

Tab 1	SB 382 by Book (CO-INTRODUCERS) Campbell, Stewart; (Identical to H 00205) Transportation Facility Designations/Deputy Ryan Seguin Memorial Highway					
514736	PCS	S	FAV	AP, ATD		02/15 04:27 PM
819880	A	S	RCS	AP, Book	Delete L.18:	02/15 04:27 PM
544028	A	S	RCS	AP, Montford	Delete L.18:	02/15 04:27 PM
187484	A	S	RCS	AP, Stewart	Delete L.18:	02/15 04:27 PM
674466	A	S	RCS	AP, Stewart	Delete L.18:	02/15 04:27 PM
652626	A	S	RCS	AP, Book	Delete L.18:	02/15 04:27 PM
Tab 2	CS/SB 450 by CF, Garcia; (Similar to H 01327) Mental Health and Substance Use Disorders					
Tab 3	CS/SB 470 by MS, Stargel; (Similar to CS/1ST ENG/H 00333) Minimum Basic Recruit Training Exemptions					
261158	PCS	S	RCS	AP, ACJ		02/15 04:39 PM
Tab 4	SB 504 by Perry; (Similar to H 00215) Autocycles					
394310	D	S	RCS	AP, Bradley	Delete everything after	02/15 04:16 PM
Tab 5	CS/SB 614 by CA, Montford (CO-INTRODUCERS) Simmons, Powell, Taddeo; (Identical to 1ST ENG/H 06003) Participant Local Government Advisory Council					
Tab 6	CS/SB 740 by AG, Stargel; (Similar to CS/CS/H 00553) Department of Agriculture and Consumer Services					
Tab 7	SB 752 by Mayfield; (Identical to H 00913) Specialty License Plates/Childhood Cancer Awareness					
Tab 8	SB 780 by Brandes (CO-INTRODUCERS) Campbell; (Identical to H 00545) Prohibition Against Contracting with Scrutinized Companies					
Tab 9	CS/SJR 792 by EE, Lee; (Identical to CS/H 01421) Chief Financial Officer					
Tab 10	CS/SB 854 by CJ, Brandes; (Similar to CS/H 00365) Correctional Officers					
Tab 11	CS/SB 920 by CM, Bradley (CO-INTRODUCERS) Braynon; (Similar to CS/H 00857) Deferred Presentment Transactions					
729302	A	S	RCS	AP, Bradley	Before L.64:	02/15 04:37 PM
Tab 12	SB 938 by Bracy; (Similar to H 06059) Department of Corrections' Direct-support Organization					
Tab 13	CS/SB 942 by CJ, Bracy; (Compare to CS/H 01417) Department of Juvenile Justice's Direct-support Organization					
Tab 14	CS/SB 960 by CF, Baxley; (Similar to CS/H 00721) Mental Health and Substance Abuse					
281582	A	S	RCS	AP, Baxley	btw L.30 - 31:	02/15 04:52 PM
Tab 15	SB 982 by Powell; (Identical to H 00763) Care for Retired Law Enforcement Dogs					

Tab 16 **SB 1248** by **Gainer**; (Identical to H 00983) Specialty License Plates/Coastal Conservation Association

Tab 17 **CS/CS/SB 1292** by **CF, BI, Stargel**; (Similar to CS/CS/CS/H 01073) Department of Financial Services

151384	A	S	RCS	AP, Stargel	Delete L.391:	02/15 04:52 PM
329888	A	S	RCS	AP, Stargel	Delete L.574 - 1544:	02/15 04:52 PM

Tab 18 **SB 1424** by **Gainer**; Court-ordered Treatment Programs

Tab 19 **SB 1500** by **Baxley**; (Identical to H 06033) Direct-support Organization of the Florida Commission on Community Service

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

APPROPRIATIONS
Senator Bradley, Chair
Senator Flores, Vice Chair

MEETING DATE: Thursday, February 15, 2018
TIME: 1:00—3:00 p.m.
PLACE: Pat Thomas Committee Room, 412 Knott Building

MEMBERS: Senator Bradley, Chair; Senator Flores, Vice Chair; Senators Baxley, Bean, Benacquisto, Book, Bracy, Brandes, Braynon, Gainer, Galvano, Gibson, Grimsley, Montford, Passidomo, Powell, Simmons, Simpson, Stargel, and Stewart

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
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A proposed committee substitute for the following bill (SB 382) is available:

1	SB 382 Book (Identical H 205, Compare CS/H 171)	Transportation Facility Designations/Deputy Ryan Seguin Memorial Highway ; Providing honorary designation of a certain transportation facility in a specified county; directing the Department of Transportation to erect suitable markers, etc. TR 11/14/2017 Favorable ATD 02/08/2018 Fav/CS AP 02/15/2018 Fav/CS	Fav/CS Yeas 16 Nays 0
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With subcommittee recommendation – Transportation, Tourism, and Economic Development

2	CS/SB 450 Children, Families, and Elder Affairs / Garcia (Similar H 1327, Compare CS/CS/H 1069)	Mental Health and Substance Use Disorders; Requiring a specific level of screening for peer specialists working in mental health programs and facilities; specifying that the use of peer specialists for recovery support is an essential element of a coordinated system of behavioral health care; requiring the Department of Children and Families to develop a training program for peer specialists and give preference to trainers who are certified peer specialists; requiring peer specialists to meet the requirements of a background screening as a condition of employment and continued employment, etc. CF 11/06/2017 CF 11/13/2017 Fav/CS AHS 01/10/2018 Favorable AP 02/15/2018 Favorable	Favorable Yeas 19 Nays 0
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With subcommittee recommendation – Health and Human Services

A proposed committee substitute for the following bill (CS/SB 470) is available:

COMMITTEE MEETING EXPANDED AGENDA

Appropriations

Thursday, February 15, 2018, 1:00—3:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
3	CS/SB 470 Military and Veterans Affairs, Space, and Domestic Security / Stargel (Similar CS/H 333)	Minimum Basic Recruit Training Exemptions; Defining the term "special operations forces"; exempting former special operations forces members who meet certain requirements from the Criminal Justice Standards and Training Commission-approved basic recruit training program; requiring an employing agency, training center, or criminal justice selection center to verify and document that special operations forces applicants meet certain requirements if the applicants seek an exemption from a basic recruit training program approved by the commission, etc. MS 01/18/2018 Fav/CS ACJ 02/08/2018 Fav/CS AP 02/15/2018 Fav/CS	Fav/CS Yeas 16 Nays 0
With subcommittee recommendation – Criminal and Civil Justice			
4	SB 504 Perry (Similar H 215)	Autocycles; Defining the term "autocycle"; requiring safety belt or, if applicable, child restraint usage by an operator or passenger of an autocycle; including an autocycle in the definition of the term "motorcycle"; authorizing a person to operate an autocycle without a motorcycle endorsement, etc. TR 11/14/2017 Favorable ATD 02/08/2018 Favorable AP 02/15/2018 Fav/CS	Fav/CS Yeas 19 Nays 0
With subcommittee recommendation – Transportation, Tourism, and Economic Development			
5	CS/SB 614 Community Affairs / Montford (Identical H 6003)	Participant Local Government Advisory Council; Abolishing the Participant Local Government Advisory Council, etc. CA 01/16/2018 Fav/CS AGG 02/08/2018 Favorable AP 02/15/2018 Favorable	Favorable Yeas 16 Nays 0
With subcommittee recommendation – General Government			

COMMITTEE MEETING EXPANDED AGENDA

Appropriations

Thursday, February 15, 2018, 1:00—3:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
6	CS/SB 740 Agriculture / Stargel (Similar CS/CS/H 553, Compare CS/CS/H 315, CS/CS/S 568)	Department of Agriculture and Consumer Services; Transferring authority to issue licenses for oyster harvesting in Apalachicola Bay from the department to the City of Apalachicola; revising permitting requirements and operating standards for water vending machines; revising the circumstances under which liquefied petroleum gas bulk delivery vehicles must be registered with the department; repealing provisions relating to packet vegetable and flower seed; creating the "Government Impostor and Deceptive Advertisements Act", etc. AG 01/11/2018 Fav/CS AEN 01/24/2018 Favorable AP 02/15/2018 Not Considered	Not Considered
With subcommittee recommendation – Environment and Natural Resources			
7	SB 752 Mayfield (Identical H 913)	Specialty License Plates/Childhood Cancer Awareness ; Establishing an annual use fee for the Childhood Cancer Awareness license plate; requiring the Department of Highway Safety and Motor Vehicles to develop a Childhood Cancer Awareness license plate, etc. TR 12/05/2017 Favorable ATD 02/08/2018 Favorable AP 02/15/2018 Favorable	Favorable Yeas 18 Nays 0
With subcommittee recommendation – Transportation, Tourism, and Economic Development			
8	SB 780 Brandes (Identical H 545)	Prohibition Against Contracting with Scrutinized Companies; Prohibiting a company that is on the Scrutinized Companies that Boycott Israel List or that is engaged in a boycott of Israel from bidding on, submitting a proposal for, or entering into or renewing a contract with an agency or local governmental entity for goods or services of any amount; requiring such contracts entered into or renewed on or after July 1, 2018, to include a provision authorizing termination of the contract under specified circumstances, etc. GO 01/16/2018 Favorable AGG 02/08/2018 Favorable AP 02/15/2018 Favorable	Favorable Yeas 16 Nays 0
With subcommittee recommendation – General Government			

COMMITTEE MEETING EXPANDED AGENDA

Appropriations

Thursday, February 15, 2018, 1:00—3:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
9	CS/SJR 792 Ethics and Elections / Lee (Identical CS/HJR 1421)	Chief Financial Officer; Proposing an amendment to the State Constitution to revise the duties and responsibilities of the Chief Financial Officer, etc. EE 01/30/2018 Fav/CS JU 02/06/2018 Favorable AP 02/15/2018 Favorable RC	Favorable Yeas 15 Nays 0
10	CS/SB 854 Criminal Justice / Brandes (Similar CS/H 365)	Correctional Officers ; Authorizing a full-time, part-time, or auxiliary correctional officer to be employed at 18 years of age; prohibiting a correctional officer who is under 19 years of age from supervising inmates, etc. CJ 01/09/2018 Fav/CS ACJ 02/08/2018 Favorable AP 02/15/2018 Not Considered	Not Considered
With subcommittee recommendation – Criminal and Civil Justice			
11	CS/SB 920 Commerce and Tourism / Bradley (Similar CS/H 857)	Deferred Presentment Transactions; Specifying the maximum face amount of checks that may be taken for deferred presentment installment transactions, exclusive of fees; providing an exception to a prohibition against a deferred presentment provider's or its affiliate's presentment of a drawer's check before the end of the deferment period, etc. BI 01/16/2018 Favorable CM 01/29/2018 Fav/CS AP 02/15/2018 Fav/CS RC	Fav/CS Yeas 16 Nays 1
12	SB 938 Bracy (Similar H 6059)	Department of Corrections' Direct-support Organization; Abrogating the scheduled repeal of provisions governing a direct-support organization that is permitted use of fixed properties and facilities of the state correctional system by the Department of Corrections, etc. CJ 01/22/2018 Favorable ACJ 02/08/2018 Favorable AP 02/15/2018 Favorable	Favorable Yeas 16 Nays 0
With subcommittee recommendation – Criminal and Civil Justice			

