and certified birth certificate of the child for five years, and provides that the ELC may audit applications in its

[33] *See* s. 402.305, F.S.
[34] Section 1002.53(4)(a), F.S.

service area to determine whether children enrolled and reported for funding by the provider have met the eligibility criteria. The bill provides a check on the newly authorized ability of some private VPK providers to accept applications and determine eligibility and enrollment.

School Readiness Eligibility

Present Situation: For the purposes of establishing eligibility for the School Readiness program, the terms "at-risk child," "family income," and "working family" are defined in statute.[35]

Effect of the Bill: The bill amends the definition of an "at-risk child" to provide that a designated lead agency on the homeless assistance continuum of care established under ss. 420.622-420.624, F.S., must determine whether a child is in the custody of a parent who is considered homeless, as opposed to current law which requires the DCF to make the determination.

The bill adds to the list of types of income that are not included in the definition of "family income." The new language provides that the following types are not considered family income:

- Income earned by a teen parent residing in the same residence as a separate family unit; and
- Selected items from the state's Child Care and Development Fund Plan, including documented child support and alimony payments paid out of the home.

The bill expands the definition of a "working family" to include a single-parent family in which the parent with whom the child resides is exempt from work requirements due to age or disability and a two-parent family with whom the child resides in which both parents are exempt from work requirements due to age or disability.

Provider-Related Provisions

Reviser's Bill for the 2016 Regular Session

Present Situation: The terms "family day care" and "family day care home" are currently used in statute.

Effect of the Bill: The bill directs the Division of Law Revision and Information to prepare a reviser's bill for the 2016 regular session that will change the term "family day care" to "family child care," and the term "family day care home" to "family child care home" throughout the Florida Statutes.

Zoning, Utility Rates, and Residential Property Insurance Coverage

Present Situation: The operation of a residence as a family day care home is a valid residential use for local zoning regulation purposes.[36] Large family child care homes are not included in this provision.

Effect of the Bill: The bill provides that the operation of a residence as a family day care home *or as a large family child care home* is a valid residential use for local zoning regulation purposes.

[35] Section 1002.81, F.S.
[36] Sections 125.0109 and 166.0445, F.S.

Additionally, the bill provides that, despite any other state or local law or ordinance, any licensed large family child care home may not be charged commercial utility rates and must be charged the rates accorded to a residential home.

Present Situation: Family day care homes may not have residential property insurance canceled, denied, or non-renewed solely because child care services are provided on the premises.[37]

Effect of the Bill: The bill adds large family child care homes to this provision, which currently only includes family day care homes.

Applicability of Requirements to Nonpublic Schools

Present Situation: Requirements under s. 402.3025, F.S., apply to nonpublic programs for children at least three years of age, but under five years of age, that are not licensed under ss. 402.301-402.319, F.S.[38]

Effect of the Bill: The bill removes the specific age range in current law of three to five years of age and states that the provision is applicable to nonpublic schools delivering school-year and summer VPK programs and School Readiness programs.

Voluntary Prekindergarten and School Readiness Funding and Attendance Reporting

Present Situation: Each parent enrolling a child in VPK must comply with the attendance policy of the private VPK provider or public school board. Each provider must supply a child's parent with a copy of the attendance policy.[39] For a School Readiness program, if a child is absent for five consecutive days without notification from the parent of such an absence, the provider is required to report the absence to the ELC.[40]

Effect of the Bill: The bill, in addition to the requirements that a parent comply with the VPK provider's attendance policy and that the provider give the policy to each child's parent, adds that each private VPK provider, public school, and School Readiness provider must supply each child's parent with information regarding child development, parent engagement expectations, a daily schedule, and procedures for contacting a parent if a child has been absent for two consecutive days without a known reason.

The bill amends the requirements of the attendance reporting requirement for the School Readiness program to add an additional responsibility of the provider to contact the parent of a child who has been absent for two consecutive days to determine the reason for the absence. This requirement is in addition to the provider being required to contact the ELC if a child is absent for five consecutive days.

[37] Section 627.70161, F.S.
[38] Section 402.3025(2)(c), F.S.
[39] Section 1002.71(6)(a), F.S.
[40] Section 1002.87(8), F.S.

School Readiness Program Eligibility Requirements

Present Situation: The eligibility of each child for the School Readiness program must be determined annually, and a child who is no longer eligible may not continue to receive services.[41]

Effect of the Bill: The bill adds additional language stating that if a child is no longer eligible for the program, the ELC must immediately notify the child's parent and the provider that funding will end two weeks after the date on which the child's ineligibility was determined or when the current School Readiness authorization expires, whichever is sooner.

School Readiness Investigations of Fraud or Overpayment

Present Situation: The ELC may not contract with a School Readiness or VPK provider who is on the United States Department of Agriculture National Disqualified List.[42]

Effect of the Bill: The bill adds that an ELC may not contract with an individual on the United States Department of Agriculture National Disqualified List.

Effective Date

The bill provides an effective date of July 1, 2015.

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:

Section 12 of PCS/CS/SB 7006 requires the Department of Children and Families (DCF) to establish a fee for inspection and compliance activities.

[41] Section 1002.87(6), F.S.
[42] Section 1002.91(7), F.S.

B. Private Sector Impact:

Some of the bill's provisions may have an indeterminate negative fiscal impact on the private sector. Those provisions relate to the following: certification requirements, training requirements, notification requirements, and a fee for inspection and compliance.

C. Government Sector Impact:

According to the Department of Children and Families (DCF), the bill would require the department to monitor over 768 additional child care facilities to ensure substantial compliance with health and safety standards. For Fiscal Year 2015-2016, the DCF's Office of Child Care Regulation and Background Screening and the Office of the General Counsel would require $1,252,441 and 18 full-time equivalent positions to perform these functions, according to the DCF.

The DCF expects to receive approximately $52,093 in additional revenue for the Operations and Maintenance Trust Fund in Fiscal Year 2015-2016 under the bill, due to fees collected from approximately 244 currently exempt child care facilities and 336 non-public schools that would need to be inspected under the bill, in addition to licensure fees collected from 188 currently registered child care facilities that would need to become licensed under the bill.

VI. Technical Deficiencies:

Under current law, s. 402.316(1), F.S., provides that certain child care facilities are exempt from the licensure and regulatory provisions of ss. 402.301-402.319, F.S., except for requirements regarding screening of child care personnel. However, the bill creates s. 402.316(4), F.S., to require that such an exempt facility that also operates as a VPK or School Readiness provider must substantially comply with minimum standards for child care facilities adopted pursuant to ss. 402.305-402.3057, F.S., while leaving in force the provision under s. 402.316(1), F.S., that such facilities are exempt from those same standards, except for the standards regarding screening of child care personnel.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 125.0109, 166.0445, 402.302, 402.3025, 402.305, 402.311, 402.3115, 402.313, 402.3131, 402.316, 627.70161, 1001.213, 1002.53, 1002.55, 1002.59, 1002.61, 1002.63, 1002.71, 1002.75, 1002.77, 1002.81, 1002.82, 1002.84, 1002.87, 1002.88, 1002.89, 1002.91, 1002.94, and 1003.21.

This bill creates section 402.3085 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

Recommended CS/CS by Appropriations Subcommittee on Health and Human Services on April 14, 2015:
The committee substitute:

- Removes provisions allowing a district school board or charter school governing board to permit certain four-year-old children to attend public kindergarten under specified conditions; and
- Removes provisions for appropriations to be made to the Department of Children and Families for the purpose of implementing the bill.

CS by Community Affairs on February 17, 2015:
Amends s. 1003.21(1)(a)2., F.S., to allow a district school board or charter school governing board to permit certain four-year-old children to attend public kindergarten. The board must adopt a policy that requires the child to pass:

- The kindergarten readiness assessment pursuant to s. 1002.69, F.S.; and
- A social assessment developed or selected by the school district or charter school.

B. Amendments:

None.

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Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on Health and Human Services)

A bill to be entitled

An act relating to early learning; providing a directive to the Division of Law Revision and Information to change the term "family day care home" to "family child care home," and the term "family day care" to "family child care"; amending ss. 125.0109 and 166.0445, F.S.; including large family child care homes in local zoning regulation requirements; amending s. 402.302, F.S.; redefining the term "substantial compliance"; requiring the Department of Children and Families to adopt rules for compliance by certain programs regulated, but not licensed, by the department; amending s. 402.3025, F.S.; revising requirements for nonpublic schools delivering certain voluntary prekindergarten education programs and school readiness programs; amending s. 402.305, F.S.; revising certain minimum standards for child care facilities; prohibiting the transfer of ownership of such facilities to specified individuals; creating s. 402.3085, F.S.; requiring nonpublic schools or providers seeking to operate certain programs to annually obtain a certificate from the department or a local licensing agency; providing for issuance of the certificate upon examination of the applicant's premises and records; prohibiting a provider from participating in the programs without a certificate; authorizing local licensing agencies to apply their

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own minimum child care standards under certain circumstances; amending s. 402.311, F.S.; providing for the inspection of programs regulated by the department; amending s. 402.3115, F.S.; providing for abbreviated inspections of specified child care homes; requiring rulemaking; amending s. 402.313, F.S.; revising provisions for licensure, registration, and operation of family child care homes; amending s. 402.3131, F.S.; revising requirements for large family child care homes; amending s. 402.316, F.S.; providing exemptions from child care facility licensing standards; requiring a child care facility operating as a provider of certain voluntary prekindergarten education programs or child care programs to comply with minimum standards; providing penalties for failure to disclose or for use of certain information; requiring the department to establish a fee for inspection and compliance activities; amending s. 627.70161, F.S.; revising restrictions on residential property insurance coverage to include coverage for large family child care homes; amending s. 1001.213, F.S.; providing additional duties of the Office of Early Learning; amending s. 1002.53, F.S.; revising requirements for application and determination of eligibility to enroll in the Voluntary Prekindergarten (VPK) Education Program; amending s. 1002.55, F.S.; revising requirements for a school-year prekindergarten program delivered by a private prekindergarten provider, including requirements for

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57 providers, instructors, and child care personnel;
58 providing requirements in the case of provider
59 violations; amending s. 1002.59, F.S.; conforming a
60 cross-reference to changes made by the act; amending
61 ss. 1002.61 and 1002.63, F.S.; revising employment
62 requirements and educational credentials of certain
63 instructional personnel; amending s. 1002.71, F.S.;
64 revising information that must be provided to parents;
65 amending s. 1002.75, F.S.; revising provisions
66 included in the standard statewide VPK program
67 provider contract; amending s. 1002.77, F.S.; revising
68 the purpose and meetings of the Florida Early Learning
69 Advisory Council; amending s. 1002.81, F.S.; revising
70 certain program definitions; amending s. 1002.82,
71 F.S.; revising the powers and duties of the Office of
72 Early Learning; revising provisions included in the
73 standard statewide school readiness provider contract;
74 amending s. 1002.84, F.S.; revising the powers and
75 duties of early learning coalitions; conforming
76 provisions to changes made by the act; amending s.
77 1002.87, F.S.; revising student eligibility and
78 enrollment requirements for the school readiness
79 program; amending s. 1002.88, F.S.; revising
80 eligibility requirements for program providers that
81 want to deliver the school readiness program;
82 providing conditions for denial of initial
83 eligibility; providing child care personnel
84 requirements; amending s. 1002.89, F.S.; revising the
85 use of funds for the school readiness program;

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86 amending s. 1002.91, F.S.; prohibiting an early
87 learning coalition from contracting with specified
88 persons; amending s. 1002.94, F.S.; revising
89 establishment of a community child care task force by
90 an early learning coalition; requiring the Office of
91 Early Learning to conduct a pilot project to study the
92 impact of assessing the early literacy skills of
93 certain VPK program participants; requiring the office
94 to report its findings to the Governor and Legislature
95 by specified dates; providing an effective date.
96
97 Be It Enacted by the Legislature of the State of Florida:
98
99 Section 1. The Division of Law Revision and Information is
100 directed to prepare a reviser's bill for the 2016 Regular
101 Session of the Legislature to change the term "family day care
102 home" to "family child care home" and the term "family day care"
103 to "family child care" wherever the terms appear in the Florida
104 Statutes.
105 Section 2. Section 125.0109, Florida Statutes, is amended
106 to read:
107 125.0109 Family child ~~day~~ care homes and large family child
108 care homes; local zoning regulation.—The operation of a
109 residence as a family child ~~day~~ care home or large family child
110 care home, as defined in s. 402.302, licensed or registered
111 pursuant to s. 402.313 or s. 402.3131, as applicable,
112 constitutes~~,as defined by law, registered or licensed with the~~
113 ~~Department of Children and Families shall constitute~~ a valid
114 residential use for purposes of any local zoning regulations,

and ~~no~~ such regulation may not ~~shall~~ require the owner or operator of such family child ~~day~~ care home or large family child care home to obtain any special exemption or use permit or waiver, or to pay any special fee in excess of $50, to operate in an area zoned for residential use.

Section 3. Section 166.0445, Florida Statutes, is amended to read:

166.0445 Family child ~~day~~ care homes and large family child care homes; local zoning regulation.—The operation of a residence as a family child ~~day~~ care home or large family child care home, as defined in s. 402.302, licensed or registered pursuant to s. 402.313 or s. 402.3131, as applicable, constitutes~~, as defined by law, registered or licensed with the Department of Children and Families shall constitute~~ a valid residential use for purposes of any local zoning regulations, and ~~no~~ such regulations may not ~~regulation shall~~ require the owner or operator of such family child ~~day~~ care home or large family child care home to obtain any special exemption or use permit or waiver, or to pay any special fee in excess of $50, to operate in an area zoned for residential use.

Section 4. Subsection (17) of section 402.302, Florida Statutes, is amended to read:

402.302 Definitions.—As used in this chapter, the term:

(17) "Substantial compliance" means, for purposes of programs operating under s. 1002.55, s. 1002.61, or s. 1002.88, ~~that level of~~ adherence to adopted standards which is sufficient to safeguard the health, safety, and well-being of all children under care. The standards must address the requirements of s. 402.305 and must be limited to supervision, transportation,

access, health-related requirements, food and nutrition, personnel screening, records, and enforcement of these standards. The standards must not limit or exclude the curriculum provided by a faith-based provider or nonpublic school. The department, in consultation with the Office of Early Learning, must adopt rules to define and enforce substantial compliance with minimum standards for child care facilities for programs operating under s. 1002.55, s. 1002.61, or s. 1002.88 which are regulated, but not licensed, by the department ~~Substantial compliance is greater than minimal adherence but not to the level of absolute adherence~~. ~~Where a violation or variation is identified as the type which impacts, or can be reasonably expected within 90 days to impact, the health, safety, or well-being of a child, there is no substantial compliance.~~

Section 5. Paragraphs (d) and (e) of subsection (2) of section 402.3025, Florida Statutes, are amended to read:

402.3025 Public and nonpublic schools.—For the purposes of ss. 402.301-402.319, the following shall apply:

(2) NONPUBLIC SCHOOLS.—

(d)1. Nonpublic schools delivering programs under s. 1002.55, s. 1002.61, or s. 1002.88 ~~Programs for children who are at least 3 years of age, but under 5 years of age,~~ which are not licensed under ss. 402.301-402.319 shall substantially comply with the minimum child care standards adopted ~~promulgated~~ pursuant to ss. 402.305-402.3057.

2. The department or local licensing agency shall enforce compliance with such standards, where possible, to eliminate or minimize duplicative inspections or visits by staff enforcing

173 the minimum child care standards and staff enforcing other
174 standards under the jurisdiction of the department.
175 3. The department or local licensing agency may inspect
176 programs operating under this paragraph and pursue
177 administrative or judicial action under ss. 402.310-402.312
178 against nonpublic schools operating under this paragraph
179 ~~commence and maintain all proper and necessary actions and~~
180 ~~proceedings for any or all of the following purposes:~~
181 ~~a.~~ to protect the health, sanitation, safety, and well-
182 being of all children under care.
183 ~~b. To enforce its rules and regulations.~~
184 ~~c. To use corrective action plans, whenever possible, to~~
185 ~~attain compliance prior to the use of more restrictive~~
186 ~~enforcement measures.~~
187 ~~d. To make application for injunction to the proper circuit~~
188 ~~court, and the judge of that court shall have jurisdiction upon~~
189 ~~hearing and for cause shown to grant a temporary or permanent~~
190 ~~injunction, or both, restraining any person from violating or~~
191 ~~continuing to violate any of the provisions of ss. 402.301-~~
192 ~~402.319. Any violation of this section or of the standards~~
193 ~~applied under ss. 402.305-402.3057 which threatens harm to any~~
194 ~~child in the school's programs for children who are at least 3~~
195 ~~years of age, but are under 5 years of age, or repeated~~
196 ~~violations of this section or the standards under ss. 402.305-~~
197 ~~402.3057, shall be grounds to seek an injunction to close a~~
198 ~~program in a school.~~
199 ~~e. To impose an administrative fine, not to exceed $100,~~
200 ~~for each violation of the minimum child care standards~~
201 ~~promulgated pursuant to ss. 402.305-402.3057.~~

202 4. It is a misdemeanor of the first degree, punishable as
203 provided in s. 775.082 or s. 775.083, for any person willfully,
204 knowingly, or intentionally to:
205 a. Fail, by false statement, misrepresentation,
206 impersonation, or other fraudulent means, to disclose in any
207 required written documentation for exclusion from licensure
208 pursuant to this section a material fact used in making a
209 determination as to such exclusion; or
210 b. Use information from the criminal records obtained under
211 s. 402.305 or s. 402.3055 for any purpose other than screening
212 that person for employment as specified in those sections or
213 release such information to any other person for any purpose
214 other than screening for employment as specified in those
215 sections.
216 5. It is a felony of the third degree, punishable as
217 provided in s. 775.082, s. 775.083, or s. 775.084, for any
218 person willfully, knowingly, or intentionally to use information
219 from the juvenile records of any person obtained under s.
220 402.305 or s. 402.3055 for any purpose other than screening for
221 employment as specified in those sections or to release
222 information from such records to any other person for any
223 purpose other than screening for employment as specified in
224 those sections.
225 6. The inclusion of nonpublic schools within options
226 available under ss. 1002.55, 1002.61, and 1002.88 does not
227 expand the regulatory authority of the state, its officers, any
228 local licensing agency, or any early learning coalition to
229 impose any additional regulation of nonpublic schools beyond
230 those reasonably necessary to enforce requirements expressly

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specified in this paragraph.

~~(c) The department and the nonpublic school accrediting agencies are encouraged to develop agreements to facilitate the enforcement of the minimum child care standards as they relate to the schools which the agencies accredit.~~

Section 6. Paragraphs (a) and (d) of subsection (2), paragraph (b) of subsection (9), and subsections (10) and (18) of section 402.305, Florida Statutes, are amended to read:

402.305 Licensing standards; child care facilities.—

(2) PERSONNEL.—Minimum standards for child care personnel shall include minimum requirements as to:

(a) Good moral character based upon screening, according to the level 2 screening requirements of~~. This screening shall be conducted as provided in~~ chapter 435~~, using the level 2 standards for screening set forth in that chapter~~. In addition to the offenses specified in s. 435.04, all child care personnel required to undergo background screening pursuant to this section may not have an arrest awaiting final disposition for, may not have been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, and may not have been adjudicated delinquent and have a record that has been sealed or expunged for an offense specified in s. 39.205. Before employing child care personnel subject to this section, the employer must conduct employment history checks of each of the personnel's previous employers and document the findings. If unable to contact a previous employer, the employer must document efforts to contact the previous employer.

(d) Minimum training requirements for child care personnel.

1. Such minimum standards for training shall ensure that

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all child care personnel take an approved 40-clock-hour introductory course in child care, which course covers at least the following topic areas:

a. State and local rules and regulations which govern child care.

b. Health, safety, and nutrition.

c. Identifying and reporting child abuse and neglect.

d. Child development, including typical and atypical language, cognitive, motor, social, and self-help skills development.

e. Observation of developmental behaviors, including using a checklist or other similar observation tools and techniques to determine the child's developmental age level.

f. Specialized areas, including computer technology for professional and classroom use and numeracy, early literacy, and language development of children from birth to 5 years of age, as determined by the department, for owner-operators and child care personnel of a child care facility.

g. Developmental disabilities, including autism spectrum disorder and Down syndrome, and early identification, use of available state and local resources, classroom integration, and positive behavioral supports for children with developmental disabilities.

Within 90 days after employment, child care personnel shall begin training to meet the training requirements pursuant to this paragraph. Child care personnel shall successfully complete such training within 1 year after the date on which the training began, as evidenced by passage of a competency examination.

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289 Successful completion of the 40-clock-hour introductory course
290 shall articulate into community college credit in early
291 childhood education, pursuant to ss. 1007.24 and 1007.25.
292 Exemption from all or a portion of the required training shall
293 be granted to child care personnel based upon educational
294 credentials or passage of competency examinations. Child care
295 personnel possessing a 2-year degree or higher that includes 6
296 college credit hours in early childhood development or child
297 growth and development, or a child development associate
298 credential or an equivalent state-approved child development
299 associate credential, or a child development associate waiver
300 certificate shall be automatically exempted from the training
301 requirements in sub-subparagraphs b., d., and e.
302 2. The introductory course in child care shall stress, to
303 the extent possible, an interdisciplinary approach to the study
304 of children.
305 3. The introductory course shall cover recognition and
306 prevention of shaken baby syndrome; prevention of sudden infant
307 death syndrome; recognition and care of infants and toddlers
308 with developmental disabilities, including autism spectrum
309 disorder and Down syndrome; and early childhood brain
310 development within the topic areas identified in this paragraph.
311 4. On an annual basis in order to further their child care
312 skills and, if appropriate, administrative skills, child care
313 personnel who have fulfilled the requirements for the child care
314 training shall be required to take an additional 1 continuing
315 education unit of approved inservice training, or 10 clock hours
316 of equivalent training, as determined by the department.
317 5. Child care personnel shall be required to complete 0.5

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318 continuing education unit of approved training or 5 clock hours
319 of equivalent training, as determined by the department, in
320 numeracy, early literacy, and language development of children
321 from birth to 5 years of age one time. The year that this
322 training is completed, it shall fulfill the 0.5 continuing
323 education unit or 5 clock hours of the annual training required
324 in subparagraph 4.
325 6. Procedures for ensuring the training of qualified child
326 care professionals to provide training of child care personnel,
327 including onsite training, shall be included in the minimum
328 standards. It is recommended that the state community child care
329 coordination agencies (central agencies) be contracted by the
330 department to coordinate such training when possible. Other
331 district educational resources, such as community colleges and
332 career programs, can be designated in such areas where central
333 agencies may not exist or are determined not to have the
334 capability to meet the coordination requirements set forth by
335 the department.
336 7. Training requirements do ~~shall~~ not apply to certain
337 occasional or part-time support staff, including, but not
338 limited to, swimming instructors, piano teachers, dance
339 instructors, and gymnastics instructors.
340 8. The department shall evaluate or contract for an
341 evaluation for the general purpose of determining the status of
342 and means to improve staff training requirements and testing
343 procedures. The evaluation shall be conducted every 2 years. The
344 evaluation must ~~shall~~ include, but not be limited to,
345 determining the availability, quality, scope, and sources of
346 current staff training; determining the need for specialty

347 training; and determining ways to increase inservice training
348 and ways to increase the accessibility, quality, and cost-
349 effectiveness of current and proposed staff training. The
350 evaluation methodology must ~~shall~~ include a reliable and valid
351 survey of child care personnel.
352 9. The child care operator shall be required to take basic
353 training in serving children with disabilities within 5 years
354 after employment, either as a part of the introductory training
355 or the annual 8 hours of inservice training.
356 (9) ADMISSIONS AND RECORDKEEPING.—
357 (b) ~~During the months of August and September of each year,~~
358 Each child care facility shall provide parents of children
359 enrolling ~~enrolled~~ in the facility detailed information
360 regarding the causes, symptoms, and transmission of the
361 influenza virus in an effort to educate those parents regarding
362 the importance of immunizing their children against influenza as
363 recommended by the Advisory Committee on Immunization Practices
364 of the Centers for Disease Control and Prevention.
365 (10) TRANSPORTATION SAFETY.—Minimum standards must ~~shall~~
366 include requirements for child restraints or seat belts in
367 vehicles used by child care facilities, ~~and~~ large family child
368 care homes, and licensed family child care homes to transport
369 children, requirements for annual inspections of the vehicles,
370 limitations on the number of children in the vehicles, and
371 accountability for children being transported.
372 (18) TRANSFER OF OWNERSHIP.—
373 (a) One week before ~~prior to~~ the transfer of ownership of a
374 child care facility, ~~or~~ family child ~~day~~ care home, or large
375 family child care home, the transferor shall notify the parent

376 or caretaker of each child of the impending transfer.
377 (b) The owner of a child care facility, family child care
378 home, or large family child care home may not transfer ownership
379 to a relative of the operator if the operator has had his or her
380 license suspended or revoked by the department pursuant to s.
381 402.310, has received notice from the department that reasonable
382 cause exists to suspend or revoke his or her license, or has
383 been placed on the United States Department of Agriculture
384 National Disqualified List. For purposes of this paragraph, the
385 term "relative" means father, mother, son, daughter,
386 grandfather, grandmother, brother, sister, uncle, aunt, cousin,
387 nephew, niece, husband, wife, father-in-law, mother-in-law, son-
388 in-law, daughter-in-law, brother-in-law, sister-in-law,
389 stepfather, stepmother, stepson, stepdaughter, stepbrother,
390 stepsister, half brother, or half sister.
391 (c) ~~(b)~~ The department shall, by rule, establish methods by
392 which notice will be achieved and minimum standards by which to
393 implement this subsection.
394 Section 7. Section 402.3085, Florida Statutes, is created
395 to read:
396 402.3085 Certificate of substantial compliance with minimum
397 child care standards.—Each nonpublic school or provider seeking
398 to operate a program pursuant to s. 402.3025(2)(d) or s.
399 402.316(4), respectively, shall annually obtain a certificate
400 from the department or local licensing agency in the manner and
401 on the forms prescribed by the department or local licensing
402 agency. An annual certificate or a renewal of an annual
403 certificate shall be issued upon an examination of the
404 applicant's premises and records to determine that the applicant

is in substantial compliance with the minimum child care standards. A provider may not participate in these programs without this certification. Local licensing agencies may apply their own minimum child care standards if the department determines that such standards meet or exceed department standards as provided in s. 402.307.

Section 8. Section 402.311, Florida Statutes, is amended to read:

402.311 Inspection.—A licensed child care facility or program regulated by the department shall accord to the department or the local licensing agency, whichever is applicable, the privilege of inspection, including access to facilities and personnel and to those records required in s. 402.305, at reasonable times during regular business hours, to ensure compliance with ~~the provisions of~~ ss. 402.301-402.319. The right of entry and inspection shall also extend to any premises which the department or local licensing agency has reason to believe are being operated or maintained as a child care facility or program ~~without a license~~, but no such entry or inspection of any premises shall be made without the permission of the person in charge thereof unless a warrant is first obtained from the circuit court authorizing same. Any application for a license, application for authorization to operate a child care program which must maintain substantial compliance with child care standards adopted under this chapter, ~~or~~ renewal of such license or authorization, ~~made pursuant to this act~~ or the advertisement to the public for the provision of child care as defined in s. 402.302 constitutes ~~shall constitute~~ permission for any entry to or inspection of the subject

premises ~~for which the license is sought in order~~ to facilitate verification of the information submitted on or in connection with the application. In the event a ~~licensed~~ facility or program refuses permission for entry or inspection to the department or local licensing agency, a warrant shall be obtained from the circuit court authorizing same before ~~prior to~~ such entry or inspection. The department or local licensing agency may institute disciplinary proceedings pursuant to s. 402.310~~,~~ for such refusal.

Section 9. Section 402.3115, Florida Statutes, is amended to read:

402.3115 ~~Elimination of duplicative and unnecessary inspections;~~ Abbreviated inspections.~~—The Department of Children and Families and local governmental agencies that license child care facilities shall develop and implement a plan to eliminate duplicative and unnecessary inspections of child care facilities. In addition,~~ The department and the local licensing ~~governmental~~ agencies shall conduct ~~develop and implement an~~ abbreviated inspections of ~~inspection plan for~~ child care facilities licensed under s. 402.305, family child care homes licensed under s. 402.313, and large family child care homes licensed under s. 402.3131 that have had no Class I ~~1~~ or Class II violations ~~2 deficiencies~~, as defined by rule, for at least 2 consecutive years. The abbreviated inspection must include those elements identified by the department and the local licensing ~~governmental~~ agencies as being key indicators of whether the child care facility continues to provide quality care and programming. The department shall adopt rules establishing criteria and procedures for abbreviated inspections and

463 inspection schedules that provide for both announced and
464 unannounced inspections.
465 Section 10. Section 402.313, Florida Statutes, is amended
466 to read:
467 402.313 Family child ~~day~~ care homes.—
468 (1) A family child ~~day~~ care home must ~~homes shall~~ be
469 licensed under this section ~~act~~ if it is ~~they are~~ presently
470 being licensed under an existing county licensing ordinance, ~~or~~
471 ~~if~~ the board of county commissioners passes a resolution that
472 requires licensure of family child ~~day~~ care homes, or the family
473 child care home is operating a program under s. 1002.55, s.
474 1002.61, or s. 1002.88 ~~be licensed~~. Each licensed or registered
475 family child care home must conspicuously display its license or
476 registration in the common area of the home.
477 (a) If not subject to license, a family child ~~day~~ care home
478 must comply with this section and ~~homes shall~~ register annually
479 with the department, providing the following information:
480 1. The name and address of the home.
481 2. The name of the operator.
482 3. The number of children served.
483 4. Proof of a written plan to identify a ~~provide at least~~
484 ~~one other~~ competent adult who has met the screening and training
485 requirements of the department to serve as a designated ~~to be~~
486 ~~available to~~ substitute for the operator ~~in an emergency~~. This
487 plan must ~~shall~~ include the name, address, and telephone number
488 of the designated substitute who will serve in the absence of
489 the operator.
490 ~~5. Proof of screening and background checks.~~
491 ~~6. Proof of successful completion of the 30-hour training~~

492 ~~course, as evidenced by passage of a competency examination,~~
493 ~~which shall include:~~
494 ~~a. State and local rules and regulations that govern child~~
495 ~~care.~~
496 ~~b. Health, safety, and nutrition.~~
497 ~~c. Identifying and reporting child abuse and neglect.~~
498 ~~d. Child development, including typical and atypical~~
499 ~~language development; and cognitive, motor, social, and self-~~
500 ~~help skills development.~~
501 ~~e. Observation of developmental behaviors, including using~~
502 ~~a checklist or other similar observation tools and techniques to~~
503 ~~determine a child's developmental level.~~
504 ~~f. Specialized areas, including early literacy and language~~
505 ~~development of children from birth to 5 years of age, as~~
506 ~~determined by the department, for owner-operators of family day~~
507 ~~care homes.~~
508 5.~~7.~~ Proof that immunization records are kept current.
509 ~~8. Proof of completion of the required continuing education~~
510 ~~units or clock hours.~~
511
512 Upon receipt of registration information submitted by a family
513 child care home pursuant to this paragraph, the department shall
514 verify that the home is in compliance with the background
515 screening requirements in subsection (3) and that the operator
516 and the designated substitute are in compliance with the
517 applicable training requirements of subsection (4).
518 (b) A family child ~~day~~ care home may volunteer to be
519 licensed ~~under this act~~.
520 (c) The department may provide technical assistance to

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521 counties and operators of family child ~~day~~ care homes ~~home~~
522 ~~providers~~ to enable counties and operators ~~family day care~~
523 ~~providers~~ to achieve compliance with family child ~~day~~ care home
524 ~~homes~~ standards.
525 (2) This information shall be included in a directory to be
526 published annually by the department to inform the public of
527 available child care facilities.
528 (3) Child care personnel in family child ~~day~~ care homes are
529 ~~shall be~~ subject to the applicable screening provisions
530 contained in ss. 402.305(2) and 402.3055. For purposes of
531 screening in family child ~~day~~ care homes, the term "child care
532 personnel" includes the operator, the designated substitute, any
533 member over the age of 12 years of a family child ~~day~~ care home
534 operator's family, or persons over the age of 12 years residing
535 with the operator in the family child ~~day~~ care home. Members of
536 the operator's family, or persons residing with the operator,
537 who are between the ages of 12 years and 18 years may ~~shall~~ not
538 be required to be fingerprinted~~,~~ but shall be screened for
539 delinquency records.
540 (4)(a) Before licensure and before caring for children,
541 operators of family child ~~day~~ care homes and an individual
542 serving as a designated substitute for the operator who works 40
543 hours or more per month on average must:
544 1. Successfully complete an approved 30-clock-hour
545 introductory course in child care, as evidenced by passage of a
546 competency examination~~, before caring for children~~. The course
547 must include:
548 a. State and local rules and regulations that govern child
549 care.

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550 b. Health, safety, and nutrition.
551 c. Identifying and reporting child abuse and neglect.
552 d. Child development, including typical and atypical
553 language development, and cognitive, motor, social, and
554 executive functioning skills development.
555 e. Observation of developmental behaviors, including using
556 checklists or other similar observation tools and techniques to
557 determine a child's developmental level.
558 f. Specialized areas, including numeracy, early literacy,
559 and language development of children from birth to 5 years of
560 age, as determined by the department, for operators of family
561 child care homes.
562 ~~(5) In order to further develop their child care skills~~
563 ~~and, if appropriate, their administrative skills, operators of~~
564 ~~family day care homes shall be required to complete an~~
565 ~~additional 1 continuing education unit of approved training or~~
566 ~~10 clock hours of equivalent training, as determined by the~~
567 ~~department, annually.~~
568 2.~~(6) Operators of family day care homes shall be required~~
569 ~~to~~ Complete a 0.5 continuing education unit of approved training
570 in numeracy, early literacy, and language development of
571 children from birth to 5 years of age one time. For an operator,
572 the year that this training is completed, it shall fulfill the
573 0.5 continuing education unit or 5 clock hours of the annual
574 training required in paragraph (c) ~~subsection (5)~~.
575 3. Complete training in first aid and infant and child
576 cardiopulmonary resuscitation as evidenced by current
577 documentation of course completion.
578 (b) Before licensure and before caring for children, family

579 child care home designated substitutes who work less than 40
580 hours per month on average must complete the department's 6-
581 clock-hour Family Child Care Home Rules and Regulations
582 training, as evidenced by successful completion of a competency
583 examination and first aid and infant and child cardiopulmonary
584 resuscitation training required under subparagraph (a)3. A
585 designated substitute who has successfully completed the 3-
586 clock-hour Fundamentals of Child Care training established by
587 rules of the department or the 30-clock-hour training under
588 subparagraph (a)1. is not required to complete the 6-clock-hour
589 Family Child Care Home Rules and Regulations training.
590 (c) Operators of family child care homes must annually
591 complete an additional 1 continuing education unit of approved
592 training regarding child care and administrative skills or 10
593 clock hours of equivalent training, as determined by the
594 department.
595 (5) ~~(7)~~ Operators of family child ~~day~~ care homes must ~~shall~~
596 ~~be required~~ annually ~~to~~ complete a health and safety home
597 inspection self-evaluation checklist developed by the department
598 in conjunction with the statewide resource and referral program.
599 The completed checklist shall be signed by the operator of the
600 family child ~~day~~ care home and provided to parents as
601 certification that basic health and safety standards are being
602 met.
603 (6) ~~(8)~~ Operators of family child ~~day~~ care homes ~~home~~
604 ~~operators~~ may avail themselves of supportive services offered by
605 the department.
606 (7) ~~(9)~~ The department shall prepare a brochure on family
607 child ~~day~~ care for distribution by the department and by local

608 licensing agencies, if appropriate, to family child ~~day~~ care
609 homes for distribution to parents using ~~utilizing~~ such child
610 care, and to all interested persons, including physicians and
611 other health professionals; mental health professionals; school
612 teachers or other school personnel; social workers or other
613 professional child care, foster care, residential, or
614 institutional workers; and law enforcement officers. The
615 brochure shall, at a minimum, contain the following information:
616 (a) A brief description of the requirements for family
617 child ~~day~~ care registration, training, and background
618 ~~fingerprinting and~~ screening.
619 (b) A listing of those counties that require licensure of
620 family child ~~day~~ care homes. Such counties shall provide an
621 addendum to the brochure that provides a brief description of
622 the licensure requirements or may provide a brochure in lieu of
623 the one described in this subsection, provided it contains all
624 the required information on licensure and the required
625 information in the subsequent paragraphs.
626 (c) A statement indicating that information about the
627 family child ~~day~~ care home's compliance with applicable state or
628 local requirements can be obtained from ~~by telephoning~~ the
629 department ~~office~~ or ~~the office of~~ the local licensing agency,
630 including the~~, if appropriate, at a~~ telephone number or numbers
631 and website address for the department or local licensing
632 agency, as applicable ~~which shall be affixed to the brochure~~.
633 (d) The statewide toll-free telephone number of the central
634 abuse hotline, together with a notice that reports of suspected
635 and actual child physical abuse, sexual abuse, and neglect are
636 received and referred for investigation by the hotline.

(e) Any other information relating to competent child care that the department or local licensing agency, if preparing a separate brochure, considers ~~deems would be~~ helpful to parents and other caretakers in their selection of a family child ~~day~~ care home.

(8) ~~(10)~~ On an annual basis, the department shall evaluate the registration and licensure system for family child ~~day~~ care homes. Such evaluation shall, at a minimum, address the following:

(a) The number of family child ~~day~~ care homes registered and licensed and the dates of such registration and licensure.

(b) The number of children being served in both registered and licensed family child ~~day~~ care homes and any available slots in such homes.

(c) The number of complaints received concerning family child ~~day~~ care, the nature of the complaints, and the resolution of such complaints.

(d) The training activities used ~~utilized~~ by child care personnel in family child ~~day~~ care homes for meeting the state or local training requirements.

The evaluation, pursuant to this subsection, shall be used ~~utilized~~ by the department in any administrative modifications or adjustments to be made in the registration of family child ~~day~~ care homes or in any legislative requests for modifications to the system of registration or to other requirements for family child ~~day~~ care homes.

~~(11) In order to inform the public of the state requirement for registration of family day care homes as well as the other~~

~~requirements for such homes to legally operate in the state, the department shall institute a media campaign to accomplish this end. Such a campaign shall include, at a minimum, flyers, newspaper advertisements, radio advertisements, and television advertisements.~~

(9) ~~(12)~~ Notwithstanding any other state or local law or ordinance, any family child ~~day~~ care home licensed pursuant to this chapter or pursuant to a county ordinance shall be charged the utility rates accorded to a residential home. A licensed family child ~~day~~ care home may not be charged commercial utility rates.

(10) ~~(13)~~ The department shall, by rule, establish minimum standards for family child ~~day~~ care homes that are required to be licensed by county licensing ordinance or county licensing resolution or that voluntarily choose to be licensed. The standards should include requirements for staffing, training, maintenance of immunization records, minimum health and safety standards, reduced standards for the regulation of child care during evening hours by municipalities and counties, and enforcement of standards. Additionally, the department shall, by rule, adopt procedures for verifying a registered family child care home's compliance with background screening and training requirements.

(11) ~~(14)~~ ~~During the months of August and September of each year,~~ Each family child ~~day~~ care home shall provide parents of children enrolling ~~enrolled~~ in the home detailed information regarding the causes, symptoms, and transmission of the influenza virus in an effort to educate those parents regarding the importance of immunizing their children against influenza as

recommended by the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention.

Section 11. Subsections (1), (3), (5), and (9) of section 402.3131, Florida Statutes, are amended, and subsection (10) is added to that section, to read:

402.3131 Large family child care homes.—

(1) A large family child care home must ~~homes shall~~ be licensed under this section and conspicuously display its license in the common area of the home.

(3) Operators of large family child care homes must successfully complete an approved 40-clock-hour introductory course in group child care, including numeracy, early literacy, and language development of children from birth to 5 years of age, as evidenced by passage of a competency examination. Successful completion of the 40-clock-hour introductory course shall articulate into community college credit in early childhood education, pursuant to ss. 1007.24 and 1007.25.

(5) Operators of large family child care homes shall be required to complete 0.5 continuing education unit of approved training or 5 clock hours of equivalent training, as determined by the department, in numeracy, early literacy, and language development of children from birth to 5 years of age one time. The year that this training is completed, it shall fulfill the 0.5 continuing education unit or 5 clock hours of the annual training required in subsection (4).

(9) ~~During the months of August and September of each year,~~ Each large family child care home shall provide parents of children enrolling ~~enrolled~~ in the home detailed information regarding the causes, symptoms, and transmission of the

influenza virus in an effort to educate those parents regarding the importance of immunizing their children against influenza as recommended by the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention.

(10) Notwithstanding any other state or local law or ordinance, a large family child care home licensed pursuant to this chapter or pursuant to a county ordinance shall be charged the utility rates accorded to a residential home. Such a home may not be charged commercial utility rates.

Section 12. Subsections (4), (5), and (6) are added to section 402.316, Florida Statutes, to read:

402.316 Exemptions.—

(4) A child care facility operating under subsection (1) which is applying to operate or is operating as a provider of a program described in s. 1002.55, s. 1002.61, or s. 1002.88 must substantially comply with the minimum standards for child care facilities adopted pursuant to ss. 402.305-402.3057 and must allow the department or local licensing agency access to monitor and enforce compliance with such standards.

(a) The department or local licensing agency may pursue administrative or judicial action under ss. 402.310-402.312 and the rules adopted under those sections against any child care facility operating under this subsection to enforce substantial compliance with child care facility minimum standards or to protect the health, safety, and well-being of any child in the facility's care. A child care facility operating under this subsection is subject to ss. 402.310-402.312 and the rules adopted under those sections to the same extent as a child care facility licensed under ss. 402.301-402.319.

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753 (b) It is a misdemeanor of the first degree, punishable as
754 provided in s. 775.082 or s. 775.083, for a person willfully,
755 knowingly, or intentionally to:
756 1. Fail, by false statement, misrepresentation,
757 impersonation, or other fraudulent means, to disclose in any
758 required written documentation for exclusion from licensure
759 pursuant to this section a material fact used in making a
760 determination as to such exclusion; or
761 2. Use information from the criminal records obtained under
762 s. 402.305 or s. 402.3055 for a purpose other than screening the
763 subject of those records for employment as specified in those
764 sections or to release such information to any other person for
765 a purpose other than screening for employment as specified in
766 those sections.
767 (c) It is a felony of the third degree, punishable as
768 provided in s. 775.082, s. 775.083, or s. 775.084, for a person
769 willfully, knowingly, or intentionally to use information from
770 the juvenile records of a person obtained under s. 402.305 or s.
771 402.3055 for a purpose other than screening for employment as
772 specified in those sections or to release information from such
773 records to any other person for a purpose other than screening
774 for employment as specified in those sections.
775 (5) The department shall establish a fee for inspection and
776 compliance activities performed pursuant to this section in an
777 amount sufficient to cover costs. However, the amount of such
778 fee for the inspection of a program may not exceed the fee
779 imposed for child care licensure pursuant to s. 402.315.
780 (6) The inclusion of a child care facility operating under
781 subsection (1) as a provider of a program described in s.