COMMITTEE MEETING EXPANDED AGENDA

Appropriations

Thursday, February 15, 2018, 1:00—3:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
13	CS/SB 942 Criminal Justice / Bracy (Compare CS/H 1417)	Department of Juvenile Justice's Direct-support Organization; Requiring the secretary of the Department of Juvenile Justice to appoint board of directors to the department's direct-support organization according to the organization's established bylaws; abrogating the scheduled repeal of provisions governing a direct-support organization established by the department, etc. CJ 01/22/2018 Fav/CS ACJ 02/08/2018 Favorable AP 02/15/2018 Favorable	Favorable Yeas 15 Nays 0
With subcommittee recommendation – Criminal and Civil Justice			
14	CS/SB 960 Children, Families, and Elder Affairs / Baxley (Similar CS/H 721)	Mental Health and Substance Abuse; Deleting a provision requiring the Department of Children and Families to develop a certification process by rule for community substance abuse prevention coalitions; requiring the department to request a defendant's medical information from a jail within a certain timeframe after receiving a commitment order and other required documentation, etc. CF 01/09/2018 Fav/CS AHS 01/24/2018 Favorable AP 02/15/2018 Fav/CS	Fav/CS Yeas 16 Nays 0
With subcommittee recommendation – Health and Human Services			
15	SB 982 Powell (Identical H 763)	Care for Retired Law Enforcement Dogs; Designating the "Care for Retired Law Enforcement Dogs Program Act"; requiring the Department of Law Enforcement to contract with a corporation not for profit to administer and manage the program; providing requirements for the disbursement of funds for the veterinary care of eligible retired law enforcement dogs, etc. CJ 01/22/2018 Favorable ACJ 02/08/2018 Favorable AP 02/15/2018 Favorable	Favorable Yeas 16 Nays 0
With subcommittee recommendation – Criminal and Civil Justice			
16	SB 1248 Gainer (Identical H 983)	Specialty License Plates/Coastal Conservation Association; Directing the Department of Highway Safety and Motor Vehicles to develop a Coastal Conservation Association license plate; establishing an annual use fee for the plate, etc. TR 01/18/2018 Favorable ATD 02/08/2018 Favorable AP 02/15/2018 Favorable	Favorable Yeas 16 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Appropriations

Thursday, February 15, 2018, 1:00—3:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
With subcommittee recommendation – Transportation, Tourism, and Economic Development			
17	CS/CS/SB 1292 Children, Families, and Elder Affairs / Banking and Insurance / Stargel (Similar CS/CS/H 1073, Compare CS/H 29, CS/CS/H 465, CS/S 784, S 1884)	Department of Financial Services; Providing that electronic images of warrants, vouchers, or checks in the Division of Treasury are deemed to be original records; renaming the Bureau of Fire and Arson Investigations within the Division of Investigative and Forensic Services as the Bureau of Fire, Arson, and Explosives Investigations; providing an exemption from specified application fees for members and certain veterans of the United States Armed Forces, etc. BI 01/23/2018 Fav/CS CF 02/06/2018 Fav/CS AP 02/15/2018 Fav/CS	Fav/CS Yeas 16 Nays 0
18	SB 1424 Gainer	Court-ordered Treatment Programs; Providing that veterans who were discharged or released under any condition, individuals who are current or former United States Department of Defense contractors, and individuals who are current or former military members of a foreign allied country are eligible in a certain Military Veterans and Servicemembers Court Program, etc. JU 01/25/2018 Favorable ACJ 02/08/2018 Favorable AP 02/15/2018 Favorable	Favorable Yeas 16 Nays 0
With subcommittee recommendation – Criminal and Civil Justice			
19	SB 1500 Baxley (Identical H 6033, S 1110)	Direct-support Organization of the Florida Commission on Community Service; Removing the scheduled repeal of provisions governing the commission's direct-support organization, etc. GO 01/30/2018 Favorable AP 02/15/2018 Not Considered RC	Not Considered

Other Related Meeting Documents

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: PCS/SB 382 (514736)

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Transportation, Tourism, and Economic Development); and Senators Book and Campbell

SUBJECT: Transportation Facility Designations/Deputy Ryan Seguin Memorial Highway

DATE: February 14, 2018

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Price	Miller	TR	Favorable
2. McAuliffe	Hrdlicka	ATD	Recommend: Fav/CS
3. McAuliffe	Hansen	AP	Pre-meeting

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/SB 382 designates the portion of I-595 between S.W. 136th Avenue and S.R. 823/Flamingo Road in Broward County as “Deputy Ryan Seguin Memorial Highway,” and designates the portion I-75/Alligator Alley between mile marker 24 and mile marker 26 in Broward County as “Trooper Stephen G. Rouse Memorial Highway.”

The bill directs the Florida Department of Transportation (FDOT) to erect suitable markers.

The estimated cost to the FDOT to install the designation markers required under this bill is \$2,000.

The bill takes effect July 1, 2018.

II. Present Situation:

Transportation Facility Designations

Section 334.071, F.S., provides that legislative designations of transportation facilities are for honorary or memorial purposes, or to distinguish a particular facility. Such designations do not require any action by local governments or private parties regarding the changing of any street

signs, mailing addresses, or 911 emergency telephone number system listings, unless the legislation specifically provides for such changes.¹

When the Legislature establishes road or bridge designations, the FDOT is required to place markers only at the termini specified for each highway segment or bridge designated by the law creating the designation, and to erect any other markers it deems appropriate for the transportation facility.²

The FDOT may not erect the markers for honorary road or bridge designations unless the affected city or county commission enacts a resolution supporting the designation. When the designated road or bridge segment is located in more than one city or county, each affected local government must pass resolutions supporting the designations before installation of the markers.³

Deputy Ryan Seguin⁴

Deputy Ryan Seguin, a three-year Broward County Sheriff's Office veteran, received a Life Saving Award in 2005 from the Broward County Sheriff after saving the life of a child in danger of drowning and earned Employee of the Month honors in the Sheriff's Office Weston district four times. Deputy Seguin came from a law enforcement family; his father was a retired police officer for the Ft. Lauderdale Police Department.

Deputy Seguin, 23 years old, was killed during a traffic stop near Davie, Florida, on the evening of February 15, 2006. Deputy Seguin was outside his vehicle in the westbound lanes of I-595 when a passing car struck and killed him on impact. Deputy Seguin was laid to rest in Alpena, Michigan.

Trooper Stephen G. Rouse⁵

Trooper Stephen G. Rouse had served the residents of Florida with the Florida Highway Patrol (FHP) for 11 months. His career with FHP began May 5, 1986. He was in the 76th recruit class in Tallahassee, from May 5 to August 22, 1986, and was stationed in Fort Lauderdale.

On March 28, 1987, Trooper Rouse was killed in an automobile accident in Broward County on I-75 (Alligator Alley) at the toll booth area. He was responding to a fatal accident call on Alligator Alley, when a van made a U-turn in front of him. At the time of his death, he was 23.

¹ Section 334.071(1), F.S.

² Section 334.071(2), F.S.

³ Section 334.071(3), F.S.

⁴ See Officer Down Memorial Page, *Deputy Sheriff Ryan Christopher Seguin*, available at <http://www.odmp.org/officer/18145-deputy-sheriff-ryan-christopher-seguin> and Sacasa, Adam, *Move police officers hit as drivers fail to move over*, Sun Sentinel (Feb. 15, 2017) available at <http://www.sun-sentinel.com/local/fl-sb-pn-move-over-law-awareness-20170215-story.html> (both sites last visited Jan. 31, 2018).

⁵ Department of Highway Safety and Motor Vehicles, *FHP Memorial: Stephen G. Rouse*, available at <https://www.flhsmv.gov/florida-highway-patrol/fhp-memorial/stephen-g-rouse/> (last visited Feb. 8, 2018).

III. Effect of Proposed Changes:

This bill designates the portion of I-595 between S.W. 136th Avenue and S.R. 823/Flamingo Road in Broward County as “Deputy Ryan Seguin Memorial Highway,” and designates the portion I-75/Alligator Alley between mile marker 24 and mile marker 26 in Broward County as “Trooper Stephen G. Rouse Memorial Highway.”

The bill directs the Florida Department of Transportation (FDOT) to erect suitable markers.

The bill takes effect on July 1, 2018.

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:

The estimated cost to erect the designation markers required by the bill is \$2,000, based on the assumptions that four markers are required and each marker costs the FDOT at least \$500. The estimate includes sign fabrication, installation, and maintenance over time but does not include any additional expenses related to maintenance of traffic, the dedication event, or replacement necessitated by damage, vandalism, or storm events.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

The 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.)

Recommended CS by the Appropriations Subcommittee on Transportation, Tourism, and Economic Development on February 8, 2018:

The committee substitute designates the portion of I-75/Alligator Alley between mile marker 24 and mile marker 26 in Broward County as “Trooper Stephen G. Rouse Memorial Highway.”

- B. **Amendments:**

None.



819880

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/15/2018	.	
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The Committee on Appropriations (Book) recommended the following:

Senate Amendment (with title amendment)

Delete line 18

and insert:

(3) The Minneola interchange on S.R. 91/Florida's Turnpike at N. Hancock Road in Lake County is designated as "Tera Ross Memorial Interchange."

(4) The Department of Transportation is directed to erect

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



819880

11 And the title is amended as follows:

12 Delete lines 4 - 5

13 and insert:

14 certain transportation facilities in specified

15 counties; directing the Department of Transportation

16 to



544028

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/15/2018	.	
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The Committee on Appropriations (Montford) recommended the following:

Senate Amendment (with title amendment)

Delete line 18

and insert:

(3) That portion of U.S. 90/S.R. 10 between Chaires Cross Road and S.R. 59 in Leon County and Jefferson County is designated as "Deputy Christopher Smith Memorial Highway."

(4) The Department of Transportation is directed to erect

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



544028

11 And the title is amended as follows:

12 Delete lines 4 - 5

13 and insert:

14 certain transportation facilities in specified

15 counties; directing the Department of Transportation

16 to



187484

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/15/2018	.	
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The Committee on Appropriations (Stewart) recommended the following:

Senate Amendment (with title amendment)

Delete line 18

and insert:

(3) The pedestrian bridge over S.R. 436/Semorán Boulevard (75003000) at Abercorn Drive in Orange County is designated as "Elias 'Rico' Piccard Memorial Overpass."

(4) The Department of Transportation is directed to erect

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



187484

11 And the title is amended as follows:

12 Delete lines 4 - 5

13 and insert:

14 certain transportation facilities in specified

15 counties; directing the Department of Transportation

16 to



674466

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/15/2018	.	
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The Committee on Appropriations (Stewart) recommended the following:

Senate Amendment (with title amendment)

Delete line 18

and insert:

(3) Bridge number 105503 on W. Laurel Street over the Hillsborough River in Hillsborough County is designated as "Fortune Taylor Bridge."

(4) The Department of Transportation is directed to erect

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



674466

11 And the title is amended as follows:

12 Delete lines 4 - 5

13 and insert:

14 certain transportation facilities in specified

15 counties; directing the Department of Transportation

16 to



652626

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/15/2018	.	
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	.	
	.	

The Committee on Appropriations (Book) recommended the following:

Senate Amendment (with title amendment)

Delete line 18

and insert:

(3) That portion of N.E. 18th Street between N.E. 2nd Avenue and N. Bayshore Drive in Miami-Dade County is designated as "Jose Luis Ferreira de Melo Boulevard."

(4) That portion of N.W. 7th Avenue/U.S. 441 between N.W. 12th Street and N.W. 58th Street in Miami-Dade County is designated as "Reverend James Jenkins Boulevard."



652626

11 (5) That portion of N.W. 133rd Avenue between N.W. 11th
12 Street and N.W. 12th Street in Broward County is designated as
13 "Patricia Angella Barrett Lewis and Charlton Pernell Lewis
14 Avenue."

15 (6) That portion of 5th Street between Euclid Avenue and
16 Lenox Avenue in Miami-Dade County is designated as "Joseph
17 Emmanuel 'Manno' Charlemagne Street."

18 (7) The Department of Transportation is directed to erect
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 4 - 5

23 and insert:

24 certain transportation facilities in specified
25 counties; directing the Department of Transportation
26 to erect



514736

576-03011-18

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 facility
designations; providing honorary designations of
certain transportation facilities in a specified
county; directing the Department of Transportation to
erect suitable markers; providing an effective date.

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

Section 1. Transportation facility designations; Department
of Transportation to erect suitable markers.-

(1) That portion of I-595 between S.W. 136th Avenue and
S.R. 823/Flamingo Road in Broward County is designated as
"Deputy Ryan Seguin Memorial Highway."

(2) That portion of I-75/Alligator Alley between mile
marker 24 and mile marker 26 in Broward County is designated as
"Trooper Stephen G. Rouse Memorial Highway."

(3) The Department of Transportation is directed to erect
suitable markers designating the transportation facilities as
described in this section.

Section 2. This act shall take effect July 1, 2018.

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 382

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Transportation, Tourism, and Economic Development); and Senator Book and others

SUBJECT: Transportation Facility Designations

DATE: February 19, 2018

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Price	Miller	TR	Favorable
2. McAuliffe	Hrdlicka	ATD	Recommend: Fav/CS
3. McAuliffe	Hansen	AP	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

The bill creates the following road and bridge designations:

- The portion of I-595 between S.W. 136th Avenue and S.R. 823/Flamingo Road in Broward County as “Deputy Ryan Seguin Memorial Highway.”
- The portion of I-75/Alligator Alley between mile marker 24 and mile marker 26 in Broward County as “Trooper Stephen G. Rouse Memorial Highway.”
- The pedestrian bridge over S.R. 436/Semorán Boulevard (75003000) at Abercorn Drive in Orange County as “Elias ‘Rico’ Piccard Memorial Overpass.”
- The bridge on W. Laurel Street over the Hillsborough River (105503) in Hillsborough County as “Fortune Taylor Bridge.”
- The portion of U.S. 90/S.R. 10 between Chaires Cross Road and S.R. 59 in Leon County and Jefferson County as “Deputy Christopher Smith Memorial Highway.”
- The Minneola interchange on S.R. 91/Florida’s Turnpike at N. Hancock Road in Lake County as “Tera Ross Memorial Interchange.”
- The portion of N.E. 18th Street between N.E. 2nd Avenue and N. Bayshore Drive in Miami-Dade County as “Jose Luis Ferreira de Melo Boulevard.”
- The portion of N.W. 7th Avenue/U.S. 441 between N.W. 12th Street and N.W. 58th Street in Miami-Dade County as “Reverend James Jenkins Boulevard.”
- The portion of N.W. 133rd Avenue between N.W. 11th Street and N.W. 12th Street in Broward County is designated as “Patricia Angella Barrett Lewis and Charlton Pernell Lewis Avenue.”

- The portion of 5th Street between Euclid Avenue and Lenox Avenue in Miami-Dade County is designated as “Joseph Emmanuel ‘Manno’ Charlemagne Street.”

The bill directs the Florida Department of Transportation (FDOT) to erect suitable markers.

The estimated cost to the FDOT to install the designation markers required under this bill is \$10,000.

The bill takes effect July 1, 2018.

II. Present Situation:

Transportation Facility Designations

Section 334.071, F.S., provides that legislative designations of transportation facilities are for honorary or memorial purposes, or to distinguish a particular facility. Such designations do not require any action by local governments or private parties regarding the changing of any street signs, mailing addresses, or 911 emergency telephone number system listings, unless the legislation specifically provides for such changes.¹

When the Legislature establishes road or bridge designations, the FDOT is required to place markers only at the termini specified for each highway segment or bridge designated by the law creating the designation, and to erect any other markers it deems appropriate for the transportation facility.²

The FDOT may not erect the markers for honorary road or bridge designations unless the affected city or county commission enacts a resolution supporting the designation. When the designated road or bridge segment is located in more than one city or county, each affected local government must pass resolutions supporting the designations before installation of the markers.³

Deputy Ryan Seguin⁴

Deputy Ryan Seguin, a three-year Broward County Sheriff’s Office veteran, received a Life Saving Award in 2005 from the Broward County Sheriff after saving the life of a child in danger of drowning and earned Employee of the Month honors in the Sheriff’s Office Weston district four times. Deputy Seguin came from a law enforcement family; his father was a retired police officer for the Ft. Lauderdale Police Department.

Deputy Seguin, 23 years old, was killed during a traffic stop near Davie, Florida, on the evening of February 15, 2006. Deputy Seguin was outside his vehicle in the westbound lanes of I-595

¹ Section 334.071(1), F.S.

² Section 334.071(2), F.S.

³ Section 334.071(3), F.S.

⁴ See Officer Down Memorial Page, *Deputy Sheriff Ryan Christopher Seguin*, available at <http://www.odmp.org/officer/18145-deputy-sheriff-ryan-christopher-seguin> and Sacasa, Adam, *Move police officers hit as drivers fail to move over*, Sun Sentinel (Feb. 15, 2017) available at <http://www.sun-sentinel.com/local/fl-sb-pn-move-over-law-awareness-20170215-story.html> (both sites last visited Jan. 31, 2018).

when a passing car struck and killed him on impact. Deputy Seguin was laid to rest in Alpena, Michigan.

Trooper Stephen G. Rouse⁵

Trooper Stephen G. Rouse had served the residents of Florida with the Florida Highway Patrol (FHP) for 11 months. His career with FHP began May 5, 1986. He was in the 76th recruit class in Tallahassee, from May 5 to August 22, 1986, and was stationed in Fort Lauderdale.

On March 28, 1987, Trooper Rouse was killed in an automobile accident in Broward County on I-75 (Alligator Alley) at the toll booth area. He was responding to a fatal accident call on Alligator Alley, when a van made a U-turn in front of him. At the time of his death, he was 23.

Elias ‘Rico’ Piccard⁶

Elias ‘Rico’ Piccard was born in San Juan, Puerto Rico on June 28, 1946. He served in the United States Army from 1967-1969, serving in Vietnam for one year. He was known throughout the community for his photography, and was an active member of his community.

Elias ‘Rico’ Piccard is survived by three children and six grandchildren.

Fortune Taylor⁷

Fortune Taylor was a former slave who in the late 1800’s tended orchards of oranges, guavas, and peaches with her husband on the eastern shore of the Hillsborough River. Following her husband’s death in 1869, Ms. Taylor was granted homestead to their 33 acres and became a successful businesswoman, selling her baked goods and remaining active in her community. She is said to have been especially loved by children. Ms. Taylor eventually sold her property, paving the way for construction of the bridge.

Deputy Christopher Smith⁸

Originally, from Georgia, Deputy Smith grew up in Jefferson County and graduated from Jefferson County High School. He loved working in law enforcement and began his career as a Correctional Officer with the Jefferson County Sheriff’s Office in January 1989. He worked with the Jefferson County Sheriff’s Office for 20 years before accepting a position as a deputy sheriff with the Leon County Sheriff’s Office in 2009. On November 22, 2014, he was notified of a residential house fire where he was ambushed and died of his injuries at the scene.

⁵ Department of Highway Safety and Motor Vehicles, *FHP Memorial: Stephen G. Rouse*, available at <https://www.flhsmv.gov/florida-highway-patrol/fhp-memorial/stephen-g-rouse/> (last visited Feb. 8, 2018).

⁶ Hernandez, Arelis, *Elias ‘Rico’ Piccard: Puerto Rican community activist*, Orlando Sentinel, Nov. 27, 2013, available at http://articles.orlandosentinel.com/2013-11-27/news/os-obit-elias-rico-piccard-20131127_1_puerto-rican-social-worker-activist (last visited Feb. 19, 2018).

⁷ Danielson, Richard, *Tampa moves to put freed slave Fortune Taylor’s name back on historic bridge*, Tampa Bay Times, Oct. 19, 2017, available at http://www.tampabay.com/hurricane-guide/Tampa-moves-to-put-freed-slave-Fortune-Taylor-s-name-back-on-historic-bridge_161801186 (last visited Feb. 19, 2018).

⁸ Leon County Sheriff’s Office, *Honoring Our Fallen Heroes: Christopher L. Smith*, available at <http://www.leoncountysos.com/about-us/honoring-our-fallen-heroes/christopher-l-smith> (last visited Feb. 19, 2018).

Deputy Christopher Smith is survived by his wife and two children.

Tera Ross⁹

Tera Ross was born and raised in Florida, and was pursuing her ambition to play sports while ensuring her education. After being heavily recruited by several universities and colleges to play softball, she chose Jacksonville State University in Alabama.

In December 2003 she was driving with her brother and a fellow teammate home to Plantation, Florida for the holidays. While driving on Florida's Turnpike her vehicle went off the shoulder where she crashed head-on into a truck carrying explosives to a military base. Her brother and teammate were critically injured but recovered. Tera was killed instantly. Tera Ross was the catalyst to install median guardrails throughout the Turnpike system and the inspiration to implement it.