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782 1002.55, s. 1002.61, or s. 1002.88 does not expand the
783 regulatory authority of the state, its officers, any local
784 licensing agency, or any early learning coalition to impose any
785 additional regulation of child care facilities beyond those
786 reasonably necessary to enforce requirements expressly included
787 in this section.
788 Section 13. Section 627.70161, Florida Statutes, is amended
789 to read:
790 627.70161 Residential property insurance coverage; family
791 child ~~day~~ care homes and large family child care homes
792 ~~insurance~~.—
793 (1) PURPOSE AND INTENT.—The Legislature recognizes that
794 family child ~~day~~ care homes and large family child care homes
795 fulfill a vital role in providing child care in Florida. It is
796 the intent of the Legislature that residential property
797 insurance coverage should not be canceled, denied, or nonrenewed
798 solely because child ~~on the basis of the family day~~ care
799 services are provided at the residence. The Legislature also
800 recognizes that the potential liability of residential property
801 insurers is substantially increased by the rendition of child
802 care services on the premises. The Legislature therefore finds
803 that there is a public need to specify that contractual
804 liabilities associated ~~that arise in connection~~ with the
805 operation of a ~~the~~ family child ~~day~~ care home or large family
806 child care home are excluded from residential property insurance
807 policies unless they are specifically included in such coverage.
808 (2) DEFINITIONS.—As used in this section, the term:
809 (a) "Child care" means the care, protection, and
810 supervision of a child, for a period of up to ~~less than~~ 24 hours

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811 a day on a regular basis, which supplements parental care,
812 enrichment, and health supervision for the child, in accordance
813 with his or her individual needs, and for which a payment, fee,
814 or grant is made for care.
815 (b) "Family child ~~day~~ care home" has the same meaning as
816 provided in s. 402.302 ~~means an occupied residence in which~~
817 ~~child care is regularly provided for children from at least two~~
818 ~~unrelated families and which receives a payment, fee, or grant~~
819 ~~for any of the children receiving care, whether or not operated~~
820 ~~for a profit~~.
821 (c) "Large family child care home" has the same meaning as
822 provided in s. 402.302.
823 (3) FAMILY CHILD ~~DAY~~ CARE; COVERAGE.—A residential property
824 insurance policy may ~~shall~~ not provide coverage for liability
825 for claims arising out of, or in connection with, the operation
826 of a family child ~~day~~ care home or large family child care home,
827 and the insurer shall be under no obligation to defend against
828 lawsuits covering such claims, unless:
829 (a) Specifically covered in a policy; or
830 (b) Covered by a rider or endorsement for business coverage
831 attached to a policy.
832 (4) DENIAL, CANCELLATION, REFUSAL TO RENEW PROHIBITED.—An
833 insurer may not deny, cancel, or refuse to renew a policy for
834 residential property insurance solely on the basis that the
835 policyholder or applicant operates a family child ~~day~~ care home
836 or a large family child care home. In addition to other lawful
837 reasons for refusing to insure, an insurer may deny, cancel, or
838 refuse to renew a policy of a family child ~~day~~ care home or
839 large family child care home provider if one or more of the

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840 following conditions occur:
841 (a) The policyholder or applicant provides care for more
842 children than authorized for family child ~~day~~ care homes or
843 large family child care homes by s. 402.302;
844 (b) The policyholder or applicant fails to maintain a
845 separate commercial liability policy or an endorsement providing
846 liability coverage for ~~the~~ family child ~~day~~ care home or large
847 family child care home operations;
848 (c) The policyholder or applicant fails to comply with the
849 family child ~~day~~ care home licensure and registration
850 requirements specified in s. 402.313 or the large family child
851 care home licensure requirements specified in s. 402.3131; or
852 (d) Discovery of willful or grossly negligent acts or
853 omissions or any violations of state laws or regulations
854 establishing safety standards for family child ~~day~~ care homes
855 and large family child care homes by the named insured or his or
856 her representative which materially increase any of the risks
857 insured.
858 Section 14. Subsections (7), (8), and (9) are added to
859 section 1001.213, Florida Statutes, to read:
860 1001.213 Office of Early Learning.—There is created within
861 the Office of Independent Education and Parental Choice the
862 Office of Early Learning, as required under s. 20.15, which
863 shall be administered by an executive director. The office shall
864 be fully accountable to the Commissioner of Education but shall:
865 (7) Hire a general counsel who reports directly to the
866 executive director of the office.
867 (8) Hire an inspector general who reports directly to the
868 executive director of the office and to the Chief Inspector

869 General pursuant to s. 14.32.
870 (9) By July 1, 2017, develop and implement, in consultation
871 with early learning coalitions and providers of the Voluntary
872 Prekindergarten Education Program and the school readiness
873 program, best practices for providing parental notifications in
874 the parent's native language to a parent whose native language
875 is a language other than English.
876 Section 15. Subsection (4) of section 1002.53, Florida
877 Statutes, is amended to read:
878 1002.53 Voluntary Prekindergarten Education Program;
879 eligibility and enrollment.—
880 (4)(a) Each parent enrolling a child in the Voluntary
881 Prekindergarten Education Program must complete and submit an
882 application to the early learning coalition through the single
883 point of entry established under s. 1002.82 or to a private
884 prekindergarten provider if the provider is authorized by the
885 early learning coalition to determine student eligibility for
886 enrollment in the program.
887 (b) The application must be submitted on forms prescribed
888 by the Office of Early Learning and must be accompanied by a
889 certified copy of the child's birth certificate. The forms must
890 include a certification, in substantially the form provided in
891 s. 1002.71(6)(b)2., that the parent chooses the private
892 prekindergarten provider or public school in accordance with
893 this section and directs that payments for the program be made
894 to the provider or school. The Office of Early Learning may
895 authorize alternative methods for submitting proof of the
896 child's age in lieu of a certified copy of the child's birth
897 certificate.

898 (c) If a private prekindergarten provider has been
899 authorized to determine child eligibility and enrollment, upon
900 receipt of an application, the provider must:
901 1. Determine the child's eligibility for the program and be
902 responsible for any errors in such determination.
903 2. Retain the original application and certified copy of
904 the child's birth certificate or authorized alternative proof of
905 age on file for at least 5 years.
906
907 Pursuant to this paragraph, the early learning coalition may
908 audit applications held by a private prekindergarten provider in
909 the coalition's service area to determine whether children
910 enrolled and reported for funding by the provider have met the
911 eligibility criteria in subsection (2).
912 (d) ~~(c)~~ Each early learning coalition shall coordinate with
913 each of the school districts within the coalition's county or
914 multicounty region in the development of procedures for
915 enrolling children in prekindergarten programs delivered by
916 public schools, including procedures for making child
917 eligibility determinations and auditing enrollment records to
918 confirm that enrolled children have met eligibility
919 requirements.
920 Section 16. Section 1002.55, Florida Statutes, is amended
921 to read:
922 1002.55 School-year prekindergarten program delivered by
923 private prekindergarten providers.—
924 (1) Each early learning coalition shall administer the
925 Voluntary Prekindergarten Education Program at the county or
926 regional level for students enrolled under s. 1002.53(3)(a) in a

927 school-year prekindergarten program delivered by a private
928 prekindergarten provider. Each early learning coalition shall
929 cooperate with the Office of Early Learning and the Child Care
930 Services Program Office of the Department of Children and
931 Families to reduce paperwork and to avoid duplicating
932 interagency activities, health and safety monitoring, and
933 acquiring and composing data pertaining to child care training
934 and credentialing.
935 (2) Each school-year prekindergarten program delivered by a
936 private prekindergarten provider must comprise at least 540
937 instructional hours.
938 (3) To be eligible to deliver the prekindergarten program,
939 a private prekindergarten provider must meet each of the
940 following requirements:
941 ~~(a) The private prekindergarten provider must be a child~~
942 ~~care facility licensed under s. 402.305, family day care home~~
943 ~~licensed under s. 402.313, large family child care home licensed~~
944 ~~under s. 402.3131, nonpublic school exempt from licensure under~~
945 ~~s. 402.3025(2), or faith-based child care provider exempt from~~
946 ~~licensure under s. 402.316.~~
947 (a) ~~(b)~~ The private prekindergarten provider must:
948 1. Be accredited by an accrediting association that is a
949 member of the National Council for Private School Accreditation,
950 or the Florida Association of Academic Nonpublic Schools, or be
951 accredited by the Southern Association of Colleges and Schools,
952 or Western Association of Colleges and Schools, or North Central
953 Association of Colleges and Schools, or Middle States
954 Association of Colleges and Schools, or New England Association
955 of Colleges and Schools; and have written accreditation

956 standards that meet or exceed the state's licensing requirements
957 under s. 402.305, s. 402.313, or s. 402.3131 and require at
958 least one onsite visit to the provider or school before
959 accreditation is granted;
960 2. Hold a current Gold Seal Quality Care designation under
961 s. 402.281; ~~or~~
962 3. Be licensed under s. 402.305, s. 402.313, or s.
963 402.3131; or
964 4. Be a child development center located on a military
965 installation that is certified by the United States Department
966 of Defense.
967 (b) The private prekindergarten provider must provide basic
968 health and safety on its premises and in its facilities. For a
969 public school, compliance with ss. 1003.22 and 1013.12 satisfies
970 this requirement. For a nonpublic school, compliance with s.
971 402.3025(2)(d) satisfies this requirement. For a child care
972 facility, a licensed family child care home, or a large family
973 child care home, compliance with s. 402.305, s. 402.313, or s.
974 402.3131, respectively, satisfies this requirement. For a
975 facility exempt from licensure, compliance with s. 402.316(4)
976 satisfies this requirement ~~and demonstrate, before delivering~~
977 ~~the Voluntary Prekindergarten Education Program, as verified by~~
978 ~~the early learning coalition, that the provider meets each of~~
979 ~~the requirements of the program under this part, including, but~~
980 ~~not limited to, the requirements for credentials and background~~
981 ~~screenings of prekindergarten instructors under paragraphs (c)~~
982 ~~and (d), minimum and maximum class sizes under paragraph (f),~~
983 ~~prekindergarten director credentials under paragraph (g), and a~~
984 ~~developmentally appropriate curriculum under s. 1002.67(2)(b)~~.

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985 (c) The private prekindergarten provider must have, for
986 each prekindergarten class of 11 children or fewer, at least one
987 prekindergarten instructor who meets each of the following
988 requirements:
989 1. The prekindergarten instructor must hold, at a minimum,
990 one of the following credentials:
991 a. A child development associate credential issued by the
992 National Credentialing Program of the Council for Professional
993 Recognition; ~~or~~
994 b. A credential approved by the Department of Children and
995 Families, pursuant to s. 402.305(3)(c), as being equivalent to
996 or greater than the credential described in sub-subparagraph a.;
997 c. An associate or higher degree in child development;
998 d. An associate or higher degree in an unrelated field, at
999 least 6 credit hours in early childhood education or child
1000 development, and at least 480 hours of experience in teaching or
1001 providing child care services for children of any age from birth
1002 through 8 years of age;
1003 e. A baccalaureate or higher degree in early childhood
1004 education, prekindergarten or primary education, preschool
1005 education, or family and consumer science;
1006 f. A baccalaureate or higher degree in family and child
1007 science and at least 480 hours of experience in teaching or
1008 providing child care services for children of any age from birth
1009 through 8 years of age;
1010 g. A baccalaureate or higher degree in elementary education
1011 if the prekindergarten instructor has been certified to teach
1012 children of any age from birth through grade 6, regardless of
1013 whether the instructor's educator certificate is current, and if

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1014 the instructor is not ineligible to teach in a public school
1015 because his or her educator certificate is suspended or revoked;
1016 or
1017 h. A credential approved by the department as being
1018 equivalent to or greater than a credential described in sub-
1019 subparagraphs a.-f. The department may adopt criteria and
1020 procedures for approving such equivalent credentials.
1021
1022 ~~The Department of Children and Families may adopt rules under~~
1023 ~~ss. 120.536(1) and 120.54 which provide criteria and procedures~~
1024 ~~for approving equivalent credentials under sub-subparagraph b.~~
1025 2. The prekindergarten instructor must successfully
1026 complete an emergent literacy training course and a student
1027 performance standards training course approved by the office as
1028 meeting or exceeding the minimum standards adopted under s.
1029 1002.59. The requirement for completion of the standards
1030 training course shall take effect July 1, 2016 ~~2014~~, and the
1031 course shall be available online.
1032 (d) Each prekindergarten instructor employed by the private
1033 prekindergarten provider must be of good moral character, must
1034 undergo background screening pursuant to s. 402.305(2)(a) ~~be~~
1035 ~~screened using the level 2 screening standards in s. 435.04~~
1036 before employment, must be ~~and~~ rescreened at least once every 5
1037 years, must be denied employment or terminated if required under
1038 s. 435.06, and must not be ineligible to teach in a public
1039 school because his or her educator certificate is suspended or
1040 revoked.
1041 (e) A private prekindergarten provider may assign a
1042 substitute instructor to temporarily replace a credentialed

1043 instructor if the credentialed instructor assigned to a
1044 prekindergarten class is absent, as long as the substitute
1045 instructor meets the requirements of paragraph (d) ~~is of good~~
1046 ~~moral character and has been screened before employment in~~
1047 ~~accordance with level 2 background screening requirements in~~
1048 ~~chapter 435~~. The Office of Early Learning shall adopt rules to
1049 implement this paragraph which shall include required
1050 qualifications of substitute instructors and the circumstances
1051 and time limits for which a private prekindergarten provider may
1052 assign a substitute instructor.
1053 (f) Each of the private prekindergarten provider's
1054 prekindergarten classes must be composed of at least 4 students
1055 but may not exceed 20 students. In order to protect the health
1056 and safety of students, each private prekindergarten provider
1057 must also provide appropriate adult supervision for students at
1058 all times and, for each prekindergarten class composed of 12 or
1059 more students, must have, in addition to a prekindergarten
1060 instructor who meets the requirements of paragraph (c), at least
1061 one adult prekindergarten instructor who is not required to meet
1062 those requirements but who must meet each requirement of s.
1063 402.305(2) ~~paragraph (d)~~. This paragraph does not supersede any
1064 requirement imposed on a provider under ss. 402.301-402.319.
1065 (g) The private prekindergarten provider must have a
1066 prekindergarten director who has a prekindergarten director
1067 credential that is approved by the office as meeting or
1068 exceeding the minimum standards adopted under s. 1002.57.
1069 Successful completion of a child care facility director
1070 credential under s. 402.305(2)(f) before the establishment of
1071 the prekindergarten director credential under s. 1002.57 or July

1072 1, 2006, whichever occurs later, satisfies the requirement for a
1073 prekindergarten director credential under this paragraph.
1074 (h) The private prekindergarten provider must register with
1075 the early learning coalition on forms prescribed by the Office
1076 of Early Learning.
1077 (i) The private prekindergarten provider must execute the
1078 statewide provider contract prescribed under s. 1002.75, except
1079 that an individual who owns or operates multiple private
1080 prekindergarten providers within a coalition's service area may
1081 execute a single agreement with the coalition on behalf of each
1082 provider.
1083 (j) The private prekindergarten provider must maintain
1084 general liability insurance and provide the coalition with
1085 written evidence of general liability insurance coverage,
1086 including coverage for transportation of children if
1087 prekindergarten students are transported by the provider. A
1088 provider must obtain and retain an insurance policy that
1089 provides a minimum of $100,000 of coverage per occurrence and a
1090 minimum of $300,000 general aggregate coverage. The office may
1091 authorize lower limits upon request, as appropriate. A provider
1092 must add the coalition as a named certificateholder ~~and as an~~
1093 ~~additional insured~~. A provider must provide the coalition with a
1094 minimum of 10 calendar days' advance written notice of
1095 cancellation of or changes to coverage. The general liability
1096 insurance required by this paragraph must remain in full force
1097 and effect for the entire period of the provider contract with
1098 the coalition.
1099 (k) The private prekindergarten provider must obtain and
1100 maintain any required workers' compensation insurance under

1101 chapter 440 and any required reemployment assistance or
1102 unemployment compensation coverage under chapter 443, unless
1103 exempt under state or federal law.
1104 (l) Notwithstanding paragraph (j), for a private
1105 prekindergarten provider that is a state agency or a subdivision
1106 thereof, as defined in s. 768.28(2), the provider must agree to
1107 notify the coalition of any additional liability coverage
1108 maintained by the provider in addition to that otherwise
1109 established under s. 768.28. The provider shall indemnify the
1110 coalition to the extent permitted by s. 768.28.
1111 (m) The private prekindergarten provider shall be denied
1112 initial eligibility to offer the program if the provider has
1113 been cited for a Class I violation in the 12 months before
1114 seeking eligibility. An existing provider that is cited for a
1115 Class I violation may not have its eligibility renewed for 12
1116 months. This paragraph does not apply if the Department of
1117 Children and Families or local licensing agency upon final
1118 disposition of a Class I violation has rescinded its initial
1119 citation in accordance with the criteria for consideration
1120 outlined in s. 1002.75(1)(b).
1121 (n) ~~(m)~~ The private prekindergarten provider must deliver
1122 the Voluntary Prekindergarten Education Program in accordance
1123 with this part and have child disciplinary policies that
1124 prohibit children from being subjected to discipline that is
1125 severe, humiliating, frightening, or associated with food, rest,
1126 toileting, spanking, or any other form of physical punishment as
1127 provided in s. 402.305(12).
1128 (o) Beginning January 1, 2016, at least 50 percent of the
1129 instructors employed by a prekindergarten provider at each

1130 location, who are responsible for supervising children in care,
1131 must be trained in first aid and infant and child
1132 cardiopulmonary resuscitation, as evidenced by current
1133 documentation of course completion. As a condition of
1134 employment, instructors hired on or after January 1, 2016, must
1135 complete this training within 60 days after employment.
1136 (p) Beginning January 1, 2017, the private prekindergarten
1137 provider must employ child care personnel who hold a high school
1138 diploma or its equivalent and are at least 18 years of age,
1139 unless the personnel are not responsible for supervising
1140 children in care or are under direct supervision.
1141 ~~(4) A prekindergarten instructor, in lieu of the minimum~~
1142 ~~credentials and courses required under paragraph (3)(c), may~~
1143 ~~hold one of the following educational credentials:~~
1144 ~~(a) A bachelor's or higher degree in early childhood~~
1145 ~~education, prekindergarten or primary education, preschool~~
1146 ~~education, or family and consumer science;~~
1147 ~~(b) A bachelor's or higher degree in elementary education,~~
1148 ~~if the prekindergarten instructor has been certified to teach~~
1149 ~~children any age from birth through 6th grade, regardless of~~
1150 ~~whether the instructor's educator certificate is current, and if~~
1151 ~~the instructor is not ineligible to teach in a public school~~
1152 ~~because his or her educator certificate is suspended or revoked;~~
1153 ~~(c) An associate's or higher degree in child development;~~
1154 ~~(d) An associate's or higher degree in an unrelated field,~~
1155 ~~at least 6 credit hours in early childhood education or child~~
1156 ~~development, and at least 480 hours of experience in teaching or~~
1157 ~~providing child care services for children any age from birth~~
1158 ~~through 8 years of age; or~~

1159 ~~(c) An educational credential approved by the department as~~
1160 ~~being equivalent to or greater than an educational credential~~
1161 ~~described in this subsection. The department may adopt criteria~~
1162 ~~and procedures for approving equivalent educational credentials~~
1163 ~~under this paragraph.~~
1164 ~~(5) Notwithstanding paragraph (3)(b), a private~~
1165 ~~prekindergarten provider may not participate in the Voluntary~~
1166 ~~Prekindergarten Education Program if the provider has child~~
1167 ~~disciplinary policies that do not prohibit children from being~~
1168 ~~subjected to discipline that is severe, humiliating,~~
1169 ~~frightening, or associated with food, rest, toileting, spanking,~~
1170 ~~or any other form of physical punishment as provided in s.~~
1171 ~~402.305(12).~~
1172 Section 17. Subsection (1) of section 1002.59, Florida
1173 Statutes, is amended to read:
1174 1002.59 Emergent literacy and performance standards
1175 training courses.—
1176 (1) The office shall adopt minimum standards for one or
1177 more training courses in emergent literacy for prekindergarten
1178 instructors. Each course must comprise 5 clock hours and provide
1179 instruction in strategies and techniques to address the age-
1180 appropriate progress of prekindergarten students in developing
1181 emergent literacy skills, including oral communication,
1182 knowledge of print and letters, phonemic and phonological
1183 awareness, and vocabulary and comprehension development. Each
1184 course must also provide resources containing strategies that
1185 allow students with disabilities and other special needs to
1186 derive maximum benefit from the Voluntary Prekindergarten
1187 Education Program. Successful completion of an emergent literacy

1188 training course approved under this section satisfies
1189 requirements for approved training in early literacy and
1190 language development under ss. 402.305(2)(d)5., 402.313(4)(a)2.
1191 ~~402.313(6)~~, and 402.3131(5).
1192 Section 18. Subsections (4) through (7) of section 1002.61,
1193 Florida Statutes, are amended to read:
1194 1002.61 Summer prekindergarten program delivered by public
1195 schools and private prekindergarten providers.—
1196 (4) ~~Notwithstanding ss. 1002.55(3)(c)1. and 1002.63(4),~~
1197 Each public school and private prekindergarten provider that
1198 delivers the summer prekindergarten program must have, for each
1199 prekindergarten class, at least one prekindergarten instructor
1200 who is a certified teacher or holds one of the educational
1201 credentials specified in s. 1002.55(3)(c)1.e.-h. ~~s.~~
1202 ~~1002.55(4)(a) or (b).~~ As used in this subsection, the term
1203 "certified teacher" means a teacher holding a valid Florida
1204 educator certificate under s. 1012.56 who has the qualifications
1205 required by the district school board to instruct students in
1206 the summer prekindergarten program. In selecting instructional
1207 staff for the summer prekindergarten program, each school
1208 district shall give priority to teachers who have experience or
1209 coursework in early childhood education.
1210 (5) Each prekindergarten instructor employed by a ~~public~~
1211 ~~school or~~ private prekindergarten provider delivering the summer
1212 prekindergarten program must be of good moral character, must
1213 undergo background screening pursuant to s. 402.305(2)(a) ~~be~~
1214 ~~screened using the level 2 screening standards in s. 435.04~~
1215 before employment, must be ~~and~~ rescreened at least once every 5
1216 years, and must be denied employment or terminated if required

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1217 under s. 435.06. Each prekindergarten instructor employed by a
1218 public school delivering the summer prekindergarten program~~, and~~
1219 must satisfy the ~~not be ineligible to teach in a public school~~
1220 ~~because his or her educator certificate is suspended or revoked.~~
1221 ~~This subsection does not supersede~~ employment requirements for
1222 instructional personnel in public schools as provided in s.
1223 1012.32 ~~which are more stringent than the requirements of this~~
1224 ~~subsection~~.
1225 (6) A public school or private prekindergarten provider may
1226 assign a substitute instructor to temporarily replace a
1227 credentialed instructor if the credentialed instructor assigned
1228 to a prekindergarten class is absent, as long as the substitute
1229 instructor meets the requirements of subsection (5) ~~is of good~~
1230 ~~moral character and has been screened before employment in~~
1231 ~~accordance with level 2 background screening requirements in~~
1232 ~~chapter 435~~. ~~This subsection does not supersede employment~~
1233 ~~requirements for instructional personnel in public schools which~~
1234 ~~are more stringent than the requirements of this subsection.~~ The
1235 Office of Early Learning shall adopt rules to implement this
1236 subsection which must ~~shall~~ include required qualifications of
1237 substitute instructors and the circumstances and time limits for
1238 which a public school or private prekindergarten provider may
1239 assign a substitute instructor.
1240 (7) Notwithstanding ss. 1002.55(3)(e) ~~ss. 1002.55(3)(f)~~ and
1241 1002.63(7), each prekindergarten class in the summer
1242 prekindergarten program, regardless of whether the class is a
1243 public school's or private prekindergarten provider's class,
1244 must be composed of at least 4 students but may not exceed 12
1245 students ~~beginning with the 2009 summer session~~. In order to

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1246 protect the health and safety of students, each public school or
1247 private prekindergarten provider must also provide appropriate
1248 adult supervision for students at all times. This subsection
1249 does not supersede any requirement imposed on a provider under
1250 ss. 402.301-402.319.
1251 Section 19. Subsections (5) and (6) of section 1002.63,
1252 Florida Statutes, are amended to read:
1253 1002.63 School-year prekindergarten program delivered by
1254 public schools.—
1255 (5) Each prekindergarten instructor employed by a public
1256 school delivering the school-year prekindergarten program must
1257 satisfy the ~~be of good moral character, must be screened using~~
1258 ~~the level 2 screening standards in s. 435.04 before employment~~
1259 ~~and rescreened at least once every 5 years, must be denied~~
1260 ~~employment or terminated if required under s. 435.06, and must~~
1261 ~~not be ineligible to teach in a public school because his or her~~
1262 ~~educator certificate is suspended or revoked. This subsection~~
1263 ~~does not supersede~~ employment requirements for instructional
1264 personnel in public schools as provided in s. 1012.32 ~~which are~~
1265 ~~more stringent than the requirements of this subsection~~.
1266 (6) A public school prekindergarten provider may assign a
1267 substitute instructor to temporarily replace a credentialed
1268 instructor if the credentialed instructor assigned to a
1269 prekindergarten class is absent, as long as the substitute
1270 instructor meets the requirements of subsection (5) ~~is of good~~
1271 ~~moral character and has been screened before employment in~~
1272 ~~accordance with level 2 background screening requirements in~~
1273 ~~chapter 435. This subsection does not supersede employment~~
1274 ~~requirements for instructional personnel in public schools which~~

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1275 ~~are more stringent than the requirements of this subsection~~. The
1276 Office of Early Learning shall adopt rules to implement this
1277 subsection which must ~~shall~~ include required qualifications of
1278 substitute instructors and the circumstances and time limits for
1279 which a public school prekindergarten provider may assign a
1280 substitute instructor.
1281 Section 20. Paragraph (a) of subsection (6) of section
1282 1002.71, Florida Statutes, is amended to read:
1283 1002.71 Funding; financial and attendance reporting.—
1284 (6)(a) Each parent enrolling his or her child in the
1285 Voluntary Prekindergarten Education Program must agree to comply
1286 with the attendance policy of the private prekindergarten
1287 provider or district school board, as applicable. Upon
1288 enrollment of the child, the private prekindergarten provider or
1289 public school, as applicable, must provide the child's parent
1290 with program information, including, but not limited to, child
1291 development, expectations for parent engagement, the daily
1292 schedule, and the ~~a copy of the provider's or school district's~~
1293 attendance policy, which must include procedures for contacting
1294 a parent on the second consecutive day a child is absent for
1295 which the reason is unknown ~~as applicable~~.
1296 Section 21. Subsection (1) of section 1002.75, Florida
1297 Statutes, is amended to read:
1298 1002.75 Office of Early Learning; powers and duties.—
1299 (1) The Office of Early Learning shall adopt by rule a
1300 standard statewide provider contract to be used with each
1301 Voluntary Prekindergarten Education Program provider, with
1302 standardized attachments by provider type. The office shall
1303 publish a copy of the standard statewide provider contract on

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1304 its website. The standard statewide contract must ~~shall~~ include,
1305 at a minimum, provisions that:
1306 (a) Govern ~~for~~ provider probation, termination for cause,
1307 and emergency termination for those actions or inactions of a
1308 provider that pose an immediate and serious danger to the
1309 health, safety, or welfare of children. The standard statewide
1310 contract must ~~shall~~ also include appropriate due process
1311 procedures. During the pendency of an appeal of a termination,
1312 the provider may not continue to offer its services.
1313 (b) Require each private prekindergarten provider to notify
1314 the parent of each child in care if it is cited for a Class I
1315 violation as defined by rule of the Department of Children and
1316 Families. Notice shall be initiated only upon final disposition
1317 of a Class I violation. The provider shall notify the department
1318 within 24 hours of its intent to appeal the Class I violation
1319 issued, and final disposition shall occur within 15 calendar
1320 days. In determining the final disposition, the department shall
1321 consider the entire licensing history of the provider, whether
1322 the provider promptly reported the incident upon actual notice,
1323 and whether the employee responsible for the violation was
1324 terminated or the violation was corrected by the provider. If a
1325 provider does not file its intent to appeal the Class I
1326 violation, the provider must provide notice of a Class I
1327 violation electronically or in writing to the parent within 48
1328 hours after receipt of the Class I violation. Such notice shall
1329 describe each violation with specificity in simple language and
1330 include a copy of the citation and the contact information of
1331 the Department of Children and Families or local licensing
1332 agency where the parent may obtain additional information

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1333 regarding the citation. Notice of a Class I violation by the
1334 provider must be provided electronically or in writing to the
1335 parent within 24 hours after receipt of the final disposition of
1336 the Class I violation. A private prekindergarten provider must
1337 conspicuously post each citation for a violation that results in
1338 disciplinary action on the premises in an area visible to
1339 parents pursuant to s. 402.3125(1)(b). Additionally, such a
1340 provider must post each inspection report on the premises in an
1341 area visible to parents, and such report must remain posted
1342 until the next inspection report is available.
1343 (c) Specify that child care personnel employed by the
1344 provider who are responsible for supervising children in care
1345 must be trained in developmentally appropriate practices aligned
1346 to the age and needs of children over which the personnel are
1347 assigned supervision duties. This requirement is met by the
1348 completion of developmentally appropriate practice courses
1349 administered by the Department of Children and Families under s.
1350 402.305(2)(d)1. within 30 days after being assigned such
1351 children if the child care personnel has not previously
1352 completed the training.
1353
1354 Any provision imposed upon a provider that is inconsistent with,
1355 or prohibited by, law is void and unenforceable.
1356 Section 22. Subsections (1), (3), and (5) of section
1357 1002.77, Florida Statutes, are amended to read:
1358 1002.77 Florida Early Learning Advisory Council.—
1359 (1) There is created the Florida Early Learning Advisory
1360 Council within the Office of Early Learning. The purpose of the
1361 advisory council is to provide written input ~~submit~~

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1362 ~~recommendations~~ to the executive director ~~office~~ on early
1363 learning best practices, including ~~recommendations relating to~~
1364 ~~the most~~ effective program administration; ~~of the Voluntary~~
1365 ~~Prekindergarten Education Program under this part and the school~~
1366 ~~readiness program under part VI of this chapter. The advisory~~
1367 ~~council shall periodically analyze and provide recommendations~~
1368 ~~to the office on the~~ effective and efficient use of local,
1369 state, and federal funds; ~~the content of~~ professional
1370 development training programs; and ~~best practices for the~~
1371 ~~development and implementation of~~ coalition plans pursuant to s.
1372 1002.85.
1373 (3) The advisory council shall meet at least quarterly upon
1374 the call of the executive director ~~but may meet as often as~~
1375 ~~necessary to carry out its duties and responsibilities~~. The
1376 executive director is encouraged to ~~advisory council may~~ use
1377 communications media technology ~~any method of telecommunications~~
1378 to conduct meetings in accordance with s. 120.54(5)(b)~~,~~
1379 ~~including establishing a quorum through telecommunications, only~~
1380 ~~if the public is given proper notice of a telecommunications~~
1381 ~~meeting and reasonable access to observe and, when appropriate,~~
1382 ~~participate~~.
1383 (5) The Office of Early Learning shall provide staff and
1384 administrative support for the advisory council as determined by
1385 the executive director.
1386 Section 23. Paragraph (f) of subsection (1) and subsections
1387 (8) and (16) of section 1002.81, Florida Statutes, are amended
1388 to read:
1389 1002.81 Definitions.—Consistent with the requirements of 45
1390 C.F.R. parts 98 and 99 and as used in this part, the term:

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1391 (1) "At-risk child" means:
1392 (f) A child in the custody of a parent who is considered
1393 homeless as verified by a designated lead agency on the homeless
1394 assistance continuum of care established under ss. 420.622-
1395 420.624 ~~Department of Children and Families certified homeless~~
1396 ~~shelter~~.
1397 (8) "Family income" means the combined gross income,
1398 whether earned or unearned, that is derived from any source by
1399 all family or household members who are 18 years of age or older
1400 who are currently residing together in the same dwelling unit.
1401 The term does not include:
1402 (a) Income earned by a currently enrolled high school
1403 student who, since attaining the age of 18 years, or a student
1404 with a disability who, since attaining the age of 22 years, has
1405 not terminated school enrollment or received a high school
1406 diploma, high school equivalency diploma, special diploma, or
1407 certificate of high school completion.
1408 (b) Income earned by a teen parent residing in the same
1409 residence as a separate family unit.
1410 (c) Selected items from the state's Child Care and
1411 Development Fund Plan, such as ~~The term also does not include~~
1412 food stamp benefits, documented child support and alimony
1413 payments paid out of the home, or federal housing assistance
1414 payments issued directly to a landlord or the associated
1415 utilities expenses.
1416 (16) "Working family" means:
1417 (a) A single-parent family in which the parent with whom
1418 the child resides is employed or engaged in eligible work or
1419 education activities for at least 20 hours per week or is exempt

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1420 from work requirements due to age or disability, as determined
1421 and documented by a physician licensed under chapter 458 or
1422 chapter 459;
1423 (b) A two-parent family in which both parents with whom the
1424 child resides are employed or engaged in eligible work or
1425 education activities for a combined total of at least 40 hours
1426 per week; ~~or~~
1427 (c) A two-parent family in which one of the parents with
1428 whom the child resides is exempt from work requirements due to
1429 age or disability, as determined and documented by a physician
1430 licensed under chapter 458 or chapter 459, and one parent is
1431 employed or engaged in eligible work or education activities at
1432 least 20 hours per week; or
1433 (d) A two-parent family in which both of the parents with
1434 whom the child resides are exempt from work requirements due to
1435 age or disability, as determined and documented by a physician
1436 licensed under chapter 458 or chapter 459.
1437 Section 24. Paragraphs (b), (j), (m), and (p) of subsection
1438 (2) of section 1002.82, Florida Statutes, are amended to read:
1439 1002.82 Office of Early Learning; powers and duties.—
1440 (2) The office shall:
1441 (b) Preserve parental choice by permitting parents to
1442 choose from a variety of child care categories authorized in s.
1443 1002.88(1)(a)~~, including center-based care, family child care,~~
1444 ~~and informal child care~~ to the extent authorized in the state's
1445 Child Care and Development Fund Plan as approved by the United
1446 States Department of Health and Human Services pursuant to 45
1447 C.F.R. s. 98.18. Care and curriculum by a faith-based provider
1448 may not be limited or excluded in any of these categories.

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1449 (j) Develop and adopt standards and benchmarks that address
1450 the age-appropriate progress of children in the development of
1451 school readiness skills. The standards for children from birth
1452 to 5 years of age in the school readiness program must be
1453 aligned with the performance standards adopted for children in
1454 the Voluntary Prekindergarten Education Program and must address
1455 the following domains:
1456 1. Approaches to learning.
1457 2. Cognitive development and general knowledge.
1458 3. Numeracy, language, and communication.
1459 4. Physical development.
1460 5. Self-regulation.
1461
1462 By July 1, 2016, the office shall develop and implement an
1463 online training course on the performance standards for school
1464 readiness program provider personnel specified in this
1465 paragraph.
1466 (m) Adopt by rule a standard statewide provider contract to
1467 be used with each school readiness program provider, with
1468 standardized attachments by provider type. The office shall
1469 publish a copy of the standard statewide provider contract on
1470 its website. The standard statewide contract must ~~shall~~ include,
1471 at a minimum, provisions that:
1472 1. Govern ~~for~~ provider probation, termination for cause,
1473 and emergency termination for those actions or inactions of a
1474 provider that pose an immediate and serious danger to the
1475 health, safety, or welfare of the children. The standard
1476 statewide provider contract must ~~shall~~ also include appropriate
1477 due process procedures. During the pendency of an appeal of a

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1478 termination, the provider may not continue to offer its
1479 services.
1480 2. Require each provider that is eligible to provide the
1481 program pursuant to s. 1002.88(1)(a) to notify the parent of
1482 each child in care if it is cited for a Class I violation as
1483 defined by rule of the Department of Children and Families.
1484 Notice shall be initiated only upon final disposition of a Class
1485 I violation. The provider shall notify the department within 24
1486 hours of its intent to appeal the Class I violation issued, and
1487 final disposition shall occur within 15 calendar days. In
1488 determining the final disposition, the department shall consider
1489 the entire licensing history of the provider, whether the
1490 provider promptly reported the incident upon actual notice, and
1491 whether the employee responsible for the violation was
1492 terminated or the violation was corrected by the provider. If a
1493 provider does not file its intent to appeal the Class I
1494 violation, the provider must provide notice of a Class I
1495 violation electronically or in writing to the parent within 48
1496 hours after receipt of the Class I violation. Such notice shall
1497 describe each violation with specificity in simple language and
1498 include a copy of the citation and the contact information of
1499 the Department of Children and Families or local licensing
1500 agency where the parent may obtain additional information
1501 regarding the citation. Notice of a Class I violation by the
1502 provider must be provided electronically or in writing to the
1503 parent within 24 hours after receipt of the final disposition of
1504 the Class I violation. A provider must conspicuously post each
1505 citation for a violation that results in disciplinary action on
1506 the premises in an area visible to parents pursuant to s.

1507 402.3125(1)(b). Additionally, such a provider must post each
1508 inspection report on the premises in an area visible to parents,
1509 and such report must remain posted until the next inspection
1510 report is available.
1511 3. Specify that child care personnel employed by the
1512 provider who are responsible for supervising children in care
1513 must be trained in developmentally appropriate practices aligned
1514 to the age and needs of children over which the personnel are
1515 assigned supervision duties. This requirement is met by
1516 completion of developmentally appropriate practice courses
1517 administered by the Department of Children and Families under s.
1518 402.305(2)(d)1. within 30 days after being assigned such
1519 children if the child care personnel has not previously
1520 completed the training.
1521 4. Require child care personnel who are employed by the
1522 provider to complete an online training course on the
1523 performance standards adopted pursuant to paragraph (j).
1524
1525 Any provision imposed upon a provider that is inconsistent with,
1526 or prohibited by, law is void and unenforceable.
1527 (p) Monitor and evaluate the performance of each early
1528 learning coalition in administering the school readiness program
1529 and the Voluntary Prekindergarten Education Program, ensuring
1530 proper payments for school readiness program and Voluntary
1531 Prekindergarten Education Program services, and implementing the
1532 coalition's school readiness program plan~~, and administering the~~
1533 ~~Voluntary Prekindergarten Education Program~~. These monitoring
1534 and performance evaluations must include, at a minimum, onsite
1535 monitoring of each coalition's finances, management, operations,

1536 and programs.
1537 Section 25. Subsections (8) and (20) of section 1002.84,
1538 Florida Statutes, are amended to read:
1539 1002.84 Early learning coalitions; school readiness powers
1540 and duties.—Each early learning coalition shall:
1541 (8) Establish a parent sliding fee scale that requires a
1542 parent copayment to participate in the school readiness program.
1543 Providers are required to collect the parent's copayment. A
1544 coalition may, on a case-by-case basis, waive the copayment for
1545 an at-risk child or temporarily waive the copayment for a child
1546 whose family's income is at or below the federal poverty level
1547 and family experiences a natural disaster or an event that
1548 limits the parent's ability to pay, such as incarceration,
1549 placement in residential treatment, ~~or becoming homeless,~~ or an
1550 emergency situation such as a household fire or burglary, or
1551 while the parent is participating in parenting classes. A parent
1552 may not transfer school readiness program services to another
1553 school readiness program provider until the parent has submitted
1554 documentation from the current school readiness program provider
1555 to the early learning coalition stating that the parent has
1556 satisfactorily fulfilled the copayment obligation.
1557 (20) To increase transparency and accountability, comply
1558 with ~~the requirements of~~ this section before contracting with a
1559 member of the coalition, an employee of the coalition, or a
1560 relative, as defined in s. 112.3143(1)~~(c)~~, of a coalition member
1561 or of an employee of the coalition. Such contracts may not be
1562 executed without the approval of the office. Such contracts, as
1563 well as documentation demonstrating adherence to this section by
1564 the coalition, must be approved by a two-thirds vote of the

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1565 coalition, a quorum having been established; all conflicts of
1566 interest must be disclosed before the vote; and any member who
1567 may benefit from the contract, or whose relative may benefit
1568 from the contract, must abstain from the vote. A contract under
1569 $25,000 between an early learning coalition and a member of that
1570 coalition or between a relative, as defined in s.
1571 112.3143(1)~~(c)~~, of a coalition member or of an employee of the
1572 coalition is not required to have the prior approval of the
1573 office but must be approved by a two-thirds vote of the
1574 coalition, a quorum having been established, and must be
1575 reported to the office within 30 days after approval. If a
1576 contract cannot be approved by the office, a review of the
1577 decision to disapprove the contract may be requested by the
1578 early learning coalition or other parties to the disapproved
1579 contract.
1580 Section 26. Paragraphs (c) and (h) of subsection (1) and
1581 subsections (6) through (8) of section 1002.87, Florida
1582 Statutes, are amended to read:
1583 1002.87 School readiness program; eligibility and
1584 enrollment.—
1585 (1) Effective August 1, 2013, or upon reevaluation of
1586 eligibility for children currently served, whichever is later,
1587 each early learning coalition shall give priority for
1588 participation in the school readiness program as follows:
1589 (c) Priority shall be given next to a child from birth to
1590 the beginning of the school year for which the child is eligible
1591 for admission to kindergarten in a public school under s.
1592 1003.21(1)(a)2. who is from a working family that is
1593 economically disadvantaged, and may include such child's

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1594 eligible siblings, beginning with the school year in which the
1595 sibling is eligible for admission to kindergarten in a public
1596 school under s. 1003.21(1)(a)2. until the beginning of the
1597 school year in which the sibling enters ~~is eligible to begin~~ 6th
1598 grade, provided that the first priority for funding an eligible
1599 sibling is local revenues available to the coalition for funding
1600 direct services. However, a child eligible under this paragraph
1601 ceases to be eligible if his or her family income exceeds 200
1602 percent of the federal poverty level.
1603 (h) Priority shall be given next to a child who ~~has special~~
1604 ~~needs,~~ has been determined eligible as an infant or toddler from
1605 birth to 3 years of age with an individualized family support
1606 plan receiving early intervention services or to ~~as~~ a student
1607 with a disability with~~, has~~ a current individual education plan
1608 with a Florida school district~~, and is not younger than 3 years~~
1609 ~~of age~~. A ~~special needs~~ child eligible under this paragraph
1610 remains eligible until the child is eligible for admission to
1611 kindergarten in a public school under s. 1003.21(1)(a)2.
1612 (6) Eligibility for each child must be reevaluated
1613 annually. Upon reevaluation, a child may not continue to receive
1614 school readiness program services if he or she has ceased to be
1615 eligible under this section. If a child no longer meets
1616 eligibility or program requirements, the coalition must
1617 immediately notify the child's parent and the provider that
1618 funding will end 2 weeks after the date on which the child was
1619 determined to be ineligible or when the current child care
1620 authorization expires, whichever occurs first.
1621 (7) If a coalition disenrolls children from the school
1622 readiness program due to lack of funding or a change in

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1623 eligibility priorities, the coalition must disenroll the
1624 children in reverse order of the eligibility priorities listed
1625 in subsection (1) beginning with children from families with the
1626 highest family incomes. A notice of disenrollment must be sent
1627 to the parent and school readiness program provider at least 2
1628 weeks before disenrollment or the expiration of the current
1629 child care authorization, whichever occurs first, to provide
1630 adequate time for the parent to arrange alternative care for the
1631 child. However, an at-risk child receiving services from the
1632 Child Welfare Program Office of the Department of Children and
1633 Families may not be disenrolled from the program without the
1634 written approval of the Child Welfare Program Office ~~of the~~
1635 ~~Department of Children and Families~~ or the community-based lead
1636 agency.
1637 (8) If a child is absent from the program for 2 consecutive
1638 days without parental notification to the program of such
1639 absence, the school readiness program provider shall contact the
1640 parent and determine the cause for the absence and the expected
1641 date of return. If a child is absent from the program for 5
1642 consecutive days without parental notification to the program of
1643 such absence, the school readiness program provider shall report
1644 the absence to the early learning coalition for a determination
1645 of the need for continued care.
1646 Section 27. Paragraphs (a) through (c) and (l) through (q)
1647 of subsection (1) of section 1002.88, Florida Statutes, are
1648 amended, present subsections (2) and (3) are redesignated as
1649 subsections (4) and (5), respectively, present subsection (2) is
1650 amended, and new subsections (2) and (3) are added to that
1651 section, to read:

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1652 1002.88 School readiness program provider standards;
1653 eligibility to deliver the school readiness program.—
1654 (1) To be eligible to deliver the school readiness program,
1655 a school readiness program provider must:
1656 (a)1. Be a nonpublic school in substantial compliance with
1657 s. 402.3025(2)(d), a child care facility licensed under s.
1658 402.305, a family child ~~day~~ care home licensed ~~or registered~~
1659 under s. 402.313, a large family child care home licensed under
1660 s. 402.3131, or a child care facility exempt from licensure
1661 operating under s. 402.316(4);
1662 2. Be an entity that is part of Florida's education system
1663 identified in s. 1000.04(1); ~~a public school or nonpublic school~~
1664 ~~exempt from licensure under s. 402.3025, a faith-based child~~
1665 ~~care provider exempt from licensure under s. 402.316, a before-~~
1666 ~~school or after-school program described in s. 402.305(1)(c),~~ or
1667 3. Be an informal child care provider to the extent
1668 authorized in the state's Child Care and Development Fund Plan
1669 as approved by the United States Department of Health and Human
1670 Services pursuant to 45 C.F.R. s. 98.18.
1671 (b) Provide instruction and activities to enhance the age-
1672 appropriate progress of each child in attaining the child
1673 development standards adopted by the office pursuant to s.
1674 1002.82(2)(j). A provider should include activities to foster
1675 brain development in infants and toddlers; provide an
1676 environment that is rich in language and music and filled with
1677 objects of various colors, shapes, textures, and sizes to
1678 stimulate visual, tactile, auditory, and linguistic senses; and
1679 include 30 minutes of reading to children each day. A provider
1680 must provide parents information on child development,

1681 expectations for parent engagement, the daily schedule, and the
1682 attendance policy.
1683 (c) Provide basic health and safety of its premises and
1684 facilities in accordance with applicable licensing and
1685 inspection requirements ~~and compliance with requirements for~~
1686 ~~age-appropriate immunizations of children enrolled in the school~~
1687 ~~readiness program~~. For a child care facility, a large family
1688 child care home, or a licensed family child ~~day~~ care home,
1689 compliance with s. 402.305, s. 402.3131, or s. 402.313 satisfies
1690 this requirement. For a public ~~or nonpublic~~ school, compliance
1691 with ss. ~~s. 402.3025 or s.~~ 1003.22 and 1013.12 satisfies this
1692 requirement. For a nonpublic school, compliance with s.
1693 402.3025(2)(d) satisfies this requirement. For a facility exempt
1694 from licensure, compliance with s. 402.316(4) satisfies this
1695 requirement. For an informal provider, substantial compliance as
1696 defined in s. 402.302(17) satisfies this requirement. A provider
1697 shall be denied initial eligibility to offer the program if the
1698 provider has been cited for a Class I violation in the 12 months
1699 before seeking eligibility. An existing provider that is cited
1700 for a Class I violation may not have its eligibility renewed for
1701 12 months. A provider that is cited for a Class I violation may
1702 remain eligible to deliver the program if the Department of
1703 Children and Families or local licensing agency upon final
1704 disposition of a Class I violation has rescinded its initial
1705 citation in accordance with the criteria for consideration
1706 outlined in s. 1002.82(2)(m)2 ~~A faith-based child care provider,~~
1707 ~~an informal child care provider, or a nonpublic school, exempt~~
1708 ~~from licensure under s. 402.316 or s. 402.3025, shall annually~~
1709 ~~complete the health and safety checklist adopted by the office,~~

1710 ~~post the checklist prominently on its premises in plain sight~~
1711 ~~for visitors and parents, and submit it annually to its local~~
1712 ~~early learning coalition~~.
1713 (l) ~~For a provider that is not an informal provider,~~
1714 Maintain general liability insurance and provide the coalition
1715 with written evidence of general liability insurance coverage,
1716 including coverage for transportation of children if school
1717 readiness program children are transported by the provider. A
1718 private provider must obtain and retain an insurance policy that
1719 provides a minimum of $100,000 of coverage per occurrence and a
1720 minimum of $300,000 general aggregate coverage. The office may
1721 authorize lower limits upon request, as appropriate. A provider
1722 must add the coalition as a named certificateholder ~~and as an~~
1723 ~~additional insured~~. A private provider must provide the
1724 coalition with a minimum of 10 calendar days' advance written
1725 notice of cancellation of or changes to coverage. The general
1726 liability insurance required by this paragraph must remain in
1727 full force and effect for the entire period of the provider
1728 contract with the coalition.
1729 ~~(m) For a provider that is an informal provider, comply~~
1730 ~~with the provisions of paragraph (l) or maintain homeowner's~~
1731 ~~liability insurance and, if applicable, a business rider. If an~~
1732 ~~informal provider chooses to maintain a homeowner's policy, the~~
1733 ~~provider must obtain and retain a homeowner's insurance policy~~
1734 ~~that provides a minimum of $100,000 of coverage per occurrence~~
1735 ~~and a minimum of $300,000 general aggregate coverage. The office~~
1736 ~~may authorize lower limits upon request, as appropriate. An~~
1737 ~~informal provider must add the coalition as a named~~
1738 ~~certificateholder and as an additional insured. An informal~~

1739 ~~provider must provide the coalition with a minimum of 10~~
1740 ~~calendar days' advance written notice of cancellation of or~~
1741 ~~changes to coverage. The general liability insurance required by~~
1742 ~~this paragraph must remain in full force and effect for the~~
1743 ~~entire period of the provider's contract with the coalition.~~
1744 (m) ~~(n)~~ Obtain and maintain any required workers'
1745 compensation insurance under chapter 440 and any required
1746 reemployment assistance or unemployment compensation coverage
1747 under chapter 443, unless exempt under state or federal law.
1748 (n) ~~(o)~~ Notwithstanding paragraph (l), for a provider that
1749 is a state agency or a subdivision thereof, as defined in s.
1750 768.28(2), agree to notify the coalition of any additional
1751 liability coverage maintained by the provider in addition to
1752 that otherwise established under s. 768.28. The provider shall
1753 indemnify the coalition to the extent permitted by s. 768.28.
1754 (o) ~~(p)~~ Execute the standard statewide provider contract
1755 adopted by the office.
1756 (p) ~~(q)~~ Operate on a full-time and part-time basis and
1757 provide extended-day and extended-year services to the maximum
1758 extent possible without compromising the quality of the program
1759 to meet the needs of parents who work.
1760 (2) Beginning January 1, 2016, at least 50 percent of the
1761 child care personnel employed by a school readiness provider at
1762 each location, who are responsible for supervising children in
1763 care, must be trained in first aid and infant and child
1764 cardiopulmonary resuscitation, as evidenced by current
1765 documentation of course completion. As a condition of
1766 employment, personnel hired on or after January 1, 2016, must
1767 complete this training within 60 days after employment.

1768 (3) Beginning January 1, 2017, child care personnel
1769 employed by a school readiness program provider must hold a high
1770 school diploma or its equivalent and be at least 18 years of
1771 age, unless the personnel are not responsible for supervising
1772 children in care or are under direct supervision.
1773 (4) ~~(2)~~ If a school readiness program provider fails or
1774 refuses to comply with this part or any contractual obligation
1775 of the statewide provider contract under s. 1002.82(2)(m), the
1776 coalition may revoke the provider's eligibility to deliver the
1777 school readiness program or receive state or federal funds under
1778 this chapter for ~~a period of~~ 5 years.
1779 Section 28. Paragraph (b) of subsection (6) and subsection
1780 (7) of Section 1002.89, Florida Statutes, are amended to read:
1781 1002.89 School readiness program; funding.—
1782 (6) Costs shall be kept to the minimum necessary for the
1783 efficient and effective administration of the school readiness
1784 program with the highest priority of expenditure being direct
1785 services for eligible children. However, no more than 5 percent
1786 of the funds described in subsection (5) may be used for
1787 administrative costs and no more than 22 percent of the funds
1788 described in subsection (5) may be used in any fiscal year for
1789 any combination of administrative costs, quality activities, and
1790 nondirect services as follows:
1791 (b) Activities to improve the quality of child care as
1792 described in 45 C.F.R. s. 98.51, which must ~~shall~~ be limited to
1793 the following:
1794 1. Developing, establishing, expanding, operating, and
1795 coordinating resource and referral programs specifically related
1796 to the provision of comprehensive consumer education to parents

1797 and the public to promote informed child care choices specified
1798 in 45 C.F.R. s. 98.33 ~~regarding participation in the school~~
1799 ~~readiness program and parental choice~~.
1800 2. Awarding grants and providing financial support to
1801 school readiness program providers and their staffs to assist
1802 them in meeting applicable state requirements for child care
1803 performance standards, implementing developmentally appropriate
1804 curricula and related classroom resources that support
1805 curricula, providing literacy supports, obtaining a license or
1806 accreditation, and providing professional development, including
1807 scholarships and other incentives. Any grants awarded pursuant
1808 to this subparagraph shall comply with ~~the requirements of~~ ss.
1809 215.971 and 287.058.
1810 3. Providing training, ~~and~~ technical assistance, and
1811 financial support for school readiness program providers, staff,
1812 and parents on standards, child screenings, child assessments,
1813 developmentally appropriate curricula, character development,
1814 teacher-child interactions, age-appropriate discipline
1815 practices, health and safety, nutrition, first aid,
1816 cardiopulmonary resuscitation, the recognition of communicable
1817 diseases, and child abuse detection and prevention.
1818 4. Providing from among the funds provided for the
1819 activities described in subparagraphs 1.-3., adequate funding
1820 for infants and toddlers as necessary to meet federal
1821 requirements related to expenditures for quality activities for
1822 infant and toddler care.
1823 5. Improving the monitoring of compliance with, and
1824 enforcement of, applicable state and local requirements as
1825 described in and limited by 45 C.F.R. s. 98.40.

1826 6. Responding to Warm-Line requests by providers and
1827 parents ~~related to school readiness program children~~, including
1828 providing developmental and health screenings to school
1829 readiness program children.
1830 (7) Funds appropriated for the school readiness program may
1831 not be expended for the purchase or improvement of land; for the
1832 purchase, construction, or permanent improvement of any building
1833 or facility; or for the purchase of buses. However, funds may be
1834 expended for minor remodeling necessary for the administration
1835 of the program and upgrading of child care facilities to ensure
1836 that providers meet state and local child care standards,
1837 including applicable health and safety requirements.
1838 Section 29. Subsection (7) of section 1002.91, Florida
1839 Statutes, is amended to read:
1840 1002.91 Investigations of fraud or overpayment; penalties.—
1841 (7) The early learning coalition may not contract with a
1842 school readiness program provider, ~~or~~ a Voluntary
1843 Prekindergarten Education Program provider, or an individual who
1844 is on the United States Department of Agriculture National
1845 Disqualified List. In addition, the coalition may not contract
1846 with any provider that shares an officer or director with a
1847 provider that is on the United States Department of Agriculture
1848 National Disqualified List.
1849 Section 30. Paragraph (d) of subsection (3) of section
1850 1002.94, Florida Statutes, is amended to read:
1851 1002.94 Child Care Executive Partnership Program.—
1852 (3)
1853 (d) Each early learning coalition shall establish a
1854 community child care task force ~~for each child care purchasing~~

1855 ~~pool~~. The task force must be composed of employers, parents,
1856 private child care providers, and one representative from the
1857 local children's services council, if one exists in the area ~~of~~
1858 ~~the purchasing pool~~. The early learning coalition is expected to
1859 recruit the task force members from existing child care
1860 councils, commissions, or task forces already operating in the
1861 area ~~of a purchasing pool~~. A majority of the task force shall
1862 consist of employers.
1863 Section 31. The Office of Early Learning shall conduct a 2-
1864 year pilot project to study the impact of assessing the early
1865 literacy skills of Voluntary Prekindergarten Education Program
1866 participants who are English Language Learners, in both English
1867 and Spanish. The assessments must include, at a minimum, the
1868 first administration of the Florida Assessments for Instruction
1869 in Reading in kindergarten and an appropriate alternative
1870 assessment in Spanish. The study must include a review of the
1871 kindergarten screening results for 2009-2010 and 2010-2011
1872 program participants and their subsequent Florida Comprehensive
1873 Assessment Test scores. The office shall report its findings to
1874 the Governor, the President of the Senate, and the Speaker of
1875 the House of Representatives by July 1, 2016, and July 1, 2017.
1876 Section 32. This act shall take effect July 1, 2015.

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 Appropriations

BILL: CS/CS/SB 7006

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Health and Human Services); Community Affairs Committee; Education Pre-K - 12 Committee; and Senator Legg

SUBJECT: Early Learning

DATE: April 23, 2015 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	Scott	Klebacha		**ED Submitted as Committee Bill**
1.	Stearns	Yeatman	CA	**Fav/CS**
2.	Brown	Pigott	AHS	**Recommend: Fav/CS**
3.	Brown	Kynoch	AP	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 7006 increases the health and safety standards and personnel requirements for Voluntary Prekindergarten Programs Education (VPK) programs and School Readiness programs. The bill:

- Requires licensure or, if the provider is a license-exempt faith-based provider or nonpublic school, a certificate of substantial compliance with specified child care licensing standards and submission to inspections by the Department of Children and Families (DCF);
- Requires providers of child care and VPK instructional services to notify parents of disciplinary action and conspicuously post Class I violation citations and inspection reports that result in disciplinary action, on the premises;
- Denies initial eligibility for programs to certain providers that had a Class I violation within the preceding 12 months prior to seeking eligibility and, if cited for a Class I violation, prevents an existing provider from renewing its eligibility for 12 months;
- Requires certain personnel to be at least 18 years of age and hold a high school diploma by January 1, 2017;
- Provides requirements for certain employees to be trained in first aid and cardiopulmonary resuscitation;
- Requires personnel to be trained in developmentally appropriate practices aligned to the age and needs of children served by the personnel;

- Requires the Office of Early Learning (OEL) to develop online training regarding School Readiness performance standards and requires provider personnel to complete the training;
- Requires OEL to conduct a pilot project assessing the early literacy skills of VPK participants who are English language learners;
- Provides that failure to report child abuse is a disqualifying offense for child care employment;
- Prohibits an operator of a program, who has been disciplined for serious licensing violations, from transferring ownership of a program to relatives;
- Authorizes Early Learning Coalitions (ELCs) to allow private providers to accept applications and determine child eligibility for the VPK program;
- Expands the DCF's authority to conduct abbreviated inspections to include family day care homes and large family child care homes; and
- Requires the Division of Law Revision and Information to change the terms "family day care" to "family child care" and "family day care home" to "family child care home."

The bill has a significant negative fiscal impact on the DCF. According to the DCF, the bill creates the need in Fiscal Year 2015-2016 for $1,252,441 and 18 full-time equivalent positions in order for the DCF to perform its required duties.

The bill provides an effective date of July 1, 2015.

II. Present Situation:

The Office of Early Learning

The Office of Early Learning (OEL), which is within the Office of Independent Education and Parental Choice, and which is accountable to the Commissioner of Education, administers the Voluntary Prekindergarten Education Program (VPK) and the School Readiness program at the state level.[1] The Florida Department of Children and Families (DCF) regulates child care providers who offer early learning because the DCF is the agency responsible for the state's child care provider licensing.[2]

Voluntary Prekindergarten Education Program

The VPK program is available to each child residing in the state who is four years old on or before September 1 of the school year, and VPK remains available to the child until the child is eligible for admission to public school kindergarten or is admitted to kindergarten, whichever occurs sooner.[3] Parents may choose either a school-year or summer VPK program offered by a public school or private prekindergarten provider, or a specialized instructional services program for a child with disabilities who is eligible for such a program.[4] A parent enrolling a child in

[1] Section 1001.213, F.S.
[2] *See* ss. 402.301-402.319, F.S.; Parts V and VI, ch. 1002, F.S.
[3] Section 1002.53, F.S.
[4] Section 1002.53(3), F.S. To be eligible for a specialized instructional services program, a child must be evaluated and determined to be eligible, have a current individual educational plan developed by the local school board, and be eligible under s. 1002.66, F.S., for the program. Section 1002.53(3)(d), F.S.

VPK must complete and submit an application to the early learning coalition (ELC),[5] not the individual program provider, which oversees the program.[6]

VPK may be offered by either a private prekindergarten provider or a public school. Local oversight of individual VPK providers is split with ELCs, which provide administration over programs delivered by private prekindergarten providers, and school districts, which administer public school VPK.[7] Each district school board determines which district schools will offer the school-year and summer VPK programs, and such schools must register with the ELC.[8]

A private prekindergarten VPK provider must register with the ELC and be a:

- Licensed child care facility;
- Licensed family day care home (FDCH);
- Licensed large family child care home (LFCCH);
- Nonpublic school; or
- License-exempt faith-based child care provider.[9]

In addition, a private prekindergarten provider must:

- Be accredited by an accrediting association that is a member of either the National Council for Private School Accreditation or the Florida Association of Academic Nonpublic Schools, or be accredited by the Southern Association of Colleges and Schools, the Western Association of Colleges and Schools, the North Central Association of Colleges and Schools, the Middle States Association of Colleges and Schools, or the New England Association of Colleges and Schools; and have written accreditation standards that meet the state's licensing requirements and require at least one on-site visit before accreditation is granted;[10]
- Hold a current Gold Seal Quality Care designation;[11] or
- Be licensed and demonstrate that the ELC has verified that the provider meets the VPK program's statutory requirements.[12]

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[5] An "early learning coalition" or "coalition" is described in s. 1002.83, F.S. Section 1002.51(4), F.S. Throughout the 67 counties, there are to be 31 or fewer early learning coalitions to provide access to enhancement services at the local level. Each coalition must consist of 15-30 members and have members who meet specific requirements described in statute. *See* s. 1002.83, F.S.

[6] Section 1002.53(4), F.S.

[7] *See* ss. 1002.53(6), 1002.55(1), 1002.61(1), and 1002.63(1), F.S.

[8] Sections 1002.61(3)(a) and (8); 1002.63(3) and (8), F.S. Each school district is able to limit the number of students enrolled in the school-year program at a public school, however, the school district must admit every eligible child, enrolled by a parent, within the district for the summer prekindergarten program. Section 1002.53(6)(b).

[9] Section 1002.55(3)(a) and (h), F.S.; *see also* s. 402.305, F.S. (regarding licensing standards for child care facilities); s. 402.3025, F.S. (regarding public and nonpublic schools); s. 402.313, F.S. (providing for family day care home licensing and requirements); s. 402.3131, F.S. (regarding licensure of large family child care homes); s. 402.316, F.S. (providing a licensure exemption for faith-based providers).

[10] Section 1002.55(3)(b)1., F.S.

[11] *Section* 1005(3)(b)2., F.S.; *see* s. 402.281, F.S.; rule 65C-22.009, F.A.C.; *see also* Florida Department of Children and Family Services, *Gold Seal Accreditation Process for Child Care Providers*, http://myflfamilies.com/service-programs/child-care/goldseal-acredprocess (last visited Jan. 15, 2015). DCF issues the Gold Seal Quality Care designation to child care facilities, LFCCHs, and FDCHs that are accredited by a nationally recognized accrediting association with standards that meet or exceed DCF-adopted standards. DCF's standards are based upon those of the National Association for the Education of Young Children, National Association of Family Child Care, and National Early Childhood Program Accreditation Commission. Section 402.281(1)-(3), F.S.

[12] Section 1002.55(3)(b)3., F.S.

School Readiness Program

The School Readiness program provides subsidized child care services and early childhood education for children of low-income families, children in protective services who are at risk of abuse, neglect, or abandonment, and children with disabilities.[13] The School Readiness program is a state/federal partnership between the OEL and the Office of Child Care of the United States Department of Health and Human Services.[14] The School Readiness program receives funding from various state and federal sources, including the federal Child Care and Development Fund (CCDF) block grant, the federal Temporary Assistance for Needy Families block grant, and general revenue and other state funds.[15] The program is administered by ELCs.[16]

To deliver the School Readiness program, a provider must be:

- A licensed child care facility;
- A licensed or registered family day care home (FDCH);
- A licensed large family child care home (LFCCH);
- A public school or nonpublic school;
- A license-exempt, faith-based child care provider;
- A before-school or after-school program; or
- An informal child care provider authorized in the state's CCDF plan.[17]

The present situation for the relevant provisions of the bill is discussed in the "Effect of Proposed Changes" section of this bill analysis.

III. Effect of Proposed Changes:

The bill increases the health and safety standards and personnel requirements for Voluntary Prekindergarten Programs Education (VPK) programs and School Readiness programs.

Requirements of the Office of Early Learning

Powers and Duties of the Office of Early Learning

Present Situation: The Office of Early Learning (OEL) is required to: independently exercise powers, duties, and functions prescribed by law; adopt rules for the establishment and operation of VPK and School Readiness programs; administer the VPK and School Readiness programs,

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[13] Section 1002.87, F.S.; *see* s. 1002.81(1), F.S. (defining what it means to be an "at-risk child").

[14] 42 U.S.C ss. 618, 9858-9858q; 45 C.F.R. ss. 98, 99; Part VI, ch. 1002, F.S.; U.S. Department of Health and Human Services, *Office of Child Care Fact Sheet*, *available at* http://www.acf.hhs.gov/sites/default/files/assets/FS_OCC_0.pdf.

[15] Specific Appropriations 78A and 79, s. 2, ch. 2013-40, L.O.F.; *see also* U.S. Department of Health and Human Services, *Office of Child Care Fact Sheet*, *available at* http://www.acf.hhs.gov/sites/default/files/assets/FS_OCC_0.pdf.

[16] *Sections 1002.83-1002.85, F.S.* There are currently 31 ELCs, which is the maximum permitted by law. Section 1002.83(1), F.S.; *see* Florida's Office of Early Learning, *Early Learning Coalition Directory* (Jan. 7, 2015), *available at* http://www.floridaearlylearning.com/sites/www/Uploads/files/Parents/CoalitionDirectory.pdf.

[17] Section 1002.88(1)(a), F.S. Generally speaking, informal child care is care provided by a relative. *See* Florida's Office of Early Learning, *Child Care and Development Fund (CCDF) Plan for Florida FFY 2014-15*, at 71 (Oct. 1, 2013), *available at* http://www.floridaearlylearning.com/sites/www/Uploads/files/Oel%20Resources/2014-2015_CCDF_Plan_%20Optimized.pdf.

and the operational requirements of the child care resource and referral network, at the state level; and minimize administrative staff to those needed to administer the duties of the office.[18]

Effect of the Bill: The bill adds additional requirements to the duties of the OEL. The additional duties are to: hire a general counsel who reports directly to the executive director of the office; hire an inspector general who reports directly to the executive director of the office and to the Chief Inspector General; and by July 1, 2017, develop and implement best practices for providing parental notification in the parent's native language to a parent whose native language is not English. The bill also requires the OEL to conduct a two-year pilot project studying the impact of assessing the early literacy skills of VPK participants who are English language learners, in both English and Spanish, and report its findings to the Governor, the President of the Senate, and the Speaker of the House of Representatives by July 1, 2016, and July 1, 2017.

The Standardized Voluntary Prekindergarten Contract

Present Situation: Through adopted rules, the OEL is required to have a standard, statewide provider contract for VPK that includes provisions on: provider probation, termination for cause and emergency termination; due-process procedures; and provide that during the pendency of an appeal, a provider may not continue to offer services.[19]

Effect of the Bill: The bill, in addition to current-law requirements, requires the standard statewide contract to:

- Mandate that each private VPK provider and each School Readiness provider must conspicuously post each citation for a Class I violation in an area visible to parents. The posting must use simple language to describe each violation with specificity and include a copy of the citation, as well as contact information for the Department of Children and Families (DCF) or the local licensing agency. Such posting must occur within 24 hours of receipt of the Class I violation citation. Additionally, the provider must post each inspection report on the premises until the next report is available; and
- Specify that child care personnel employed by the provider who are responsible for supervising children in care must be trained in appropriate practices, through DCF courses, aligned to the age and needs of children the employee oversees within 30 days of being assigned to children for which the personnel has not previously completed the training.

Additionally, the bill creates a new requirement for the OEL to develop and implement an on-line training course on the performance standards for School Readiness program provider personnel, and the bill requires personnel to complete the on-line training course.

Provider, Instructor, and Child Care Personnel Qualifications

Background Screening

Present Situation: Personnel at child care facilities must meet a minimum standard of having good moral character as determined by the requirement of level 2 employment screening under ch. 435, F.S.[20]

[18] Section 1001.213, F.S.
[19] Section 1002.75, F.S. (regarding VPK programs); s. 1002.82(2)(m), F.S. (regarding School Readiness Programs).
[20] Section 402.305(2), F.S.

Effect of the Bill: The bill adds that in addition to the list of offenses in s. 435.04, F.S., pertaining to level 2 screening, child care personnel undergoing background screening may not have an arrest awaiting final disposition and may not have been found guilty of, or entered a plea of nolo contendre or guilty to, and may not have been adjudicated delinquent and have a record that has been sealed or expunged, for an offense specified in s. 39.205, F.S., which relates to penalties associated with the absence of reporting of child abuse, abandonment, or neglect.

The bill applies the background screening requirement and language of s. 402.305(2)(a), F.S., as amended by the bill and described above, to each VPK instructor employed by a private VPK provider delivering a summer VPK program. As noted above, the bill amends the statute to add more prohibited offenses that are not included in current law, and current law does not address those offenses because the statute specifically refers to s. 435.04, F.S., without referencing s. 39.205, F.S.[21]

The bill also adds the requirement that before employing child care personnel, an employer must conduct employment history checks and document the findings.

Instructor Credentials

Present Situation: A private VPK instructor must hold a child development associate credential issued by the National Credentialing Program of the Council for Professional Recognition or a credential deemed equivalent by the DCF.[22] Currently, s. 1002.55, F.S., does not explicitly delineate requirements for VPK instructors relating to first aid and infant and child cardiopulmonary resuscitation, nor does the statute address a minimum age or high school diploma requirement for employment.

Effect of the Bill: The bill retains the current-law options that satisfy the minimum credential requirement and provides new credentials that would also satisfy the requirement. The additional credentials added to the list include associate and baccalaureate degrees in child-oriented focus areas and associate and baccalaureate degrees in unrelated areas with additional hours of experience in teaching or child care services.

The bill requires at least 50 percent of a private VPK provider's instructors at each location and at least 50 percent of child care personnel at each School Readiness provider location to be trained in first aid and child cardiopulmonary resuscitation, demonstrated by documentation of course completion, unless the instructor or personnel are not responsible for supervising children in care, by January 1, 2016. Additionally, instructors and personnel hired on or after January 1, 2016, must complete the training within 60 days of employment.

The bill also adds that, as of January 1, 2017, private VPK providers must employ child care personnel who have a high school diploma or its equivalent and are at least 18 years old, unless the personnel are not responsible for supervising children in care or are under direct supervision.

[21] *See* s. 1002.61(5), F.S.
[22] Section 1002.55(3)(c), F.S.

Transfer of Ownership

Present Situation: One week before the transfer of ownership of a child care facility, the transferor must notify the parent or caretaker of each child of the transfer. The DCF must establish rules relating to the methods by which such notice will occur and the minimum standards for implementing the notification and transfer.[23]

Effect of the Bill: The bill prohibits the transfer of a child care facility *or a large family child care home* to a relative of the operator if the license of the operator has been suspended or revoked by the DCF, the operator received notice from the DCF that reasonable cause existed to suspend or revoke the operator's license, or the operator has been placed on the United States Department of Agriculture National Disqualified List. The bill provides a definition of "relative," which includes immediate family members, grandparents, uncles, aunts, nephews, nieces, fathers-in-law, mothers-in-law, step-parents, step-siblings, and half-siblings.

Course Requirements for Operators and Substitute Operators of Family Day Care Homes and Large Family Child Care Homes

Present Situation: Operators of family day care homes must complete an approved 30-clock-hour introductory course in child care and demonstrate successful completion through passage of a competency examination before caring for children.[24]

Operators of large family child care homes must complete an approved 40-clock-hour introductory course in group child care and demonstrate successful completion through passage of a competency examination.[25]

Effect of the Bill: The bill adds that *substitute* operators must also meet the 30-clock-hour requirement that is currently in law for operators. Additionally, the bill states specific topics that must be included in the course, which are:

- State and local rules and regulations governing child care;
- Health, safety, and nutrition;
- Identifying and reporting child abuse and neglect;
- Child development;
- Observation of developmental behaviors; and
- Specialized areas including numeracy, early literacy, and language development of children from birth to five years of age.

The bill adds requirements to the 40-clock-hour introductory course that an operator of a large family child care home must complete. In addition to the existing requirement that the course focus on group child care, the course must include numeracy, early literacy, and language development of children from birth to five years of age.

[23] Section 402.305(18), F.S.
[24] Section 402.313(4), F.S.
[25] Section 402.3131(3), F.S.

Health and Safety

Inspection and Substantial Compliance with Licensing Standards

Present Situation: Licensing requirements, except for the requirements regarding screening of child care personnel, do not currently apply to a faith-based facility or educational programs accredited by (or by a member of) an organization that publishes and requires compliance with its standards for health, safety, and sanitation.[26] Nonpublic schools which are not licensed under ss. 402.301-402.319, F.S., are required to substantially comply with the minimum child care standards adopted pursuant to ss. 402.305-402.3057, F.S.[27]

Effect of the Bill: The bill requires child care facilities that are exempt from licensure requirements pursuant to s. 402.316, F.S., and which operate or apply to operate as a VPK or School Readiness provider, to substantially comply with the adopted minimum standards for child care facilities pursuant to ss. 402.305-402.3057, F.S., and obtain a certificate of substantial compliance from the DCF. Nonpublic schools which are not licensed are also required to obtain a certificate of substantial compliance. Such facilities must allow the DCF or the local licensing agency to monitor and enforce compliance. The bill adds that the DCF must establish a fee for inspection and compliance activities in an amount sufficient to cover costs, but the amount may not exceed the fee established for child care licensure under s. 402.315, F.S. The bill also provides penalties for the misrepresentation and misuse of certain information. The effect of this provision is that all providers will either be licensed or must be substantially compliant with existing licensing standards.

Present Situation: A licensed child care facility must allow the DCF to inspect facilities and personnel at reasonable times during regular business hours to ensure statutory compliance. An application for a license or the advertisement to the public for the provision of child care allows the DCF to enter or inspect a facility seeking licensure or renewal of licensure.[28]

DCF and local governmental agencies that license child care facilities must develop a plan to eliminate duplicative and unnecessary inspections of child care facilities and conduct abbreviated inspections for child care facilities that have no Class I or Class II deficiencies.

Effect of the Bill: The bill provides that the DCF's authority to inspect a licensed child care facility is expanded to include inspection of a "program regulated by" the DCF. This includes a child care facility which is exempted from licensure under s. 402.316, F.S., and which is a VPK or School Readiness provider or which seeks to become a VPK or School Readiness provider. Additionally, the bill provides that an application for authorization to operate a child care program that must substantially comply with child care standards under ch. 402, F.S., or renewal of such a license or authorization, also constitutes permission for the DCF to enter and inspect the premises.

The bill adds licensed family day care homes and licensed large family child care homes without a Class I or Class II violation to the facilities eligible for abbreviated inspections by the DCF and

[26] Section 402.316(1), F.S.
[27] Section 402.3025(2)(d)1., F.S.
[28] Section 402.311, F.S.

the local licensing agency. The bill also requires the DCF to adopt rules establishing criteria and procedures for abbreviated inspections and inspection schedules for announced and unannounced inspections.

Eligibility of a Private Provider to Deliver the Voluntary Prekindergarten Program

Present Situation: A private VPK provider must meet one of the following: be accredited by a particular accrediting body,[29] hold a Gold Seal Quality Care designation, or be licensed under particular statutes.[30] School Readiness facilities are also required to provide basic health and safety of its premises.[31]

Effect of the Bill: The bill adds an additional option for a private VPK provider's required status and states that the private VPK provider may be a child development center located on a military installation that is certified by the United States Department of Defense.

The bill also adds that each private VPK provider must provide basic health and safety on its premises and in its facilities. The bill provides standards that satisfy the requirement for specific VPK and School Readiness programs as follows:

- For a public school, compliance with s. 1003.22, F.S., (school-entry health examinations and immunizations) and s. 1013.12, F.S., (casualty, safety, sanitation, fire safety standards and inspection of property), is sufficient;
- For a nonpublic school, compliance with s. 402.3025(2)(d), F.S., (substantial compliance with statutory licensing standards) is sufficient;
- For a child care facility, a licensed family day care home, or a large family child care home, compliance with s. 402.305, F.S., (licensing standards), s. 402.313, F.S., (licensing of family day care homes requirements), or s. 402.3131, F.S., (licensing of large family child care homes requirements), is sufficient; and
- For a facility exempt from licensure, compliance with s. 402.316(4), F.S., (which is created by this bill) is sufficient.

In effect, this provision ensures that all providers are licensed or substantially compliant with existing statutory licensing standards.

Display of License or Registration by Family Day Care Homes

Present Situation: A licensed or registered family day care home is not required to display its license or registration.[32]

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[29] Section 1002.55(3)(b)1., F.S. A private VPK provider must be accredited by: "an accrediting association that is a member of the National Council for Private School Accreditation, or the Florida Association of Academic Nonpublic Schools, or be accredited by the Southern Association of Colleges and Schools, or Western Association of Colleges and Schools, or North Central Association of Colleges and Schools, or Middle States Association of Colleges and Schools, or New England Association of Colleges and Schools; and have written accreditation standards that meet or exceed the state's licensing requirements under ss. 402.305, 402.313, or 402.3131, F.S., and require at least one onsite visit to the provider or school before accreditation is granted." *Id.*

[30] Section 1002.55, F.S.

[31] Section 1002.88(1)(c), F.S.

[32] *See* s. 402.313, F.S.

Effect of the Bill: The bill requires each licensed or registered family day care home to conspicuously display its license or registration in the common area of the home.

The bill also creates specific requirements for the DCF to verify certain information upon receipt of registration from a family day care home. The DCF must verify that the home is in compliance with the background screening requirements and that the operator and the designated substitute have completed 30-clock-hour training courses (demonstrated through passage of a competency examination and required continuing education units or clock-hours).

Rulemaking Authority

Present Situation: Rulemaking authority is not provided to the DCF with regard to defining and enforcing substantial compliance with minimum standards for child care facilities for programs operating under s. 1002.55, F.S., (private school-year VPK programs), s. 1002.61, F.S., (public school and private VPK summer programs), and s. 1002.88, F.S., (School Readiness programs).[33]

Effect of the Bill: The bill provides the DCF with rulemaking authority to define and enforce substantial compliance with the minimum standards for child care facilities operating programs under the aforementioned statutes.

Eligibility to Deliver the Voluntary Prekindergarten Program

Present Situation: Denial of initial eligibility based upon a Class I violation within 12 months of seeking eligibility to deliver a VPK program and preventing renewal of such eligibility for a Class I violation, are not currently in law.

Effect of the Bill: The bill denies initial eligibility to a private provider seeking eligibility to deliver the VPK program if the provider has been cited for a Class I violation in the 12 months prior to seeking such eligibility. The bill also prevents an existing provider from renewing its eligibility for 12 months if cited for a Class I violation. This provision inhibits the growth of a provider's program if the provider has received a citation for the most severe grouping of violations within the past year.

Participant-Related Provisions

Voluntary Prekindergarten Eligibility and Enrollment

Present Situation: Each parent enrolling a child in the VPK program must complete and submit an application to the early learning coalition (ELC).[34]

Effect of the Bill: The bill allows application submission to a private VPK provider if the provider is authorized by the ELC to determine student eligibility for VPK enrollment, which is a new authority for private VPK providers. The bill also provides the actions a provider must take upon receipt of an application, requires retention of the original application and certified birth certificate of the child for five years, and provides that the ELC may audit applications in its

[33] *See* s. 402.305, F.S.
[34] Section 1002.53(4)(a), F.S.

service area to determine whether children enrolled and reported for funding by the provider have met the eligibility criteria. The bill provides a check on the newly authorized ability of some private VPK providers to accept applications and determine eligibility and enrollment.

School Readiness Eligibility

Present Situation: For the purposes of establishing eligibility for the School Readiness program, the terms "at-risk child," "family income," and "working family" are defined in statute.[35]

Effect of the Bill: The bill amends the definition of an "at-risk child" to provide that a designated lead agency on the homeless assistance continuum of care established under ss. 420.622-420.624, F.S., must determine whether a child is in the custody of a parent who is considered homeless, as opposed to current law which requires the DCF to make the determination.

The bill adds to the list of types of income that are not included in the definition of "family income." The new language provides that the following types are not considered family income:

- Income earned by a teen parent residing in the same residence as a separate family unit; and
- Selected items from the state's Child Care and Development Fund Plan, including documented child support and alimony payments paid out of the home.

The bill expands the definition of a "working family" to include a single-parent family in which the parent with whom the child resides is exempt from work requirements due to age or disability and a two-parent family with whom the child resides in which both parents are exempt from work requirements due to age or disability.

Provider-Related Provisions

Reviser's Bill for the 2016 Regular Session

Present Situation: The terms "family day care" and "family day care home" are currently used in statute.

Effect of the Bill: The bill directs the Division of Law Revision and Information to prepare a reviser's bill for the 2016 regular session that will change the term "family day care" to "family child care," and the term "family day care home" to "family child care home" throughout the Florida Statutes.

Zoning, Utility Rates, and Residential Property Insurance Coverage

Present Situation: The operation of a residence as a family day care home is a valid residential use for local zoning regulation purposes.[36] Large family child care homes are not included in this provision.

Effect of the Bill: The bill provides that the operation of a residence as a family day care home *or as a large family child care home* is a valid residential use for local zoning regulation purposes.

[35] Section 1002.81, F.S.
[36] Sections 125.0109 and 166.0445, F.S.

Additionally, the bill provides that, despite any other state or local law or ordinance, any licensed large family child care home may not be charged commercial utility rates and must be charged the rates accorded to a residential home.

Present Situation: Family day care homes may not have residential property insurance canceled, denied, or non-renewed solely because child care services are provided on the premises.[37]

Effect of the Bill: The bill adds large family child care homes to this provision, which currently only includes family day care homes.

Applicability of Requirements to Nonpublic Schools

Present Situation: Requirements under s. 402.3025, F.S., apply to nonpublic programs for children at least three years of age, but under five years of age, that are not licensed under ss. 402.301-402.319, F.S.[38]

Effect of the Bill: The bill removes the specific age range in current law of three to five years of age and states that the provision is applicable to nonpublic schools delivering school-year and summer VPK programs and School Readiness programs.

Voluntary Prekindergarten and School Readiness Funding and Attendance Reporting

Present Situation: Each parent enrolling a child in VPK must comply with the attendance policy of the private VPK provider or public school board. Each provider must supply a child's parent with a copy of the attendance policy.[39] For a School Readiness program, if a child is absent for five consecutive days without notification from the parent of such an absence, the provider is required to report the absence to the ELC.[40]

Effect of the Bill: The bill, in addition to the requirements that a parent comply with the VPK provider's attendance policy and that the provider give the policy to each child's parent, adds that each private VPK provider, public school, and School Readiness provider must supply each child's parent with information regarding child development, parent engagement expectations, a daily schedule, and procedures for contacting a parent if a child has been absent for two consecutive days without a known reason.

The bill amends the requirements of the attendance reporting requirement for the School Readiness program to add an additional responsibility of the provider to contact the parent of a child who has been absent for two consecutive days to determine the reason for the absence. This requirement is in addition to the provider being required to contact the ELC if a child is absent for five consecutive days.

[37] Section 627.70161, F.S.
[38] Section 402.3025(2)(c), F.S.
[39] Section 1002.71(6)(a), F.S.
[40] Section 1002.87(8), F.S.