Jose Luis Ferreira de Melo¹⁰

Originally founded in 1948, the Melo Group is one of the strongest family-owned, full-service real estate development firms operating in South Florida today. Jose Luis Ferreira de Melo is the President and managerial leader of The Melo Group. He has more than 60 years of first-hand knowledge of the industry, along with a Doctorate Degree in Economics from the University of Buenos Aires and a certification in Public Accounting.

Reverend James Jenkins¹¹

In 1963, the Reverend James E. Jenkins began his service as pastor of the Friendship Missionary Baptist Church in Miami, Florida. Upon accepting this call to the Pastorate he would be confronted with many issues such as integration and urban renewal, church relocation and rebuilding, increased crime rates, decreased financial resources, as well as Haitian immigration plight. Despite the challenges Rev. Jenkins faced as pastor of the church, he was able to be impactful in many of the aforementioned areas. He served faithfully from the years of 1963 until 1985.

Patricia Angella Barrett Lewis and Charlton Pernell Lewis¹²

Patricia Angella Barrett Lewis was born in Westmoreland, Jamaica in 1964. She moved to Miami, Florida in 1985 and completed her degree in nursing in 1996. Charlton Pernell Lewis was born in Miami in 1967, and he attended Norland Senior High School excelling in both academics and sports. He received a Bachelor of Arts in Geography from the University of Florida in 1990. He worked for Miami-Dade County. Patricia and Charlton were married in 1997, and, unfortunately, Patricia was killed in a car accident in 2004, leaving Charlton to care for their three children. Charlton passed away in 2017.

⁹ Information on file with Appropriations Subcommittee on Transportation, Tourism, and Economic Development.

¹⁰ Themelogroup.com, available at <http://www.themelogroup.com/about.html> (last visited Feb. 16, 2018).

¹¹ Information on file with Appropriations Subcommittee on Transportation, Tourism, and Economic Development.

¹² Id.

Joseph Emmanuel ‘Manno’ Charlemagne¹³

Joseph Emmanuel ‘Manno’ Charlemagne, born in 1947/1948, was a Haitian political folk singer, songwriter, acoustic guitarist, political activist, and politician. He recorded his political chansons in both French and in Creole. Charlemagne grew up in Carrefour, Haiti to the south of the capital of Port-au-Prince, where he was influenced as much by the songs of the peasants who moved into the area in search of a livelihood as by his Catholic school choir.

Charlemagne died of cancer in Miami Beach, Florida, on December 10, 2017, at the age of 69.

III. Effect of Proposed Changes:

The bill creates the following road and bridge designations:

- The portion of I-595 between S.W. 136th Avenue and S.R. 823/Flamingo Road in Broward County as “Deputy Ryan Seguin Memorial Highway.”
- The portion of I-75/Alligator Alley between mile marker 24 and mile marker 26 in Broward County as “Trooper Stephen G. Rouse Memorial Highway.”
- The pedestrian bridge over S.R. 436/Semorán Boulevard (75003000) at Abercorn Drive in Orange County as “Elias ‘Rico’ Piccard Memorial Overpass.”
- The bridge on W. Laurel Street over the Hillsborough River (105503) in Hillsborough County as “Fortune Taylor Bridge.”
- The portion of U.S. 90/S.R.10 between Chaires Cross Road and S.R. 59 in Leon County and Jefferson County as “Deputy Christopher Smith Memorial Highway.”
- The Minneola interchange on S.R. 91/Florida’s Turnpike at N. Hancock Road in Lake County as “Tera Ross Memorial Interchange.”
- The portion of N.E. 18th Street between N.E. 2nd Avenue and N. Bayshore Drive in Miami-Dade County as “Jose Luis Ferreira de Melo Boulevard.”
- The portion of N.W. 7th Avenue/U.S. 441 between N.W. 12th Street and N.W. 58th Street in Miami-Dade County as “Reverend James Jenkins Boulevard.”
- The portion of N.W. 133rd Avenue between N.W. 11th Street and N.W. 12th Street in Broward County is designated as “Patricia Angella Barrett Lewis and Charlton Pernell Lewis Avenue.”
- The portion of 5th Street between Euclid Avenue and Lenox Avenue in Miami-Dade County is designated as “Joseph Emmanuel ‘Manno’ Charlemagne Street.”

The bill directs the Florida Department of Transportation (FDOT) to erect suitable markers.

The bill takes effect on July 1, 2018.

¹³ Charles, Jacqueline, *Miami bids farewell to folk singer Manno Charlemagne, the Bob Marley of Haiti*, Miami Herald, Dec. 14, 2017, available at <http://www.miamiherald.com/news/nation-world/world/americas/haiti/article189897489.html> (last visited Feb. 19, 2018).

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:

The estimated cost to erect the designation markers required by the bill is \$10,000, based on the assumptions that 20 markers are required and each marker costs the FDOT at least \$500. The estimate includes sign fabrication, installation, and maintenance over time but does not include any additional expenses related to maintenance of traffic, the dedication event, or replacement necessitated by damage, vandalism, or storm events.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

The 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 February 15, 2018:

The committee substitute adds the following designations to the bill:

- The portion of I-75/Alligator Alley between mile marker 24 and mile marker 26 in Broward County as “Trooper Stephen G. Rouse Memorial Highway.”
- The pedestrian bridge over S.R. 436/Semorán Boulevard (75003000) at Abercorn Drive in Orange County as “Elias ‘Rico’ Piccard Memorial Overpass.”
- The bridge on W. Laurel Street over the Hillsborough River (105503) in Hillsborough County as “Fortune Taylor Bridge.”
- The portion of U.S. 90/S.R. 10 between Chaires Cross Road and S.R. 59 in Leon County and Jefferson County as “Deputy Christopher Smith Memorial Highway.”
- The Minneola interchange on S.R. 91/Florida’s Turnpike at N. Hancock Road in Lake County as “Tera Ross Memorial Interchange.”
- The portion of N.E. 18th Street between N.E. 2nd Avenue and N. Bayshore Drive in Miami-Dade County as “Jose Luis Ferreira de Melo Boulevard.”
- The portion of N.W. 7th Avenue/U.S. 441 between N.W. 12th Street and N.W. 58th Street in Miami-Dade County as “Reverend James Jenkins Boulevard.”
- The portion of N.W. 133rd Avenue between N.W. 11th Street and N.W. 12th Street in Broward County is designated as “Patricia Angella Barrett Lewis and Charlton Pernell Lewis Avenue.”
- The portion of 5th Street between Euclid Avenue and Lenox Avenue in Miami-Dade County is designated as “Joseph Emmanuel ‘Manno’ Charlemagne Street.”

- B. **Amendments:**

None.

By Senator Book

32-00625-18

2018382__

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A bill to be entitled

An act relating to transportation facility designations; providing honorary designation of a certain transportation facility in a specified county; directing the Department of Transportation to erect suitable markers; providing an effective date.

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

Section 1. Deputy Ryan Seguin Memorial Highway designated; Department of Transportation to erect suitable markers.-

(1) That portion of I-595 between S.W. 136th Avenue and S.R. 823/Flamingo Road in Broward County is designated as "Deputy Ryan Seguin Memorial Highway."

(2) The Department of Transportation is directed to erect suitable markers designating Deputy Ryan Seguin Memorial Highway as described in subsection (1).

Section 2. This act shall take effect July 1, 2018.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Appropriations Subcommittee on the
Environment and Natural Resources, *Chair*
Appropriations
Appropriations Subcommittee on Health and
Human Services
Education
Environmental Preservation and
Conservation
Health Policy
Rules

SENATOR LAUREN BOOK

Democratic Leader Pro Tempore
32nd District

February 9, 2018

Chair Rob Bradley
Committee on Appropriations
201 The Capitol
404 S. Monroe Street
Tallahassee, FL 32399-1100

Chair Bradley,

I respectfully request that you place SB 382, relating to Transportation Facility Designations/Deputy Ryan Seguin Memorial Highway, on the agenda of the Committee on Appropriations at your earliest convenience.

Should you have any questions or concerns, please feel free to contact my office or me. Thank you in advance for your consideration.

Thank you,

A handwritten signature in cursive script that reads "Lauren Book".

Senator Lauren Book
Senate District 32

cc: Mike Hansen, Staff Director
Alicia Weiss, Administrative Assistant

REPLY TO:

- 967 Nob Hill Road, Plantation, Florida 33324 (954) 424-6674
- 202 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5032

Senate's Website: www.flsenate.gov

JOE NEGRON
President of the Senate

ANITERE FLORES
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/15/18
Meeting Date

SB 382

Bill Number (if applicable)

544028

Amendment Barcode (if applicable)

Topic _____

Name Brice Google

Job Title Captain

Address _____
Street

Phone _____

City

State

Zip

Email _____

Speaking: For Against Information

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

Representing Leon County Sheriff's Office

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/15/18
Meeting Date

382
Bill Number (if applicable)

544028
Amendment Barcode (if applicable)

Topic _____

Name Erin Smith - Smith

Job Title _____

Address 1500 Adams
Street

Phone _____

City

State

Zip

Email _____

Speaking: For Against Information

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

Representing Surviving spouse Christopher Smith (Deputy LCSO)

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/15/18 Meeting Date

SB 382 Bill Number (if applicable)

544028 Amendment Barcode (if applicable)

Topic

Name JAMES MCDUAIG

Job Title CAPTAIN

Address Street

Phone

City State Zip

Email

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

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

Representing LEON COUNTY SHERIFF'S OFFICE

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

Lobbyist registered with Legislature: [] Yes [] No

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

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/15/18
Meeting Date

SB 382
Bill Number (if applicable)

544028
Amendment Barcode (if applicable)

Topic _____

Name Mac McNeill

Job Title Sheriff / Jefferson County

Address _____
Street

Phone _____

City _____ State _____ Zip _____

Email _____

Speaking: For Against Information

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

Representing Jefferson County Sheriff's Office

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

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 450

INTRODUCER: Children, Families, and Elder Affairs Committee and Senator Garcia

SUBJECT: Mental Health and Substance Use Disorders

DATE: February 14, 2018

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Hendon</u>	<u>Hendon</u>	<u>CF</u>	Fav/CS
2.	<u>Sneed</u>	<u>Williams</u>	<u>AHS</u>	Recommend: Favorable
3.	<u>Sneed</u>	<u>Hansen</u>	<u>AP</u>	Favorable

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 450 promotes the use of peer specialists for recovery support in behavioral health care. A “peer specialist” is an individual who has been in recovery from a substance use disorder or mental illness or a family member or caregiver who supports a person with a current substance use disorder or mental illness.

The bill revises background screening requirements for peer specialists and requires a peer specialist to be certified, or be supervised by a licensed behavioral care professional or another certified peer specialist. The bill codifies existing training program and certification requirements for peer specialists provided by the Department of Children and Families.

The overall fiscal impact of the bill on state expenditures is indeterminate. To the extent the bill increases the number of peer specialists available to provide services and providers substitute those services for other more costly behavioral health services, the state may experience lower costs for mental health and substance abuse treatment. On the other hand, to the extent such services are in addition to current services, the state may incur additional costs for such treatment. The Department of Children and Families will incur minimal costs, which can be absorbed within existing department resources, to update its in-house background screening database.

The bill takes effect July 1, 2018.

II. Present Situation:

Behavioral Health Workforce Shortage

Workforce issues for providers of substance use disorder and mental illness treatment and recovery services, which have been of concern for decades, have taken on a greater sense of urgency with the passage of recent parity and health reform legislation.¹ The Affordable Care Act increased the number of people who are eligible for health care coverage, including behavioral health services. In addition, as screening for mental illness and substance abuse becomes more frequent in primary care, more people will need behavioral health services. Furthermore, workforce shortages will be impacted by additional demands that result from: (1) a large number of returning veterans in need of services; and (2) new state re-entry initiatives to reduce prison populations, a large majority of whom have mental or substance use disorders.²

Shortages of qualified behavioral health workers, recruitment and retention of staff, and an aging workforce have long been cited as problems. Lack of workers in rural areas and the need for a workforce more reflective of the racial and ethnic composition of the U.S. population create additional barriers to accessing care for many. Recruitment and retention efforts are hampered by inadequate compensation, which discourages many from entering or remaining in the field. In addition, the misunderstanding and prejudice of persons with mental and substance use disorders can negatively affect the use of peer specialists.

Opioid Crisis

Florida has experienced an exponential growth in overdoses and deaths from overdoses from opioids.³ In 2016, Florida had 53,180 deaths from overdoses of legal and illegal opioids.⁴ The overdoses and deaths have significant social and economic impact to the state. For example, families are negatively impacted as more children must be removed from their homes due to substance use by parents.

On May 3, 2017, Governor Rick Scott, following the declaration of a national opioid epidemic by the Centers for Disease Control and Prevention (CDC), signed Executive Order 17-146 declaring a public health emergency across the state for the opioid epidemic in Florida.⁵ The Executive Order allowed the state to immediately draw down more than \$27 million in federal grant funding from the U.S. Department of Health and Human Services Opioid State Targeted Response Grant to provide prevention, treatment and recovery support services. In addition, Florida's Surgeon General Dr. Celeste Philip issued a standing order to pharmacists in Florida to

¹ U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration. Report to Congress on the Nation's Substance Abuse and Mental Health Workforce Issues. January 24, 2013. Available at: <https://store.samhsa.gov/shin/content/PEP13-RTC-BHWOR/PEP13-RTC-BHWOR.pdf> (last visited Nov. 2, 2017).

² *Id.*

³ Jim Hall, Senior Epidemiologist, Center for Applied Research on Substance Use and Health Disparities, Nova Southeastern University. Presentation to the Senate Appropriations Subcommittee on Health and Human Services, Oct. 25, 2017. Available at http://www.flsenate.gov/PublishedContent/Committees/2016-2018/AHS/MeetingRecords/MeetingPacket_3987.pdf (last visited Nov. 2, 2017).

⁴ *Id.*

⁵ Office of the Governor, Executive Order number 17-146. Available at <http://www.flgov.com/wp-content/uploads/2017/05/17146.pdf> (last visited Nov. 2, 2017).

dispense Naloxone to emergency responders (law enforcement officers, firefighters, paramedics, and emergency medical technicians) to treat individuals showing signs of opioid overdose.

Use of Peer Specialists

Research has shown that recovery from a substance use disorder or mental illness is facilitated by the use of social support provided by peers.⁶ The most recognized form of peer support is the 12-step programs of Alcoholic Anonymous and Narcotic Anonymous. More recently, peers or peer specialists have been used to assist persons with serious mental illnesses.⁷

Research has identified four types of social support provided by peers:

- Emotional - where a peer demonstrates empathy, caring or concern to bolster a person's self-esteem. This is often provided by peer mentoring or peer-led support groups.
- Informational - where a peer shares knowledge and information to provide life or vocational skills training. Examples include parenting classes, job readiness training, and wellness seminars.
- Instrumental - where a peer provides concrete assistance to help others accomplish tasks. Examples include child care, transportation, and help accessing health and human services.
- Affiliational - where a peer facilitates contacts with other people to promote learning of social skills, create a sense of community, and acquire a sense of belonging. Examples include staffing recovery centers, sports league participation, and alcohol or drug free socialization.⁸

The Department of Children and Families (department) Florida Peer Services Handbook defines a peer as an individual who has life experience with a mental health and/or substance use condition.⁹ Current department guidelines recommend that an individual be in recovery for at least two years to be considered for peer specialist training. In Florida, family members or caregivers may also be certified as peer specialists.

The Florida Certification Board currently offers certification with three distinct endorsements for individuals with lived experience who wish to become certified as Peer Specialists. General requirements for certification include being age 18 or older, achieving minimum education of high school diploma or equivalent, passing background screening, completing a minimum of 40 hours of training, and passing a competency exam.¹⁰

⁶ U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, Center for Substance Abuse Treatment. What Are Peer Recovery Support Services? Available at <https://store.samhsa.gov/shin/content/SMA09-4454/SMA09-4454.pdf> (last visited Nov. 2, 2017).

⁷ National Public Radio. In Texas, People with Mental Illness Are Finding Work Helping Peers. July 11, 2017. <http://www.npr.org/sections/health-shots/2017/07/11/536501069/in-texas-people-with-mental-illness-are-finding-work-helping-peers> (last visited Nov. 2, 2017).

⁸ U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, Center for Substance Abuse Treatment. What Are Peer Recovery Support Services? Available at <https://store.samhsa.gov/shin/content/SMA09-4454/SMA09-4454.pdf> (last visited Nov. 2, 2017).

⁹ Department of Children and Families, Florida Peer Services Handbook. Available at <http://www.myflfamilies.com/service-programs/substance-abuse/publications> (last visited Nov. 2, 2017).

¹⁰ SB 450 Department of Children and Families Bill Analysis. Oct. 11, 2017. On file with the Senate Committee on Children, Families and Elder Affairs.

Barriers to the Use of Peer Specialists

Currently, there is a shortage of peer specialists working within behavioral health services. As of June 2017, there were 418 individuals with active certification through the Florida Certification Board.¹¹

There are two principal barriers to the use of peer specialists. First, peer specialists often cannot pass background screening requirements in ss. 435.04 and 408.809, F.S. Persons who have recovered from a substance use disorder or mental illness often have a criminal history.¹² Common offenses may include using and selling illegal substances, prostitution, or financial fraud. Section 435.04, F.S., allows a person with a disqualifying offense identified through background screening to apply to the respective state agency head (the Secretary of the Department of Children and Families or the Secretary of the Agency for Health Care Administration) for an exemption if it has been three or more years since the person's conviction. The applicant must produce all court records regarding the convictions, letters of recommendation, evidence of their rehabilitation, education, and employment, and must also complete a questionnaire. The requirements for this exemption often deter persons from becoming peer specialists.

Second, only recently have peer specialists been reimbursed as a behavioral health care service. Medicaid billing for peer support services began in Georgia in 1999 and quickly expanded nationally in 2007 after the Centers for Medicare and Medicaid Services (CMS) sent guidelines to states on how to be reimbursed for services delivered by peer providers.¹³ In 2012, Georgia was approved as the first state to bill for a peer whole health and wellness service delivered by peer providers. CMS' Clarifying Guidance on Peer Services Policy from May 2013 states that any peer provider must "complete training and certification as defined by the state" before providing billable services.¹⁴ Beginning January 1, 2014, CMS expanded the type of practitioners who can provide Medicaid prevention services beyond physicians and other licensed practitioners, at a state's discretion, which can include peer providers.¹⁵ Florida's Medicaid program currently covers peer recovery services. The department also allows the state's behavioral health managing entities to reimburse for these services.¹⁶

III. Effect of Proposed Changes:

Section 1 amends s. 394.455, F.S., to define "peer specialist," as a person who has been in recovery from a substance use disorder or mental illness for the past 2 years, or a family member of such a person, and who is certified under s. 397.417, F.S. (created by section 6 of the bill).

¹¹ *Id.*

¹² *Id.*

¹³ U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services. SMDL #07-011. Aug. 15, 2007. On file with the Senate Committee on Children, Families and Elder Affairs.

¹⁴ U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services. Clarifying Guidance on Peer Support Services Policy. May 1, 2013. On file with the Senate Committee on Children, Families and Elder Affairs.

¹⁵ Substance Abuse and Mental Health Services Administration and U.S. Department of Health and Human Services - Center for Integrated Health Solutions. Peer Providers. On file with the Senate Committee on Children, Families and Elder Affairs.

¹⁶ SB 450 Department of Children and Families Bill Analysis. Oct. 11, 2017. On file with the Senate Committee on Children, Families and Elder Affairs.

This is consistent with the department’s definition for peer specialists and recommended recovery time, and is consistent with national standards.

Section 2 amends s. 394.4572, F.S., relating to background screening of mental health personnel. The bill conforms this statute to the requirements of the newly created s. 397.417, F.S., relating to the background screening of peer specialists.

Section 3 amends s. 394.4573, F.S., to add the use of peer specialists to the list of recovery support services as an essential element of a coordinated system of behavioral health care.

Section 4 amends s. 397.311, F.S., providing definitions in Chapter 397, F.S., relating to Substance Abuse Services, to include a definition for “peer specialist.”

Section 5 amends s. 397.4073, F.S., relating to background screening for persons working with individuals with substance use disorders. The section removes provisions authorizing agency heads to exempt persons who have recovered from a substance use disorder from drug offenses that would otherwise disqualify them from providing peer recovery services. This language is no longer needed as section 6 revises background screening requirements in the newly created s. 397.417, F.S.

Section 6 creates s. 397.417, F.S., relating to behavioral health peer specialists. This section provides legislative findings that: there is a shortage of behavioral health care employees; the state is experiencing an opioid epidemic; and peers are often an effective support for persons with substance use disorders or mental illness because the peer shares common life experiences. The bill also specifies intent to expand the use of peer specialists as a cost-effective behavioral health care service.

The section sets qualifications for peer specialists and responsibilities of the department. A peer specialist must be certified and meet the background screening requirements, as well as complete a training program approved by the department. The department must develop a training program for peer specialists—with preference given to trainers who are certified peer specialists—and certify peer specialists directly or may designate a private, nonprofit certification organization to certify peer specialists, implement the training program, and administer the competency exam. The section also requires peer specialists that are providing services be supervised by a licensed behavioral health care professional or a certified peer specialist.