School Readiness Program Eligibility Requirements

Present Situation: The eligibility of each child for the School Readiness program must be determined annually, and a child who is no longer eligible may not continue to receive services.[41]

Effect of the Bill: The bill adds additional language stating that if a child is no longer eligible for the program, the ELC must immediately notify the child's parent and the provider that funding will end two weeks after the date on which the child's ineligibility was determined or when the current School Readiness authorization expires, whichever is sooner.

School Readiness Investigations of Fraud or Overpayment

Present Situation: The ELC may not contract with a School Readiness or VPK provider who is on the United States Department of Agriculture National Disqualified List.[42]

Effect of the Bill: The bill adds that an ELC may not contract with an individual on the United States Department of Agriculture National Disqualified List.

Effective Date

The bill provides an effective date of July 1, 2015.

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:

Section 12 of CS/CS/SB 7006 requires the Department of Children and Families (DCF) to establish a fee for inspection and compliance activities.

[41] Section 1002.87(6), F.S.
[42] Section 1002.91(7), F.S.

B. Private Sector Impact:

Some of the bill's provisions may have an indeterminate negative fiscal impact on the private sector. Those provisions relate to the following: certification requirements, training requirements, notification requirements, and a fee for inspection and compliance.

C. Government Sector Impact:

According to the Department of Children and Families (DCF), the bill would require the department to monitor over 768 additional child care facilities to ensure substantial compliance with health and safety standards. For Fiscal Year 2015-2016, the DCF's Office of Child Care Regulation and Background Screening and the Office of the General Counsel would require $1,252,441 and 18 full-time equivalent positions to perform these functions, according to the DCF.

The DCF expects to receive approximately $52,093 in additional revenue for the Operations and Maintenance Trust Fund in Fiscal Year 2015-2016 under the bill, due to fees collected from approximately 244 currently exempt child care facilities and 336 non-public schools that would need to be inspected under the bill, in addition to licensure fees collected from 188 currently registered child care facilities that would need to become licensed under the bill.

VI. Technical Deficiencies:

Under current law, s. 402.316(1), F.S., provides that certain child care facilities are exempt from the licensure and regulatory provisions of ss. 402.301-402.319, F.S., except for requirements regarding screening of child care personnel. However, the bill creates s. 402.316(4), F.S., to require that such an exempt facility that also operates as a VPK or School Readiness provider must substantially comply with minimum standards for child care facilities adopted pursuant to ss. 402.305-402.3057, F.S., while leaving in force the provision under s. 402.316(1), F.S., that such facilities are exempt from those same standards, except for the standards regarding screening of child care personnel.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 125.0109, 166.0445, 402.302, 402.3025, 402.305, 402.311, 402.3115, 402.313, 402.3131, 402.316, 627.70161, 1001.213, 1002.53, 1002.55, 1002.59, 1002.61, 1002.63, 1002.71, 1002.75, 1002.77, 1002.81, 1002.82, 1002.84, 1002.87, 1002.88, 1002.89, 1002.91, 1002.94, and 1003.21.

This bill creates section 402.3085 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS/CS by Appropriations on April 21, 2015:
The committee substitute:

- Removes provisions allowing a district school board or charter school governing board to permit certain four-year-old children to attend public kindergarten under specified conditions; and
- Removes provisions for appropriations to be made to the Department of Children and Families for the purpose of implementing the bill.

CS by Community Affairs on February 17, 2015:
Amends s. 1003.21(1)(a)2., F.S., to allow a district school board or charter school governing board to permit certain four-year-old children to attend public kindergarten. The board must adopt a policy that requires the child to pass:

- The kindergarten readiness assessment pursuant to s. 1002.69, F.S.; and
- A social assessment developed or selected by the school district or charter school.

B. Amendments:

None.

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

By the Committees on Community Affairs; and Education Pre-K - 12; and Senator Legg

578-01654-15 20157006c1

A bill to be entitled

An act relating to early learning; providing a directive to the Division of Law Revision and Information to change the term “family day care home” to “family child care home,” and the term “family day care” to “family child care”; amending ss. 125.0109 and 166.0445, F.S.; including large family child care homes in local zoning regulation requirements; amending s. 402.302, F.S.; redefining the term “substantial compliance”; requiring the Department of Children and Families to adopt rules for compliance by certain programs regulated, but not licensed, by the department; amending s. 402.3025, F.S.; revising requirements for nonpublic schools delivering certain voluntary prekindergarten education programs and school readiness programs; amending s. 402.305, F.S.; revising certain minimum standards for child care facilities; prohibiting the transfer of ownership of such facilities to specified individuals; creating s. 402.3085, F.S.; requiring nonpublic schools or providers seeking to operate certain programs to annually obtain a certificate from the department or a local licensing agency; providing for issuance of the certificate upon examination of the applicant’s premises and records; prohibiting a provider from participating in the programs without a certificate; authorizing local licensing agencies to apply their own minimum child care standards under certain circumstances; amending s. 402.311, F.S.; providing

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

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for the inspection of programs regulated by the department; amending s. 402.3115, F.S.; providing for abbreviated inspections of specified child care homes; requiring rulemaking; amending s. 402.313, F.S.; revising provisions for licensure, registration, and operation of family child care homes; amending s. 402.3131, F.S.; revising requirements for large family child care homes; amending s. 402.316, F.S.; providing exemptions from child care facility licensing standards; requiring a child care facility operating as a provider of certain voluntary prekindergarten education programs or child care programs to comply with minimum standards; providing penalties for failure to disclose or for use of certain information; requiring the department to establish a fee for inspection and compliance activities; amending s. 627.70161, F.S.; revising restrictions on residential property insurance coverage to include coverage for large family child care homes; amending s. 1001.213, F.S.; providing additional duties of the Office of Early Learning; amending s. 1002.53, F.S.; revising requirements for application and determination of eligibility to enroll in the Voluntary Prekindergarten (VPK) Education Program; amending s. 1002.55, F.S.; revising requirements for a school-year prekindergarten program delivered by a private prekindergarten provider, including requirements for providers, instructors, and child care personnel; providing requirements in the case of provider

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59 violations; amending s. 1002.59, F.S.; conforming a
60 cross-reference to changes made by the act; amending
61 ss. 1002.61 and 1002.63, F.S.; revising employment
62 requirements and educational credentials of certain
63 instructional personnel; amending s. 1002.71, F.S.;
64 revising information that must be provided to parents;
65 amending s. 1002.75, F.S.; revising provisions
66 included in the standard statewide VPK program
67 provider contract; amending s. 1002.77, F.S.; revising
68 the purpose and meetings of the Florida Early Learning
69 Advisory Council; amending s. 1002.81, F.S.; revising
70 certain program definitions; amending s. 1002.82,
71 F.S.; revising the powers and duties of the Office of
72 Early Learning; revising provisions included in the
73 standard statewide school readiness provider contract;
74 amending s. 1002.84, F.S.; revising the powers and
75 duties of early learning coalitions; conforming
76 provisions to changes made by the act; amending s.
77 1002.87, F.S.; revising student eligibility and
78 enrollment requirements for the school readiness
79 program; amending s. 1002.88, F.S.; revising
80 eligibility requirements for program providers that
81 want to deliver the school readiness program;
82 providing conditions for denial of initial
83 eligibility; providing child care personnel
84 requirements; amending s. 1002.89, F.S.; revising the
85 use of funds for the school readiness program;
86 amending s. 1002.91, F.S.; prohibiting an early
87 learning coalition from contracting with specified

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88 persons; amending s. 1002.94, F.S.; revising
89 establishment of a community child care task force by
90 an early learning coalition; amending s. 1003.21,
91 F.S.; authorizing a district school board or charter
92 school governing board to adopt a policy to allow a
93 child to be admitted to a public kindergarten if the
94 child meets certain requirements; requiring the Office
95 of Early Learning to conduct a pilot project to study
96 the impact of assessing the early literacy skills of
97 certain VPK program participants; requiring the office
98 to report its findings to the Governor and Legislature
99 by specified dates; providing an appropriation;
100 providing an effective date.
101
102 Be It Enacted by the Legislature of the State of Florida:
103
104 Section 1. The Division of Law Revision and Information is
105 directed to prepare a reviser's bill for the 2016 Regular
106 Session of the Legislature to change the term "family day care
107 home" to "family child care home" and the term "family day care"
108 to "family child care" wherever the terms appear in the Florida
109 Statutes.
110 Section 2. Section 125.0109, Florida Statutes, is amended
111 to read:
112 125.0109 Family child ~~day~~ care homes and large family child
113 care homes; local zoning regulation.—The operation of a
114 residence as a family child ~~day~~ care home or large family child
115 care home, as defined in s. 402.302, licensed or registered
116 pursuant to s. 402.313 or s. 402.3131, as applicable,

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117 constitutes~~,as defined by law, registered or licensed with the~~
118 ~~Department of Children and Families shall constitute~~ a valid
119 residential use for purposes of any local zoning regulations,
120 and ~~no~~ such regulation may not ~~shall~~ require the owner or
121 operator of such family child ~~day~~ care home or large family
122 child care home to obtain any special exemption or use permit or
123 waiver, or to pay any special fee in excess of $50, to operate
124 in an area zoned for residential use.
125 Section 3. Section 166.0445, Florida Statutes, is amended
126 to read:
127 166.0445 Family child ~~day~~ care homes and large family child
128 care homes; local zoning regulation.—The operation of a
129 residence as a family child ~~day~~ care home or large family child
130 care home, as defined in s. 402.302, licensed or registered
131 pursuant to s. 402.313 or s. 402.3131, as applicable,
132 constitutes~~, as defined by law, registered or licensed with the~~
133 ~~Department of Children and Families shall constitute~~ a valid
134 residential use for purposes of any local zoning regulations,
135 and ~~no~~ such regulations may not ~~regulation shall~~ require the
136 owner or operator of such family child ~~day~~ care home or large
137 family child care home to obtain any special exemption or use
138 permit or waiver, or to pay any special fee in excess of $50, to
139 operate in an area zoned for residential use.
140 Section 4. Subsection (17) of section 402.302, Florida
141 Statutes, is amended to read:
142 402.302 Definitions.—As used in this chapter, the term:
143 (17) "Substantial compliance" means, for purposes of
144 programs operating under s. 1002.55, s. 1002.61, or s. 1002.88,
145 ~~that level of~~ adherence to adopted standards which is sufficient

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146 to safeguard the health, safety, and well-being of all children
147 under care. The standards must address the requirements of s.
148 402.305 and must be limited to supervision, transportation,
149 access, health-related requirements, food and nutrition,
150 personnel screening, records, and enforcement of these
151 standards. The standards must not limit or exclude the
152 curriculum provided by a faith-based provider or nonpublic
153 school. The department, in consultation with the Office of Early
154 Learning, must adopt rules to define and enforce substantial
155 compliance with minimum standards for child care facilities for
156 programs operating under s. 1002.55, s. 1002.61, or s. 1002.88
157 which are regulated, but not licensed, by the department
158 ~~Substantial compliance is greater than minimal adherence but not~~
159 ~~to the level of absolute adherence~~. ~~Where a violation or~~
160 ~~variation is identified as the type which impacts, or can be~~
161 ~~reasonably expected within 90 days to impact, the health,~~
162 ~~safety, or well-being of a child, there is no substantial~~
163 ~~compliance.~~
164 Section 5. Paragraphs (d) and (e) of subsection (2) of
165 section 402.3025, Florida Statutes, are amended to read:
166 402.3025 Public and nonpublic schools.—For the purposes of
167 ss. 402.301-402.319, the following shall apply:
168 (2) NONPUBLIC SCHOOLS.—
169 (d)1. Nonpublic schools delivering programs under s.
170 1002.55, s. 1002.61, or s. 1002.88 ~~Programs for children who are~~
171 ~~at least 3 years of age, but under 5 years of age,~~ which are not
172 licensed under ss. 402.301-402.319 shall substantially comply
173 with the minimum child care standards adopted ~~promulgated~~
174 pursuant to ss. 402.305-402.3057.

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175 2. The department or local licensing agency shall enforce
176 compliance with such standards, where possible, to eliminate or
177 minimize duplicative inspections or visits by staff enforcing
178 the minimum child care standards and staff enforcing other
179 standards under the jurisdiction of the department.
180 3. The department or local licensing agency may inspect
181 programs operating under this paragraph and pursue
182 administrative or judicial action under ss. 402.310-402.312
183 against nonpublic schools operating under this paragraph
184 ~~commence and maintain all proper and necessary actions and~~
185 ~~proceedings for any or all of the following purposes:~~
186 ~~a.~~ to protect the health, sanitation, safety, and well-
187 being of all children under care.
188 ~~b. To enforce its rules and regulations.~~
189 ~~c. To use corrective action plans, whenever possible, to~~
190 ~~attain compliance prior to the use of more restrictive~~
191 ~~enforcement measures.~~
192 ~~d. To make application for injunction to the proper circuit~~
193 ~~court, and the judge of that court shall have jurisdiction upon~~
194 ~~hearing and for cause shown to grant a temporary or permanent~~
195 ~~injunction, or both, restraining any person from violating or~~
196 ~~continuing to violate any of the provisions of ss. 402.301-~~
197 ~~402.319. Any violation of this section or of the standards~~
198 ~~applied under ss. 402.305-402.3057 which threatens harm to any~~
199 ~~child in the school's programs for children who are at least 3~~
200 ~~years of age, but are under 5 years of age, or repeated~~
201 ~~violations of this section or the standards under ss. 402.305-~~
202 ~~402.3057, shall be grounds to seek an injunction to close a~~
203 ~~program in a school.~~

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204 ~~c. To impose an administrative fine, not to exceed $100,~~
205 ~~for each violation of the minimum child care standards~~
206 ~~promulgated pursuant to ss. 402.305-402.3057.~~
207 4. It is a misdemeanor of the first degree, punishable as
208 provided in s. 775.082 or s. 775.083, for any person willfully,
209 knowingly, or intentionally to:
210 a. Fail, by false statement, misrepresentation,
211 impersonation, or other fraudulent means, to disclose in any
212 required written documentation for exclusion from licensure
213 pursuant to this section a material fact used in making a
214 determination as to such exclusion; or
215 b. Use information from the criminal records obtained under
216 s. 402.305 or s. 402.3055 for any purpose other than screening
217 that person for employment as specified in those sections or
218 release such information to any other person for any purpose
219 other than screening for employment as specified in those
220 sections.
221 5. It is a felony of the third degree, punishable as
222 provided in s. 775.082, s. 775.083, or s. 775.084, for any
223 person willfully, knowingly, or intentionally to use information
224 from the juvenile records of any person obtained under s.
225 402.305 or s. 402.3055 for any purpose other than screening for
226 employment as specified in those sections or to release
227 information from such records to any other person for any
228 purpose other than screening for employment as specified in
229 those sections.
230 6. The inclusion of nonpublic schools within options
231 available under ss. 1002.55, 1002.61, and 1002.88 does not
232 expand the regulatory authority of the state, its officers, any

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233 local licensing agency, or any early learning coalition to
234 impose any additional regulation of nonpublic schools beyond
235 those reasonably necessary to enforce requirements expressly
236 specified in this paragraph.
237 ~~(c) The department and the nonpublic school accrediting~~
238 ~~agencies are encouraged to develop agreements to facilitate the~~
239 ~~enforcement of the minimum child care standards as they relate~~
240 ~~to the schools which the agencies accredit.~~
241 Section 6. Paragraphs (a) and (d) of subsection (2),
242 paragraph (b) of subsection (9), and subsections (10) and (18)
243 of section 402.305, Florida Statutes, are amended to read:
244 402.305 Licensing standards; child care facilities.—
245 (2) PERSONNEL.—Minimum standards for child care personnel
246 shall include minimum requirements as to:
247 (a) Good moral character based upon screening, according to
248 the level 2 screening requirements of~~. This screening shall be~~
249 ~~conducted as provided in~~ chapter 435~~, using the level 2~~
250 ~~standards for screening set forth in that chapter~~. In addition
251 to the offenses specified in s. 435.04, all child care personnel
252 required to undergo background screening pursuant to this
253 section may not have an arrest awaiting final disposition for,
254 may not have been found guilty of, regardless of adjudication,
255 or entered a plea of nolo contendere or guilty to, and may not
256 have been adjudicated delinquent and have a record that has been
257 sealed or expunged for an offense specified in s. 39.205. Before
258 employing child care personnel subject to this section, the
259 employer must conduct employment history checks of each of the
260 personnel's previous employers and document the findings. If
261 unable to contact a previous employer, the employer must

262 document efforts to contact the previous employer.
263 (d) Minimum training requirements for child care personnel.
264 1. Such minimum standards for training shall ensure that
265 all child care personnel take an approved 40-clock-hour
266 introductory course in child care, which course covers at least
267 the following topic areas:
268 a. State and local rules and regulations which govern child
269 care.
270 b. Health, safety, and nutrition.
271 c. Identifying and reporting child abuse and neglect.
272 d. Child development, including typical and atypical
273 language, cognitive, motor, social, and self-help skills
274 development.
275 e. Observation of developmental behaviors, including using
276 a checklist or other similar observation tools and techniques to
277 determine the child's developmental age level.
278 f. Specialized areas, including computer technology for
279 professional and classroom use and numeracy, early literacy, and
280 language development of children from birth to 5 years of age,
281 as determined by the department, for owner-operators and child
282 care personnel of a child care facility.
283 g. Developmental disabilities, including autism spectrum
284 disorder and Down syndrome, and early identification, use of
285 available state and local resources, classroom integration, and
286 positive behavioral supports for children with developmental
287 disabilities.
288
289 Within 90 days after employment, child care personnel shall
290 begin training to meet the training requirements pursuant to

291 this paragraph. Child care personnel shall successfully complete
292 such training within 1 year after the date on which the training
293 began, as evidenced by passage of a competency examination.
294 Successful completion of the 40-clock-hour introductory course
295 shall articulate into community college credit in early
296 childhood education, pursuant to ss. 1007.24 and 1007.25.
297 Exemption from all or a portion of the required training shall
298 be granted to child care personnel based upon educational
299 credentials or passage of competency examinations. Child care
300 personnel possessing a 2-year degree or higher that includes 6
301 college credit hours in early childhood development or child
302 growth and development, or a child development associate
303 credential or an equivalent state-approved child development
304 associate credential, or a child development associate waiver
305 certificate shall be automatically exempted from the training
306 requirements in sub-subparagraphs b., d., and e.
307 2. The introductory course in child care shall stress, to
308 the extent possible, an interdisciplinary approach to the study
309 of children.
310 3. The introductory course shall cover recognition and
311 prevention of shaken baby syndrome; prevention of sudden infant
312 death syndrome; recognition and care of infants and toddlers
313 with developmental disabilities, including autism spectrum
314 disorder and Down syndrome; and early childhood brain
315 development within the topic areas identified in this paragraph.
316 4. On an annual basis in order to further their child care
317 skills and, if appropriate, administrative skills, child care
318 personnel who have fulfilled the requirements for the child care
319 training shall be required to take an additional 1 continuing

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320 education unit of approved inservice training, or 10 clock hours
321 of equivalent training, as determined by the department.
322 5. Child care personnel shall be required to complete 0.5
323 continuing education unit of approved training or 5 clock hours
324 of equivalent training, as determined by the department, in
325 numeracy, early literacy, and language development of children
326 from birth to 5 years of age one time. The year that this
327 training is completed, it shall fulfill the 0.5 continuing
328 education unit or 5 clock hours of the annual training required
329 in subparagraph 4.
330 6. Procedures for ensuring the training of qualified child
331 care professionals to provide training of child care personnel,
332 including onsite training, shall be included in the minimum
333 standards. It is recommended that the state community child care
334 coordination agencies (central agencies) be contracted by the
335 department to coordinate such training when possible. Other
336 district educational resources, such as community colleges and
337 career programs, can be designated in such areas where central
338 agencies may not exist or are determined not to have the
339 capability to meet the coordination requirements set forth by
340 the department.
341 7. Training requirements do ~~shall~~ not apply to certain
342 occasional or part-time support staff, including, but not
343 limited to, swimming instructors, piano teachers, dance
344 instructors, and gymnastics instructors.
345 8. The department shall evaluate or contract for an
346 evaluation for the general purpose of determining the status of
347 and means to improve staff training requirements and testing
348 procedures. The evaluation shall be conducted every 2 years. The

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349 evaluation must ~~shall~~ include, but not be limited to,
350 determining the availability, quality, scope, and sources of
351 current staff training; determining the need for specialty
352 training; and determining ways to increase inservice training
353 and ways to increase the accessibility, quality, and cost-
354 effectiveness of current and proposed staff training. The
355 evaluation methodology must ~~shall~~ include a reliable and valid
356 survey of child care personnel.
357 9. The child care operator shall be required to take basic
358 training in serving children with disabilities within 5 years
359 after employment, either as a part of the introductory training
360 or the annual 8 hours of inservice training.
361 (9) ADMISSIONS AND RECORDKEEPING.—
362 (b) ~~During the months of August and September of each year,~~
363 Each child care facility shall provide parents of children
364 enrolling ~~enrolled~~ in the facility detailed information
365 regarding the causes, symptoms, and transmission of the
366 influenza virus in an effort to educate those parents regarding
367 the importance of immunizing their children against influenza as
368 recommended by the Advisory Committee on Immunization Practices
369 of the Centers for Disease Control and Prevention.
370 (10) TRANSPORTATION SAFETY.—Minimum standards must ~~shall~~
371 include requirements for child restraints or seat belts in
372 vehicles used by child care facilities, ~~and~~ large family child
373 care homes, and licensed family child care homes to transport
374 children, requirements for annual inspections of the vehicles,
375 limitations on the number of children in the vehicles, and
376 accountability for children being transported.
377 (18) TRANSFER OF OWNERSHIP.—

378 (a) One week before ~~prior to~~ the transfer of ownership of a
379 child care facility, ~~or~~ family child ~~day~~ care home, or large
380 family child care home, the transferor shall notify the parent
381 or caretaker of each child of the impending transfer.
382 (b) The owner of a child care facility, family child care
383 home, or large family child care home may not transfer ownership
384 to a relative of the operator if the operator has had his or her
385 license suspended or revoked by the department pursuant to s.
386 402.310, has received notice from the department that reasonable
387 cause exists to suspend or revoke his or her license, or has
388 been placed on the United States Department of Agriculture
389 National Disqualified List. For purposes of this paragraph, the
390 term "relative" means father, mother, son, daughter,
391 grandfather, grandmother, brother, sister, uncle, aunt, cousin,
392 nephew, niece, husband, wife, father-in-law, mother-in-law, son-
393 in-law, daughter-in-law, brother-in-law, sister-in-law,
394 stepfather, stepmother, stepson, stepdaughter, stepbrother,
395 stepsister, half brother, or half sister.
396 (c) ~~(b)~~ The department shall, by rule, establish methods by
397 which notice will be achieved and minimum standards by which to
398 implement this subsection.
399 Section 7. Section 402.3085, Florida Statutes, is created
400 to read:
401 402.3085 Certificate of substantial compliance with minimum
402 child care standards.—Each nonpublic school or provider seeking
403 to operate a program pursuant to s. 402.3025(2)(d) or s.
404 402.316(4), respectively, shall annually obtain a certificate
405 from the department or local licensing agency in the manner and
406 on the forms prescribed by the department or local licensing

407 agency. An annual certificate or a renewal of an annual
408 certificate shall be issued upon an examination of the
409 applicant's premises and records to determine that the applicant
410 is in substantial compliance with the minimum child care
411 standards. A provider may not participate in these programs
412 without this certification. Local licensing agencies may apply
413 their own minimum child care standards if the department
414 determines that such standards meet or exceed department
415 standards as provided in s. 402.307.
416 Section 8. Section 402.311, Florida Statutes, is amended to
417 read:
418 402.311 Inspection.—A licensed child care facility or
419 program regulated by the department shall accord to the
420 department or the local licensing agency, whichever is
421 applicable, the privilege of inspection, including access to
422 facilities and personnel and to those records required in s.
423 402.305, at reasonable times during regular business hours, to
424 ensure compliance with ~~the provisions of~~ ss. 402.301-402.319.
425 The right of entry and inspection shall also extend to any
426 premises which the department or local licensing agency has
427 reason to believe are being operated or maintained as a child
428 care facility or program ~~without a license~~, but no such entry or
429 inspection of any premises shall be made without the permission
430 of the person in charge thereof unless a warrant is first
431 obtained from the circuit court authorizing same. Any
432 application for a license, application for authorization to
433 operate a child care program which must maintain substantial
434 compliance with child care standards adopted under this chapter,
435 ~~or~~ renewal of such license or authorization, ~~made pursuant to~~

436 ~~this act~~ or the advertisement to the public for the provision of
437 child care as defined in s. 402.302 constitutes ~~shall constitute~~
438 permission for any entry to or inspection of the subject
439 premises ~~for which the license is sought in order~~ to facilitate
440 verification of the information submitted on or in connection
441 with the application. In the event a ~~licensed~~ facility or
442 program refuses permission for entry or inspection to the
443 department or local licensing agency, a warrant shall be
444 obtained from the circuit court authorizing same before ~~prior to~~
445 such entry or inspection. The department or local licensing
446 agency may institute disciplinary proceedings pursuant to s.
447 402.310~~,~~ for such refusal.
448 Section 9. Section 402.3115, Florida Statutes, is amended
449 to read:
450 402.3115 ~~Elimination of duplicative and unnecessary~~
451 ~~inspections;~~ Abbreviated inspections.—~~The Department of Children~~
452 ~~and Families and local governmental agencies that license child~~
453 ~~care facilities shall develop and implement a plan to eliminate~~
454 ~~duplicative and unnecessary inspections of child care~~
455 ~~facilities. In addition,~~ The department and the local licensing
456 ~~governmental~~ agencies shall conduct ~~develop and implement an~~
457 abbreviated inspections of ~~inspection plan for~~ child care
458 facilities licensed under s. 402.305, family child care homes
459 licensed under s. 402.313, and large family child care homes
460 licensed under s. 402.3131 that have had no Class I ~~1~~ or Class
461 II violations ~~2 deficiencies~~, as defined by rule, for at least 2
462 consecutive years. The abbreviated inspection must include those
463 elements identified by the department and the local licensing
464 ~~governmental~~ agencies as being key indicators of whether the

465 child care facility continues to provide quality care and
466 programming. The department shall adopt rules establishing
467 criteria and procedures for abbreviated inspections and
468 inspection schedules that provide for both announced and
469 unannounced inspections.
470 Section 10. Section 402.313, Florida Statutes, is amended
471 to read:
472 402.313 Family child ~~day~~ care homes.—
473 (1) A family child ~~day~~ care home must ~~homes shall~~ be
474 licensed under this section ~~act~~ if it is ~~they are~~ presently
475 being licensed under an existing county licensing ordinance, ~~or~~
476 ~~if~~ the board of county commissioners passes a resolution that
477 requires licensure of family child ~~day~~ care homes, or the family
478 child care home is operating a program under s. 1002.55, s.
479 1002.61, or s. 1002.88 ~~be licensed~~. Each licensed or registered
480 family child care home must conspicuously display its license or
481 registration in the common area of the home.
482 (a) If not subject to license, a family child ~~day~~ care home
483 must comply with this section and ~~homes shall~~ register annually
484 with the department, providing the following information:
485 1. The name and address of the home.
486 2. The name of the operator.
487 3. The number of children served.
488 4. Proof of a written plan to identify a ~~provide at least~~
489 ~~one other~~ competent adult who has met the screening and training
490 requirements of the department to serve as a designated ~~to be~~
491 ~~available to~~ substitute for the operator ~~in an emergency~~. This
492 plan must ~~shall~~ include the name, address, and telephone number
493 of the designated substitute who will serve in the absence of

494 the operator.
495 ~~5. Proof of screening and background checks.~~
496 ~~6. Proof of successful completion of the 30-hour training~~
497 ~~course, as evidenced by passage of a competency examination,~~
498 ~~which shall include:~~
499 ~~a. State and local rules and regulations that govern child~~
500 ~~care.~~
501 ~~b. Health, safety, and nutrition.~~
502 ~~c. Identifying and reporting child abuse and neglect.~~
503 ~~d. Child development, including typical and atypical~~
504 ~~language development; and cognitive, motor, social, and self-~~
505 ~~help skills development.~~
506 ~~e. Observation of developmental behaviors, including using~~
507 ~~a checklist or other similar observation tools and techniques to~~
508 ~~determine a child's developmental level.~~
509 ~~f. Specialized areas, including early literacy and language~~
510 ~~development of children from birth to 5 years of age, as~~
511 ~~determined by the department, for owner-operators of family day~~
512 ~~care homes.~~
513 5.~~7.~~ Proof that immunization records are kept current.
514 ~~8. Proof of completion of the required continuing education~~
515 ~~units or clock hours.~~
516
517 Upon receipt of registration information submitted by a family
518 child care home pursuant to this paragraph, the department shall
519 verify that the home is in compliance with the background
520 screening requirements in subsection (3) and that the operator
521 and the designated substitute are in compliance with the
522 applicable training requirements of subsection (4).

523 (b) A family child ~~day~~ care home may volunteer to be
524 licensed ~~under this act~~.
525 (c) The department may provide technical assistance to
526 counties and operators of family child ~~day~~ care homes ~~home~~
527 ~~providers~~ to enable counties and operators ~~family day care~~
528 ~~providers~~ to achieve compliance with family child ~~day~~ care home
529 ~~homes~~ standards.
530 (2) This information shall be included in a directory to be
531 published annually by the department to inform the public of
532 available child care facilities.
533 (3) Child care personnel in family child ~~day~~ care homes are
534 ~~shall be~~ subject to the applicable screening provisions
535 contained in ss. 402.305(2) and 402.3055. For purposes of
536 screening in family child ~~day~~ care homes, the term "child care
537 personnel" includes the operator, the designated substitute, any
538 member over the age of 12 years of a family child ~~day~~ care home
539 operator's family, or persons over the age of 12 years residing
540 with the operator in the family child ~~day~~ care home. Members of
541 the operator's family, or persons residing with the operator,
542 who are between the ages of 12 years and 18 years may ~~shall~~ not
543 be required to be fingerprinted~~,~~ but shall be screened for
544 delinquency records.
545 (4)(a) Before licensure and before caring for children,
546 operators of family child ~~day~~ care homes and an individual
547 serving as a designated substitute for the operator who works 40
548 hours or more per month on average must:
549 1. Successfully complete an approved 30-clock-hour
550 introductory course in child care, as evidenced by passage of a
551 competency examination~~, before caring for children~~. The course

552 must include:
553 a. State and local rules and regulations that govern child
554 care.
555 b. Health, safety, and nutrition.
556 c. Identifying and reporting child abuse and neglect.
557 d. Child development, including typical and atypical
558 language development, and cognitive, motor, social, and
559 executive functioning skills development.
560 e. Observation of developmental behaviors, including using
561 checklists or other similar observation tools and techniques to
562 determine a child's developmental level.
563 f. Specialized areas, including numeracy, early literacy,
564 and language development of children from birth to 5 years of
565 age, as determined by the department, for operators of family
566 child care homes.
567 ~~(5) In order to further develop their child care skills~~
568 ~~and, if appropriate, their administrative skills, operators of~~
569 ~~family day care homes shall be required to complete an~~
570 ~~additional 1 continuing education unit of approved training or~~
571 ~~10 clock hours of equivalent training, as determined by the~~
572 ~~department, annually.~~
573 2.~~(6) Operators of family day care homes shall be required~~
574 ~~to~~ Complete a 0.5 continuing education unit of approved training
575 in numeracy, early literacy, and language development of
576 children from birth to 5 years of age one time. For an operator,
577 the year that this training is completed, it shall fulfill the
578 0.5 continuing education unit or 5 clock hours of the annual
579 training required in paragraph (c) ~~subsection (5)~~.
580 3. Complete training in first aid and infant and child

581 cardiopulmonary resuscitation as evidenced by current
582 documentation of course completion.
583 (b) Before licensure and before caring for children, family
584 child care home designated substitutes who work less than 40
585 hours per month on average must complete the department's 6-
586 clock-hour Family Child Care Home Rules and Regulations
587 training, as evidenced by successful completion of a competency
588 examination and first aid and infant and child cardiopulmonary
589 resuscitation training required under subparagraph (a)3. A
590 designated substitute who has successfully completed the 3-
591 clock-hour Fundamentals of Child Care training established by
592 rules of the department or the 30-clock-hour training under
593 subparagraph (a)1. is not required to complete the 6-clock-hour
594 Family Child Care Home Rules and Regulations training.
595 (c) Operators of family child care homes must annually
596 complete an additional 1 continuing education unit of approved
597 training regarding child care and administrative skills or 10
598 clock hours of equivalent training, as determined by the
599 department.
600 (5) ~~(7)~~ Operators of family child ~~day~~ care homes must ~~shall~~
601 ~~be required~~ annually ~~to~~ complete a health and safety home
602 inspection self-evaluation checklist developed by the department
603 in conjunction with the statewide resource and referral program.
604 The completed checklist shall be signed by the operator of the
605 family child ~~day~~ care home and provided to parents as
606 certification that basic health and safety standards are being
607 met.
608 (6) ~~(8)~~ Operators of family child ~~day~~ care homes ~~home~~
609 ~~operators~~ may avail themselves of supportive services offered by

610 the department.
611 (7) ~~(9)~~ The department shall prepare a brochure on family
612 child ~~day~~ care for distribution by the department and by local
613 licensing agencies, if appropriate, to family child ~~day~~ care
614 homes for distribution to parents using ~~utilizing~~ such child
615 care, and to all interested persons, including physicians and
616 other health professionals; mental health professionals; school
617 teachers or other school personnel; social workers or other
618 professional child care, foster care, residential, or
619 institutional workers; and law enforcement officers. The
620 brochure shall, at a minimum, contain the following information:
621 (a) A brief description of the requirements for family
622 child ~~day~~ care registration, training, and background
623 ~~fingerprinting and~~ screening.
624 (b) A listing of those counties that require licensure of
625 family child ~~day~~ care homes. Such counties shall provide an
626 addendum to the brochure that provides a brief description of
627 the licensure requirements or may provide a brochure in lieu of
628 the one described in this subsection, provided it contains all
629 the required information on licensure and the required
630 information in the subsequent paragraphs.
631 (c) A statement indicating that information about the
632 family child ~~day~~ care home's compliance with applicable state or
633 local requirements can be obtained from ~~by telephoning~~ the
634 department ~~office~~ or ~~the office of~~ the local licensing agency,
635 including the~~, if appropriate, at a~~ telephone number or numbers
636 and website address for the department or local licensing
637 agency, as applicable ~~which shall be affixed to the brochure~~.
638 (d) The statewide toll-free telephone number of the central

639 abuse hotline, together with a notice that reports of suspected
640 and actual child physical abuse, sexual abuse, and neglect are
641 received and referred for investigation by the hotline.
642 (e) Any other information relating to competent child care
643 that the department or local licensing agency, if preparing a
644 separate brochure, considers ~~deems would be~~ helpful to parents
645 and other caretakers in their selection of a family child ~~day~~
646 care home.
647 (8) ~~(10)~~ On an annual basis, the department shall evaluate
648 the registration and licensure system for family child ~~day~~ care
649 homes. Such evaluation shall, at a minimum, address the
650 following:
651 (a) The number of family child ~~day~~ care homes registered
652 and licensed and the dates of such registration and licensure.
653 (b) The number of children being served in both registered
654 and licensed family child ~~day~~ care homes and any available slots
655 in such homes.
656 (c) The number of complaints received concerning family
657 child ~~day~~ care, the nature of the complaints, and the resolution
658 of such complaints.
659 (d) The training activities used ~~utilized~~ by child care
660 personnel in family child ~~day~~ care homes for meeting the state
661 or local training requirements.
662
663 The evaluation, pursuant to this subsection, shall be used
664 ~~utilized~~ by the department in any administrative modifications
665 or adjustments to be made in the registration of family child
666 ~~day~~ care homes or in any legislative requests for modifications
667 to the system of registration or to other requirements for

668 family child ~~day~~ care homes.
669 ~~(11) In order to inform the public of the state requirement~~
670 ~~for registration of family day care homes as well as the other~~
671 ~~requirements for such homes to legally operate in the state, the~~
672 ~~department shall institute a media campaign to accomplish this~~
673 ~~end. Such a campaign shall include, at a minimum, flyers,~~
674 ~~newspaper advertisements, radio advertisements, and television~~
675 ~~advertisements.~~
676 (9) ~~(12)~~ Notwithstanding any other state or local law or
677 ordinance, any family child ~~day~~ care home licensed pursuant to
678 this chapter or pursuant to a county ordinance shall be charged
679 the utility rates accorded to a residential home. A licensed
680 family child ~~day~~ care home may not be charged commercial utility
681 rates.
682 (10) ~~(13)~~ The department shall, by rule, establish minimum
683 standards for family child ~~day~~ care homes that are required to
684 be licensed by county licensing ordinance or county licensing
685 resolution or that voluntarily choose to be licensed. The
686 standards should include requirements for staffing, training,
687 maintenance of immunization records, minimum health and safety
688 standards, reduced standards for the regulation of child care
689 during evening hours by municipalities and counties, and
690 enforcement of standards. Additionally, the department shall, by
691 rule, adopt procedures for verifying a registered family child
692 care home's compliance with background screening and training
693 requirements.
694 (11) ~~(14)~~ ~~During the months of August and September of each~~
695 ~~year,~~ Each family child ~~day~~ care home shall provide parents of
696 children enrolling ~~enrolled~~ in the home detailed information

697 regarding the causes, symptoms, and transmission of the
698 influenza virus in an effort to educate those parents regarding
699 the importance of immunizing their children against influenza as
700 recommended by the Advisory Committee on Immunization Practices
701 of the Centers for Disease Control and Prevention.
702 Section 11. Subsections (1), (3), (5), and (9) of section
703 402.3131, Florida Statutes, are amended, and subsection (10) is
704 added to that section, to read:
705 402.3131 Large family child care homes.—
706 (1) A large family child care home must ~~homes shall~~ be
707 licensed under this section and conspicuously display its
708 license in the common area of the home.
709 (3) Operators of large family child care homes must
710 successfully complete an approved 40-clock-hour introductory
711 course in group child care, including numeracy, early literacy,
712 and language development of children from birth to 5 years of
713 age, as evidenced by passage of a competency examination.
714 Successful completion of the 40-clock-hour introductory course
715 shall articulate into community college credit in early
716 childhood education, pursuant to ss. 1007.24 and 1007.25.
717 (5) Operators of large family child care homes shall be
718 required to complete 0.5 continuing education unit of approved
719 training or 5 clock hours of equivalent training, as determined
720 by the department, in numeracy, early literacy, and language
721 development of children from birth to 5 years of age one time.
722 The year that this training is completed, it shall fulfill the
723 0.5 continuing education unit or 5 clock hours of the annual
724 training required in subsection (4).
725 (9) ~~During the months of August and September of each year,~~

726 Each large family child care home shall provide parents of
727 children enrolling ~~enrolled~~ in the home detailed information
728 regarding the causes, symptoms, and transmission of the
729 influenza virus in an effort to educate those parents regarding
730 the importance of immunizing their children against influenza as
731 recommended by the Advisory Committee on Immunization Practices
732 of the Centers for Disease Control and Prevention.
733 (10) Notwithstanding any other state or local law or
734 ordinance, a large family child care home licensed pursuant to
735 this chapter or pursuant to a county ordinance shall be charged
736 the utility rates accorded to a residential home. Such a home
737 may not be charged commercial utility rates.
738 Section 12. Subsections (4), (5), and (6) are added to
739 section 402.316, Florida Statutes, to read:
740 402.316 Exemptions.—
741 (4) A child care facility operating under subsection (1)
742 which is applying to operate or is operating as a provider of a
743 program described in s. 1002.55, s. 1002.61, or s. 1002.88 must
744 substantially comply with the minimum standards for child care
745 facilities adopted pursuant to ss. 402.305-402.3057 and must
746 allow the department or local licensing agency access to monitor
747 and enforce compliance with such standards.
748 (a) The department or local licensing agency may pursue
749 administrative or judicial action under ss. 402.310-402.312 and
750 the rules adopted under those sections against any child care
751 facility operating under this subsection to enforce substantial
752 compliance with child care facility minimum standards or to
753 protect the health, safety, and well-being of any child in the
754 facility's care. A child care facility operating under this

755 subsection is subject to ss. 402.310-402.312 and the rules
756 adopted under those sections to the same extent as a child care
757 facility licensed under ss. 402.301-402.319.
758 (b) It is a misdemeanor of the first degree, punishable as
759 provided in s. 775.082 or s. 775.083, for a person willfully,
760 knowingly, or intentionally to:
761 1. Fail, by false statement, misrepresentation,
762 impersonation, or other fraudulent means, to disclose in any
763 required written documentation for exclusion from licensure
764 pursuant to this section a material fact used in making a
765 determination as to such exclusion; or
766 2. Use information from the criminal records obtained under
767 s. 402.305 or s. 402.3055 for a purpose other than screening the
768 subject of those records for employment as specified in those
769 sections or to release such information to any other person for
770 a purpose other than screening for employment as specified in
771 those sections.
772 (c) It is a felony of the third degree, punishable as
773 provided in s. 775.082, s. 775.083, or s. 775.084, for a person
774 willfully, knowingly, or intentionally to use information from
775 the juvenile records of a person obtained under s. 402.305 or s.
776 402.3055 for a purpose other than screening for employment as
777 specified in those sections or to release information from such
778 records to any other person for a purpose other than screening
779 for employment as specified in those sections.
780 (5) The department shall establish a fee for inspection and
781 compliance activities performed pursuant to this section in an
782 amount sufficient to cover costs. However, the amount of such
783 fee for the inspection of a program may not exceed the fee

784 imposed for child care licensure pursuant to s. 402.315.
785 (6) The inclusion of a child care facility operating under
786 subsection (1) as a provider of a program described in s.
787 1002.55, s. 1002.61, or s. 1002.88 does not expand the
788 regulatory authority of the state, its officers, any local
789 licensing agency, or any early learning coalition to impose any
790 additional regulation of child care facilities beyond those
791 reasonably necessary to enforce requirements expressly included
792 in this section.
793 Section 13. Section 627.70161, Florida Statutes, is amended
794 to read:
795 627.70161 Residential property insurance coverage; family
796 child ~~day~~ care homes and large family child care homes
797 ~~insurance~~.—
798 (1) PURPOSE AND INTENT.—The Legislature recognizes that
799 family child ~~day~~ care homes and large family child care homes
800 fulfill a vital role in providing child care in Florida. It is
801 the intent of the Legislature that residential property
802 insurance coverage should not be canceled, denied, or nonrenewed
803 solely because child ~~on the basis of the family day~~ care
804 services are provided at the residence. The Legislature also
805 recognizes that the potential liability of residential property
806 insurers is substantially increased by the rendition of child
807 care services on the premises. The Legislature therefore finds
808 that there is a public need to specify that contractual
809 liabilities associated ~~that arise in connection~~ with the
810 operation of a ~~the~~ family child ~~day~~ care home or large family
811 child care home are excluded from residential property insurance
812 policies unless they are specifically included in such coverage.

813 (2) DEFINITIONS.—As used in this section, the term:
814 (a) "Child care" means the care, protection, and
815 supervision of a child, for a period of up to ~~less than~~ 24 hours
816 a day on a regular basis, which supplements parental care,
817 enrichment, and health supervision for the child, in accordance
818 with his or her individual needs, and for which a payment, fee,
819 or grant is made for care.
820 (b) "Family child ~~day~~ care home" has the same meaning as
821 provided in s. 402.302 ~~means an occupied residence in which~~
822 ~~child care is regularly provided for children from at least two~~
823 ~~unrelated families and which receives a payment, fee, or grant~~
824 ~~for any of the children receiving care, whether or not operated~~
825 ~~for a profit~~.
826 (c) "Large family child care home" has the same meaning as
827 provided in s. 402.302.
828 (3) FAMILY CHILD ~~DAY~~ CARE; COVERAGE.—A residential property
829 insurance policy may ~~shall~~ not provide coverage for liability
830 for claims arising out of, or in connection with, the operation
831 of a family child ~~day~~ care home or large family child care home,
832 and the insurer shall be under no obligation to defend against
833 lawsuits covering such claims, unless:
834 (a) Specifically covered in a policy; or
835 (b) Covered by a rider or endorsement for business coverage
836 attached to a policy.
837 (4) DENIAL, CANCELLATION, REFUSAL TO RENEW PROHIBITED.—An
838 insurer may not deny, cancel, or refuse to renew a policy for
839 residential property insurance solely on the basis that the
840 policyholder or applicant operates a family child ~~day~~ care home
841 or a large family child care home. In addition to other lawful

842 reasons for refusing to insure, an insurer may deny, cancel, or
843 refuse to renew a policy of a family child ~~day~~ care home or
844 large family child care home provider if one or more of the
845 following conditions occur:
846 (a) The policyholder or applicant provides care for more
847 children than authorized for family child ~~day~~ care homes or
848 large family child care homes by s. 402.302;
849 (b) The policyholder or applicant fails to maintain a
850 separate commercial liability policy or an endorsement providing
851 liability coverage for ~~the~~ family child ~~day~~ care home or large
852 family child care home operations;
853 (c) The policyholder or applicant fails to comply with the
854 family child ~~day~~ care home licensure and registration
855 requirements specified in s. 402.313 or the large family child
856 care home licensure requirements specified in s. 402.3131; or
857 (d) Discovery of willful or grossly negligent acts or
858 omissions or any violations of state laws or regulations
859 establishing safety standards for family child ~~day~~ care homes
860 and large family child care homes by the named insured or his or
861 her representative which materially increase any of the risks
862 insured.
863 Section 14. Subsections (7), (8), and (9) are added to
864 section 1001.213, Florida Statutes, to read:
865 1001.213 Office of Early Learning.—There is created within
866 the Office of Independent Education and Parental Choice the
867 Office of Early Learning, as required under s. 20.15, which
868 shall be administered by an executive director. The office shall
869 be fully accountable to the Commissioner of Education but shall:
870 (7) Hire a general counsel who reports directly to the

871 executive director of the office.
872 (8) Hire an inspector general who reports directly to the
873 executive director of the office and to the Chief Inspector
874 General pursuant to s. 14.32.
875 (9) By July 1, 2017, develop and implement, in consultation
876 with early learning coalitions and providers of the Voluntary
877 Prekindergarten Education Program and the school readiness
878 program, best practices for providing parental notifications in
879 the parent's native language to a parent whose native language
880 is a language other than English.
881 Section 15. Subsection (4) of section 1002.53, Florida
882 Statutes, is amended to read:
883 1002.53 Voluntary Prekindergarten Education Program;
884 eligibility and enrollment.—
885 (4)(a) Each parent enrolling a child in the Voluntary
886 Prekindergarten Education Program must complete and submit an
887 application to the early learning coalition through the single
888 point of entry established under s. 1002.82 or to a private
889 prekindergarten provider if the provider is authorized by the
890 early learning coalition to determine student eligibility for
891 enrollment in the program.
892 (b) The application must be submitted on forms prescribed
893 by the Office of Early Learning and must be accompanied by a
894 certified copy of the child's birth certificate. The forms must
895 include a certification, in substantially the form provided in
896 s. 1002.71(6)(b)2., that the parent chooses the private
897 prekindergarten provider or public school in accordance with
898 this section and directs that payments for the program be made
899 to the provider or school. The Office of Early Learning may

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900 authorize alternative methods for submitting proof of the
901 child's age in lieu of a certified copy of the child's birth
902 certificate.
903 (c) If a private prekindergarten provider has been
904 authorized to determine child eligibility and enrollment, upon
905 receipt of an application, the provider must:
906 1. Determine the child's eligibility for the program and be
907 responsible for any errors in such determination.
908 2. Retain the original application and certified copy of
909 the child's birth certificate or authorized alternative proof of
910 age on file for at least 5 years.
911
912 Pursuant to this paragraph, the early learning coalition may
913 audit applications held by a private prekindergarten provider in
914 the coalition's service area to determine whether children
915 enrolled and reported for funding by the provider have met the
916 eligibility criteria in subsection (2).
917 (d) ~~(c)~~ Each early learning coalition shall coordinate with
918 each of the school districts within the coalition's county or
919 multicounty region in the development of procedures for
920 enrolling children in prekindergarten programs delivered by
921 public schools, including procedures for making child
922 eligibility determinations and auditing enrollment records to
923 confirm that enrolled children have met eligibility
924 requirements.
925 Section 16. Section 1002.55, Florida Statutes, is amended
926 to read:
927 1002.55 School-year prekindergarten program delivered by
928 private prekindergarten providers.—

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929 (1) Each early learning coalition shall administer the
930 Voluntary Prekindergarten Education Program at the county or
931 regional level for students enrolled under s. 1002.53(3)(a) in a
932 school-year prekindergarten program delivered by a private
933 prekindergarten provider. Each early learning coalition shall
934 cooperate with the Office of Early Learning and the Child Care
935 Services Program Office of the Department of Children and
936 Families to reduce paperwork and to avoid duplicating
937 interagency activities, health and safety monitoring, and
938 acquiring and composing data pertaining to child care training
939 and credentialing.
940 (2) Each school-year prekindergarten program delivered by a
941 private prekindergarten provider must comprise at least 540
942 instructional hours.
943 (3) To be eligible to deliver the prekindergarten program,
944 a private prekindergarten provider must meet each of the
945 following requirements:
946 ~~(a) The private prekindergarten provider must be a child~~
947 ~~care facility licensed under s. 402.305, family day care home~~
948 ~~licensed under s. 402.313, large family child care home licensed~~
949 ~~under s. 402.3131, nonpublic school exempt from licensure under~~
950 ~~s. 402.3025(2), or faith-based child care provider exempt from~~
951 ~~licensure under s. 402.316.~~
952 (a) ~~(b)~~ The private prekindergarten provider must:
953 1. Be accredited by an accrediting association that is a
954 member of the National Council for Private School Accreditation,
955 or the Florida Association of Academic Nonpublic Schools, or be
956 accredited by the Southern Association of Colleges and Schools,
957 or Western Association of Colleges and Schools, or North Central

958 Association of Colleges and Schools, or Middle States
959 Association of Colleges and Schools, or New England Association
960 of Colleges and Schools; and have written accreditation
961 standards that meet or exceed the state's licensing requirements
962 under s. 402.305, s. 402.313, or s. 402.3131 and require at
963 least one onsite visit to the provider or school before
964 accreditation is granted;
965 2. Hold a current Gold Seal Quality Care designation under
966 s. 402.281; ~~or~~
967 3. Be licensed under s. 402.305, s. 402.313, or s.
968 402.3131; or
969 4. Be a child development center located on a military
970 installation that is certified by the United States Department
971 of Defense.
972 (b) The private prekindergarten provider must provide basic
973 health and safety on its premises and in its facilities. For a
974 public school, compliance with ss. 1003.22 and 1013.12 satisfies
975 this requirement. For a nonpublic school, compliance with s.
976 402.3025(2)(d) satisfies this requirement. For a child care
977 facility, a licensed family child care home, or a large family
978 child care home, compliance with s. 402.305, s. 402.313, or s.
979 402.3131, respectively, satisfies this requirement. For a
980 facility exempt from licensure, compliance with s. 402.316(4)
981 satisfies this requirement ~~and demonstrate, before delivering~~
982 ~~the Voluntary Prekindergarten Education Program, as verified by~~
983 ~~the early learning coalition, that the provider meets each of~~
984 ~~the requirements of the program under this part, including, but~~
985 ~~not limited to, the requirements for credentials and background~~
986 ~~screenings of prekindergarten instructors under paragraphs (c)~~

987 ~~and (d), minimum and maximum class sizes under paragraph (f),~~
988 ~~prekindergarten director credentials under paragraph (g), and a~~
989 ~~developmentally appropriate curriculum under s. 1002.67(2)(b)~~.
990 (c) The private prekindergarten provider must have, for
991 each prekindergarten class of 11 children or fewer, at least one
992 prekindergarten instructor who meets each of the following
993 requirements:
994 1. The prekindergarten instructor must hold, at a minimum,
995 one of the following credentials:
996 a. A child development associate credential issued by the
997 National Credentialing Program of the Council for Professional
998 Recognition; ~~or~~
999 b. A credential approved by the Department of Children and
1000 Families, pursuant to s. 402.305(3)(c), as being equivalent to
1001 or greater than the credential described in sub-subparagraph a.;
1002 c. An associate or higher degree in child development;
1003 d. An associate or higher degree in an unrelated field, at
1004 least 6 credit hours in early childhood education or child
1005 development, and at least 480 hours of experience in teaching or
1006 providing child care services for children of any age from birth
1007 through 8 years of age;
1008 e. A baccalaureate or higher degree in early childhood
1009 education, prekindergarten or primary education, preschool
1010 education, or family and consumer science;
1011 f. A baccalaureate or higher degree in family and child
1012 science and at least 480 hours of experience in teaching or
1013 providing child care services for children of any age from birth
1014 through 8 years of age;
1015 g. A baccalaureate or higher degree in elementary education

1016 if the prekindergarten instructor has been certified to teach
1017 children of any age from birth through grade 6, regardless of
1018 whether the instructor's educator certificate is current, and if
1019 the instructor is not ineligible to teach in a public school
1020 because his or her educator certificate is suspended or revoked;
1021 or
1022 h. A credential approved by the department as being
1023 equivalent to or greater than a credential described in sub-
1024 subparagraphs a.-f. The department may adopt criteria and
1025 procedures for approving such equivalent credentials.
1026
1027 ~~The Department of Children and Families may adopt rules under~~
1028 ~~ss. 120.536(1) and 120.54 which provide criteria and procedures~~
1029 ~~for approving equivalent credentials under sub-subparagraph b.~~
1030 2. The prekindergarten instructor must successfully
1031 complete an emergent literacy training course and a student
1032 performance standards training course approved by the office as
1033 meeting or exceeding the minimum standards adopted under s.
1034 1002.59. The requirement for completion of the standards
1035 training course shall take effect July 1, 2016 ~~2014~~, and the
1036 course shall be available online.
1037 (d) Each prekindergarten instructor employed by the private
1038 prekindergarten provider must be of good moral character, must
1039 undergo background screening pursuant to s. 402.305(2)(a) ~~be~~
1040 ~~screened using the level 2 screening standards in s. 435.04~~
1041 before employment, must be ~~and~~ rescreened at least once every 5
1042 years, must be denied employment or terminated if required under
1043 s. 435.06, and must not be ineligible to teach in a public
1044 school because his or her educator certificate is suspended or

1045 revoked.
1046 (e) A private prekindergarten provider may assign a
1047 substitute instructor to temporarily replace a credentialed
1048 instructor if the credentialed instructor assigned to a
1049 prekindergarten class is absent, as long as the substitute
1050 instructor meets the requirements of paragraph (d) ~~is of good~~
1051 ~~moral character and has been screened before employment in~~
1052 ~~accordance with level 2 background screening requirements in~~
1053 ~~chapter 435~~. The Office of Early Learning shall adopt rules to
1054 implement this paragraph which shall include required
1055 qualifications of substitute instructors and the circumstances
1056 and time limits for which a private prekindergarten provider may
1057 assign a substitute instructor.
1058 (f) Each of the private prekindergarten provider's
1059 prekindergarten classes must be composed of at least 4 students
1060 but may not exceed 20 students. In order to protect the health
1061 and safety of students, each private prekindergarten provider
1062 must also provide appropriate adult supervision for students at
1063 all times and, for each prekindergarten class composed of 12 or
1064 more students, must have, in addition to a prekindergarten
1065 instructor who meets the requirements of paragraph (c), at least
1066 one adult prekindergarten instructor who is not required to meet
1067 those requirements but who must meet each requirement of s.
1068 402.305(2) ~~paragraph (d)~~. This paragraph does not supersede any
1069 requirement imposed on a provider under ss. 402.301-402.319.
1070 (g) The private prekindergarten provider must have a
1071 prekindergarten director who has a prekindergarten director
1072 credential that is approved by the office as meeting or
1073 exceeding the minimum standards adopted under s. 1002.57.

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1074 Successful completion of a child care facility director
1075 credential under s. 402.305(2)(f) before the establishment of
1076 the prekindergarten director credential under s. 1002.57 or July
1077 1, 2006, whichever occurs later, satisfies the requirement for a
1078 prekindergarten director credential under this paragraph.
1079 (h) The private prekindergarten provider must register with
1080 the early learning coalition on forms prescribed by the Office
1081 of Early Learning.
1082 (i) The private prekindergarten provider must execute the
1083 statewide provider contract prescribed under s. 1002.75, except
1084 that an individual who owns or operates multiple private
1085 prekindergarten providers within a coalition's service area may
1086 execute a single agreement with the coalition on behalf of each
1087 provider.
1088 (j) The private prekindergarten provider must maintain
1089 general liability insurance and provide the coalition with
1090 written evidence of general liability insurance coverage,
1091 including coverage for transportation of children if
1092 prekindergarten students are transported by the provider. A
1093 provider must obtain and retain an insurance policy that
1094 provides a minimum of $100,000 of coverage per occurrence and a
1095 minimum of $300,000 general aggregate coverage. The office may
1096 authorize lower limits upon request, as appropriate. A provider
1097 must add the coalition as a named certificateholder ~~and as an~~
1098 ~~additional insured~~. A provider must provide the coalition with a
1099 minimum of 10 calendar days' advance written notice of
1100 cancellation of or changes to coverage. The general liability
1101 insurance required by this paragraph must remain in full force
1102 and effect for the entire period of the provider contract with

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1103 the coalition.
1104 (k) The private prekindergarten provider must obtain and
1105 maintain any required workers' compensation insurance under
1106 chapter 440 and any required reemployment assistance or
1107 unemployment compensation coverage under chapter 443, unless
1108 exempt under state or federal law.
1109 (l) Notwithstanding paragraph (j), for a private
1110 prekindergarten provider that is a state agency or a subdivision
1111 thereof, as defined in s. 768.28(2), the provider must agree to
1112 notify the coalition of any additional liability coverage
1113 maintained by the provider in addition to that otherwise
1114 established under s. 768.28. The provider shall indemnify the
1115 coalition to the extent permitted by s. 768.28.
1116 (m) The private prekindergarten provider shall be denied
1117 initial eligibility to offer the program if the provider has
1118 been cited for a Class I violation in the 12 months before
1119 seeking eligibility. An existing provider that is cited for a
1120 Class I violation may not have its eligibility renewed for 12
1121 months. This paragraph does not apply if the Department of
1122 Children and Families or local licensing agency upon final
1123 disposition of a Class I violation has rescinded its initial
1124 citation in accordance with the criteria for consideration
1125 outlined in s. 1002.75(1)(b).
1126 (n) ~~(m)~~ The private prekindergarten provider must deliver
1127 the Voluntary Prekindergarten Education Program in accordance
1128 with this part and have child disciplinary policies that
1129 prohibit children from being subjected to discipline that is
1130 severe, humiliating, frightening, or associated with food, rest,
1131 toileting, spanking, or any other form of physical punishment as

1132 provided in s. 402.305(12).
1133 (o) Beginning January 1, 2016, at least 50 percent of the
1134 instructors employed by a prekindergarten provider at each
1135 location, who are responsible for supervising children in care,
1136 must be trained in first aid and infant and child
1137 cardiopulmonary resuscitation, as evidenced by current
1138 documentation of course completion. As a condition of
1139 employment, instructors hired on or after January 1, 2016, must
1140 complete this training within 60 days after employment.
1141 (p) Beginning January 1, 2017, the private prekindergarten
1142 provider must employ child care personnel who hold a high school
1143 diploma or its equivalent and are at least 18 years of age,
1144 unless the personnel are not responsible for supervising
1145 children in care or are under direct supervision.
1146 ~~(4) A prekindergarten instructor, in lieu of the minimum~~
1147 ~~credentials and courses required under paragraph (3)(c), may~~
1148 ~~hold one of the following educational credentials:~~
1149 ~~(a) A bachelor's or higher degree in early childhood~~
1150 ~~education, prekindergarten or primary education, preschool~~
1151 ~~education, or family and consumer science;~~
1152 ~~(b) A bachelor's or higher degree in elementary education,~~
1153 ~~if the prekindergarten instructor has been certified to teach~~
1154 ~~children any age from birth through 6th grade, regardless of~~
1155 ~~whether the instructor's educator certificate is current, and if~~
1156 ~~the instructor is not ineligible to teach in a public school~~
1157 ~~because his or her educator certificate is suspended or revoked;~~
1158 ~~(c) An associate's or higher degree in child development;~~
1159 ~~(d) An associate's or higher degree in an unrelated field,~~
1160 ~~at least 6 credit hours in early childhood education or child~~

1161 ~~development, and at least 480 hours of experience in teaching or~~
1162 ~~providing child care services for children any age from birth~~
1163 ~~through 8 years of age; or~~
1164 ~~(c) An educational credential approved by the department as~~
1165 ~~being equivalent to or greater than an educational credential~~
1166 ~~described in this subsection. The department may adopt criteria~~
1167 ~~and procedures for approving equivalent educational credentials~~
1168 ~~under this paragraph.~~
1169 ~~(5) Notwithstanding paragraph (3)(b), a private~~
1170 ~~prekindergarten provider may not participate in the Voluntary~~
1171 ~~Prekindergarten Education Program if the provider has child~~
1172 ~~disciplinary policies that do not prohibit children from being~~
1173 ~~subjected to discipline that is severe, humiliating,~~
1174 ~~frightening, or associated with food, rest, toileting, spanking,~~
1175 ~~or any other form of physical punishment as provided in s.~~
1176 ~~402.305(12).~~
1177 Section 17. Subsection (1) of section 1002.59, Florida
1178 Statutes, is amended to read:
1179 1002.59 Emergent literacy and performance standards
1180 training courses.—
1181 (1) The office shall adopt minimum standards for one or
1182 more training courses in emergent literacy for prekindergarten
1183 instructors. Each course must comprise 5 clock hours and provide
1184 instruction in strategies and techniques to address the age-
1185 appropriate progress of prekindergarten students in developing
1186 emergent literacy skills, including oral communication,
1187 knowledge of print and letters, phonemic and phonological
1188 awareness, and vocabulary and comprehension development. Each
1189 course must also provide resources containing strategies that

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1190 allow students with disabilities and other special needs to
1191 derive maximum benefit from the Voluntary Prekindergarten
1192 Education Program. Successful completion of an emergent literacy
1193 training course approved under this section satisfies
1194 requirements for approved training in early literacy and
1195 language development under ss. 402.305(2)(d)5., 402.313(4)(a)2.
1196 ~~402.313(6)~~, and 402.3131(5).
1197 Section 18. Subsections (4) through (7) of section 1002.61,
1198 Florida Statutes, are amended to read:
1199 1002.61 Summer prekindergarten program delivered by public
1200 schools and private prekindergarten providers.—
1201 (4) ~~Notwithstanding ss. 1002.55(3)(c)1. and 1002.63(4),~~
1202 Each public school and private prekindergarten provider that
1203 delivers the summer prekindergarten program must have, for each
1204 prekindergarten class, at least one prekindergarten instructor
1205 who is a certified teacher or holds one of the educational
1206 credentials specified in s. 1002.55(3)(c)1.e.-h. ~~s.~~
1207 ~~1002.55(4)(a) or (b).~~ As used in this subsection, the term
1208 "certified teacher" means a teacher holding a valid Florida
1209 educator certificate under s. 1012.56 who has the qualifications
1210 required by the district school board to instruct students in
1211 the summer prekindergarten program. In selecting instructional
1212 staff for the summer prekindergarten program, each school
1213 district shall give priority to teachers who have experience or
1214 coursework in early childhood education.
1215 (5) Each prekindergarten instructor employed by a ~~public~~
1216 ~~school or~~ private prekindergarten provider delivering the summer
1217 prekindergarten program must be of good moral character, must
1218 undergo background screening pursuant to s. 402.305(2)(a) ~~be~~

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1219 ~~screened using the level 2 screening standards in s. 435.04~~
1220 before employment, must be ~~and~~ rescreened at least once every 5
1221 years, and must be denied employment or terminated if required
1222 under s. 435.06. Each prekindergarten instructor employed by a
1223 public school delivering the summer prekindergarten program~~, and~~
1224 must satisfy the ~~not be ineligible to teach in a public school~~
1225 ~~because his or her educator certificate is suspended or revoked.~~
1226 ~~This subsection does not supersede~~ employment requirements for
1227 instructional personnel in public schools as provided in s.
1228 1012.32 ~~which are more stringent than the requirements of this~~
1229 ~~subsection~~.
1230 (6) A public school or private prekindergarten provider may
1231 assign a substitute instructor to temporarily replace a
1232 credentialed instructor if the credentialed instructor assigned
1233 to a prekindergarten class is absent, as long as the substitute
1234 instructor meets the requirements of subsection (5) ~~is of good~~
1235 ~~moral character and has been screened before employment in~~
1236 ~~accordance with level 2 background screening requirements in~~
1237 ~~chapter 435~~. ~~This subsection does not supersede employment~~
1238 ~~requirements for instructional personnel in public schools which~~
1239 ~~are more stringent than the requirements of this subsection.~~ The
1240 Office of Early Learning shall adopt rules to implement this
1241 subsection which must ~~shall~~ include required qualifications of
1242 substitute instructors and the circumstances and time limits for
1243 which a public school or private prekindergarten provider may
1244 assign a substitute instructor.
1245 (7) Notwithstanding ss. 1002.55(3)(e) ~~ss. 1002.55(3)(f)~~ and
1246 1002.63(7), each prekindergarten class in the summer
1247 prekindergarten program, regardless of whether the class is a

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1248 public school's or private prekindergarten provider's class,
1249 must be composed of at least 4 students but may not exceed 12
1250 students ~~beginning with the 2009 summer session~~. In order to
1251 protect the health and safety of students, each public school or
1252 private prekindergarten provider must also provide appropriate
1253 adult supervision for students at all times. This subsection
1254 does not supersede any requirement imposed on a provider under
1255 ss. 402.301-402.319.
1256 Section 19. Subsections (5) and (6) of section 1002.63,
1257 Florida Statutes, are amended to read:
1258 1002.63 School-year prekindergarten program delivered by
1259 public schools.—
1260 (5) Each prekindergarten instructor employed by a public
1261 school delivering the school-year prekindergarten program must
1262 satisfy the ~~be of good moral character, must be screened using~~
1263 ~~the level 2 screening standards in s. 435.04 before employment~~
1264 ~~and rescreened at least once every 5 years, must be denied~~
1265 ~~employment or terminated if required under s. 435.06, and must~~
1266 ~~not be ineligible to teach in a public school because his or her~~
1267 ~~educator certificate is suspended or revoked. This subsection~~
1268 ~~does not supersede~~ employment requirements for instructional
1269 personnel in public schools as provided in s. 1012.32 ~~which are~~
1270 ~~more stringent than the requirements of this subsection~~.
1271 (6) A public school prekindergarten provider may assign a
1272 substitute instructor to temporarily replace a credentialed
1273 instructor if the credentialed instructor assigned to a
1274 prekindergarten class is absent, as long as the substitute
1275 instructor meets the requirements of subsection (5) ~~is of good~~
1276 ~~moral character and has been screened before employment in~~

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1277 ~~accordance with level 2 background screening requirements in~~
1278 ~~chapter 435. This subsection does not supersede employment~~
1279 ~~requirements for instructional personnel in public schools which~~
1280 ~~are more stringent than the requirements of this subsection~~. The
1281 Office of Early Learning shall adopt rules to implement this
1282 subsection which must ~~shall~~ include required qualifications of
1283 substitute instructors and the circumstances and time limits for
1284 which a public school prekindergarten provider may assign a
1285 substitute instructor.
1286 Section 20. Paragraph (a) of subsection (6) of section
1287 1002.71, Florida Statutes, is amended to read:
1288 1002.71 Funding; financial and attendance reporting.—
1289 (6)(a) Each parent enrolling his or her child in the
1290 Voluntary Prekindergarten Education Program must agree to comply
1291 with the attendance policy of the private prekindergarten
1292 provider or district school board, as applicable. Upon
1293 enrollment of the child, the private prekindergarten provider or
1294 public school, as applicable, must provide the child's parent
1295 with program information, including, but not limited to, child
1296 development, expectations for parent engagement, the daily
1297 schedule, and the ~~a copy of the provider's or school district's~~
1298 attendance policy, which must include procedures for contacting
1299 a parent on the second consecutive day a child is absent for
1300 which the reason is unknown ~~as applicable~~.
1301 Section 21. Subsection (1) of section 1002.75, Florida
1302 Statutes, is amended to read:
1303 1002.75 Office of Early Learning; powers and duties.—
1304 (1) The Office of Early Learning shall adopt by rule a
1305 standard statewide provider contract to be used with each

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1306 Voluntary Prekindergarten Education Program provider, with
1307 standardized attachments by provider type. The office shall
1308 publish a copy of the standard statewide provider contract on
1309 its website. The standard statewide contract must ~~shall~~ include,
1310 at a minimum, provisions that:
1311 (a) Govern ~~for~~ provider probation, termination for cause,
1312 and emergency termination for those actions or inactions of a
1313 provider that pose an immediate and serious danger to the
1314 health, safety, or welfare of children. The standard statewide
1315 contract must ~~shall~~ also include appropriate due process
1316 procedures. During the pendency of an appeal of a termination,
1317 the provider may not continue to offer its services.
1318 (b) Require each private prekindergarten provider to notify
1319 the parent of each child in care if it is cited for a Class I
1320 violation as defined by rule of the Department of Children and
1321 Families. Notice shall be initiated only upon final disposition
1322 of a Class I violation. The provider shall notify the department
1323 within 24 hours of its intent to appeal the Class I violation
1324 issued, and final disposition shall occur within 15 calendar
1325 days. In determining the final disposition, the department shall
1326 consider the entire licensing history of the provider, whether
1327 the provider promptly reported the incident upon actual notice,
1328 and whether the employee responsible for the violation was
1329 terminated or the violation was corrected by the provider. If a
1330 provider does not file its intent to appeal the Class I
1331 violation, the provider must provide notice of a Class I
1332 violation electronically or in writing to the parent within 48
1333 hours after receipt of the Class I violation. Such notice shall
1334 describe each violation with specificity in simple language and

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1335 include a copy of the citation and the contact information of
1336 the Department of Children and Families or local licensing
1337 agency where the parent may obtain additional information
1338 regarding the citation. Notice of a Class I violation by the
1339 provider must be provided electronically or in writing to the
1340 parent within 24 hours after receipt of the final disposition of
1341 the Class I violation. A private prekindergarten provider must
1342 conspicuously post each citation for a violation that results in
1343 disciplinary action on the premises in an area visible to
1344 parents pursuant to s. 402.3125(1)(b). Additionally, such a
1345 provider must post each inspection report on the premises in an
1346 area visible to parents, and such report must remain posted
1347 until the next inspection report is available.
1348 (c) Specify that child care personnel employed by the
1349 provider who are responsible for supervising children in care
1350 must be trained in developmentally appropriate practices aligned
1351 to the age and needs of children over which the personnel are
1352 assigned supervision duties. This requirement is met by the
1353 completion of developmentally appropriate practice courses
1354 administered by the Department of Children and Families under s.
1355 402.305(2)(d)1. within 30 days after being assigned such
1356 children if the child care personnel has not previously
1357 completed the training.
1358
1359 Any provision imposed upon a provider that is inconsistent with,
1360 or prohibited by, law is void and unenforceable.
1361 Section 22. Subsections (1), (3), and (5) of section
1362 1002.77, Florida Statutes, are amended to read:
1363 1002.77 Florida Early Learning Advisory Council.—

1364 (1) There is created the Florida Early Learning Advisory
1365 Council within the Office of Early Learning. The purpose of the
1366 advisory council is to provide written input ~~submit~~
1367 ~~recommendations~~ to the executive director ~~office~~ on early
1368 learning best practices, including ~~recommendations relating to~~
1369 ~~the most~~ effective program administration; ~~of the Voluntary~~
1370 ~~Prekindergarten Education Program under this part and the school~~
1371 ~~readiness program under part VI of this chapter. The advisory~~
1372 ~~council shall periodically analyze and provide recommendations~~
1373 ~~to the office on the~~ effective and efficient use of local,
1374 state, and federal funds; ~~the content of~~ professional
1375 development training programs; and ~~best practices for the~~
1376 ~~development and implementation of~~ coalition plans pursuant to s.
1377 1002.85.
1378 (3) The advisory council shall meet at least quarterly upon
1379 the call of the executive director ~~but may meet as often as~~
1380 ~~necessary to carry out its duties and responsibilities~~. The
1381 executive director is encouraged to ~~advisory council may~~ use
1382 communications media technology ~~any method of telecommunications~~
1383 to conduct meetings in accordance with s. 120.54(5)(b)~~,~~
1384 ~~including establishing a quorum through telecommunications, only~~
1385 ~~if the public is given proper notice of a telecommunications~~
1386 ~~meeting and reasonable access to observe and, when appropriate,~~
1387 ~~participate~~.
1388 (5) The Office of Early Learning shall provide staff and
1389 administrative support for the advisory council as determined by
1390 the executive director.
1391 Section 23. Paragraph (f) of subsection (1) and subsections
1392 (8) and (16) of section 1002.81, Florida Statutes, are amended

1393 to read:
1394 1002.81 Definitions.—Consistent with the requirements of 45
1395 C.F.R. parts 98 and 99 and as used in this part, the term:
1396 (1) "At-risk child" means:
1397 (f) A child in the custody of a parent who is considered
1398 homeless as verified by a designated lead agency on the homeless
1399 assistance continuum of care established under ss. 420.622-
1400 420.624 ~~Department of Children and Families certified homeless~~
1401 ~~shelter~~.
1402 (8) "Family income" means the combined gross income,
1403 whether earned or unearned, that is derived from any source by
1404 all family or household members who are 18 years of age or older
1405 who are currently residing together in the same dwelling unit.
1406 The term does not include:
1407 (a) Income earned by a currently enrolled high school
1408 student who, since attaining the age of 18 years, or a student
1409 with a disability who, since attaining the age of 22 years, has
1410 not terminated school enrollment or received a high school
1411 diploma, high school equivalency diploma, special diploma, or
1412 certificate of high school completion.
1413 (b) Income earned by a teen parent residing in the same
1414 residence as a separate family unit.
1415 (c) Selected items from the state's Child Care and
1416 Development Fund Plan, such as ~~The term also does not include~~
1417 food stamp benefits, documented child support and alimony
1418 payments paid out of the home, or federal housing assistance
1419 payments issued directly to a landlord or the associated
1420 utilities expenses.
1421 (16) "Working family" means:

1422 (a) A single-parent family in which the parent with whom
1423 the child resides is employed or engaged in eligible work or
1424 education activities for at least 20 hours per week or is exempt
1425 from work requirements due to age or disability, as determined
1426 and documented by a physician licensed under chapter 458 or
1427 chapter 459;
1428 (b) A two-parent family in which both parents with whom the
1429 child resides are employed or engaged in eligible work or
1430 education activities for a combined total of at least 40 hours
1431 per week; ~~or~~
1432 (c) A two-parent family in which one of the parents with
1433 whom the child resides is exempt from work requirements due to
1434 age or disability, as determined and documented by a physician
1435 licensed under chapter 458 or chapter 459, and one parent is
1436 employed or engaged in eligible work or education activities at
1437 least 20 hours per week; or
1438 (d) A two-parent family in which both of the parents with
1439 whom the child resides are exempt from work requirements due to
1440 age or disability, as determined and documented by a physician
1441 licensed under chapter 458 or chapter 459.
1442 Section 24. Paragraphs (b), (j), (m), and (p) of subsection
1443 (2) of section 1002.82, Florida Statutes, are amended to read:
1444 1002.82 Office of Early Learning; powers and duties.—
1445 (2) The office shall:
1446 (b) Preserve parental choice by permitting parents to
1447 choose from a variety of child care categories authorized in s.
1448 1002.88(1)(a)~~, including center based care, family child care,~~
1449 ~~and informal child care~~ to the extent authorized in the state's
1450 Child Care and Development Fund Plan as approved by the United

1451 States Department of Health and Human Services pursuant to 45
1452 C.F.R. s. 98.18. Care and curriculum by a faith-based provider
1453 may not be limited or excluded in any of these categories.
1454 (j) Develop and adopt standards and benchmarks that address
1455 the age-appropriate progress of children in the development of
1456 school readiness skills. The standards for children from birth
1457 to 5 years of age in the school readiness program must be
1458 aligned with the performance standards adopted for children in
1459 the Voluntary Prekindergarten Education Program and must address
1460 the following domains:
1461 1. Approaches to learning.
1462 2. Cognitive development and general knowledge.
1463 3. Numeracy, language, and communication.
1464 4. Physical development.
1465 5. Self-regulation.
1466
1467 By July 1, 2016, the office shall develop and implement an
1468 online training course on the performance standards for school
1469 readiness program provider personnel specified in this
1470 paragraph.
1471 (m) Adopt by rule a standard statewide provider contract to
1472 be used with each school readiness program provider, with
1473 standardized attachments by provider type. The office shall
1474 publish a copy of the standard statewide provider contract on
1475 its website. The standard statewide contract must ~~shall~~ include,
1476 at a minimum, provisions that:
1477 1. Govern ~~for~~ provider probation, termination for cause,
1478 and emergency termination for those actions or inactions of a
1479 provider that pose an immediate and serious danger to the

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1480 health, safety, or welfare of the children. The standard
1481 statewide provider contract must ~~shall~~ also include appropriate
1482 due process procedures. During the pendency of an appeal of a
1483 termination, the provider may not continue to offer its
1484 services.
1485 2. Require each provider that is eligible to provide the
1486 program pursuant to s. 1002.88(1)(a) to notify the parent of
1487 each child in care if it is cited for a Class I violation as
1488 defined by rule of the Department of Children and Families.
1489 Notice shall be initiated only upon final disposition of a Class
1490 I violation. The provider shall notify the department within 24
1491 hours of its intent to appeal the Class I violation issued, and
1492 final disposition shall occur within 15 calendar days. In
1493 determining the final disposition, the department shall consider
1494 the entire licensing history of the provider, whether the
1495 provider promptly reported the incident upon actual notice, and
1496 whether the employee responsible for the violation was
1497 terminated or the violation was corrected by the provider. If a
1498 provider does not file its intent to appeal the Class I
1499 violation, the provider must provide notice of a Class I
1500 violation electronically or in writing to the parent within 48
1501 hours after receipt of the Class I violation. Such notice shall
1502 describe each violation with specificity in simple language and
1503 include a copy of the citation and the contact information of
1504 the Department of Children and Families or local licensing
1505 agency where the parent may obtain additional information
1506 regarding the citation. Notice of a Class I violation by the
1507 provider must be provided electronically or in writing to the
1508 parent within 24 hours after receipt of the final disposition of

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1509 the Class I violation. A provider must conspicuously post each
1510 citation for a violation that results in disciplinary action on
1511 the premises in an area visible to parents pursuant to s.
1512 402.3125(1)(b). Additionally, such a provider must post each
1513 inspection report on the premises in an area visible to parents,
1514 and such report must remain posted until the next inspection
1515 report is available.
1516 3. Specify that child care personnel employed by the
1517 provider who are responsible for supervising children in care
1518 must be trained in developmentally appropriate practices aligned
1519 to the age and needs of children over which the personnel are
1520 assigned supervision duties. This requirement is met by
1521 completion of developmentally appropriate practice courses
1522 administered by the Department of Children and Families under s.
1523 402.305(2)(d)1. within 30 days after being assigned such
1524 children if the child care personnel has not previously
1525 completed the training.
1526 4. Require child care personnel who are employed by the
1527 provider to complete an online training course on the
1528 performance standards adopted pursuant to paragraph (j).
1529
1530 Any provision imposed upon a provider that is inconsistent with,
1531 or prohibited by, law is void and unenforceable.
1532 (p) Monitor and evaluate the performance of each early
1533 learning coalition in administering the school readiness program
1534 and the Voluntary Prekindergarten Education Program, ensuring
1535 proper payments for school readiness program and Voluntary
1536 Prekindergarten Education Program services, and implementing the
1537 coalition's school readiness program plan~~, and administering the~~

1538 ~~Voluntary Prekindergarten Education Program~~. These monitoring
1539 and performance evaluations must include, at a minimum, onsite
1540 monitoring of each coalition's finances, management, operations,
1541 and programs.
1542 Section 25. Subsections (8) and (20) of section 1002.84,
1543 Florida Statutes, are amended to read:
1544 1002.84 Early learning coalitions; school readiness powers
1545 and duties.—Each early learning coalition shall:
1546 (8) Establish a parent sliding fee scale that requires a
1547 parent copayment to participate in the school readiness program.
1548 Providers are required to collect the parent's copayment. A
1549 coalition may, on a case-by-case basis, waive the copayment for
1550 an at-risk child or temporarily waive the copayment for a child
1551 whose family's income is at or below the federal poverty level
1552 and family experiences a natural disaster or an event that
1553 limits the parent's ability to pay, such as incarceration,
1554 placement in residential treatment, ~~or becoming homeless,~~ or an
1555 emergency situation such as a household fire or burglary, or
1556 while the parent is participating in parenting classes. A parent
1557 may not transfer school readiness program services to another
1558 school readiness program provider until the parent has submitted
1559 documentation from the current school readiness program provider
1560 to the early learning coalition stating that the parent has
1561 satisfactorily fulfilled the copayment obligation.
1562 (20) To increase transparency and accountability, comply
1563 with ~~the requirements of~~ this section before contracting with a
1564 member of the coalition, an employee of the coalition, or a
1565 relative, as defined in s. 112.3143(1)~~(c)~~, of a coalition member
1566 or of an employee of the coalition. Such contracts may not be

1567 executed without the approval of the office. Such contracts, as
1568 well as documentation demonstrating adherence to this section by
1569 the coalition, must be approved by a two-thirds vote of the
1570 coalition, a quorum having been established; all conflicts of
1571 interest must be disclosed before the vote; and any member who
1572 may benefit from the contract, or whose relative may benefit
1573 from the contract, must abstain from the vote. A contract under
1574 $25,000 between an early learning coalition and a member of that
1575 coalition or between a relative, as defined in s.
1576 112.3143(1)~~(c)~~, of a coalition member or of an employee of the
1577 coalition is not required to have the prior approval of the
1578 office but must be approved by a two-thirds vote of the
1579 coalition, a quorum having been established, and must be
1580 reported to the office within 30 days after approval. If a
1581 contract cannot be approved by the office, a review of the
1582 decision to disapprove the contract may be requested by the
1583 early learning coalition or other parties to the disapproved
1584 contract.
1585 Section 26. Paragraphs (c) and (h) of subsection (1) and
1586 subsections (6) through (8) of section 1002.87, Florida
1587 Statutes, are amended to read:
1588 1002.87 School readiness program; eligibility and
1589 enrollment.—
1590 (1) Effective August 1, 2013, or upon reevaluation of
1591 eligibility for children currently served, whichever is later,
1592 each early learning coalition shall give priority for
1593 participation in the school readiness program as follows:
1594 (c) Priority shall be given next to a child from birth to
1595 the beginning of the school year for which the child is eligible

1596 for admission to kindergarten in a public school under s.
1597 1003.21(1)(a)2. who is from a working family that is
1598 economically disadvantaged, and may include such child's
1599 eligible siblings, beginning with the school year in which the
1600 sibling is eligible for admission to kindergarten in a public
1601 school under s. 1003.21(1)(a)2. until the beginning of the
1602 school year in which the sibling enters ~~is eligible to begin~~ 6th
1603 grade, provided that the first priority for funding an eligible
1604 sibling is local revenues available to the coalition for funding
1605 direct services. However, a child eligible under this paragraph
1606 ceases to be eligible if his or her family income exceeds 200
1607 percent of the federal poverty level.
1608 (h) Priority shall be given next to a child who ~~has special~~
1609 ~~needs,~~ has been determined eligible as an infant or toddler from
1610 birth to 3 years of age with an individualized family support
1611 plan receiving early intervention services or to ~~as~~ a student
1612 with a disability with~~, has~~ a current individual education plan
1613 with a Florida school district~~, and is not younger than 3 years~~
1614 ~~of age~~. A ~~special needs~~ child eligible under this paragraph
1615 remains eligible until the child is eligible for admission to
1616 kindergarten in a public school under s. 1003.21(1)(a)2.
1617 (6) Eligibility for each child must be reevaluated
1618 annually. Upon reevaluation, a child may not continue to receive
1619 school readiness program services if he or she has ceased to be
1620 eligible under this section. If a child no longer meets
1621 eligibility or program requirements, the coalition must
1622 immediately notify the child's parent and the provider that
1623 funding will end 2 weeks after the date on which the child was
1624 determined to be ineligible or when the current child care