In addition, section 6 also provides that peer specialist services may be reimbursed as a recovery service through the department, behavioral health managing entity, or the Medicaid program.

The section specifies revised background screening requirements that differ from current law because persons who have recovered from a substance use disorder or mental illness may be more likely to have committed certain offenses.¹⁷ Under current law and department rule, peers working with persons suffering from substance use disorders must meet background screening requirements in s. 435.04, F.S. Peers working with persons suffering from mental illness must

¹⁷ SB 450 Department of Children and Families Bill Analysis. Oct. 11, 2017. On file with the Senate Committee on Children, Families and Elder Affairs.

meet the screening requirements in s. 435.04 F.S., as well as those in s. 408.409, F.S. The new screening requirements eliminate the following disqualifying offenses from current law for peer specialists:

- Misdemeanor assault, or battery (ch. 784, F.S.),
- Prostitution (ch. 796, F.S.),
- Lower level burglary offenses (s. 810.02, F.S.),
- Lower level theft and robbery offenses (ch. 812, F.S.),
- Lower level drug abuse offenses (s. 817.563 and ch. 893, F.S.),
- Mail or wire fraud (s. 817.034, F.S.),
- Insurance fraud (s. 817.234, F.S.),
- Credit card fraud (ss. 817.481, 817.60, and 817.61, F.S.),
- Identification fraud (s. 817.568, F.S.), and
- Forgery (ss. 831.01, 831.02, 831.07 and 831.09, F.S.).

Finally, the section includes a grandfather clause to allow all peer specialists certified as of the effective date of the act to be recognized as having met the requirements of this bill.

Section 7 amends s. 212.055, F.S., relating to the county public hospital surtax, to incorporate a conforming cross reference to a definition in chapter 397, F.S., relating to substance abuse.

Section 8 amends s. 394.495, F.S., relating to children's mental health care, to incorporate conforming cross references to definitions.

Section 9 amends s. 394.496, F.S., relating to mental health service planning, to incorporate conforming cross references to definitions.

Section 10 amends s. 394.9085, F.S., relating to behavioral health service provider liability, to incorporate conforming cross references to definitions.

Section 11 amends s. 397.416, F.S., relating to substance use disorder treatment services, to incorporate conforming revisions.

Section 12 amends s. 409.972, F.S., relating to enrollment in Medicaid, to incorporate a conforming cross reference.

Section 13 amends s. 440.102, F.S., relating to the drug-free workplace program, to incorporate conforming cross references to definitions.

Section 14 amends s. 744.2007, F.S., relating to public guardians, to incorporate a conforming cross reference to a definition.

Section 15 provides the bill takes effect July 1, 2018.

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

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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

None.

B. Private Sector Impact:

The bill will allow additional peer specialists to be employed to provide recovery services to persons suffering from a substance use disorder and or a mental illness. To the extent the bill increases the number of peer specialists available to provide services and providers substitute those services for other more costly behavioral health services, private insurers and Medicaid managed care plans may see a reduction in the cost of behavioral health care services. On the other hand, to the extent such services are in addition to current services, private insurers and Medicaid managed care plans may incur additional costs for such treatment.

The bill requires that peer specialists be supervised by a licensed behavioral health care professional or a licensed behavioral health care agency, which may increase costs for those providers currently employing peer specialists.

The bill may result in additional background screenings if more persons apply to be peer specialists. The individual or behavioral health care provider would be charged a fee to cover the cost of the background screening. The individual may also incur a certification testing fee. However, the Department of Children and Families currently provides resources to offset such costs for individuals who may not have the ability to pay for the certification.

C. Government Sector Impact:

The state may see a reduction in the cost of behavioral health care services if more health insurance providers make use of peer specialists. This would be due to the effectiveness of peer specialists in assisting persons recovering from substance use disorders or mental illnesses and the lower cost of peer recovery services compared to other behavioral health care services.

The Department of Children and Families will incur minimal costs, which can be absorbed within existing department resources, to update its in-house background screening database.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 394.455, 394.4572, 394.4573, 397.311, and 397.4073.

The bill amends the following sections of the Florida Statutes to incorporate conforming cross references: 212.055, 394.495, 394.496, 394.9085, 397.416, 409.972, 440.102, and 744.2007.

This bill creates section 397.417 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 Children, Families, and Elder Affairs on November 13, 2017:

- Adds a family member or caregiver of a person with a substance use disorder or mental illness to the definition of a peer specialist. This is current practice and family members presently serve as certified peer specialists in Florida.
- Allows certified peer specialists, along with licensed behavioral health care professionals, to supervise other peer specialists. The CS removes supervision by a behavioral health care agency.
- Clarifies that peer specialists must have had no felony convictions for at least 3 years and meet the background screening requirements in the bill.
- Requires peer specialists to have completed or been lawfully released from confinement, supervision, or nonmonetary condition imposed by the court for any felony prior to being certified.
- Adds felony assault and battery, female genital mutilation, and robbery as offenses that would disqualify peer specialists. The CS clarifies that drug offenses that are first and second degree are disqualifying for peer specialists. Peer specialists would still be able to request an exemption from a state agency. The CS removes the offense of selling a non-controlled substance as a controlled substance from the list of disqualifying offenses.

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 Children, Families, and Elder Affairs; and
Senator Garcia

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1 A bill to be entitled
2 An act relating to mental health and substance use
3 disorders; amending s. 394.455, F.S.; defining the
4 term "peer specialist"; amending s. 394.4572, F.S.;
5 requiring a specific level of screening for peer
6 specialists working in mental health programs and
7 facilities; amending s. 394.4573, F.S.; specifying
8 that the use of peer specialists for recovery support
9 is an essential element of a coordinated system of
10 behavioral health care; amending s. 397.311, F.S.;
11 defining the term "peer specialist"; amending s.
12 397.4073, F.S.; conforming provisions to changes made
13 by the act; creating s. 397.417, F.S.; providing
14 legislative findings and intent; authorizing a person
15 to seek certification as a peer specialist if he or
16 she meets specified qualifications; requiring a
17 background screening, completion of a training
18 program, and a passing score on a competency exam for
19 a qualified person to obtain certification as a peer
20 specialist; requiring the Department of Children and
21 Families to develop a training program for peer
22 specialists and give preference to trainers who are
23 certified peer specialists; requiring the training
24 program to coincide with a competency exam and be
25 based on current practice standards; requiring the
26 department to certify peer specialists directly or by
27 designating a nonprofit certification organization;
28 requiring that a person providing peer specialist
29 services be certified or supervised by a licensed

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30 behavioral health care professional or a certified
31 peer specialist; authorizing the department, a
32 behavioral health managing entity, or the Medicaid
33 program to reimburse a peer specialist service as a
34 recovery service; encouraging Medicaid managed care
35 plans to use peer specialists in providing recovery
36 services; requiring peer specialists to meet the
37 requirements of a background screening as a condition
38 of employment and continued employment; authorizing
39 the department or the Agency for Health Care
40 Administration to require by rule that fingerprints be
41 submitted electronically to the Department of Law
42 Enforcement; authorizing the department or the agency
43 to contract with certain vendors for fingerprinting;
44 specifying requirements for vendors; specifying
45 offenses to be considered in the background screening
46 of a peer specialist; authorizing a person who does
47 not meet background screening requirements to request
48 an exemption from disqualification from the department
49 or the agency; providing that all peer specialists
50 certified as of the effective date of this act are
51 recognized as having met the requirements of this act;
52 amending ss. 212.055, 394.495, 394.496, 394.9085,
53 397.416, 409.972, 440.102, and 744.2007, F.S.;
54 conforming cross-references; making technical changes;
55 providing an effective date.

56
57 Be It Enacted by the Legislature of the State of Florida:
58

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59 Section 1. Present subsections (32) through (48) of section
60 394.455, Florida Statutes, are redesignated as subsections (33)
61 through (49), respectively, and a new subsection (32) is added
62 to that section, to read:

63 394.455 Definitions.—As used in this part, the term:

64 (32) "Peer specialist" means a person who has been in
65 recovery from a substance use disorder or mental illness for the
66 past 2 years or a family member or caregiver of a person with a
67 substance use disorder or mental illness and who is certified
68 under s. 397.417.

69 Section 2. Paragraph (a) of subsection (1) of section
70 394.4572, Florida Statutes, is amended to read:

71 394.4572 Screening of mental health personnel.—

72 (1) (a) The department and the Agency for Health Care
73 Administration shall require level 2 background screening
74 pursuant to chapter 435 for mental health personnel. "Mental
75 health personnel" includes all program directors, professional
76 clinicians, staff members, and volunteers working in public or
77 private mental health programs and facilities who have direct
78 contact with individuals held for examination or admitted for
79 mental health treatment. For purposes of this chapter,
80 employment screening of mental health personnel also includes,
81 but is not limited to, employment screening as provided under
82 chapter 435 and s. 408.809. The department and the Agency for
83 Health Care Administration shall require a level 2 background
84 screening pursuant to s. 397.417(5) for persons working as peer
85 specialists in public or private mental health programs or
86 facilities who have direct contact with individuals held for
87 involuntary examination or admitted for mental health treatment.

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88 Section 3. Paragraph (1) of subsection (2) of section
89 394.4573, Florida Statutes, is amended to read:

90 394.4573 Coordinated system of care; annual assessment;
91 essential elements; measures of performance; system improvement
92 grants; reports.—On or before December 1 of each year, the
93 department shall submit to the Governor, the President of the
94 Senate, and the Speaker of the House of Representatives an
95 assessment of the behavioral health services in this state. The
96 assessment shall consider, at a minimum, the extent to which
97 designated receiving systems function as no-wrong-door models,
98 the availability of treatment and recovery services that use
99 recovery-oriented and peer-involved approaches, the availability
100 of less-restrictive services, and the use of evidence-informed
101 practices. The department's assessment shall consider, at a
102 minimum, the needs assessments conducted by the managing
103 entities pursuant to s. 394.9082(5). Beginning in 2017, the
104 department shall compile and include in the report all plans
105 submitted by managing entities pursuant to s. 394.9082(8) and
106 the department's evaluation of each plan.

107 (2) The essential elements of a coordinated system of care
108 include:

109 (1) Recovery support, including, but not limited to, the
110 use of peer specialists as described in s. 397.417 to assist in
111 the individual's recovery from a substance use disorder or
112 mental illness, support for competitive employment, educational
113 attainment, independent living skills development, family
114 support and education, wellness management and self-care, and
115 assistance in obtaining housing that meets the individual's
116 needs. Such housing may include mental health residential

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117 treatment facilities, limited mental health assisted living
 118 facilities, adult family care homes, and supportive housing.
 119 Housing provided using state funds must provide a safe and
 120 decent environment free from abuse and neglect.