1625 authorization expires, whichever occurs first.
1626 (7) If a coalition disenrolls children from the school
1627 readiness program due to lack of funding or a change in
1628 eligibility priorities, the coalition must disenroll the
1629 children in reverse order of the eligibility priorities listed
1630 in subsection (1) beginning with children from families with the
1631 highest family incomes. A notice of disenrollment must be sent
1632 to the parent and school readiness program provider at least 2
1633 weeks before disenrollment or the expiration of the current
1634 child care authorization, whichever occurs first, to provide
1635 adequate time for the parent to arrange alternative care for the
1636 child. However, an at-risk child receiving services from the
1637 Child Welfare Program Office of the Department of Children and
1638 Families may not be disenrolled from the program without the
1639 written approval of the Child Welfare Program Office ~~of the~~
1640 ~~Department of Children and Families~~ or the community-based lead
1641 agency.
1642 (8) If a child is absent from the program for 2 consecutive
1643 days without parental notification to the program of such
1644 absence, the school readiness program provider shall contact the
1645 parent and determine the cause for the absence and the expected
1646 date of return. If a child is absent from the program for 5
1647 consecutive days without parental notification to the program of
1648 such absence, the school readiness program provider shall report
1649 the absence to the early learning coalition for a determination
1650 of the need for continued care.
1651 Section 27. Paragraphs (a) through (c) and (l) through (q)
1652 of subsection (1) of section 1002.88, Florida Statutes, are
1653 amended, present subsections (2) and (3) are redesignated as

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

1654 subsections (4) and (5), respectively, present subsection (2) is
1655 amended, and new subsections (2) and (3) are added to that
1656 section, to read:
1657 1002.88 School readiness program provider standards;
1658 eligibility to deliver the school readiness program.—
1659 (1) To be eligible to deliver the school readiness program,
1660 a school readiness program provider must:
1661 (a)1. Be a nonpublic school in substantial compliance with
1662 s. 402.3025(2)(d), a child care facility licensed under s.
1663 402.305, a family child ~~day~~ care home licensed ~~or registered~~
1664 under s. 402.313, a large family child care home licensed under
1665 s. 402.3131, or a child care facility exempt from licensure
1666 operating under s. 402.316(4);
1667 2. Be an entity that is part of Florida's education system
1668 identified in s. 1000.04(1); ~~a public school or nonpublic school~~
1669 ~~exempt from licensure under s. 402.3025, a faith-based child~~
1670 ~~care provider exempt from licensure under s. 402.316, a before-~~
1671 ~~school or after-school program described in s. 402.305(1)(c),~~ or
1672 3. Be an informal child care provider to the extent
1673 authorized in the state's Child Care and Development Fund Plan
1674 as approved by the United States Department of Health and Human
1675 Services pursuant to 45 C.F.R. s. 98.18.
1676 (b) Provide instruction and activities to enhance the age-
1677 appropriate progress of each child in attaining the child
1678 development standards adopted by the office pursuant to s.
1679 1002.82(2)(j). A provider should include activities to foster
1680 brain development in infants and toddlers; provide an
1681 environment that is rich in language and music and filled with
1682 objects of various colors, shapes, textures, and sizes to

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1683 stimulate visual, tactile, auditory, and linguistic senses; and
1684 include 30 minutes of reading to children each day. A provider
1685 must provide parents information on child development,
1686 expectations for parent engagement, the daily schedule, and the
1687 attendance policy.
1688 (c) Provide basic health and safety of its premises and
1689 facilities in accordance with applicable licensing and
1690 inspection requirements ~~and compliance with requirements for~~
1691 ~~age-appropriate immunizations of children enrolled in the school~~
1692 ~~readiness program~~. For a child care facility, a large family
1693 child care home, or a licensed family child ~~day~~ care home,
1694 compliance with s. 402.305, s. 402.3131, or s. 402.313 satisfies
1695 this requirement. For a public ~~or nonpublic~~ school, compliance
1696 with ss. ~~s. 402.3025 or s.~~ 1003.22 and 1013.12 satisfies this
1697 requirement. For a nonpublic school, compliance with s.
1698 402.3025(2)(d) satisfies this requirement. For a facility exempt
1699 from licensure, compliance with s. 402.316(4) satisfies this
1700 requirement. For an informal provider, substantial compliance as
1701 defined in s. 402.302(17) satisfies this requirement. A provider
1702 shall be denied initial eligibility to offer the program if the
1703 provider has been cited for a Class I violation in the 12 months
1704 before seeking eligibility. An existing provider that is cited
1705 for a Class I violation may not have its eligibility renewed for
1706 12 months. A provider that is cited for a Class I violation may
1707 remain eligible to deliver the program if the Department of
1708 Children and Families or local licensing agency upon final
1709 disposition of a Class I violation has rescinded its initial
1710 citation in accordance with the criteria for consideration
1711 outlined in s. 1002.82(2)(m)2 ~~A faith-based child care provider,~~

1712 ~~an informal child care provider, or a nonpublic school, exempt~~
1713 ~~from licensure under s. 402.316 or s. 402.3025, shall annually~~
1714 ~~complete the health and safety checklist adopted by the office,~~
1715 ~~post the checklist prominently on its premises in plain sight~~
1716 ~~for visitors and parents, and submit it annually to its local~~
1717 ~~early learning coalition~~.
1718 (l) ~~For a provider that is not an informal provider,~~
1719 Maintain general liability insurance and provide the coalition
1720 with written evidence of general liability insurance coverage,
1721 including coverage for transportation of children if school
1722 readiness program children are transported by the provider. A
1723 private provider must obtain and retain an insurance policy that
1724 provides a minimum of $100,000 of coverage per occurrence and a
1725 minimum of $300,000 general aggregate coverage. The office may
1726 authorize lower limits upon request, as appropriate. A provider
1727 must add the coalition as a named certificateholder ~~and as an~~
1728 ~~additional insured~~. A private provider must provide the
1729 coalition with a minimum of 10 calendar days' advance written
1730 notice of cancellation of or changes to coverage. The general
1731 liability insurance required by this paragraph must remain in
1732 full force and effect for the entire period of the provider
1733 contract with the coalition.
1734 ~~(m) For a provider that is an informal provider, comply~~
1735 ~~with the provisions of paragraph (l) or maintain homeowner's~~
1736 ~~liability insurance and, if applicable, a business rider. If an~~
1737 ~~informal provider chooses to maintain a homeowner's policy, the~~
1738 ~~provider must obtain and retain a homeowner's insurance policy~~
1739 ~~that provides a minimum of $100,000 of coverage per occurrence~~
1740 ~~and a minimum of $300,000 general aggregate coverage. The office~~

1741 ~~may authorize lower limits upon request, as appropriate. An~~
1742 ~~informal provider must add the coalition as a named~~
1743 ~~certificateholder and as an additional insured. An informal~~
1744 ~~provider must provide the coalition with a minimum of 10~~
1745 ~~calendar days' advance written notice of cancellation of or~~
1746 ~~changes to coverage. The general liability insurance required by~~
1747 ~~this paragraph must remain in full force and effect for the~~
1748 ~~entire period of the provider's contract with the coalition.~~
1749 (m) ~~(n)~~ Obtain and maintain any required workers'
1750 compensation insurance under chapter 440 and any required
1751 reemployment assistance or unemployment compensation coverage
1752 under chapter 443, unless exempt under state or federal law.
1753 (n) ~~(o)~~ Notwithstanding paragraph (l), for a provider that
1754 is a state agency or a subdivision thereof, as defined in s.
1755 768.28(2), agree to notify the coalition of any additional
1756 liability coverage maintained by the provider in addition to
1757 that otherwise established under s. 768.28. The provider shall
1758 indemnify the coalition to the extent permitted by s. 768.28.
1759 (o) ~~(p)~~ Execute the standard statewide provider contract
1760 adopted by the office.
1761 (p) ~~(q)~~ Operate on a full-time and part-time basis and
1762 provide extended-day and extended-year services to the maximum
1763 extent possible without compromising the quality of the program
1764 to meet the needs of parents who work.
1765 (2) Beginning January 1, 2016, at least 50 percent of the
1766 child care personnel employed by a school readiness provider at
1767 each location, who are responsible for supervising children in
1768 care, must be trained in first aid and infant and child
1769 cardiopulmonary resuscitation, as evidenced by current

1770 documentation of course completion. As a condition of
1771 employment, personnel hired on or after January 1, 2016, must
1772 complete this training within 60 days after employment.
1773 (3) Beginning January 1, 2017, child care personnel
1774 employed by a school readiness program provider must hold a high
1775 school diploma or its equivalent and be at least 18 years of
1776 age, unless the personnel are not responsible for supervising
1777 children in care or are under direct supervision.
1778 (4) ~~(2)~~ If a school readiness program provider fails or
1779 refuses to comply with this part or any contractual obligation
1780 of the statewide provider contract under s. 1002.82(2)(m), the
1781 coalition may revoke the provider's eligibility to deliver the
1782 school readiness program or receive state or federal funds under
1783 this chapter for ~~a period of~~ 5 years.
1784 Section 28. Paragraph (b) of subsection (6) and subsection
1785 (7) of Section 1002.89, Florida Statutes, are amended to read:
1786 1002.89 School readiness program; funding.—
1787 (6) Costs shall be kept to the minimum necessary for the
1788 efficient and effective administration of the school readiness
1789 program with the highest priority of expenditure being direct
1790 services for eligible children. However, no more than 5 percent
1791 of the funds described in subsection (5) may be used for
1792 administrative costs and no more than 22 percent of the funds
1793 described in subsection (5) may be used in any fiscal year for
1794 any combination of administrative costs, quality activities, and
1795 nondirect services as follows:
1796 (b) Activities to improve the quality of child care as
1797 described in 45 C.F.R. s. 98.51, which must ~~shall~~ be limited to
1798 the following:

1799 1. Developing, establishing, expanding, operating, and
1800 coordinating resource and referral programs specifically related
1801 to the provision of comprehensive consumer education to parents
1802 and the public to promote informed child care choices specified
1803 in 45 C.F.R. s. 98.33 ~~regarding participation in the school~~
1804 ~~readiness program and parental choice~~.
1805 2. Awarding grants and providing financial support to
1806 school readiness program providers and their staffs to assist
1807 them in meeting applicable state requirements for child care
1808 performance standards, implementing developmentally appropriate
1809 curricula and related classroom resources that support
1810 curricula, providing literacy supports, obtaining a license or
1811 accreditation, and providing professional development, including
1812 scholarships and other incentives. Any grants awarded pursuant
1813 to this subparagraph shall comply with ~~the requirements of~~ ss.
1814 215.971 and 287.058.
1815 3. Providing training, ~~and~~ technical assistance, and
1816 financial support for school readiness program providers, staff,
1817 and parents on standards, child screenings, child assessments,
1818 developmentally appropriate curricula, character development,
1819 teacher-child interactions, age-appropriate discipline
1820 practices, health and safety, nutrition, first aid,
1821 cardiopulmonary resuscitation, the recognition of communicable
1822 diseases, and child abuse detection and prevention.
1823 4. Providing from among the funds provided for the
1824 activities described in subparagraphs 1.-3., adequate funding
1825 for infants and toddlers as necessary to meet federal
1826 requirements related to expenditures for quality activities for
1827 infant and toddler care.

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1828 5. Improving the monitoring of compliance with, and
1829 enforcement of, applicable state and local requirements as
1830 described in and limited by 45 C.F.R. s. 98.40.
1831 6. Responding to Warm-Line requests by providers and
1832 parents ~~related to school readiness program children~~, including
1833 providing developmental and health screenings to school
1834 readiness program children.
1835 (7) Funds appropriated for the school readiness program may
1836 not be expended for the purchase or improvement of land; for the
1837 purchase, construction, or permanent improvement of any building
1838 or facility; or for the purchase of buses. However, funds may be
1839 expended for minor remodeling necessary for the administration
1840 of the program and upgrading of child care facilities to ensure
1841 that providers meet state and local child care standards,
1842 including applicable health and safety requirements.
1843 Section 29. Subsection (7) of section 1002.91, Florida
1844 Statutes, is amended to read:
1845 1002.91 Investigations of fraud or overpayment; penalties.—
1846 (7) The early learning coalition may not contract with a
1847 school readiness program provider, ~~or~~ a Voluntary
1848 Prekindergarten Education Program provider, or an individual who
1849 is on the United States Department of Agriculture National
1850 Disqualified List. In addition, the coalition may not contract
1851 with any provider that shares an officer or director with a
1852 provider that is on the United States Department of Agriculture
1853 National Disqualified List.
1854 Section 30. Paragraph (d) of subsection (3) of section
1855 1002.94, Florida Statutes, is amended to read:
1856 1002.94 Child Care Executive Partnership Program.—

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1857 (3)
1858 (d) Each early learning coalition shall establish a
1859 community child care task force ~~for each child care purchasing~~
1860 ~~pool~~. The task force must be composed of employers, parents,
1861 private child care providers, and one representative from the
1862 local children's services council, if one exists in the area ~~of~~
1863 ~~the purchasing pool~~. The early learning coalition is expected to
1864 recruit the task force members from existing child care
1865 councils, commissions, or task forces already operating in the
1866 area ~~of a purchasing pool~~. A majority of the task force shall
1867 consist of employers.
1868 Section 31. Paragraph (a) of subsection (1) of section
1869 1003.21, Florida Statutes, is amended to read:
1870 1003.21 School attendance.—
1871 (1)(a)1. All children who have attained the age of 6 years
1872 or who will have attained the age of 6 years by February 1 of
1873 any school year or who are older than 6 years of age but who
1874 have not attained the age of 16 years, except as otherwise
1875 provided, are required to attend school regularly during the
1876 entire school term.
1877 2.a. Children who will have attained the age of 5 years on
1878 or before September 1 of the school year are eligible for
1879 admission to public kindergartens during that school year under
1880 rules adopted by the district school board.
1881 b. A district school board or charter school governing
1882 board may adopt a policy that allows a child who has attained
1883 the age of 4 years on or before September 1 of the school year
1884 to be eligible for admission to public kindergarten during that
1885 school year. The policy must include, but is not limited to, a

1886 requirement that the child complete and pass the following
1887 assessments:
1888 (I) The kindergarten readiness assessment pursuant to s.
1889 1002.69. The child must meet the minimum readiness rate adopted
1890 pursuant to s. 1002.69(6); and
1891 (II) A social assessment developed or selected by the
1892 school district or charter school. The child must meet the
1893 minimum readiness score identified in the district school
1894 board's or charter school governing board's policy.
1895 Section 32. The Office of Early Learning shall conduct a 2-
1896 year pilot project to study the impact of assessing the early
1897 literacy skills of Voluntary Prekindergarten Education Program
1898 participants who are English Language Learners, in both English
1899 and Spanish. The assessments must include, at a minimum, the
1900 first administration of the Florida Assessments for Instruction
1901 in Reading in kindergarten and an appropriate alternative
1902 assessment in Spanish. The study must include a review of the
1903 kindergarten screening results for 2009-2010 and 2010-2011
1904 program participants and their subsequent Florida Comprehensive
1905 Assessment Test scores. The office shall report its findings to
1906 the Governor, the President of the Senate, and the Speaker of
1907 the House of Representatives by July 1, 2016, and July 1, 2017.
1908 Section 33. For the 2015-2016 fiscal year, the sums of
1909 $1,034,965 in recurring funds and $11,319 in nonrecurring funds
1910 from the General Revenue Fund, and $70,800 in recurring funds
1911 from the Operations and Maintenance Trust Fund are appropriated
1912 to the Department of Children and Families, and 18 full-time
1913 equivalent positions with associated salary rate of 608,446 are
1914 authorized, for the purpose of implementing the regulatory

1915 provisions of this act.

1916 Section 34. This act shall take effect July 1, 2015.

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THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Education Pre-K - 12, Chair
Ethics and Elections, Vice Chair
Appropriations Subcommittee on Education
Fiscal Policy
Government Oversight and Accountability
Higher Education

SENATOR JOHN LEGG
17th District

Legg.John.web@FLSenate.gov

April 14th, 2015

The Honorable Tom Lee
Committee on Appropriations Chair
201 The Capitol
404 S. Monroe Street
Tallahassee, FL 32399

RE: SB 7006- Early Learning

Dear Chair Lee

SB 7006 - Early Learning has been referred to your committee. I respectfully request that it be placed on the Committee on Appropriations Agenda, at your convenience. Your leadership and consideration are appreciated.

Sincerely,

John Legg
State Senator, District 17

cc: Cindy Kynoch, Staff Director

SENATE APPROPRIATIONS
RECEIVED
15 APR 14 PM 2:05
STAFF DIR. ____ STAFF ____

REPLY TO:
☐ 262 Crystal Grove Boulevard, Lutz, Florida 33548 (813) 909-9919
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Senate's Website: *www.flsenate.gov*

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/21/15
Meeting Date

7006
Bill Number (if applicable)

Amendment Barcode (if applicable)

Name: EARLY LEARNING

Name: JESSICA SCHER

Title: Director, Public Policy

Address: 3250 SW 3rd Ave
Street

Phone: 305-322-6143

MIAMI FL 33129
City State Zip

Email: scherj@unitedwaymiami.org

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing: United Way of MIAMI-DADE

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 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/21/2015
Meeting Date

SB 7006
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic: Early Learning

Name: Alisa Ghazvini

Job Title: Executive Director, AELC

Address: 1462 Mitchell Ave
Street

Tallahassee FL 32303
City State Zip

Phone: 850-893-0683

Email: aghazvini@hotmail.c

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

Waive Speaking: [✓] In Support [ ] Against
(The Chair will read this information into the record.)

Representing: Association of Early Learning Coalitions

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

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

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4-21-15
Meeting Date

SB 7006
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic: EARLY LEARNING

Name: TED GRANGER

Job Title: PRESIDENT

Address: 307 E 7th AVE
Street

TALLAHASSEE, FL 32303
City, State, Zip

Phone: 850-488-8276

Email: TGRANGER@UWOF.ORG

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☑ In Support ☐ Against
(The Chair will read this information into the record.)

Representing: UNITED WAY OF FLORIDA

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/21/15
Meeting Date

7006
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic: Early Learning

Name: Jim Horne

Job Title:

Address: 200 W College Ave
Street

Tallahassee FL 32301
City State Zip

Phone: 904-759-4596

Email:

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☑ In Support ☐ Against
(The Chair will read this information into the record.)

Representing: AIF

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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4 / 21 /2015
Meeting Date

Topic _____

Bill Number 7006 *(if applicable)*

Name BRIAN PITTS

Amendment Barcode _____ *(if applicable)*

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH
Street

SAINT PETERSBURG FLORIDA 33705
City *State* *Zip*

Phone 727-897-9291

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.

S-001 (10/20/11)

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 Appropriations

BILL: PCS/SB 7056 (755960)

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on General Government) and Governmental Oversight and Accountability Committee

SUBJECT: Administrative Procedures

DATE: April 20, 2015 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	Peacock	McVaney		**GO Submitted as Committee Bill**
1.	Davis	DeLoach	AGG	**Recommend: Fav/CS**
2.	Davis	Kynoch	AP	**Pre-meeting**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/SB 7056 amends sections 120.54 and 120.74, Florida Statutes, and replaces the biennial summary reporting requirement with an expanded, annual regulatory plan. It requires each agency to determine whether each new law creating or affecting the agency's authority will require new or amended rules. If so, the agency must initiate rulemaking by a specific time. If not, the agency must state concisely why the law may be implemented without additional rulemaking. The regulatory plan also must state each existing law on which the agency will initiate rulemaking in the current fiscal year. The agency head and his or her principal legal advisor must certify that they have reviewed the plan and that the agency conducts a review of its rulemaking authority. The existing 180-day requirement is revised to coincide with the specific publishing requirements.

The bill repeals section 120.7455, Florida Statutes, pertaining to the online survey of regulatory impacts. Additionally, the bill rescinds the suspension of rulemaking authority made under section 120.745, Florida Statutes.

The bill may have an indeterminate, but minimal fiscal impact on state agencies.

The bill provides an effective date of July 1, 2015, except as otherwise provided.

II. Present Situation:

Background

A rule is an agency statement of general applicability which interprets, implements, or prescribes law or policy, including the procedure and practice requirements of an agency, as well as certain types of forms.[1] The effect of an agency statement determines whether it meets the statutory definition of a rule, regardless of how the agency characterizes the statement.[2] If an agency statement generally requires compliance, creates certain rights while adversely affecting others, or otherwise has the direct and consistent effect of law, it is a rule.[3]

Rulemaking authority is delegated by the Legislature[4] authorizing an agency to "adopt, develop, establish, or otherwise create"[5] a rule. Agencies do not have discretion whether to engage in rulemaking.[6] To adopt a rule, an agency must have an express grant of authority to implement a specific law by rulemaking.[7] The grant of rulemaking authority itself need not be detailed.[8] The particular statute being interpreted or implemented through rulemaking must provide specific standards and guidelines to preclude the administrative agency from exercising unbridled discretion in creating policy or applying the law.[9] A delegation of authority to an administrative agency by a law that is vague, uncertain, or so broad as to give no notice of what actions would violate the law, may unconstitutionally allow the agency to make the law.[10] Because of this constitutional limitation on delegated rulemaking, the Legislature must provide minimal standards and guidelines in the law creating a program to provide for its proper administration by the assigned executive agency. The Legislature may delegate rulemaking authority to agencies, but not the authority to determine what should be the law.[11]

---

[1] Section 120.52(16), F.S.; *Florida Department of Financial Services v. Capital Collateral Regional Counsel-Middle Region*, 969 So. 2d 527, 530 (Fla. 1st DCA 2007).
[2] *Dept. of Administration v. Harvey*, 356 So. 2d 323, 325 (Fla. 1st DCA 1977).
[3] *McDonald v. Dep't of Banking & Fin.*, 346 So.2d 569, 581 (Fla. 1st DCA 1977), articulated this principle subsequently cited in numerous cases. See, *State of Florida, Dept. of Administration v. Stevens*, 344 So. 2d 290 (Fla. 1st DCA 1977); *Dept. of Administration v. Harvey*, 356 So. 2d 323 (Fla. 1st DCA 1977); *Balsam v. Department of Health and Rehabilitative Services*, 452 So.2d 976, 977–978 (Fla. 1st DCA 1984); *Department of Transp. v. Blackhawk Quarry Co.*, 528 So.2d 447, 450 (Fla. 5th DCA 1988), rev. den. 536 So.2d 243 (Fla.1988); *Dept. of Natural Resources v. Wingfield*, 581 So. 2d 193, 196 (Fla. 1st DCA 1991); *Dept. of Revenue v. Vanjaria Enterprises, Inc.*, 675 So. 2d 252, 255 (Fla. 5th DCA 1996); *Volusia County School Board v. Volusia Homes Builders Association, Inc.*, 946 So. 2d 1084 (Fla. 5th DCA 2007); *Florida Dept. of Financial Services v. Capital Collateral Regional Counsel*, 969 So. 2d 527 (Fla. 1st DCA 2007); *Coventry First, LLC v. State of Florida, Office of Insurance Regulation*, 38 So. 3d 200 (Fla. 1st DCA 2010).
[4] *Southwest Florida Water Management District v. Save the Manatee Club, Inc.*, 773 So. 2d 594 (Fla. 1st DCA 2000).
[5] Section 120.52(17), F.S.
[6] Section 120.54(1)(a), F.S.
[7] Sections 120.52(8) & 120.536(1), F.S.
[8] *Save the Manatee Club, Inc.*, supra at 599.
[9] *Sloban v. Florida Board of Pharmacy*, 982 So. 2d 26, 29-30 (Fla. 1st DCA 2008); *Board of Trustees of the Internal Improvement Trust Fund v. Day Cruise Association, Inc.*, 794 So. 2d 696, 704 (Fla. 1st DCA 2001).
[10] *Conner v. Joe Hatton, Inc.*, 216 So.2d 209 (Fla.1968).
[11] *Sarasota County. v. Barg*, 302 So.2d 737 (Fla. 1974).

In 1996, the Legislature extensively revised[12] agency rulemaking under the Administrative Procedure Act (APA)[13] to require both an express grant of rulemaking authority and a specific law to be implemented by the rule.

Section 120.54(1)(b), F.S., the "180 Day" Requirement

An agency may not delay implementation of a statute pending adoption of specific rules, unless there is an express provision prohibiting application of the statute before implementing rules are adopted.[14] If a law is enacted that requires agency rules for its proper implementation, "such rules shall be drafted and formally proposed as provided in s. 120.54, F.S., within 180 days after the effective date of the act, unless the act provides otherwise."[15] This "180 day requirement" predates the 1996 revisions.[16]

The statute does not require complete adoption of rules within 180 days. An agency may comply with the statute merely by publishing a notice of proposed rule.[17] Proposed rules can be repeatedly, substantially revised based on public input and they may also be withdrawn. Consequently, the 180 day requirement does not ensure prompt rulemaking.

Joint Administrative Procedures Committee Monitoring and Agency Compliance

The Joint Administrative Procedures Committee (JAPC) monitors agency compliance with the 180 day requirement in furtherance of its rulemaking oversight duties.[18] The JAPC staff review legislation enacted each session to identify new or changed laws that appear to require the adoption of new rules or the amendment or repeal of existing rules for proper implementation. Where the law appears to mandate new rulemaking (for example, using terms such as "shall adopt rules," or provides that the agency "shall establish" some standard or "must" make some policy), or restates an existing "mandate" for rulemaking, the JAPC sends a letter reminding the agency of the 180 day requirement. If the text of proposed rules is not published, at least as part of a notice of rule development, within the 180 days, the JAPC will follow with an inquiry as to when the agency will initiate public rulemaking on that issue.

The JAPC has no power to compel the 180 day compliance; however, agencies generally comply with the requirement. In recent years, the JAPC has identified several agencies that had not proposed rules within 180 days of the enactment of laws appearing to mandate new rulemaking. At its meeting of February 18, 2013, the JAPC heard presentations from 13 different agencies on whether rulemaking actually was necessary to implement particular laws and, if so, explanations for the lack of progress. Some members of the committee asked whether these agencies treated the statute as a "suggestion" instead of a mandatory rulemaking requirement. Again, on

[12] Ch. 96-159, L.O.F.
[13] Chapter 120, F.S.
[14] Section 120.54(1)(c), F.S.
[15] Section 120.54(1)(b), F.S.
[16] The 180 requirement was enacted as Ch. 85-104, s. 7, L.O.F.
[17] Section 120.54(3)(a), F.S. This is the common interpretation of the 180 day requirement. An alternative interpretation would be that a notice of rule development published under s. 120.54(2), F.S., including a *preliminary* draft of proposed rules, may be sufficient to comply.
[18] Joint Rule 4.6.

February 2, 2015, the JAPC received a report from its staff reflecting continuing related problems.

"Directive" vs. "Mandate"

Courts generally interpret words in statute such as "shall" or "must" as mandating a particular action where the alternative to the action is a possible deprivation of some right. However, use of such otherwise-mandatory terms where there is no effective consequence for the failure to act renders them *directory*, not compulsory.[19] A person regulated by an agency or having a substantial interest in an agency rule may petition that agency to adopt, amend, or repeal a rule,[20] including where the agency does not act within the 180 day requirement. The APA provides no other process to enforce the 180 day requirement, no legal sanction for failure to comply, nor the authority for any specific entity to compel compliance.

Section 120.74, F.S., Biennial Reporting

1996 Reporting Requirement

As part of the comprehensive revision of rulemaking in 1996, agencies were required to review all rules adopted before October 1, 1996, identify those exceeding the rulemaking authority permitted under the revised APA, and report the results to the JAPC. The JAPC would prepare and submit a combined report of all agency reviews to the President of the Senate and Speaker of the House of Representatives for legislative consideration.[21]

Another 1996 law added a requirement for ongoing rulemaking review, revision, and reporting.[22] Under that law as presently amended, each agency must review its rules every two years and amend or repeal rules as necessary to comply with specific requirements.[23] The agency head must report the results and other required information to the President of the Senate, the Speaker of the House of Representatives, the JAPC, and "each appropriate standing committee of the Legislature" biennially on October 1.[24]

Limited Utility of s. 120.74 Reports

Agencies as defined in the APA,[25] including school districts, comply with the requirements of s. 120.74, F.S., typically by filing summary reports that simply verify the agency performed the required reviews, list rules identified in the review for amendment or repeal, and finding no undue economic impact on small businesses (a required subject of the report). For example, one

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[19] *S.R. v. State*, 346 So.2d 1018, 1019 (Fla.1977); *Reid v. Southern Development Co.*, 42 So. 206, 208, 52 Fla. 595, 603 (1906); *Ellsworth v. State*, 89 So.3d 1076, 1079 (Fla. 2d DCA 2012); *Kinder v. State*, 779 So. 2d 512, 514 (Fla. 2d DCA 2000).

[20] Section 120.54(7), F.S. If the agency denies the petition the requesting party may seek judicial review of that decision. Sections 120.52(2) and 120.68, F.S.

[21] Ch. 96-159, s. 9(2), L.O.F.

[22] Ch. 96-399, s. 46, L.O.F., codified as s. 120.74, F.S. In both 2006 and 2008, the Legislature added substantive provisions to this section. Chapter's 2006-82, s. 9, and 2008-179, s. 8, L.O.F.

[23] Identify and correct deficiencies; clarification and simplification; delete rules that are obsolete, unnecessary, or merely repeat statutory language; improve efficiency, reduce paperwork, decrease costs to private sector and government; coordinate rules with agencies having concurrent or overlapping jurisdiction. Section 120.74(1), F.S. (Supp. 1996).

[24] Section 120.74(2), F.S.

[25] Section 120.52(1), F.S.

2009 report from a school district identified the following changes to the student code of conduct:

> The Code of Student Conduct is reviewed and revised annually and serves as the School Board's policies and procedures for governing student behavior on school grounds, at school activities, and while being transported to and from school. The majority of the recommended changes for 2008-09 are minor revisions in punctuation, spelling, language, or order of paragraphs.[26]

The 2013 report for the same school district states the following as "what & why the policy changed" for the student code of conduct:

> The Code of Student Conduct is reviewed and revised annually and serves as the School Board's policies and procedures for governing student behavior on school grounds, at school activities, and while being transported to and from school.[27]

A different school district submitted substantially the same reports for 2009 and 2013, commenting only on that district's review and management of forms. That district's reports included no information on whether any rules were identified as requiring revision or repeal due to changes in law.[28]

Reports by state agencies have reflected inconsistent application of the requirement for the report to "specify any changes made to (the agency's) rules as a result of the review…"[29] One agency's 2009 report identified each rule requiring repeal or amendment and new rules required by program changes, including a brief explanation of the reason for the amendment or adoption.[30] A different agency simply identified obsolete rules for repeal (without stating why these were obsolete) and listed a rule for amendment to update documents incorporated by reference (without identifying the documents so referenced.)[31] Some agencies provided lengthy lists of rules identified for amendment or repeal with little explanation other than repeating the terms of the review statute as to the reason for such proposed action.[32]

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[26] School Board of Manatee County, "Section 120.74 Report" (Sept. 29, 2009), received by JAPC on Nov. 3, 2009. On file with Subcommittee staff.
[27] School Board of Manatee County, "Section 120.74 Report" (Sept. 24, 2013), received by the House on Oct. 3, 2013. On file with Subcommittee staff.
[28] School Board of Santa Rosa County, 2009 Report received by JAPC on Sept. 30, 2009, and 2013 Report received by the House on Aug. 26, 2013, both on file with Subcommittee Staff.
[29] Section 120.74(2), F.S.
[30] Dept. of Children and Families, "Biennial rule review report required by section 120.74, Florida Statutes" (Oct. 1, 2009), received by JAPC on Oct. 7, 2009.
[31] Dept. of Agriculture and Consumer Services, "August 20, 2009 Memorandum regarding §120.74, Florida Statutes, Rule Review" (Oct. 1, 2009), received by the JAPC on Oct. 1, 2009.
[32] Dept. of Business & Professional Regulation, "Section 120.74, Florida Statutes Biennial Report to the Legislature" (Oct. 1, 2009), received by JAPC on Oct. 5, 2009; Dept. of Environmental Protection, 2009 Report received by JAPC on Oct. 2, 2009.

Educational units are exempt from the biennial reporting requirements.[33]

Regulatory Plans

During the 2011 Session, the reporting requirements were amended to require each agency to file an annual regulatory plan in addition to the biennial reports.[34] The regulatory plan identifies those rules the agency intends to adopt, amend, or repeal during the next fiscal year. These reports have not proven any more substantive than the biennial reports described above.

Section 120.745, F.S., Retrospective Economic Review of Rules

In November 2010, the Legislature enacted a new limitation on agency rulemaking: any rule adopted after the date of the act, whether a new or amended rule, that may likely have a significant economic impact, could not go into effect unless first ratified by the Legislature.[35] The law requires an agency to prepare a full Statement of Estimated Regulatory Costs (SERC) if the proposed rule either will have an adverse impact on small businesses or if the rule is likely to directly or indirectly increase regulatory costs in excess of $200,000 in the aggregate in the first year after the rule is implemented.[36] Additionally, the SERC must include an economic analysis addressing whether the rule is likely to have one of three specific impacts, directly or indirectly, in excess of $1 million in the aggregate within five years of going into effect.[37]

The requirements applied only to rules which had not become effective as of November 17, 2010, or were proposed for adoption after that date. Existing rules were not subject to the ratification requirement. In 2011, the Legislature enacted s. 120.745, F.S., to require a retrospective economic analysis of those existing rules. All agencies required to publish their rules in the Florida Administrative Code (F.A.C.)[38] were required to review their rules, identify those potentially having one of the impacts described in s. 120.541(2)(a), F.S., over a five year period, complete a full comprehensive economic review of such rules, and publicly publish the results and certify their compliance with the statute to the JAPC. In 2011, all agencies were to publish the results of their initial reviews and identification of existing rules likely to have the significant economic impacts.[39] At the agency's discretion, the full Compliance Economic Reviews for one portion of these rules (Group 1) were to be published by December 1, 2012; the remaining reviews (Group 2) were to be published by December 1, 2013.[40]

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[33] Section 2, ch. 2014-39, L.O.F., codified as s. 120.745(5), F.S.
[34] Ch. 2011-225, s. 4, L.O.F. The bill also suspended reporting in 2011 and 2013 under s. 120.74(1) and (2), F.S., to avoid duplication with the economic reviews and reports under s. 120.745, F.S.
[35] Section 120.541(3), F.S.
[36] Sections 120.54(3)(b)1. & 120.541(1)(b), F.S.
[37] Section 120.541(2)(a), F.S. The three impacts are whether the rule will have 1) an adverse impact on economic growth, private sector job creation or employment, or private sector employment; 2) an adverse impact on business competitiveness, including competition with interstate firms, productivity, or innovation; or 3) an increase in regulatory costs, including transactional costs as defined by s. 120.541(2)(d), F.S.
[38] A provision in the act designed specifically to *de facto* exclude educational units (defined in s. 120.52(6), F.S.) which do not publish their rules in the F.A.C. pursuant to s. 120.55(1)(a)2., F.S. Certain other publication requirements also do not apply to educational units; s. 120.81(1), F.S.
[39] Section 120.745(2), F.S. The statute required each agency to publish the number of its rules implementing or affecting state revenues (revenue rules), requiring submission of information or data by third parties (data collection rules), rules to be repealed, rules to be amended to reduce economic impacts, and those rules that would be reported in Groups 1 or 2.
[40] Section 120.745(5), F.S.

The Governor directed a review of all existing agency rules through the newly-created Office of Fiscal Accountability and Regulatory Reform (OFARR).[41] Because most agencies participated in this review, and many of the elements were similar to the retrospective economic reviews contemplated by the Legislature, the law exempted those agencies participating in the Governor's review from most of the new law's requirements. These "exempt" agencies were required to publish their initial determination of those rules requiring full Compliance Economic Reviews in 2011[42] and all final reviews by December 31, 2013.[43]

All agencies complied with the required retrospective review and publication of reports. Of those agencies not participating in the OFARR review process, only five[44] identified rules requiring Compliance Economic Reviews.[45] Of the 161 Compliance Economic Reviews published by these five agencies in 2012, only 72 reviews showed the subject rule as having a specific impact exceeding $1 million over the five year period from July 1, 2011 to July 1, 2016.

Section 120.7455, F.S., Your Voice Survey

As part of the increased oversight of agency rulemaking enacted in 2011, the Legislature sought public participation and input about the effect of agency rules through use of an online survey. Those wanting to comment on any rule could log in to the survey form,[46] respond to a series of questions intended to identify the particular rule and the context of the comment, and provide as much information as the participant thought necessary. Access to the online form was directed primarily through the website of the Florida House of Representatives and was known as the "Your Voice Survey."

To encourage public participation and obtain as wide a variety of comments as possible during the period July 1, 2011, to July 1, 2014, section 120.7455, F.S.,[47] was enacted to provide certain limited protections from enforcement actions based on any response to the survey. One reporting or providing information solicited by the Legislature in conformity with s. 120.7455, F.S., was immune from any enforcement action or prosecution based on the fact of such reporting (or non-reporting) or using information provided in response to the survey.[48] If a person subject to a penalty in excess of the minimum provided by law or rule proved the enforcement action was in retaliation for providing or withholding any information in response to the survey, the penalty would be limited to the minimum provided for each separate violation.[49]

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[41] Executive Order 11-01, subsequently revised by EO 11-72 and replaced by EO 11-211.
[42] As required by the statute, exempt agencies published the number of identified revenue rules (2,078), data collection rules (3,529), rules to be repealed (1,852), rules to be amended to reduce economic impacts (1,441), and rules requiring Compliance Economic Reviews (3,056). At https://www.myfloridalicense.com/rulereview/Rule-Review-Reports.html (accessed Oct. 22, 2013).
[43] Section 120.745(9), F.S.
[44] Dept. of Agriculture and Consumer Services, Dept. of Citrus, Dept. of Financial Services, Office of Financial Regulation, and Public Service Commission.
[45] As required by the statute, "non-exempt" agencies published the number of identified revenue rules (508), data collection rules (1,169), rules to be repealed (482), rules to be amended to reduce economic impacts (189), and rules requiring Compliance Economic Reviews to be reported in Group 1 (161) and Group 2 (182).
[46] At http://www.surveymonkey.com/s/FloridaRegReformSurvey (accessed Oct. 22, 2013).
[47] Ch. 2011-225, s. 6, L.O.F.
[48] Section 120.7455(3), F.S.
[49] Section 120.7455(4), F.S.

The survey was initiated in October 2011, and received 2,723 responses through October 22, 2013. No response appeared to place the participant in jeopardy of prosecution or administrative enforcement. The survey responses were of limited value. Many voiced support or disapproval for issues outside the scope of the survey, such as federal laws, regulations or policies, unrelated state statutes, or local ordinances. Fewer than 200 directly addressed a particular agency rule and of those no more than 40 provided information about the economic or policy impacts of the rule. Because the limited protection in the statute proved to be unnecessary, no apparent purpose is served by continuing the statute.

III. Effect of Proposed Changes:

Section 1 amends s. 120.54, F.S., to eliminate the current 180 day time period granted to agencies to draft and formally propose rules necessary to implement legislation. The new time frames for agencies to begin rulemaking will be no later than November 1 for the notice of rule development and April 1 for the notice of proposed rule.

Section 2 amends s. 120.74, F.S., to replace the current biennial reports with an annual regulatory plan, establish deadlines for specific actions in the rulemaking process, and suspend agency rulemaking if an agency fails to comply with certain requirements.

Regulatory Plan

The bill requires each agency to submit a regulatory plan by October 1 of each year. The regulatory plan must include:

- A listing of each law enacted or amended during the previous 12 months that modifies the duties and authority of the agency. For each law listed, the agency must determine whether:
  - The agency must adopt rules to implement the law;
  - If rulemaking is necessary to implement the law;
    - Whether a notice of rule development has been published and, if so, the citation to such notice in the Florida Administrative Register (FAR).
    - The date by which the agency expects to publish the notice of proposed rule under s. 120.54(3)(a).and
  - If rulemaking is not necessary, the reasons that the law may be implemented without rulemaking.
- A listing of any other laws the agency expects to implement by rulemaking before the following July 1. For each law listed, the agency must state the purpose of the rulemaking.

If the Governor or Attorney General provides a letter to the Joint Administrative Procedures Committee (JAPC) stating that a law affects all or most agencies, the agency may exclude the law from its regulatory plan.

The regulatory plan must also include information relating to any law identified in a previous year's regulatory plan as requiring rulemaking for implementation for which no notice of proposed rule has been published. The plan must include a certification by the agency head and the individual acting as a principal legal advisor to the agency head that those individuals have reviewed the plan and that the agency regularly reviews all of its agency rules to determine whether the rules remain consistent with the agency's rulemaking authority and legal authority.

If the agency has subsequently determined that rulemaking is not necessary to implement the law, the agency must identify such law, reference the citation to the applicable notice of rule development in the FAR, and provide a concise written explanation of the reason why the law may be implemented without rulemaking.

Publication and Delivery to JAPC

The bill requires the agency to publish by October 1 of each year the annual regulatory plan on the agency website or other state website established for such publication. The agency must electronically provide a copy of the certification signed by the agency head and the agency's primary legal advisor to the JAPC. The agency must publish a notice in the Florida Administrative Register identifying the date of publication of the regulatory plan, including a hyperlink or website address for the regulatory plan.

A board established under s. 20.165(4), F.S., and any other board or commission receiving administrative support from the Department of Business and Professional Regulation (DBPR), may coordinate with the DBPR, and a board established under s. 20.43(3)(g), F.S., may coordinate with the Department of Health (DOH), for inclusion of the board's or commission's plan and notice of publication in the coordinating department's plan and notice and for the delivery of the required regulatory plan to the JAPC.

The bill also requires that regulatory plans published in accordance with the provisions of this bill and regulatory plans published before July 1, 2014, must be made available to the public online for ten years. This will assist elected officials and the general public in reviewing agency implementation of laws through rulemaking.

DBPR AND DOH Review of Board Plans

By October 15 of each year, the DBPR shall file with the JAPC a certification that the DBPR has reviewed each board's and commission's regulatory plan for each board established under s. 20.165(4), F.S., and any other board or commission receiving administrative support from the DBPR. A certification may relate to more than one board or commission.

By October 15 of each year, the DOH shall file with the JAPC a certification that the DOH has reviewed each board's regulatory plan for each board established under s. 20.43(3)(g), F.S. A certification may relate to more than one board.

New Deadline for Rule Development

The bill establishes a new deadline for rule development. Rather than 180 days after the effective date of the legislation, the agency must publish a notice of rule development by November 1 after enactment or by the date the agency identified in the regulatory plan. The agency must then publish a notice of proposed rule by the following April 1. The agency may extend this deadline until the following October 1 if the agency publishes a notice of extension in the FAR. In addition, the agency must include a concise statement in the notice of extension identifying any issues causing the delay in rulemaking. The deadline for the notice of proposed rule can be further extended by the agency in the subsequent regulatory plan.