121 Section 4. Present subsections (30) through (49) of section
 122 397.311, Florida Statutes, are redesignated as subsections (31)
 123 through (50), respectively, and a new subsection (30) is added
 124 to that section, to read:

125 397.311 Definitions.—As used in this chapter, except part
 126 VIII, the term:

127 (30) "Peer specialist" means a person who has been in
 128 recovery from a substance use disorder or mental illness for the
 129 past 2 years or a family member or caregiver of a person with a
 130 substance use disorder or mental illness and who is certified
 131 under s. 397.417.

132 Section 5. Paragraphs (b) and (c) of subsection (4) of
 133 section 397.4073, Florida Statutes, are amended to read:

134 397.4073 Background checks of service provider personnel.—

135 (4) EXEMPTIONS FROM DISQUALIFICATION.—

136 ~~(b) Since rehabilitated substance abuse impaired persons~~
 137 ~~are effective in the successful treatment and rehabilitation of~~
 138 ~~individuals with substance use disorders, for service providers~~
 139 ~~which treat adolescents 13 years of age and older, service~~
 140 ~~provider personnel whose background checks indicate crimes under~~
 141 ~~s. 817.563, s. 893.13, or s. 893.147 may be exempted from~~
 142 ~~disqualification from employment pursuant to this paragraph.~~

143 ~~(c)~~ The department may grant exemptions from
 144 disqualification which would limit service provider personnel to
 145 working with adults in substance use disorder ~~abuse~~ treatment

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146 facilities.

147 Section 6. Section 397.417, Florida Statutes, is created to
 148 read:

149 397.417 Behavioral health peer specialists.—

150 (1) LEGISLATIVE FINDINGS AND INTENT.—

151 (a) The Legislature finds that:

152 1. The ability to provide adequate behavioral health
 153 services is limited by a shortage of professionals and
 154 paraprofessionals.

155 2. The state is experiencing an increase in opioid
 156 addictions, which prove fatal to persons in many cases.

157 3. Peer specialists provide effective support services
 158 because they share common life experiences with the persons they
 159 assist.

160 4. Peer specialists promote a sense of community among
 161 those in recovery.

162 5. Research has shown that peer support facilitates
 163 recovery and reduces health care costs.

164 6. Peer specialists may have a criminal history that
 165 prevents them from meeting background screening requirements.

166 (b) The Legislature intends to expand the use of peer
 167 specialists as a cost-effective means of providing services by
 168 ensuring that peer specialists meet specified qualifications,
 169 meet modified background screening requirements, and are
 170 adequately reimbursed for their services.

171 (2) QUALIFICATIONS.—

172 (a) A person may seek certification as a peer specialist if
 173 he or she has been in recovery from a substance use disorder or
 174 mental illness for the past 2 years or if he or she is a family

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175 member or caregiver of a person with a substance use disorder or
 176 mental illness.

177 (b) To obtain certification as a peer specialist, a person
 178 must meet the background screening requirements of subsection
 179 (5), complete the training program, and achieve a passing score
 180 on the competency exam described in paragraph (3) (a).

181 (3) DUTIES OF THE DEPARTMENT.—

182 (a) The department must develop a training program for
 183 persons seeking certification as peer specialists. The
 184 department must give preference to trainers who are certified
 185 peer specialists. The training program must coincide with a
 186 competency exam and be based on current practice standards.

187 (b) The department shall certify peer specialists. The
 188 department may certify peer specialists directly or may
 189 designate a private, nonprofit certification organization to
 190 certify peer specialists, implement the training program, and
 191 administer the competency exam.

192 (c) The department must require that a person providing
 193 peer specialist services be certified or be supervised by a
 194 licensed behavioral health care professional or a certified peer
 195 specialist.

196 (4) PAYMENT.—Peer specialist services may be reimbursed as
 197 a recovery service through the department, a behavioral health
 198 managing entity, or the Medicaid program. Medicaid managed care
 199 plans are encouraged to use peer specialists in providing
 200 recovery services.

201 (5) BACKGROUND SCREENING.—

202 (a) All peer specialists must have completed or been
 203 lawfully released from confinement, supervision, or any

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204 nonmonetary condition imposed by the court for any felony and
 205 must undergo a background screening as a condition of employment
 206 and continued employment. The background screening must include
 207 fingerprinting for statewide criminal history records checks
 208 through the Department of Law Enforcement and national criminal
 209 history records checks through the Federal Bureau of
 210 Investigation. The background screening may include local
 211 criminal records checks through local law enforcement agencies.

212 (b) The department or the Agency for Health Care
 213 Administration, as applicable, may require by rule that
 214 fingerprints submitted pursuant to this section be submitted
 215 electronically to the Department of Law Enforcement.

216 (c) The department or the Agency for Health Care
 217 Administration, as applicable, may contract with one or more
 218 vendors to perform all or part of the electronic fingerprinting
 219 pursuant to this section. Such contracts must ensure that the
 220 owners and personnel of the vendor performing the electronic
 221 fingerprinting are qualified and will ensure the integrity and
 222 security of all personal identifying information.

223 (d) Vendors who submit fingerprints on behalf of employers
 224 must:

- 225 1. Meet the requirements of s. 943.053; and
- 226 2. Have the ability to communicate electronically with the
 227 department or the Agency for Health Care Administration, as
 228 applicable, accept screening results from the Department of Law
 229 Enforcement and provide the applicant's full first name, middle
 230 initial, and last name; social security number or individual
 231 taxpayer identification number; date of birth; mailing address;
 232 sex; and race.

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233 (e) The background screening under this section must ensure
 234 that a peer specialist has not, during the previous 3 years,
 235 been arrested for and is awaiting final disposition of, been
 236 found guilty of, regardless of adjudication, or entered a plea
 237 of nolo contendere or guilty to, or been adjudicated delinquent
 238 and the record has not been sealed or expunged for, any felony.
 239 (f) The background screening under this section must ensure
 240 that a peer specialist has not been found guilty of, regardless
 241 of adjudication, or entered a plea of nolo contendere or guilty
 242 to, or been adjudicated delinquent and the record has not been
 243 sealed or expunged for, any offense prohibited under any of the
 244 following state laws or similar laws of another jurisdiction:
 245 1. Section 393.135, relating to sexual misconduct with
 246 certain developmentally disabled clients and reporting of such
 247 sexual misconduct.
 248 2. Section 394.4593, relating to sexual misconduct with
 249 certain mental health patients and reporting of such sexual
 250 misconduct.
 251 3. Section 409.9201, relating to Medicaid fraud.
 252 4. Section 415.111, relating to adult abuse, neglect, or
 253 exploitation of aged persons or disabled adults.
 254 5. Section 741.28, relating to domestic violence.
 255 6. Section 777.04, relating to attempts, solicitation, and
 256 conspiracy to commit an offense listed in this section.
 257 7. Section 782.04, relating to murder.
 258 8. Section 782.07, relating to manslaughter, aggravated
 259 manslaughter of an elderly person or disabled adult, aggravated
 260 manslaughter of a child, or aggravated manslaughter of an
 261 officer, a firefighter, an emergency medical technician, or a

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262 paramedic.
 263 9. Section 782.071, relating to vehicular homicide.
 264 10. Section 782.09, relating to killing of an unborn child
 265 by injury to the mother.
 266 11. Chapter 784, relating to assault, battery, and culpable
 267 negligence, if the offense was a felony.
 268 12. Section 787.01, relating to kidnapping.
 269 13. Section 787.02, relating to false imprisonment.
 270 14. Section 787.025, relating to luring or enticing a
 271 child.
 272 15. Section 787.04(2), relating to leading, taking,
 273 enticing, or removing a minor beyond the state limits, or
 274 concealing the location of a minor, with criminal intent pending
 275 custody proceedings.
 276 16. Section 787.04(3), relating to leading, taking,
 277 enticing, or removing a minor beyond the state limits, or
 278 concealing the location of a minor, with criminal intent pending
 279 dependency proceedings or proceedings concerning alleged abuse
 280 or neglect of a minor.
 281 17. Section 790.115(1), relating to exhibiting firearms or
 282 weapons within 1,000 feet of a school.
 283 18. Section 790.115(2)(b), relating to possessing an
 284 electric weapon or device, destructive device, or other weapon
 285 on school property.
 286 19. Section 794.011, relating to sexual battery.
 287 20. Former s. 794.041, relating to prohibited acts of
 288 persons in familial or custodial authority.
 289 21. Section 794.05, relating to unlawful sexual activity
 290 with certain minors.

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291 22. Section 794.08, relating to female genital mutilation.
 292 23. Section 798.02, relating to lewd and lascivious
 293 behavior.
 294 24. Chapter 800, relating to lewdness and indecent
 295 exposure.
 296 25. Section 806.01, relating to arson.
 297 26. Section 810.02, relating to burglary, if the offense
 298 was a felony of the first degree.
 299 27. Section 810.14, relating to voyeurism, if the offense
 300 was a felony.
 301 28. Section 810.145, relating to video voyeurism, if the
 302 offense was a felony.
 303 29. Section 812.13, relating to robbery.
 304 30. Section 812.131, relating to robbery by sudden
 305 snatching.
 306 31. Section 812.133, relating to carjacking.
 307 32. Section 812.135, relating to home-invasion robbery.
 308 33. Section 817.50, relating to fraudulently obtaining
 309 goods or services from a health care provider and false reports
 310 of a communicable disease.
 311 34. Section 817.505, relating to patient brokering.
 312 35. Section 825.102, relating to abuse, aggravated abuse,
 313 or neglect of an elderly person or disabled adult.
 314 36. Section 825.1025, relating to lewd or lascivious
 315 offenses committed upon or in the presence of an elderly person
 316 or disabled person.
 317 37. Section 825.103, relating to exploitation of an elderly
 318 person or disabled adult, if the offense was a felony.
 319 38. Section 826.04, relating to incest.