The bill permits an agency to correct a published regulatory plan at any time for the purpose of extending or concluding the affecting rulemaking proceeding, and such plan is deemed corrected as of the October 1 due date. The agency is required to publish a notice of the date of correction for the affected rulemaking proceeding in the FAR.

Certification

Each time an agency files a notice of rule development, a notice for a deadline extension, or a regulatory plan correction, the agency must file a certification with the JAPC noting the action taken. The certification may apply to more than one notice or contemporaneous act. The date or dates of compliance must be noted in each certificate.

Supplementing the Regulatory Plan

After publication of the regulatory plan, the agency shall supplement the plan within 30 days after a bill becomes a law if the law is enacted before the next regular session of the Legislature and the law substantively modifies the agency's specifically delegated legal duties, unless the law affects all or most state agencies as identified by letter to the JAPC from the Governor or the Attorney General.

The supplement must include the information required for agency's annual regulatory plan and shall be published on its website or the FAR's website, but no certification or delivery to the JAPC is required. The agency shall publish in the FAR notice of publication of the supplement, and include a hyperlink on its website or web address for direct access to the published supplement. For each law reported in the supplement, if rulemaking is necessary to implement the law, the agency shall publish a notice of rule development by the later of November 1 or 60 days after the bill becomes a law, and a notice of proposed rule shall be published by the later of April 1 or 120 days after the bill becomes a law. The proposed rule deadline may be extended to the following October 1 by filing a notice of proposed rule. If such proposed rule has not been filed by October 1, a law included in a supplement shall also be included in the agency's next annual regulatory plan.

Failure to Comply

If an agency fails to publish and provide its completed regulatory plan by October 1, or publish a notice of proposed rule by April 1, the agency, within 15 days after written demand from the JAPC or the chair of any other legislative committee, must deliver a written explanation of the reasons for noncompliance. The explanation must be delivered to the JAPC, the President of the Senate, the Speaker of the House of Representatives, and the chair of any legislative committee that requested the explanation.

Educational Units

This section does not apply to educational units, including school districts.

Section 3 repeals s. 120.7455, F.S., relating to an Internet-based public survey of regulatory impacts.

Section 4 rescinds suspension of rulemaking authority under s. 120.745, F.S., effective upon this bill becoming law. This section does not affect any restriction, suspension, or prohibition of rulemaking authority under any other provision of law.

Section 5 provides an effective date of July 1, 2015, except as otherwise provided in the bill and except for this section which shall take effect upon this act becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

PCS/SB 7056 requires agencies to publish additional information in the Florida Administrative Register (FAR), which has an associated cost. Such additional publication requirements will have an indeterminate, but minimal fiscal impact on agencies.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 120.54 and 120.74.

This bill repeals section 120.7455 of the Florida Statutes.

The bill rescinds the suspension of rulemaking authority under section 120.745 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

Recommended CS by Appropriations Subcommittee on General Government on April 14, 2015:

The committee substitute:

- Requires the agency to provide a concise written statement with the notice of extension of rule development identifying any issues that are causing the delayed implementation of the rule.
- Deletes the requirement that the agency regulatory plans be included in the agency legislative budget requests.
- Deletes the suspension or rulemaking authority included in the bill as the penalty for noncompliance.

B. Amendments:

None.

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Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on General Government)

A bill to be entitled

An act relating to administrative procedures; amending s. 120.54, F.S.; revising the deadline to propose rules implementing new laws; amending s. 120.74, F.S.; revising requirements for the annual review of agency rules; providing procedures for preparing and publishing regulatory plans; specifying requirements for such plans; requiring publication by specified dates of notices of rule development and of proposed rules necessary to implement new laws; prescribing procedures in the event of noncompliance by an agency; providing for applicability; repealing s. 120.7455, F.S., relating to the legislative survey of regulatory impacts; rescinding the suspension of rulemaking authority made under s. 120.745, F.S.; providing effective dates.

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

Section 1. Paragraph (b) of subsection (1) of section 120.54, Florida Statutes, is amended to read:

120.54 Rulemaking.—

(1) GENERAL PROVISIONS APPLICABLE TO ALL RULES OTHER THAN EMERGENCY RULES.—

(b) Whenever an act of the Legislature is enacted which requires implementation of the act by rules of an agency within the executive branch of state government, such rules shall be

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drafted and formally proposed as provided in this section within the times provided in s. 120.74(4) and (5) ~~180 days after the effective date of the act, unless the act provides otherwise~~.

Section 2. Section 120.74, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 120.74, F.S., for present text.)

120.74 Agency annual rulemaking and regulatory plans; reports.—

(1) REGULATORY PLAN.—By October 1 of each year, each agency shall prepare an implementation and rulemaking plan.

(a) The plan must include a listing of each law enacted or amended during the previous 12 months which creates or modifies the duties or authority of the agency. If the Governor or the Attorney General provides a letter to the committee stating that a law affects all or most agencies, the agency may exclude the law from its plan. For each law listed by an agency under this paragraph, the plan must state:

1. Whether the agency must adopt rules to implement the law.

2. If rulemaking is necessary to implement the law:

a. Whether a notice of rule development has been published and, if so, the citation to such notice in the Florida Administrative Register.

b. The date by which the agency expects to publish the notice of proposed rule under s. 120.54(3)(a).

3. If rulemaking is not necessary to implement the law, a concise written explanation of the reasons why the law may be implemented without rulemaking.

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57 (b) The plan must also include a listing of each law not
58 otherwise listed pursuant to paragraph (a) which the agency
59 expects to implement by rulemaking before the following July 1,
60 except emergency rulemaking. For each law listed under this
61 paragraph, the plan must state whether the rulemaking is
62 intended to simplify, clarify, increase efficiency, improve
63 coordination with other agencies, reduce regulatory costs, or
64 delete obsolete, unnecessary, or redundant rules.
65 (c) The plan must include any desired update to the prior
66 year's regulatory plan or supplement published pursuant to
67 subsection (7). If, in a prior year, a law was identified under
68 this paragraph or under subparagraph (a)1. as a law requiring
69 rulemaking to implement but a notice of proposed rule has not
70 been published:
71 1. The agency shall identify and again list such law,
72 noting the applicable notice of rule development by citation to
73 the Florida Administrative Register; or
74 2. If the agency has subsequently determined that
75 rulemaking is not necessary to implement the law, the agency
76 shall identify such law, reference the citation to the
77 applicable notice of rule development in the Florida
78 Administrative Register, and provide a concise written
79 explanation of the reason why the law may be implemented without
80 rulemaking.
81 (d) The plan must include a certification executed on
82 behalf of the agency by both the agency head, or, if the agency
83 head is a collegial body, the presiding officer; and the
84 individual acting as principal legal advisor to the agency head.
85 The certification must:

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86 1. Verify that the persons executing the certification have
87 reviewed the plan.
88 2. Verify that the agency regularly reviews all of its
89 rules and identify the period during which all rules have most
90 recently been reviewed to determine if the rules remain
91 consistent with the agency's rulemaking authority and the laws
92 implemented.
93 (2) PUBLICATION AND DELIVERY TO THE COMMITTEE.—
94 (a) By October 1 of each year, each agency shall:
95 1. Publish its regulatory plan on its website or on another
96 state website established for publication of administrative law
97 records. A clearly labeled hyperlink to the current plan must be
98 included on the agency's primary website homepage.
99 2. Electronically deliver to the committee a copy of the
100 certification required in paragraph (1)(d).
101 3. Publish in the Florida Administrative Register a notice
102 identifying the date of publication of the agency's regulatory
103 plan. The notice must include a hyperlink or website address
104 providing direct access to the published plan.
105 (b) To satisfy the requirements of paragraph (a), a board
106 established under s. 20.165(4), and any other board or
107 commission receiving administrative support from the Department
108 of Business and Professional Regulation, may coordinate with the
109 Department of Business and Professional Regulation, and a board
110 established under s. 20.43(3)(g) may coordinate with the
111 Department of Health, for inclusion of the board's or
112 commission's plan and notice of publication in the coordinating
113 department's plan and notice and for the delivery of the
114 required documentation to the committee.

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115 (c) A regulatory plan prepared under subsection (1) and any
116 regulatory plan published under this chapter before July 1,
117 2014, shall be maintained at an active website for 10 years
118 after the date of initial publication on the agency's website or
119 another state website.
120 (3) DEPARTMENT REVIEW OF BOARD PLAN.—By October 15 of each
121 year:
122 (a) For each board established under s. 20.165(4) and any
123 other board or commission receiving administrative support from
124 the Department of Business and Professional Regulation, the
125 Department of Business and Professional Regulation shall file
126 with the committee a certification that the department has
127 reviewed each board's and commission's regulatory plan. A
128 certification may relate to more than one board or commission.
129 (b) For each board established under s. 20.43(3)(g), the
130 Department of Health shall file with the committee a
131 certification that the department has reviewed the board's
132 regulatory plan. A certification may relate to more than one
133 board.
134 (4) DEADLINE FOR RULE DEVELOPMENT.—By November 1 of each
135 year, each agency shall publish a notice of rule development
136 under s. 120.54(2) for each law identified in the agency's
137 regulatory plan pursuant to subparagraph (1)(a)1. for which
138 rulemaking is necessary to implement but for which the agency
139 did not report the publication of a notice of rule development
140 under subparagraph (1)(a)2.
141 (5) DEADLINE TO PUBLISH PROPOSED RULE.—For each law for
142 which implementing rulemaking is necessary as identified in the
143 agency's plan pursuant to subparagraph (1)(a)1. or subparagraph

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144 (1)(c)1., the agency shall publish a notice of proposed rule
145 pursuant to s. 120.54(3)(a) by April 1 of the year following the
146 deadline for the regulatory plan. This deadline may be extended
147 if the agency publishes a notice of extension in the Florida
148 Administrative Register identifying each rulemaking proceeding
149 for which an extension is being noticed by citation to the
150 applicable notice of rule development as published in the
151 Florida Administrative Register. The agency shall include a
152 concise statement in the notice of extension identifying any
153 issues that are causing the delay in rulemaking. An extension
154 shall expire on October 1 after the April 1 deadline, provided
155 that the regulatory plan due on October 1 may further extend the
156 rulemaking proceeding by identification pursuant to subparagraph
157 (1)(c)1. or conclude the rulemaking proceeding by identification
158 pursuant to subparagraph (1)(c)2. A published regulatory plan
159 may be corrected at any time to accomplish the purpose of
160 extending or concluding an affected rulemaking proceeding and is
161 deemed corrected as of the October 1 due date. Upon publication
162 of a correction, the agency shall publish in the Florida
163 Administrative Register a notice of the date of the correction
164 identifying the affected rulemaking proceeding by applicable
165 citation to the Florida Administrative Register.
166 (6) CERTIFICATIONS.—Each agency shall file a certification
167 with the committee upon compliance with subsection (4) and upon
168 filing a notice under subsection (5) of either a deadline
169 extension or a regulatory plan correction. A certification may
170 relate to more than one notice or contemporaneous act. The date
171 or dates of compliance shall be noted in each certification.
172 (7) SUPPLEMENTING THE REGULATORY PLAN.—After publication of

173 the regulatory plan, the agency shall supplement the plan within
174 30 days after a bill becomes a law if the law is enacted before
175 the next regular session of the Legislature and the law
176 substantively modifies the agency's specifically delegated legal
177 duties, unless the law affects all or most state agencies as
178 identified by letter to the committee from the Governor or the
179 Attorney General. The supplement must include the information
180 required in paragraph (1)(a) and shall be published as required
181 in subsection (2), but no certification or delivery to the
182 committee is required. The agency shall publish in the Florida
183 Administrative Register notice of publication of the supplement,
184 and include a hyperlink on its website or web address for direct
185 access to the published supplement. For each law reported in the
186 supplement, if rulemaking is necessary to implement the law, the
187 agency shall publish a notice of rule development by the later
188 of the date provided in subsection (4) or 60 days after the bill
189 becomes a law, and a notice of proposed rule shall be published
190 by the later of the date provided in subsection (5) or 120 days
191 after the bill becomes a law. The proposed rule deadline may be
192 extended to the following October 1 by notice as provided in
193 subsection (5). If such proposed rule has not been filed by
194 October 1, a law included in a supplement shall also be included
195 in the next annual plan pursuant to subsection (1).
196 (8) FAILURE TO COMPLY.—If an agency fails to comply with a
197 requirement of paragraph (2)(a) or subsection (5), within 15
198 days after written demand from the committee or from the chair
199 of any other legislative committee, the agency shall deliver a
200 written explanation of the reasons for noncompliance to the
201 committee, the President of the Senate, the Speaker of the House

202 of Representatives, and the chair of any legislative committee
203 requesting the explanation of the reasons for noncompliance.
204 (9) EDUCATIONAL UNITS.—This section does not apply to
205 educational units.
206 Section 3. Section 120.7455, Florida Statutes, is repealed.
207 Section 4. Effective upon this act becoming a law, any
208 suspension of rulemaking authority under s. 120.745, Florida
209 Statutes is rescinded. This section does not affect any
210 restriction, suspension, or prohibition of rulemaking authority
211 under any other provision of law.
212 Section 5. Except as otherwise expressly provided in this
213 act and except for this section, which shall take effect upon
214 this act becoming a law, this act shall take effect July 1,
215 2015.

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 Appropriations

BILL: CS/SB 7056

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on General Government) and Governmental Oversight and Accountability Committee

SUBJECT: Administrative Procedures

DATE: April 23, 2015 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	Peacock	McVaney		**GO Submitted as Committee Bill**
1.	Davis	DeLoach	AGG	**Recommend: Fav/CS**
2.	Davis	Kynoch	AP	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 7056 amends sections 120.54 and 120.74, Florida Statutes, and replaces the biennial summary reporting requirement with an expanded, annual regulatory plan. It requires each agency to determine whether each new law creating or affecting the agency's authority will require new or amended rules. If so, the agency must initiate rulemaking by a specific time. If not, the agency must state concisely why the law may be implemented without additional rulemaking. The regulatory plan also must state each existing law on which the agency will initiate rulemaking in the current fiscal year. The agency head and his or her principal legal advisor must certify that they have reviewed the plan and that the agency conducts a review of its rulemaking authority. The existing 180-day requirement is revised to coincide with the specific publishing requirements.

The bill repeals section 120.7455, Florida Statutes, pertaining to the online survey of regulatory impacts. Additionally, the bill rescinds the suspension of rulemaking authority made under section 120.745, Florida Statutes.

The bill may have an indeterminate, but minimal fiscal impact on state agencies.

The bill provides an effective date of July 1, 2015, except as otherwise provided.

II. Present Situation:

Background

A rule is an agency statement of general applicability which interprets, implements, or prescribes law or policy, including the procedure and practice requirements of an agency, as well as certain types of forms.[1] The effect of an agency statement determines whether it meets the statutory definition of a rule, regardless of how the agency characterizes the statement.[2] If an agency statement generally requires compliance, creates certain rights while adversely affecting others, or otherwise has the direct and consistent effect of law, it is a rule.[3]

Rulemaking authority is delegated by the Legislature[4] authorizing an agency to "adopt, develop, establish, or otherwise create"[5] a rule. Agencies do not have discretion whether to engage in rulemaking.[6] To adopt a rule, an agency must have an express grant of authority to implement a specific law by rulemaking.[7] The grant of rulemaking authority itself need not be detailed.[8] The particular statute being interpreted or implemented through rulemaking must provide specific standards and guidelines to preclude the administrative agency from exercising unbridled discretion in creating policy or applying the law.[9] A delegation of authority to an administrative agency by a law that is vague, uncertain, or so broad as to give no notice of what actions would violate the law, may unconstitutionally allow the agency to make the law.[10] Because of this constitutional limitation on delegated rulemaking, the Legislature must provide minimal standards and guidelines in the law creating a program to provide for its proper administration by the assigned executive agency. The Legislature may delegate rulemaking authority to agencies, but not the authority to determine what should be the law.[11]

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[1] Section 120.52(16), F.S.; *Florida Department of Financial Services v. Capital Collateral Regional Counsel-Middle Region*, 969 So. 2d 527, 530 (Fla. 1st DCA 2007).
[2] *Dept. of Administration v. Harvey*, 356 So. 2d 323, 325 (Fla. 1st DCA 1977).
[3] *McDonald v. Dep't of Banking & Fin.*, 346 So.2d 569, 581 (Fla. 1st DCA 1977), articulated this principle subsequently cited in numerous cases. See, *State of Florida, Dept. of Administration v. Stevens*, 344 So. 2d 290 (Fla. 1st DCA 1977); *Dept. of Administration v. Harvey*, 356 So. 2d 323 (Fla. 1st DCA 1977); *Balsam v. Department of Health and Rehabilitative Services*, 452 So.2d 976, 977–978 (Fla. 1st DCA 1984); *Department of Transp. v. Blackhawk Quarry Co.*, 528 So.2d 447, 450 (Fla. 5th DCA 1988), rev. den. 536 So.2d 243 (Fla.1988); *Dept. of Natural Resources v. Wingfield*, 581 So. 2d 193, 196 (Fla. 1st DCA 1991); *Dept. of Revenue v. Vanjaria Enterprises, Inc.*, 675 So. 2d 252, 255 (Fla. 5th DCA 1996); *Volusia County School Board v. Volusia Homes Builders Association, Inc.*, 946 So. 2d 1084 (Fla. 5th DCA 2007); *Florida Dept. of Financial Services v. Capital Collateral Regional Counsel*, 969 So. 2d 527 (Fla. 1st DCA 2007); *Coventry First, LLC v. State of Florida, Office of Insurance Regulation*, 38 So. 3d 200 (Fla. 1st DCA 2010).
[4] *Southwest Florida Water Management District v. Save the Manatee Club, Inc.*, 773 So. 2d 594 (Fla. 1st DCA 2000).
[5] Section 120.52(17), F.S.
[6] Section 120.54(1)(a), F.S.
[7] Sections 120.52(8) & 120.536(1), F.S.
[8] *Save the Manatee Club, Inc.*, supra at 599.
[9] *Sloban v. Florida Board of Pharmacy*, 982 So. 2d 26, 29-30 (Fla. 1st DCA 2008); *Board of Trustees of the Internal Improvement Trust Fund v. Day Cruise Association, Inc.*, 794 So. 2d 696, 704 (Fla. 1st DCA 2001).
[10] *Conner v. Joe Hatton, Inc.*, 216 So.2d 209 (Fla.1968).
[11] *Sarasota County. v. Barg*, 302 So.2d 737 (Fla. 1974).

In 1996, the Legislature extensively revised[12] agency rulemaking under the Administrative Procedure Act (APA)[13] to require both an express grant of rulemaking authority and a specific law to be implemented by the rule.

Section 120.54(1)(b), F.S., the "180 Day" Requirement

An agency may not delay implementation of a statute pending adoption of specific rules, unless there is an express provision prohibiting application of the statute before implementing rules are adopted.[14] If a law is enacted that requires agency rules for its proper implementation, "such rules shall be drafted and formally proposed as provided in s. 120.54, F.S., within 180 days after the effective date of the act, unless the act provides otherwise."[15] This "180 day requirement" predates the 1996 revisions.[16]

The statute does not require complete adoption of rules within 180 days. An agency may comply with the statute merely by publishing a notice of proposed rule.[17] Proposed rules can be repeatedly, substantially revised based on public input and they may also be withdrawn. Consequently, the 180 day requirement does not ensure prompt rulemaking.

Joint Administrative Procedures Committee Monitoring and Agency Compliance

The Joint Administrative Procedures Committee (JAPC) monitors agency compliance with the 180 day requirement in furtherance of its rulemaking oversight duties.[18] The JAPC staff review legislation enacted each session to identify new or changed laws that appear to require the adoption of new rules or the amendment or repeal of existing rules for proper implementation. Where the law appears to mandate new rulemaking (for example, using terms such as "shall adopt rules," or provides that the agency "shall establish" some standard or "must" make some policy), or restates an existing "mandate" for rulemaking, the JAPC sends a letter reminding the agency of the 180 day requirement. If the text of proposed rules is not published, at least as part of a notice of rule development, within the 180 days, the JAPC will follow with an inquiry as to when the agency will initiate public rulemaking on that issue.

The JAPC has no power to compel the 180 day compliance; however, agencies generally comply with the requirement. In recent years, the JAPC has identified several agencies that had not proposed rules within 180 days of the enactment of laws appearing to mandate new rulemaking. At its meeting of February 18, 2013, the JAPC heard presentations from 13 different agencies on whether rulemaking actually was necessary to implement particular laws and, if so, explanations for the lack of progress. Some members of the committee asked whether these agencies treated the statute as a "suggestion" instead of a mandatory rulemaking requirement. Again, on

[12] Ch. 96-159, L.O.F.
[13] Chapter 120, F.S.
[14] Section 120.54(1)(c), F.S.
[15] Section 120.54(1)(b), F.S.
[16] The 180 requirement was enacted as Ch. 85-104, s. 7, L.O.F.
[17] Section 120.54(3)(a), F.S. This is the common interpretation of the 180 day requirement. An alternative interpretation would be that a notice of rule development published under s. 120.54(2), F.S., including a *preliminary* draft of proposed rules, may be sufficient to comply.
[18] Joint Rule 4.6.

February 2, 2015, the JAPC received a report from its staff reflecting continuing related problems.

"Directive" vs. "Mandate"

Courts generally interpret words in statute such as "shall" or "must" as mandating a particular action where the alternative to the action is a possible deprivation of some right. However, use of such otherwise-mandatory terms where there is no effective consequence for the failure to act renders them *directory*, not compulsory.[19] A person regulated by an agency or having a substantial interest in an agency rule may petition that agency to adopt, amend, or repeal a rule,[20] including where the agency does not act within the 180 day requirement. The APA provides no other process to enforce the 180 day requirement, no legal sanction for failure to comply, nor the authority for any specific entity to compel compliance.

Section 120.74, F.S., Biennial Reporting

1996 Reporting Requirement

As part of the comprehensive revision of rulemaking in 1996, agencies were required to review all rules adopted before October 1, 1996, identify those exceeding the rulemaking authority permitted under the revised APA, and report the results to the JAPC. The JAPC would prepare and submit a combined report of all agency reviews to the President of the Senate and Speaker of the House of Representatives for legislative consideration.[21]

Another 1996 law added a requirement for ongoing rulemaking review, revision, and reporting.[22] Under that law as presently amended, each agency must review its rules every two years and amend or repeal rules as necessary to comply with specific requirements.[23] The agency head must report the results and other required information to the President of the Senate, the Speaker of the House of Representatives, the JAPC, and "each appropriate standing committee of the Legislature" biennially on October 1.[24]

Limited Utility of s. 120.74 Reports

Agencies as defined in the APA,[25] including school districts, comply with the requirements of s. 120.74, F.S., typically by filing summary reports that simply verify the agency performed the required reviews, list rules identified in the review for amendment or repeal, and finding no undue economic impact on small businesses (a required subject of the report). For example, one

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[19] *S.R. v. State*, 346 So.2d 1018, 1019 (Fla.1977); *Reid v. Southern Development Co.*, 42 So. 206, 208, 52 Fla. 595, 603 (1906); *Ellsworth v. State*, 89 So.3d 1076, 1079 (Fla. 2d DCA 2012); *Kinder v. State*, 779 So. 2d 512, 514 (Fla. 2d DCA 2000).

[20] Section 120.54(7), F.S. If the agency denies the petition the requesting party may seek judicial review of that decision. Sections 120.52(2) and 120.68, F.S.

[21] Ch. 96-159, s. 9(2), L.O.F.

[22] Ch. 96-399, s. 46, L.O.F., codified as s. 120.74, F.S. In both 2006 and 2008, the Legislature added substantive provisions to this section. Chapter's 2006-82, s. 9, and 2008-179, s. 8, L.O.F.

[23] Identify and correct deficiencies; clarification and simplification; delete rules that are obsolete, unnecessary, or merely repeat statutory language; improve efficiency, reduce paperwork, decrease costs to private sector and government; coordinate rules with agencies having concurrent or overlapping jurisdiction. Section 120.74(1), F.S. (Supp. 1996).

[24] Section 120.74(2), F.S.

[25] Section 120.52(1), F.S.

2009 report from a school district identified the following changes to the student code of conduct:

> The Code of Student Conduct is reviewed and revised annually and serves as the School Board's policies and procedures for governing student behavior on school grounds, at school activities, and while being transported to and from school. The majority of the recommended changes for 2008-09 are minor revisions in punctuation, spelling, language, or order of paragraphs.[26]

The 2013 report for the same school district states the following as "what & why the policy changed" for the student code of conduct:

> The Code of Student Conduct is reviewed and revised annually and serves as the School Board's policies and procedures for governing student behavior on school grounds, at school activities, and while being transported to and from school.[27]

A different school district submitted substantially the same reports for 2009 and 2013, commenting only on that district's review and management of forms. That district's reports included no information on whether any rules were identified as requiring revision or repeal due to changes in law.[28]

Reports by state agencies have reflected inconsistent application of the requirement for the report to "specify any changes made to (the agency's) rules as a result of the review…"[29] One agency's 2009 report identified each rule requiring repeal or amendment and new rules required by program changes, including a brief explanation of the reason for the amendment or adoption.[30] A different agency simply identified obsolete rules for repeal (without stating why these were obsolete) and listed a rule for amendment to update documents incorporated by reference (without identifying the documents so referenced.)[31] Some agencies provided lengthy lists of rules identified for amendment or repeal with little explanation other than repeating the terms of the review statute as to the reason for such proposed action.[32]

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[26] School Board of Manatee County, "Section 120.74 Report" (Sept. 29, 2009), received by JAPC on Nov. 3, 2009. On file with Subcommittee staff.
[27] School Board of Manatee County, "Section 120.74 Report" (Sept. 24, 2013), received by the House on Oct. 3, 2013. On file with Subcommittee staff.
[28] School Board of Santa Rosa County, 2009 Report received by JAPC on Sept. 30, 2009, and 2013 Report received by the House on Aug. 26, 2013, both on file with Subcommittee Staff.
[29] Section 120.74(2), F.S.
[30] Dept. of Children and Families, "Biennial rule review report required by section 120.74, Florida Statutes" (Oct. 1, 2009), received by JAPC on Oct. 7, 2009.
[31] Dept. of Agriculture and Consumer Services, "August 20, 2009 Memorandum regarding §120.74, Florida Statutes, Rule Review" (Oct. 1, 2009), received by the JAPC on Oct. 1, 2009.
[32] Dept. of Business & Professional Regulation, "Section 120.74, Florida Statutes Biennial Report to the Legislature" (Oct. 1, 2009), received by JAPC on Oct. 5, 2009; Dept. of Environmental Protection, 2009 Report received by JAPC on Oct. 2, 2009.

Educational units are exempt from the biennial reporting requirements.[33]

Regulatory Plans

During the 2011 Session, the reporting requirements were amended to require each agency to file an annual regulatory plan in addition to the biennial reports.[34] The regulatory plan identifies those rules the agency intends to adopt, amend, or repeal during the next fiscal year. These reports have not proven any more substantive than the biennial reports described above.

Section 120.745, F.S., Retrospective Economic Review of Rules

In November 2010, the Legislature enacted a new limitation on agency rulemaking: any rule adopted after the date of the act, whether a new or amended rule, that may likely have a significant economic impact, could not go into effect unless first ratified by the Legislature.[35] The law requires an agency to prepare a full Statement of Estimated Regulatory Costs (SERC) if the proposed rule either will have an adverse impact on small businesses or if the rule is likely to directly or indirectly increase regulatory costs in excess of $200,000 in the aggregate in the first year after the rule is implemented.[36] Additionally, the SERC must include an economic analysis addressing whether the rule is likely to have one of three specific impacts, directly or indirectly, in excess of $1 million in the aggregate within five years of going into effect.[37]

The requirements applied only to rules which had not become effective as of November 17, 2010, or were proposed for adoption after that date. Existing rules were not subject to the ratification requirement. In 2011, the Legislature enacted s. 120.745, F.S., to require a retrospective economic analysis of those existing rules. All agencies required to publish their rules in the Florida Administrative Code (F.A.C.)[38] were required to review their rules, identify those potentially having one of the impacts described in s. 120.541(2)(a), F.S., over a five year period, complete a full comprehensive economic review of such rules, and publicly publish the results and certify their compliance with the statute to the JAPC. In 2011, all agencies were to publish the results of their initial reviews and identification of existing rules likely to have the significant economic impacts.[39] At the agency's discretion, the full Compliance Economic Reviews for one portion of these rules (Group 1) were to be published by December 1, 2012; the remaining reviews (Group 2) were to be published by December 1, 2013.[40]

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[33] Section 2, ch. 2014-39, L.O.F., codified as s. 120.745(5), F.S.
[34] Ch. 2011-225, s. 4, L.O.F. The bill also suspended reporting in 2011 and 2013 under s. 120.74(1) and (2), F.S., to avoid duplication with the economic reviews and reports under s. 120.745, F.S.
[35] Section 120.541(3), F.S.
[36] Sections 120.54(3)(b)1. & 120.541(1)(b), F.S.
[37] Section 120.541(2)(a), F.S. The three impacts are whether the rule will have 1) an adverse impact on economic growth, private sector job creation or employment, or private sector employment; 2) an adverse impact on business competitiveness, including competition with interstate firms, productivity, or innovation; or 3) an increase in regulatory costs, including transactional costs as defined by s. 120.541(2)(d), F.S.
[38] A provision in the act designed specifically to *de facto* exclude educational units (defined in s. 120.52(6), F.S.) which do not publish their rules in the F.A.C. pursuant to s. 120.55(1)(a)2., F.S. Certain other publication requirements also do not apply to educational units; s. 120.81(1), F.S.
[39] Section 120.745(2), F.S. The statute required each agency to publish the number of its rules implementing or affecting state revenues (revenue rules), requiring submission of information or data by third parties (data collection rules), rules to be repealed, rules to be amended to reduce economic impacts, and those rules that would be reported in Groups 1 or 2.
[40] Section 120.745(5), F.S.

The Governor directed a review of all existing agency rules through the newly-created Office of Fiscal Accountability and Regulatory Reform (OFARR).[41] Because most agencies participated in this review, and many of the elements were similar to the retrospective economic reviews contemplated by the Legislature, the law exempted those agencies participating in the Governor's review from most of the new law's requirements. These "exempt" agencies were required to publish their initial determination of those rules requiring full Compliance Economic Reviews in 2011[42] and all final reviews by December 31, 2013.[43]

All agencies complied with the required retrospective review and publication of reports. Of those agencies not participating in the OFARR review process, only five[44] identified rules requiring Compliance Economic Reviews.[45] Of the 161 Compliance Economic Reviews published by these five agencies in 2012, only 72 reviews showed the subject rule as having a specific impact exceeding $1 million over the five year period from July 1, 2011 to July 1, 2016.

Section 120.7455, F.S., Your Voice Survey

As part of the increased oversight of agency rulemaking enacted in 2011, the Legislature sought public participation and input about the effect of agency rules through use of an online survey. Those wanting to comment on any rule could log in to the survey form,[46] respond to a series of questions intended to identify the particular rule and the context of the comment, and provide as much information as the participant thought necessary. Access to the online form was directed primarily through the website of the Florida House of Representatives and was known as the "Your Voice Survey."

To encourage public participation and obtain as wide a variety of comments as possible during the period July 1, 2011, to July 1, 2014, section 120.7455, F.S.,[47] was enacted to provide certain limited protections from enforcement actions based on any response to the survey. One reporting or providing information solicited by the Legislature in conformity with s. 120.7455, F.S., was immune from any enforcement action or prosecution based on the fact of such reporting (or non-reporting) or using information provided in response to the survey.[48] If a person subject to a penalty in excess of the minimum provided by law or rule proved the enforcement action was in retaliation for providing or withholding any information in response to the survey, the penalty would be limited to the minimum provided for each separate violation.[49]

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[41] Executive Order 11-01, subsequently revised by EO 11-72 and replaced by EO 11-211.
[42] As required by the statute, exempt agencies published the number of identified revenue rules (2,078), data collection rules (3,529), rules to be repealed (1,852), rules to be amended to reduce economic impacts (1,441), and rules requiring Compliance Economic Reviews (3,056). At https://www.myfloridalicense.com/rulereview/Rule-Review-Reports.html (accessed Oct. 22, 2013).
[43] Section 120.745(9), F.S.
[44] Dept. of Agriculture and Consumer Services, Dept. of Citrus, Dept. of Financial Services, Office of Financial Regulation, and Public Service Commission.
[45] As required by the statute, "non-exempt" agencies published the number of identified revenue rules (508), data collection rules (1,169), rules to be repealed (482), rules to be amended to reduce economic impacts (189), and rules requiring Compliance Economic Reviews to be reported in Group 1 (161) and Group 2 (182).
[46] At http://www.surveymonkey.com/s/FloridaRegReformSurvey (accessed Oct. 22, 2013).
[47] Ch. 2011-225, s. 6, L.O.F.
[48] Section 120.7455(3), F.S.
[49] Section 120.7455(4), F.S.

The survey was initiated in October 2011, and received 2,723 responses through October 22, 2013. No response appeared to place the participant in jeopardy of prosecution or administrative enforcement. The survey responses were of limited value. Many voiced support or disapproval for issues outside the scope of the survey, such as federal laws, regulations or policies, unrelated state statutes, or local ordinances. Fewer than 200 directly addressed a particular agency rule and of those no more than 40 provided information about the economic or policy impacts of the rule. Because the limited protection in the statute proved to be unnecessary, no apparent purpose is served by continuing the statute.

III. Effect of Proposed Changes:

Section 1 amends s. 120.54, F.S., to eliminate the current 180 day time period granted to agencies to draft and formally propose rules necessary to implement legislation. The new time frames for agencies to begin rulemaking will be no later than November 1 for the notice of rule development and April 1 for the notice of proposed rule.

Section 2 amends s. 120.74, F.S., to replace the current biennial reports with an annual regulatory plan, establish deadlines for specific actions in the rulemaking process, and suspend agency rulemaking if an agency fails to comply with certain requirements.

Regulatory Plan

The bill requires each agency to submit a regulatory plan by October 1 of each year. The regulatory plan must include:

- A listing of each law enacted or amended during the previous 12 months that modifies the duties and authority of the agency. For each law listed, the agency must determine whether:
  - The agency must adopt rules to implement the law;
  - If rulemaking is necessary to implement the law;
    - Whether a notice of rule development has been published and, if so, the citation to such notice in the Florida Administrative Register (FAR).
    - The date by which the agency expects to publish the notice of proposed rule under s. 120.54(3)(a), and
  - If rulemaking is not necessary, the reasons that the law may be implemented without rulemaking.
- A listing of any other laws the agency expects to implement by rulemaking before the following July 1. For each law listed, the agency must state the purpose of the rulemaking.

If the Governor or Attorney General provides a letter to the Joint Administrative Procedures Committee (JAPC) stating that a law affects all or most agencies, the agency may exclude the law from its regulatory plan.

The regulatory plan must also include information relating to any law identified in a previous year's regulatory plan as requiring rulemaking for implementation for which no notice of proposed rule has been published. The plan must include a certification by the agency head and the individual acting as a principal legal advisor to the agency head that those individuals have reviewed the plan and that the agency regularly reviews all of its agency rules to determine whether the rules remain consistent with the agency's rulemaking authority and legal authority.

If the agency has subsequently determined that rulemaking is not necessary to implement the law, the agency must identify such law, reference the citation to the applicable notice of rule development in the FAR, and provide a concise written explanation of the reason why the law may be implemented without rulemaking.

Publication and Delivery to JAPC

The bill requires the agency to publish by October 1 of each year the annual regulatory plan on the agency website or other state website established for such publication. The agency must electronically provide a copy of the certification signed by the agency head and the agency's primary legal advisor to the JAPC. The agency must publish a notice in the Florida Administrative Register identifying the date of publication of the regulatory plan, including a hyperlink or website address for the regulatory plan.

A board established under s. 20.165(4), F.S., and any other board or commission receiving administrative support from the Department of Business and Professional Regulation (DBPR), may coordinate with the DBPR, and a board established under s. 20.43(3)(g), F.S., may coordinate with the Department of Health (DOH), for inclusion of the board's or commission's plan and notice of publication in the coordinating department's plan and notice and for the delivery of the required regulatory plan to the JAPC.

The bill also requires that regulatory plans published in accordance with the provisions of this bill and regulatory plans published before July 1, 2014, must be made available to the public online for ten years. This will assist elected officials and the general public in reviewing agency implementation of laws through rulemaking.

DBPR AND DOH Review of Board Plans

By October 15 of each year, the DBPR shall file with the JAPC a certification that the DBPR has reviewed each board's and commission's regulatory plan for each board established under s. 20.165(4), F.S., and any other board or commission receiving administrative support from the DBPR. A certification may relate to more than one board or commission.

By October 15 of each year, the DOH shall file with the JAPC a certification that the DOH has reviewed each board's regulatory plan for each board established under s. 20.43(3)(g), F.S. A certification may relate to more than one board.

New Deadline for Rule Development

The bill establishes a new deadline for rule development. Rather than 180 days after the effective date of the legislation, the agency must publish a notice of rule development by November 1 after enactment or by the date the agency identified in the regulatory plan. The agency must then publish a notice of proposed rule by the following April 1. The agency may extend this deadline until the following October 1 if the agency publishes a notice of extension in the FAR. In addition, the agency must include a concise statement in the notice of extension identifying any issues causing the delay in rulemaking. The deadline for the notice of proposed rule can be further extended by the agency in the subsequent regulatory plan.

The bill permits an agency to correct a published regulatory plan at any time for the purpose of extending or concluding the affecting rulemaking proceeding, and such plan is deemed corrected as of the October 1 due date. The agency is required to publish a notice of the date of correction for the affected rulemaking proceeding in the FAR.

Certification

Each time an agency files a notice of rule development, a notice for a deadline extension, or a regulatory plan correction, the agency must file a certification with the JAPC noting the action taken. The certification may apply to more than one notice or contemporaneous act. The date or dates of compliance must be noted in each certificate.

Supplementing the Regulatory Plan

After publication of the regulatory plan, the agency shall supplement the plan within 30 days after a bill becomes a law if the law is enacted before the next regular session of the Legislature and the law substantively modifies the agency's specifically delegated legal duties, unless the law affects all or most state agencies as identified by letter to the JAPC from the Governor or the Attorney General.

The supplement must include the information required for agency's annual regulatory plan and shall be published on its website or the FAR's website, but no certification or delivery to the JAPC is required. The agency shall publish in the FAR notice of publication of the supplement, and include a hyperlink on its website or web address for direct access to the published supplement. For each law reported in the supplement, if rulemaking is necessary to implement the law, the agency shall publish a notice of rule development by the later of November 1 or 60 days after the bill becomes a law, and a notice of proposed rule shall be published by the later of April 1 or 120 days after the bill becomes a law. The proposed rule deadline may be extended to the following October 1 by filing a notice of proposed rule. If such proposed rule has not been filed by October 1, a law included in a supplement shall also be included in the agency's next annual regulatory plan.

Failure to Comply

If an agency fails to publish and provide its completed regulatory plan by October 1, or publish a notice of proposed rule by April 1, the agency, within 15 days after written demand from the JAPC or the chair of any other legislative committee, must deliver a written explanation of the reasons for noncompliance. The explanation must be delivered to the JAPC, the President of the Senate, the Speaker of the House of Representatives, and the chair of any legislative committee that requested the explanation.

Educational Units

This section does not apply to educational units, including school districts.

Section 3 repeals s. 120.7455, F.S., relating to an Internet-based public survey of regulatory impacts.

Section 4 rescinds suspension of rulemaking authority under s. 120.745, F.S., effective upon this bill becoming law. This section does not affect any restriction, suspension, or prohibition of rulemaking authority under any other provision of law.

Section 5 provides an effective date of July 1, 2015, except as otherwise provided in the bill and except for this section which shall take effect upon this act becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

CS/SB 7056 requires agencies to publish additional information in the Florida Administrative Register (FAR), which has an associated cost. Such additional publication requirements will have an indeterminate, but minimal fiscal impact on agencies.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 120.54 and 120.74.

This bill repeals section 120.7455 of the Florida Statutes.

The bill rescinds the suspension of rulemaking authority under section 120.745 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS by Appropriations on April 23, 2015:
The committee substitute:

- Requires the agency to provide a concise written statement with the notice of extension of rule development identifying any issues that are causing the delayed implementation of the rule.
- Deletes the requirement that the agency regulatory plans be included in the agency legislative budget requests.
- Deletes the suspension or rulemaking authority included in the bill as the penalty for noncompliance.

B. Amendments:

None.

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

By the Committee on Governmental Oversight and Accountability

585-02716-15 20157056__

A bill to be entitled

An act relating to administrative procedures; amending s. 120.54, F.S.; revising the deadline to propose rules implementing new laws; amending s. 120.74, F.S.; revising requirements for the annual review of agency rules; providing procedures for preparing and publishing regulatory plans; specifying requirements for such plans; requiring publication by specified dates of notices of rule development and of proposed rules necessary to implement new laws; providing for suspension of an agency's rulemaking authority under certain circumstances; providing for applicability; repealing s. 120.7455, F.S., relating to legislative survey of regulatory impacts; providing for rescission of the suspension of rulemaking authority made under s. 120.745, F.S.; providing effective dates.

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

Section 1. Paragraph (b) of subsection (1) of section 120.54, Florida Statutes, is amended to read:

120.54 Rulemaking.—

(1) GENERAL PROVISIONS APPLICABLE TO ALL RULES OTHER THAN EMERGENCY RULES.—

(b) Whenever an act of the Legislature is enacted which requires implementation of the act by rules of an agency within the executive branch of state government, such rules shall be drafted and formally proposed as provided in this section within the times provided in s. 120.74(5) and (6) ~~180 days after the~~

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585-02716-15 20157056__

~~effective date of the act, unless the act provides otherwise~~.

Section 2. Section 120.74, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 120.74, F.S., for present text.)

120.74 Agency annual rulemaking and regulatory plans; reports.—

(1) REGULATORY PLAN.—By October 1 of each year, each agency shall prepare an implementation and rulemaking plan.

(a) The plan must include a listing of each law enacted or amended during the previous 12 months which creates or modifies the duties or authority of the agency. If the Governor or the Attorney General provides a letter to the committee stating that a law affects all or most agencies, the agency may exclude the law from its plan. For each law listed by an agency under this paragraph, the plan must state:

1. Whether the agency must adopt rules to implement the law.

2. If rulemaking is necessary to implement the law:

a. Whether a notice of rule development has been published and, if so, the citation to such notice in the Florida Administrative Register.

b. The date by which the agency expects to publish the notice of proposed rule under s. 120.54(3)(a).

3. If rulemaking is not necessary to implement the law, a concise written explanation of the reasons why the law may be implemented without rulemaking.

(b) The plan must also include a listing of each law not otherwise listed pursuant to paragraph (a) which the agency

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59 expects to implement by rulemaking before the following July 1,
60 except emergency rulemaking. For each law listed under this
61 paragraph, the plan must state whether the rulemaking is
62 intended to simplify, clarify, increase efficiency, improve
63 coordination with other agencies, reduce regulatory costs, or
64 delete obsolete, unnecessary, or redundant rules.
65 (c) The plan must include any desired update to the prior
66 year's regulatory plan or supplement published pursuant to
67 subsection (8). If, in a prior year, a law was identified under
68 this paragraph or under subparagraph (a)1. as a law requiring
69 rulemaking to implement but a notice of proposed rule has not
70 been published:
71 1. The agency may identify and again list such law, noting
72 the applicable notice of rule development by citation to the
73 Florida Administrative Register; or
74 2. If the agency has subsequently determined that
75 rulemaking is not necessary to implement the law, the agency may
76 identify such law, reference the citation to the applicable
77 notice of rule development in the Florida Administrative
78 Register, and provide a concise written explanation of the
79 reason why the law may be implemented without rulemaking.
80 (d) The plan must include a certification executed on
81 behalf of the agency by both the agency head, or, if the agency
82 head is a collegial body, the chair or equivalent presiding
83 officer; and the agency general counsel, or, if the agency does
84 not have a general counsel, the individual acting as principal
85 legal advisor to the agency head. The certification must:
86 1. Verify that the persons executing the certification have
87 reviewed the plan.

88 2. Verify that the agency regularly reviews all of its
89 rules and identify the period during which all rules have most
90 recently been reviewed to determine if the rules remain
91 consistent with the agency's rulemaking authority and the laws
92 implemented.
93 (2) PUBLICATION AND DELIVERY TO THE COMMITTEE.—
94 (a) By October 1 of each year, each agency shall:
95 1. Publish its regulatory plan on its website or on another
96 state website established for publication of administrative law
97 records. A clearly labeled hyperlink to the current plan must be
98 included on the agency's primary website homepage.
99 2. Electronically deliver to the committee a copy of the
100 certification required in paragraph (1)(d).
101 3. Publish in the Florida Administrative Register a notice
102 identifying the date of publication of the agency's regulatory
103 plan. The notice must include a hyperlink or website address
104 providing direct access to the published plan.
105 (b) To satisfy the requirements of paragraph (a), a board
106 established under s. 20.165(4), and any other board or
107 commission receiving administrative support from the Department
108 of Business and Professional Regulation, may coordinate with the
109 Department of Business and Professional Regulation, and a board
110 established under s. 20.43(3)(g) may coordinate with the
111 Department of Health, for inclusion of the board's or
112 commission's plan and notice of publication in the coordinating
113 department's plan and notice and for the delivery of the
114 required documentation to the committee.
115 (c) A regulatory plan prepared under subsection (1) and any
116 regulatory plan published under this chapter before July 1,

117 2014, shall be maintained at an active website for 10 years
118 after the date of initial publication on the agency's website or
119 another state website.
120 (3) INCLUSION IN LEGISLATIVE BUDGET REQUEST.—In addition to
121 the requirements of s. 216.023 and pursuant to s. 216.351, a
122 copy of the most recent certification executed under paragraph
123 (1)(d), clearly designated as such, shall be included as part of
124 the agency's legislative budget request.
125 (4) DEPARTMENT REVIEW OF BOARD PLAN.—By October 15 of each
126 year:
127 (a) For each board established under s. 20.165(4) and any
128 other board or commission receiving administrative support from
129 the Department of Business and Professional Regulation, the
130 Department of Business and Professional Regulation shall file
131 with the committee a certification that the department has
132 reviewed each board's and commission's regulatory plan. A
133 certification may relate to more than one board or commission.
134 (b) For each board established under s. 20.43(3)(g), the
135 Department of Health shall file with the committee a
136 certification that the department has reviewed the board's
137 regulatory plan. A certification may relate to more than one
138 board.
139 (5) DEADLINE FOR RULE DEVELOPMENT.—By November 1 of each
140 year, each agency shall publish a notice of rule development
141 under s. 120.54(2) for each law identified in the agency's
142 regulatory plan pursuant to subparagraph (1)(a)1. for which
143 rulemaking is necessary to implement but for which the agency
144 did not report the publication of a notice of rule development
145 under subparagraph (1)(a)2.

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146 (6) DEADLINE TO PUBLISH PROPOSED RULE.—For each law for
147 which implementing rulemaking is necessary as identified in the
148 agency's plan pursuant to subparagraph (1)(a)1. or subparagraph
149 (1)(c)1., the agency shall publish a notice of proposed rule
150 pursuant to s. 120.54(3)(a) by April 1 of the year following the
151 deadline for the regulatory plan. This deadline may be extended
152 if the agency publishes a notice of extension in the Florida
153 Administrative Register identifying each rulemaking proceeding
154 for which an extension is being noticed by citation to the
155 applicable notice of rule development as published in the
156 Florida Administrative Register. An extension shall expire on
157 October 1 after the April 1 deadline, provided that the
158 regulatory plan due on October 1 may further extend the
159 rulemaking proceeding by identification pursuant to subparagraph
160 (1)(c)1. or conclude the rulemaking proceeding by identification
161 pursuant to subparagraph (1)(c)2. A published regulatory plan
162 may be corrected at any time to accomplish the purpose of
163 extending or concluding an affected rulemaking proceeding and is
164 deemed corrected as of the October 1 due date. Upon publication
165 of a correction, the agency shall publish in the Florida
166 Administrative Register a notice of the date of the correction
167 identifying the affected rulemaking proceeding by applicable
168 citation to the Florida Administrative Register.
169 (7) CERTIFICATIONS.—Each agency shall file a certification
170 with the committee upon compliance with subsection (5), upon
171 filing a notice under subsection (6) of either a deadline
172 extension or a regulatory plan correction, and upon the
173 completion of an act that terminates a suspension under
174 subsection (9). A certification may relate to more than one

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175 notice or contemporaneous act. The date or dates of compliance
176 shall be noted in each certification.
177 (8) SUPPLEMENTING THE REGULATORY PLAN.—After publication of
178 the regulatory plan, the agency shall supplement the plan within
179 30 days after a bill becomes a law if the law is enacted before
180 the next regular session of the Legislature and the law
181 substantively modifies the agency's specifically delegated legal
182 duties, unless the law affects all or most state agencies as
183 identified by letter to the committee from the Governor or the
184 Attorney General. The supplement must include the information
185 required in paragraph (1)(a) and shall be published as required
186 in subsection (2), but no certification or delivery to the
187 committee is required. The agency shall publish in the Florida
188 Administrative Register notice of publication of the supplement,
189 and include a hyperlink on its website or web address for direct
190 access to the published supplement. For each law reported in the
191 supplement, if rulemaking is necessary to implement the law, the
192 agency shall publish a notice of rule development by the later
193 of the date provided in subsection (5) or 60 days after the bill
194 becomes a law, and a notice of proposed rule shall be published
195 by the later of the date provided in subsection (6) or 120 days
196 after the bill becomes a law. The proposed rule deadline may be
197 extended to the following October 1 by notice as provided in
198 subsection (6). If such proposed rule has not been filed by
199 October 1, a law included in a supplement shall also be included
200 in the next annual plan pursuant to subsection (1).
201 (9) FAILURE TO COMPLY.—If an agency fails to comply with a
202 requirement of paragraph (2)(a) or subsection (6), the entire
203 rulemaking authority delegated to the agency by the Legislature

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204 under any statute or law shall be suspended automatically as of
205 the due date of the required action and shall remain suspended
206 until the date the agency completes the required act or until
207 the end of the next regular session of the Legislature,
208 whichever occurs first.
209 (a) During a period of suspension under this subsection,
210 the agency has no authority to file rules for adoption under s.
211 120.54, but may complete any action required by this section and
212 may conduct public hearings that were noticed before the period
213 of suspension.
214 (b) A suspension under this subsection does not authorize
215 an agency to adopt or apply a statement defined as a rule under
216 s. 120.52(16) unless the statement was filed for adoption under
217 s. 120.54(3) before the suspension.
218 (c) A suspension under this subsection tolls the time
219 requirements under s. 120.54 for filing a rule for adoption in a
220 rulemaking proceeding initiated by the agency before the date of
221 the suspension. The time requirements shall resume on the date
222 the suspension ends.
223 (d) This subsection does not suspend the adoption of
224 emergency rules under s. 120.54(4) or rulemaking necessary to
225 ensure the state's compliance with federal law.
226 (10) EDUCATIONAL UNITS.—This section does not apply to
227 educational units.
228 Section 3. Section 120.7455, Florida Statutes, is repealed.
229 Section 4. Effective upon this act becoming a law, any
230 suspension of rulemaking authority under s. 120.745, Florida
231 Statutes is rescinded. This section does not affect any
232 restriction, suspension, or prohibition of rulemaking authority

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233 under any other provision of law.
234 Section 5. Except as otherwise expressly provided in this
235 act and except for this section, which shall take effect upon
236 this act becoming a law, this act shall take effect July 1,
237 2015.

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CourtSmart Tag Report

Room: KN 412 **Case:** **Type:**
Caption: Senate Appropriations Committee **Judge:**

Started: 4/21/2015 10:05:30 AM
Ends: 4/21/2015 6:00:08 PM **Length: 07:54:39**

10:05:32 AM	Sen. Lee (Chair)
10:06:04 AM	Recording Paused
10:07:01 AM	Recording Resumed
10:07:48 AM	Sen. Lee
10:08:10 AM	Sen. Gardiner
10:16:27 AM	Sen. Lee
10:19:05 AM	Carol Gormley, Senior Policy Advisor, Office of the Senate President
10:24:59 AM	Sen. Gaetz
10:25:24 AM	C. Gormley
10:25:35 AM	Sen. Lee
10:25:44 AM	Sen. Hays
10:26:16 AM	C. Gormley
10:26:52 AM	Sen. Hays
10:27:19 AM	C. Gormley
10:27:44 AM	Sen. Hays
10:28:17 AM	C. Gormley
10:29:16 AM	Sen. Lee
10:29:22 AM	Sen. Garcia
10:30:27 AM	Sen. Sobel
10:30:58 AM	C. Gormley
10:31:40 AM	Sen. Sobel
10:32:41 AM	Sen. Lee
10:33:17 AM	Sen. Sobel
10:33:37 AM	Sen. Lee
10:33:38 AM	
10:33:39 AM	Sen. Margolis
10:35:05 AM	C. Gormley
10:37:07 AM	Sen. Lee
10:37:13 AM	Sen. Bradley
10:37:38 AM	C. Gormley
10:37:49 AM	Sen. Bradley
10:39:32 AM	C. Gormley
10:40:47 AM	Sen. Lee
10:41:17 AM	C. Gormley
10:46:15 AM	Sen. Lee
10:46:28 AM	Sen. Dean
10:46:46 AM	C. Gormley
10:48:29 AM	Sen. Lee
10:48:32 AM	Sen. Hays
10:48:48 AM	C. Gormley
10:48:58 AM	Sen. Lee
10:49:07 AM	Sen. Joyner
10:50:06 AM	C. Gormley
10:51:14 AM	Sen. Joyner
10:51:31 AM	C. Gormley
10:51:56 AM	Sen. Joyner
10:52:19 AM	C. Gormley
10:52:40 AM	Sen. Lee
10:53:51 AM	Malcolm Ferguson, Associate Director, Navigant
11:00:12 AM	Sen. Lee
11:00:17 AM	Sen. Margolis
11:00:51 AM	M. Ferguson

11:01:03 AM Sen. Lee
11:01:11 AM Sen. Margolis
11:01:18 AM M. Ferguson
11:01:23 AM Sen. Lee
11:01:39 AM Sen. Margolis
11:01:52 AM Sen. Lee
11:02:03 AM Sen. Bradley
11:02:58 AM M. Ferguson
11:03:13 AM Sen. Lee
11:04:23 AM Sen. Bradley
11:04:45 AM Sen. Lee
11:05:00 AM Sen. Sobel
11:05:32 AM M. Ferguson
11:05:49 AM Sen. Sobel
11:06:11 AM M. Ferguson
11:06:25 AM Sen. Hays
11:07:09 AM M. Ferguson
11:07:45 AM Sen. Hays
11:08:05 AM M. Ferguson
11:08:09 AM Sen. Lee
11:08:55 AM Allen Brown, Chief Legislative Analyst, Senate Appropriations Subcommittee on Health and Human Services
11:11:14 AM Sen. Lee
11:11:27 AM Sen. Richter
11:12:05 AM Sen. Garcia
11:13:13 AM Sen. Lee
11:13:36 AM Cindy Kynoch, Staff Director, Senate Appropriations Committee
11:17:23 AM Sen. Lee
11:17:55 AM Amy Baker, Coordinator, Office of Economic Demographic and Research
11:30:57 AM Sen. Lee
11:31:22 AM C. Kynoch
11:32:15 AM A. Baker
11:37:26 AM Sen. Lee
11:38:11 AM A. Baker
11:38:50 AM Sen. Lee
11:38:54 AM A. Baker
11:40:04 AM Sen. Lee
11:40:31 AM A. Baker
11:41:42 AM Sen. Lee
11:42:44 AM Sen. Gaetz
11:44:38 AM Sen. Lee
11:46:16 AM Sen. Gaetz
11:46:47 AM Sen. Lee
11:47:40 AM Sen. Montford
11:48:42 AM M. Ferguson
11:48:46 AM Sen. Lee
11:48:59 AM C. Gormley
11:49:17 AM Sen. Lee
11:49:19 AM Sen. Montford
11:49:45 AM C. Gormley
11:49:55 AM Sen. Lee
11:50:03 AM Sen. Garcia
11:53:41 AM Sen. Lee
11:54:33 AM Russ Armistead, CEO, University of Florida Health at Jacksonville
11:57:24 AM Sen. Bradley
11:58:42 AM R. Armistead
12:00:47 PM Sen. Lee
12:04:47 PM Recording Paused
12:46:30 PM Recording Resumed
12:46:41 PM Sen. Lee
12:48:02 PM S 60
12:48:20 PM Sen. Simpson

12:49:32 PM	Sen. Lee
12:49:57 PM	Brian Pitts, Trustee, Justice 2 Jesus
12:52:40 PM	Sen. Lee
12:54:29 PM	S 68
12:54:33 PM	Sen. Legg
12:55:02 PM	Sen. Lee
12:55:19 PM	Brian Pitts, Trustee, Justice 2 Jesus
12:57:27 PM	Sen. Lee
12:58:29 PM	S 34
12:58:45 PM	PCS 752856
12:59:06 PM	Sen. Diaz de la Portilla
1:00:25 PM	Sen. Lee
1:00:39 PM	Brian Pitts, Trustee, Justice 2 Jesus
1:02:50 PM	Sen. Lee
1:04:02 PM	S 1538
1:04:12 PM	Sen. Simpson
1:04:42 PM	Sen. Lee
1:04:54 PM	PCS 135364
1:05:08 PM	Am. 543050
1:05:14 PM	Sen. Simpson
1:06:16 PM	Sen. Lee
1:06:18 PM	S 1538 (cont.)
1:06:29 PM	Dale Calhoun, Florida Natural Gas Association (waives in support)
1:07:30 PM	Sen. Latvala
1:08:55 PM	Sen. Lee
1:09:00 PM	S 84
1:09:14 PM	Sen. Soto
1:10:11 PM	Sen. Lee
1:10:18 PM	Jeremy Markman, Attorney at King and Markman PA, Robinson Family
1:10:57 PM	Sen. Lee
1:11:10 PM	Brian Pitts, Trustee, Justice 2 Jesus (waives in support)
1:11:17 PM	Sen. Lee
1:12:06 PM	Sen. 80
1:12:13 PM	Sen. Flores
1:12:50 PM	Sen. Lee
1:12:55 PM	Jason Unger, North Broward Hospital District (waives in support)
1:13:05 PM	Brian Pitts, Trustee, Justice 2 Jesus
1:13:14 PM	Sen. Lee
1:14:00 PM	Sen. 1264
1:14:18 PM	PCS 368432
1:14:37 PM	Sen. Legg
1:15:32 PM	Sen. Lee
1:15:41 PM	Am. 738072
1:15:53 PM	Sen. Ring
1:17:09 PM	
1:17:23 PM	Sen. Gaetz
1:17:33 PM	Sen. Lee
1:17:46 PM	Am. 659380
1:18:02 PM	Sen. Montford
1:18:28 PM	Sen. Lee
1:18:35 PM	Cynthia Henderson, Crowne (waives in support)
1:19:02 PM	Sen. Lee
1:19:08 PM	S 1264 (cont.)
1:19:15 PM	Sara Clements, Legislative Director, Foundation of Florida's Future (waives in support)
1:19:15 PM	Jim Horne, AIF (waives in support)
1:19:23 PM	Sen. Ring
1:22:35 PM	Sen. Lee
1:22:40 PM	Sen. Montford
1:23:43 PM	Sen. Lee
1:23:47 PM	Sen. Hays
1:24:41 PM	Sen. Lee
1:25:51 PM	Sen. Legg

1:27:47 PM	Sen. Lee
1:28:31 PM	S 7006
1:28:44 PM	PCS 462756
1:29:01 PM	Sen. Legg
1:29:27 PM	Sen. Lee
1:29:39 PM	Jessica Scher, Director of Public Policy, United Way of Miami-Dade (waives in support)
1:29:50 PM	Alisa Ghazvini, Executive Director, Association of Early Learning Coalitions (waives in support)
1:29:54 PM	Ted Granger, President, United Way of Florida (waives in support)
1:29:59 PM	Jim Horne, AIF (waives in support)
1:30:05 PM	Brian Pitts, Trustee, Justice 2 Jesus
1:33:12 PM	Sen. Lee
1:33:13 PM	S 1102
1:33:29 PM	Sen. Legg
1:33:59 PM	Sen. Lee
1:34:06 PM	Am. 866616
1:34:10 PM	Sen. Legg
1:34:24 PM	Sen. Lee
1:34:43 PM	S 1102 (cont.)
1:34:53 PM	J.W. Howard, Executive Director, Morgan Stanley (waives in support)
1:34:55 PM	Kevin Dempsey, Vice President, Citigroup (waives in support)
1:36:05 PM	Sen. Lee
1:36:09 PM	S 284
1:36:26 PM	Sen. Diaz de la Portilla
1:38:56 PM	PCS318734
1:39:14 PM	Am. 412730
1:39:19 PM	Sen. Smith
1:40:53 PM	Sen. Lee
1:41:06 PM	Gary Hunter, Attorney, Property Rights Coalition (waives in opposition)
1:41:23 PM	Sen. Diaz de la Portilla
1:44:14 PM	Sen. Lee
1:44:21 PM	Sen. Smith
1:46:17 PM	Sen. Lee
1:46:23 PM	S 284 (cont.)
1:46:32 PM	Dan Peterson, Director of Center for Property Rights, James Madison Institute (waives in support)
1:46:41 PM	Gary Hunter, Attorney, Property Rights Coalition (waives in support)
1:46:45 PM	David Cruz, Assistant General Counsel, Florida League of Cities (waives in support)
1:47:32 PM	Lance Pearce, Assistant Director of State Legislative Affairs, Florida Farm Bureau (waives in support)
1:47:32 PM	Katie Kelly, Florida Chamber of Commerce (waives in support)
1:47:45 PM	Sarah Busk, Associated Industries of Florida (waives in support)
1:48:42 PM	Sen. Lee
1:48:47 PM	S 318
1:48:53 PM	PCS 769056
1:49:04 PM	Sen. Diaz de la Portilla
1:52:29 PM	Sen. Lee
1:52:42 PM	Sen. Benacquisto
1:52:43 PM	Am. 142820
1:53:00 PM	Sen. Lee
1:54:49 PM	Sen. Benacquisto
1:54:52 PM	Sen. Joyner
1:55:20 PM	Sen. Lee
1:55:55 PM	Sen. Benacquisto
1:55:59 PM	Sen. Diaz de la Portilla
1:56:24 PM	Sen. Benacquisto
1:56:38 PM	S 318 (cont.)
1:56:44 PM	Zayne Smith, Associate State Director, AARP (waives in support)
1:56:56 PM	Brian Pitts, Trustee, Justice 2 Jesus
2:00:16 PM	Sen. Lee
2:01:16 PM	S 1522
2:01:30 PM	PCS 309968
2:01:51 PM	Sen. Detert
2:02:26 PM	Sen. Lee
2:03:44 PM	S 918

2:04:01 PM	Sen. Dean
2:09:36 PM	Sen. Lee
2:09:49 PM	Sen. Negron
2:10:12 PM	Sen. Dean
2:10:25 PM	Sen. Lee
2:10:37 PM	Am. 279658
2:10:57 PM	Sen. Dean
2:12:02 PM	Sen. Lee
2:12:10 PM	Am. 127412
2:12:20 PM	Sen. Hays
2:13:14 PM	Sen. Lee
2:13:27 PM	Lee Killinger, Palm Beach County (waives in support)
2:13:39 PM	Frank Bernardino, Broward County (waives in support)
2:14:07 PM	Am. 939310
2:14:14 PM	Sen. Hays
2:14:33 PM	Sen. Lee
2:14:36 PM	Sen. Latvala
2:14:58 PM	Sen. Hays
2:15:36 PM	Sen. Latvala
2:15:39 PM	Sen. Hays
2:16:07 PM	Sen. Negron
2:16:25 PM	Sen. Hays
2:16:29 PM	Sen. Negron
2:17:08 PM	Sen. Hays
2:17:32 PM	Sen. Lee
2:17:57 PM	Am. 841792
2:18:13 PM	Am. 346008
2:18:20 PM	Sen. Joyner
2:19:10 PM	Sen. Hays
2:19:19 PM	Sen. Dean
2:20:19 PM	Sen. Lee
2:20:47 PM	Am. 938604
2:20:56 PM	Sen. Joyner
2:21:01 PM	Am. 534254
2:21:11 PM	Sen. Dean
2:21:54 PM	Sen. Lee
2:22:10 PM	Am. 881880
2:22:17 PM	Sen. Dean
2:23:52 PM	Stephen James, Florida Association of Counties
2:25:46 PM	Sen. Altman
2:26:14 PM	Sen. Dean
2:27:29 PM	Sen. Lee
2:27:36 PM	Sen. Negron
2:28:17 PM	Sen. Dean
2:29:10 PM	Sen. Altman
2:29:50 PM	Am. 714538
2:29:58 PM	Sen. Dean
2:30:37 PM	Sen. Lee
2:30:52 PM	Am. 312606
2:30:57 PM	Sen. Dean
2:31:20 PM	Sen. Lee
2:31:37 PM	Am. 442270
2:31:49 PM	Sen. Latvala
2:32:32 PM	Sen. Dean
2:33:17 PM	Sen. Latvala
2:33:39 PM	Sen. Dean
2:34:20 PM	Sen. Latvala
2:34:34 PM	Sen. Dean
2:35:34 PM	Sen. Lee
2:35:47 PM	Sen. Negron
2:36:03 PM	Sen. Dean
2:36:44 PM	Sen. Lee

2:36:50 PM Sen. Gaetz
2:37:22 PM Sen. Dean
2:39:23 PM Sen. Margolis
2:39:44 PM Sen. Dean
2:39:46 PM Sen. Margolis
2:39:52 PM Sen. Dean
2:40:28 PM Sen. Margolis
2:40:47 PM Sen. Dean
2:41:21 PM Sen. Margolis
2:41:36 PM Sen. Dean
2:42:12 PM Sen. Benacquisto
2:42:23 PM Dale Allen, Executive Director, Florida Greenways and Trails Foundation (waives in support)
2:42:26 PM Ken Bryan, Florida Director, Rails-to-Trails Conservancy (waives in support)
2:42:31 PM Katie Kelly, Florida Chamber of Commerce (waives in support)
2:42:35 PM Grace Lovett, Director Legislative Affairs, Florida Department of Agriculture and Consumer Services (waives in support)
2:42:39 PM Greg Munson, Associated Industries of Florida H2O Coalition
2:44:38 PM Janet Bowman, Director of Legislative Policy Strategies, The Nature Conservancy
2:46:22 PM Sen. Negron
2:46:39 PM J. Bowman
2:48:04 PM David Cullen, Sierra Club Florida
2:50:20 PM Brian Pitts, Justice 2 Jesus
2:54:02 PM Sen. Dean
2:55:36 PM Sen. Benacquisto
2:56:49 PM S 1248
2:57:15 PM Sen. Stargel
2:57:38 PM Am. 797912
2:57:46 PM Sen. Joyner
2:58:54 PM Sen. Benacquisto
2:59:06 PM Alan Frisher, President, Family Law Reform Inc.
2:59:22 PM Sen. Ring
2:59:26 PM Alan Frisher, President, Family Law Reform Inc.
2:59:47 PM Tarence Power, Consultant, Family Law Reform (waives in opposition)
2:59:55 PM Tarie Mac Miller, Jewelry Sales Vice President, Family Law Reform (waives in opposition)
3:01:15 PM Thomas Sasser, Attorney, Family Law Section of Florida Bar
3:01:53 PM Sen. Ring
3:02:19 PM Sen. Joyner
3:03:07 PM Sen. Stargel
3:03:38 PM Sen. Benacquisto
3:03:42 PM Sen. Joyner
3:04:17 PM Am. 781886
3:04:25 PM Sen. Joyner
3:05:31 PM Sen. Benacquisto
3:05:38 PM Alan Frisher, President, Family Law Reform Inc. (waives in opposition)
3:05:41 PM Tarence Power, Consultant, Family Law Reform (waives in opposition)
3:05:44 PM Tarie Mac Miller, Jewelry Sales Vice President, Family Law Reform (waives in opposition)
3:05:54 PM Sen. Stargel
3:06:19 PM Sen. Joyner
3:07:25 PM Sen. Benacquisto
3:07:30 PM Am. 937376
3:07:48 PM Sen. Joyner
3:08:08 PM Sen. Benacquisto
3:08:14 PM Alan Frisher, President, Family Law Reform (waives in opposition)
3:08:22 PM Tarence Power, Consultant, Family Law Reform (waives in opposition)
3:08:25 PM Tarie Mac Miller, Jewelry Sales Vice President, Family Law Reform (waives in opposition)
3:08:27 PM Sen. Stargel
3:08:35 PM Sen. Benacquisto
3:08:38 PM Sen. Joyner
3:09:34 PM Sen. Benacquisto
3:09:44 PM S 1248 (cont.)
3:10:46 PM Joy Bolton Herring and Glenn, Retired Paralegal and Environmental Activist, All similarly situated long-term spouses

3:16:49 PM Barbara DeVane, Florida National Organization of Women
3:20:02 PM Erin Minta, citizen
3:22:57 PM Linda Murray, Nurse/Care Giver, Self
3:25:51 PM Alan Frisher, President, Family Law Reform, Inc.
3:27:00 PM Terrance Power, Consultant, Family Law Reform (waives in support)
3:27:21 PM Tarie MacMillan, Jewelry Sales Vice President, Family Law Reform
3:29:36 PM Thomas J. Sasser, Attorney, Family Law Section of the Florida Bar
3:31:22 PM Brian Pitts, Trustee, Justice 2 Jesus
3:33:45 PM Sen. Benacquisto
3:33:50 PM Greg Pound, self
3:35:04 PM Sen. Benacquisto
3:35:09 PM Sen. Ring
3:36:54 PM Sen. Benacquisto
3:36:58 PM Sen. Joyner
3:42:16 PM Sen. Benacquisto
3:42:20 PM Sen. Lee
3:48:37 PM Sen. Benacquisto
3:48:41 PM Sen. Stargel
3:50:59 PM Sen. Benacquisto
3:52:36 PM S 1116
3:52:54 PM Shreya Kuntawala, Legislative Aide of Sen. Abruzzo
3:53:16 PM Am. 277288
3:53:29 PM Sen. Benacquisto
3:53:44 PM James Herzog, Associate Director of Education, Florida Conference of Catholic Bishops (waives in support)
3:54:02 PM S 1116 (cont.)
3:54:07 PM Brian Pitts, Trustee, Justice 2 Jesus
3:55:08 PM Sen. Benacquisto
3:56:14 PM S 1302
3:56:35 PM Sen. Evers
3:57:33 PM Sen. Benacquisto
3:58:37 PM S 714
3:58:49 PM Sen. Grimsley
3:59:13 PM Sen. Benacquisto
3:59:20 PM PCS 183530
3:59:36 PM Am. 722682
3:59:45 PM Sen. Grimsley
3:59:57 PM Sen. Benacquisto
4:00:08 PM S 714 (cont.)
4:00:13 PM Lance Pierce, Assistant Director of State Legislative Affairs (waives in support)
4:00:20 PM Brian Pitts, Trustee, Justice 2 Jesus (waives in support)
4:01:15 PM S 948
4:01:22 PM PCS 689974
4:01:36 PM Am. 149946
4:01:43 PM Sen. Gaetz
4:08:18 PM Sen. Benacquisto
4:08:19 PM Am. 905728
4:08:37 PM Sen. Ring
4:08:57 PM Sen. Benacquisto
4:09:01 PM Sen. Ring
4:09:07 PM Sen. Benacquisto
4:09:14 PM Sen. Gaetz
4:09:32 PM Am. 688124
4:09:41 PM Sen. Simmons
4:10:50 PM Sen. Benacquisto
4:11:03 PM Am. 669280
4:11:17 PM Sen. Montford
4:11:37 PM Sen. Benacquisto
4:11:46 PM Sen. Gaetz
4:11:51 PM Sen. Benacquisto
4:11:54 PM Am. 747098
4:12:03 PM Sen. Gaetz

4:12:14 PM	Sen. Benacquisto
4:12:37 PM	Sen. Joyner
4:12:47 PM	Sen. Gaetz
4:13:25 PM	Sen. Joyner
4:13:36 PM	Sen. Gaetz
4:13:50 PM	Sen. Benacquisto
4:13:54 PM	Am. 580334
4:14:03 PM	Sen. Montford
4:14:31 PM	Sen. Benacquisto
4:14:38 PM	Am. 153526
4:14:54 PM	Sen. Negron
4:16:36 PM	Sen. Benacquisto
4:16:38 PM	Sen. Hays
4:16:53 PM	Sen. Negron
4:17:09 PM	Sen. Latvala
4:17:27 PM	Sen. Negron
4:17:45 PM	Sen. Latvala
4:17:51 PM	Sen. Negron
4:18:26 PM	Sen. Latvala
4:18:52 PM	Sen. Negron
4:19:28 PM	Sen. Latvala
4:19:52 PM	Sen. Negron
4:20:24 PM	Sen. Benacquisto
4:20:35 PM	Sen. Stargel
4:20:46 PM	Sen. Joyner
4:20:49 PM	Sen. Stargel
4:21:15 PM	Sen. Latvala
4:21:41 PM	Sen. Negron
4:22:36 PM	Sen. Latvala
4:22:48 PM	Sen. Benacquisto
4:22:50 PM	Sen. Montford
4:23:06 PM	Sen. Negron
4:23:34 PM	Sen. Montford
4:23:50 PM	Sen. Negron
4:24:26 PM	Sen. Gaetz
4:26:09 PM	Sen. Montford
4:26:44 PM	Sen. Benacquisto
4:27:17 PM	Am. 911584
4:27:22 PM	Sen. Flores
4:27:45 PM	Ron LaFace, Florida Keys Community College (waives in support)
4:28:02 PM	Am. 580334
4:28:07 PM	Sen. Benacquisto
4:28:10 PM	Sen. Hays
4:29:16 PM	Sen. Gaetz
4:29:40 PM	Sen. Benacquisto
4:29:46 PM	Sen. Negron
4:29:54 PM	Sen. Hays
4:30:12 PM	Sen. Negron
4:31:05 PM	Sen. Hays
4:31:10 PM	Sen. Negron
4:32:31 PM	Sen. Hays
4:32:52 PM	Sen. Negron
4:33:31 PM	Sen. Benacquisto
4:33:33 PM	Sen. Montford
4:34:32 PM	Sen. Negron
4:36:03 PM	Sen. Montford
4:36:33 PM	Sen. Negron
4:37:48 PM	Sen. Benacquisto
4:37:52 PM	Sen. Latvala
4:37:58 PM	Sen. Benacquisto
4:38:04 PM	Sen. Ring
4:39:17 PM	Sen. Negron

4:40:42 PM Sen. Benacquisto
4:40:46 PM Sen. Joyner
4:41:07 PM Sen. Negron
4:41:25 PM Sen. Joyner
4:41:48 PM Sen. Negron
4:42:17 PM Sen. Benacquisto
4:42:45 PM Sen. Latvala
4:43:02 PM Sen. Benacquisto
4:43:05 PM Sen. Latvala
4:46:18 PM Sen. Benacquisto
4:46:22 PM Sen. Flores
4:49:42 PM Sen. Gaetz
4:51:11 PM Sen. Benacquisto
4:51:24 PM Jim Horne, AIF (waives in support)
4:51:29 PM Sara Clements, Legislative Drive, Foundation of Florida's Future (waives in support)
4:51:32 PM Jim Henningsen, President College of Central Florida, Florida College System Council of President (waives in support)
4:51:38 PM Brian Pitts, Trustee, Justice 2 Jesus
4:52:45 PM Sen. Benacquisto
4:52:52 PM Sen. Ring
4:54:35 PM S 1214
4:54:49 PM PCS 123970
4:54:54 PM Sen. Latvala
4:57:51 PM Sen. Benacquisto
4:57:53 PM Am. 160810
4:58:03 PM Sen. Latvala
5:02:56 PM Sen. Benacquisto
5:03:02 PM Am. 473484
5:03:11 PM Sen. Latvala
5:03:25 PM Sen. Benacquisto
5:03:31 PM Am. 302034
5:03:44 PM Sen. Latvala
5:03:57 PM Sen. Benacquisto
5:04:33 PM Am. 890582
5:05:07 PM Sen. Benacquisto
5:05:55 PM Am. 323572
5:06:04 PM Am. 876012
5:06:08 PM Sen. Smith
5:06:21 PM Sen. Benacquisto
5:06:41 PM Am. 905332
5:06:57 PM Sen. Richter
5:07:07 PM Sen. Benacquisto
5:07:08 PM Am. 427320
5:07:21 PM Sen. Lee
5:08:20 PM Sen. Benacquisto
5:08:23 PM Am. 811924
5:08:29 PM Sen. Lee
5:09:19 PM Sen. Benacquisto
5:09:37 PM Carolyn Johnson, Policy Director, Florida Chamber of Commerce (waives in support)
5:09:42 PM Stephen Winn, Executive Director, Florida Osteopathic Medical Association (waives in support)
5:09:51 PM Davin Snuggs, Fiscal Policy Director, Florida Association of Counties (waives in support)
5:09:56 PM Todd Bonlarron, Legislative Affairs Director, Palm Beach County (waives in support)
5:09:59 PM Jared Walczak, Policy Analyst, The Tax Foundation
5:11:03 PM Jarrett Skorup, Policy Analyst, Mackinac Center for Public Policy
5:11:55 PM Will McKinley, Montion Picture Association of American (waives in support)
5:11:59 PM David Caserta, Film Florida (waives in support)
5:12:01 PM Jonathan Kilman, Electronic Arts (waives in support)
5:12:05 PM Melanie Becker, Director of Governmental Affairs, Universal Orlando (waives in support)
5:12:07 PM Brian Musselwhite, Vice President of Governmental Affairs (waives in support)
5:12:13 PM David Cruz, Assistant General Counsel, Florida League of Cities (waives in support)
5:12:16 PM S 1214 (cont.)
5:12:40 PM Sen. Latvala

5:12:52 PM Sen. Benacquisto
5:13:05 PM Sen. Lee
5:14:25 PM Sen. Latvala
5:15:50 PM Sen. Benacquisto
5:16:31 PM Sen. Galvano
5:16:40 PM Sen. Hukill
5:16:45 PM Sen. Simmons
5:17:16 PM Sen. Gaetz
5:17:27 PM Sen. Lee
5:17:30 PM S 1552
5:17:56 PM PCS 137566
5:18:12 PM Sen. Benacquisto
5:18:49 PM Sen. Lee
5:18:54 PM Am. 798694
5:19:01 PM Sen. Benacquisto
5:20:03 PM Sen. Lee
5:20:10 PM Am. 768690
5:20:24 PM Sen. Montford
5:23:03 PM Sen. Benacquisto
5:23:26 PM Sen. Montford
5:24:15 PM Sen. Benacquisto
5:24:36 PM Sen. Lee
5:24:53 PM
5:25:20 PM S 1552 (cont.)
5:25:42 PM Kimberly Young-Stitt, Teacher, Hendry County Education Association (waive in opposition)
5:25:52 PM Jim Horne, AIF (waives in support)
5:26:01 PM Ken Kniepmann, Executive Director, Educational Choice (waives in support and opposition)
5:26:09 PM Jesse Jackson, Superitendent, Lake Wales Charter Schools (waives in support and opposition)
5:26:19 PM Brian Pitts, Trustee, Justice to Jesus
5:26:23 PM Nancy Lounsbury, Mom/Substitute Teacher/Tutor, self
5:26:24 PM Sarah Clements, Legislative Director, Foundation of Florida's Future (waives in support)
5:26:29 PM Micheal Cantes, Nicklaus Children's Hospital (waives in support)
5:26:35 PM Amy Maguire, Vice President, All Children's Hospital (waives in support)
5:26:42 PM Larry Williams, Director of Governmental Affairs, Florida Consortium of Public Charter Schools (waives in support)
5:26:48 PM Kelly Rhinehart, Teacher, Hendry Country Education Association (waives in opposition)
5:26:53 PM Jackie Futch, Teacher, Educator in Rural District (waives in opposition)
5:27:00 PM Sen. Lee
5:28:08 PM S 1468
5:29:35 PM Am. 572918
5:29:36 PM
5:29:37 PM Sen. Richter
5:29:45 PM Sen. Lee
5:29:50 PM Debbie Harrison Rumberger, Legislative Lobbyist, Florida League of Women Voters (waives in support)
5:30:02 PM Am. 747558
5:30:04 PM Sen. Richter
5:30:12 PM Sen. Lee
5:30:14 PM Debbie Harrison Rumberger, Legislative Lobbyist, Florida League of Women Voters (waives in support)
5:30:18 PM Sen. Lee
5:30:23 PM Am. 808418
5:30:26 PM Sen. Richter
5:30:45 PM Sen. Lee
5:30:50 PM Amy Datz, Retired State Environmental Planner, Environmental Caucus of Florida
5:31:11 PM Brian Lee, Supervisor, Leon Soil and Water Conservation Districts (waives in opposition)
5:31:20 PM Kim Ross, Presidsent, Rethink Energy Florida (waives in opposition)
5:31:30 PM Debbie Harrison Rumberger, Legislative Lobbyist, Florida League of Women Voters (waives in support)
5:31:44 PM Sen. Lee
5:31:48 PM Sen. Margolis
5:32:01 PM Sen. Gaetz
5:32:22 PM Sen. Richter
5:32:27 PM Sen. Lee
5:32:36 PM Am. 800356

5:32:43 PM Sen. Richter
5:33:03 PM Sen. Lee
5:33:05 PM Am. 670082
5:33:12 PM Sen. Joyner
5:33:43 PM Sen. Lee
5:34:24 PM Amy Datz, Retired State Environmental Planner, Environmental Caucus of Florida (waives in opposition)
5:34:30 PM Gail Marie Perry, Chair, Communications Workers of America (waives in opposition)
5:34:35 PM Debbie Harrison Rumberger, Legislative Lobbyist, Florida League of Women Voters (waives in opposition)
5:34:49 PM Sen. Lee
5:35:07 PM Am. 340874
5:35:11 PM Sen. Richter
5:35:23 PM Sen. Lee
5:35:29 PM Debbie Harrison Rumberger, Legislative Lobbyist, Florida League of Women Voters (waives in opposition)
5:35:39 PM Sen. Lee
5:35:55 PM S 1468 (cont.)
5:36:03 PM Sen. Latvala
5:36:31 PM Sen. Richter
5:36:35 PM Sen. Latvala
5:37:04 PM Sen. Lee
5:37:09 PM Sen. Latvala
5:37:23 PM Paula Cobb, Deputy Secretary of Regulatory Programs, Department of Environmental Protection
5:37:29 PM Sen. Lee
5:37:47 PM Sen. Montford
5:38:34 PM Sen. Richter
5:40:09 PM Sen. Lee
5:40:12 PM Amy Datz, Retired State Environmental Planner, Environmental Caucus of Florida
5:41:51 PM Ray Bellamy, Physician, Physicians for Social Responsibility
5:45:31 PM Sen. Lee
5:45:33 PM Brian Pitts, Trustee, Justice 2 Jesus
5:45:38 PM Brian Lee, Supervisor, Leon Soil and Water Conservation Districts (waives in opposition)
5:45:42 PM Kim Ross, President, Rethink Energy Florida (waives in opposition)
5:46:31 PM Sen. Lee
5:46:36 PM Merrillee Malwitz-Jipson, President, Our Santa Fe River and Save Our Suwannee
5:48:09 PM Brewister Bevis, Senior Vice President, Associated Industries of Florida (waives in support)
5:48:13 PM John Dickert, Retired Engineer, Madison County citizens who want clean water
5:51:02 PM Gale Dickert, Children"s Advocate, Madison County
5:53:26 PM Sen. Lee
5:54:57 PM Sen. Galvano
5:55:06 PM Dave Cullen, Sierra Club Florida
5:56:15 PM Sen. Latvala
5:56:25 PM Sen. Lee
5:56:28 PM Andrew Ketchel, Director of Legislative Affairs, Department of Environmental Protection (waives in support)
5:56:32 PM Joy Bolton Herring, Environmental Activist (waives in opposition)
5:57:27 PM Juan Pae, Polk Coordinator, Rethink Energy Florida (waives in opposition)
5:57:32 PM David Mica Director, Florida Petroleum Counsel (waives in support)
5:57:46 PM Ron Saff, Physician, Physician for Social Responsibility (waives in opposition)
5:59:05 PM Sen. Lee