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320 39. Section 827.03, relating to child abuse, aggravated
 321 child abuse, or neglect of a child.
 322 40. Section 827.04, relating to contributing to the
 323 delinquency or dependency of a child.
 324 41. Former s. 827.05, relating to negligent treatment of
 325 children.
 326 42. Section 827.071, relating to sexual performance by a
 327 child.
 328 43. Section 831.30, relating to fraud in obtaining
 329 medicinal drugs.
 330 44. Section 831.31, relating to sale, manufacture,
 331 delivery, possession with intent to sell, manufacture, or
 332 deliver any counterfeit controlled substance if the offense was
 333 a felony.
 334 45. Section 843.01, relating to resisting arrest with
 335 violence.
 336 46. Section 843.025, relating to depriving a law
 337 enforcement, correctional, or correctional probation officer
 338 means of protection or communication.
 339 47. Section 843.12, relating to aiding in an escape.
 340 48. Section 843.13, relating to aiding in the escape of
 341 juvenile inmates of correctional institutions.
 342 49. Chapter 847, relating to obscene literature.
 343 50. Section 874.05, relating to encouraging or recruiting
 344 another to join a criminal gang.
 345 51. Chapter 893, relating to drug abuse prevention and
 346 control, if the offense was a felony of the second degree or
 347 greater severity.
 348 52. Section 895.03, relating to racketeering and collection

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349 of unlawful debts.350 53. Section 896.101, relating to the Florida Money
351 Laundering Act.352 54. Section 916.1075, relating to sexual misconduct with
353 certain forensic clients and reporting of such sexual
354 misconduct.355 55. Section 944.35(3), relating to inflicting cruel or
356 inhuman treatment on an inmate resulting in great bodily harm.357 56. Section 944.40, relating to escape.358 57. Section 944.46, relating to harboring, concealing, or
359 aiding an escaped prisoner.360 58. Section 944.47, relating to introduction of contraband
361 into a correctional facility.362 59. Section 985.701, relating to sexual misconduct in
363 juvenile justice programs.364 60. Section 985.711, relating to contraband introduced into
365 detention facilities.366 (6) EXEMPTION REQUESTS.—Persons who wish to become a peer
367 specialist and are disqualified under subsection (5) may request
368 an exemption from disqualification pursuant to s. 435.07 from
369 the department or the Agency for Health Care Administration, as
370 applicable.371 (7) GRANDFATHER CLAUSE.—All peer specialists certified as
372 of the effective date of this act are recognized as having met
373 the requirements of this act.374 Section 7. Paragraph (e) of subsection (5) of section
375 212.055, Florida Statutes, is amended to read:376 212.055 Discretionary sales surtaxes; legislative intent;
377 authorization and use of proceeds.—It is the legislative intent

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378 that any authorization for imposition of a discretionary sales
379 surtax shall be published in the Florida Statutes as a
380 subsection of this section, irrespective of the duration of the
381 levy. Each enactment shall specify the types of counties
382 authorized to levy; the rate or rates which may be imposed; the
383 maximum length of time the surtax may be imposed, if any; the
384 procedure which must be followed to secure voter approval, if
385 required; the purpose for which the proceeds may be expended;
386 and such other requirements as the Legislature may provide.
387 Taxable transactions and administrative procedures shall be as
388 provided in s. 212.054.389 (5) COUNTY PUBLIC HOSPITAL SURTAX.—Any county as defined in
390 s. 125.011(1) may levy the surtax authorized in this subsection
391 pursuant to an ordinance either approved by extraordinary vote
392 of the county commission or conditioned to take effect only upon
393 approval by a majority vote of the electors of the county voting
394 in a referendum. In a county as defined in s. 125.011(1), for
395 the purposes of this subsection, "county public general
396 hospital" means a general hospital as defined in s. 395.002
397 which is owned, operated, maintained, or governed by the county
398 or its agency, authority, or public health trust.399 (e) A governing board, agency, or authority shall be
400 chartered by the county commission upon this act becoming law.
401 The governing board, agency, or authority shall adopt and
402 implement a health care plan for indigent health care services.
403 The governing board, agency, or authority shall consist of no
404 more than seven and no fewer than five members appointed by the
405 county commission. The members of the governing board, agency,
406 or authority shall be at least 18 years of age and residents of

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407 the county. ~~A~~ ~~Ne~~ member may not be employed by or affiliated
 408 with a health care provider or the public health trust, agency,
 409 or authority responsible for the county public general hospital.
 410 The following community organizations shall each appoint a
 411 representative to a nominating committee: the South Florida
 412 Hospital and Healthcare Association, the Miami-Dade County
 413 Public Health Trust, the Dade County Medical Association, the
 414 Miami-Dade County Homeless Trust, and the Mayor of Miami-Dade
 415 County. This committee shall nominate between 10 and 14 county
 416 citizens for the governing board, agency, or authority. The
 417 slate shall be presented to the county commission and the county
 418 commission shall confirm the top five to seven nominees,
 419 depending on the size of the governing board. Until such time as
 420 the governing board, agency, or authority is created, the funds
 421 provided for in subparagraph (d)2. shall be placed in a
 422 restricted account set aside from other county funds and not
 423 disbursed by the county for any other purpose.

424 1. The plan shall divide the county into a minimum of four
 425 and maximum of six service areas, with no more than one
 426 participant hospital per service area. The county public general
 427 hospital shall be designated as the provider for one of the
 428 service areas. Services shall be provided through participants'
 429 primary acute care facilities.

430 2. The plan and subsequent amendments to it shall fund a
 431 defined range of health care services for both indigent persons
 432 and the medically poor, including primary care, preventive care,
 433 hospital emergency room care, and hospital care necessary to
 434 stabilize the patient. For the purposes of this section,
 435 "stabilization" means stabilization as defined in s. 397.311 s-

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436 ~~397.311(45)~~. Where consistent with these objectives, the plan
 437 may include services rendered by physicians, clinics, community
 438 hospitals, and alternative delivery sites, as well as at least
 439 one regional referral hospital per service area. The plan shall
 440 provide that agreements negotiated between the governing board,
 441 agency, or authority and providers shall recognize hospitals
 442 that render a disproportionate share of indigent care, provide
 443 other incentives to promote the delivery of charity care to draw
 444 down federal funds where appropriate, and require cost
 445 containment, including, but not limited to, case management.
 446 From the funds specified in subparagraphs (d)1. and 2. for
 447 indigent health care services, service providers shall receive
 448 reimbursement at a Medicaid rate to be determined by the
 449 governing board, agency, or authority created pursuant to this
 450 paragraph for the initial emergency room visit, and a per-member
 451 per-month fee or capitation for those members enrolled in their
 452 service area, as compensation for the services rendered
 453 following the initial emergency visit. Except for provisions of
 454 emergency services, upon determination of eligibility,
 455 enrollment shall be deemed to have occurred at the time services
 456 were rendered. The provisions for specific reimbursement of
 457 emergency services shall be repealed on July 1, 2001, unless
 458 otherwise reenacted by the Legislature. The capitation amount or
 459 rate shall be determined before program implementation by an
 460 independent actuarial consultant. In no event shall such
 461 reimbursement rates exceed the Medicaid rate. The plan must also
 462 provide that any hospitals owned and operated by government
 463 entities on or after the effective date of this act must, as a
 464 condition of receiving funds under this subsection, afford

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465 public access equal to that provided under s. 286.011 as to any
 466 meeting of the governing board, agency, or authority the subject
 467 of which is budgeting resources for the retention of charity
 468 care, as that term is defined in the rules of the Agency for
 469 Health Care Administration. The plan shall also include
 470 innovative health care programs that provide cost-effective
 471 alternatives to traditional methods of service and delivery
 472 funding.

473 3. The plan's benefits shall be made available to all
 474 county residents currently eligible to receive health care
 475 services as indigents or medically poor as defined in paragraph
 476 (4) (d).

477 4. Eligible residents who participate in the health care
 478 plan shall receive coverage for a period of 12 months or the
 479 period extending from the time of enrollment to the end of the
 480 current fiscal year, per enrollment period, whichever is less.

481 5. At the end of each fiscal year, the governing board,
 482 agency, or authority shall prepare an audit that reviews the
 483 budget of the plan, delivery of services, and quality of
 484 services, and makes recommendations to increase the plan's
 485 efficiency. The audit shall take into account participant
 486 hospital satisfaction with the plan and assess the amount of
 487 poststabilization patient transfers requested, and accepted or
 488 denied, by the county public general hospital.

489 Section 8. Subsection (3) of section 394.495, Florida
 490 Statutes, is amended to read:

491 394.495 Child and adolescent mental health system of care;
 492 programs and services.-

493 (3) Assessments must be performed by:

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

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494 (a) A professional as defined in s. 394.455(5), (7), (33)
 495 ~~(32)~~, (36) ~~(35)~~, or (37) ~~(36)~~;

496 (b) A professional licensed under chapter 491; or

497 (c) A person who is under the direct supervision of a
 498 qualified professional as defined in s. 394.455(5), (7), (33)
 499 ~~(32)~~, (36) ~~(35)~~, or (37) ~~(36)~~ or a professional licensed under
 500 chapter 491.

501 Section 9. Subsection (5) of section 394.496, Florida
 502 Statutes, is amended to read:

503 394.496 Service planning.-

504 (5) A professional as defined in s. 394.455(5), (7), (33)
 505 ~~(32)~~, (36) ~~(35)~~, or (37) ~~(36)~~ or a professional licensed under
 506 chapter 491 must be included among those persons developing the
 507 services plan.

508 Section 10. Subsection (6) of section 394.9085, Florida
 509 Statutes, is amended to read:

510 394.9085 Behavioral provider liability.-

511 (6) For purposes of this section, the term ~~terms~~
 512 "detoxification services," has the same meaning as
 513 detoxification in s. 397.311(26) (a), "addictions receiving
 514 facility," has the same meaning as provided in s.
 515 397.311(26) (a), and "receiving facility" has ~~have~~ the same
 516 meaning ~~meanings~~ as those provided in s. 394.455 ~~ss.~~
 517 ~~397.311(26) (a) 4., 397.311(26) (a) 1., and 394.455(39),~~
 518 ~~respectively.~~

519 Section 11. Section 397.416, Florida Statutes, is amended
 520 to read:

521 397.416 Substance use disorder ~~abuse~~ treatment services;
 522 qualified professional.-Notwithstanding any other provision of

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523 law, a person who was certified through a certification process
 524 recognized by the former Department of Health and Rehabilitative
 525 Services before January 1, 1995, may perform the duties of a
 526 qualified professional with respect to substance ~~use abuse~~
 527 treatment services as defined in this chapter, and need not meet
 528 the certification requirements contained in s. 397.311(35) ~~s.~~
 529 ~~397.311(34)~~.

530 Section 12. Paragraph (b) of subsection (1) of section
 531 409.972, Florida Statutes, is amended to read:

532 409.972 Mandatory and voluntary enrollment.—

533 (1) The following Medicaid-eligible persons are exempt from
 534 mandatory managed care enrollment required by s. 409.965, and
 535 may voluntarily choose to participate in the managed medical
 536 assistance program:

537 (b) Medicaid recipients residing in residential commitment
 538 facilities operated through the Department of Juvenile Justice
 539 or in a treatment facility as defined in s. 394.455 ~~s.~~
 540 ~~394.455(47)~~.

541 Section 13. Paragraphs (d) and (g) of subsection (1) of
 542 section 440.102, Florida Statutes, are amended to read:

543 440.102 Drug-free workplace program requirements.—The
 544 following provisions apply to a drug-free workplace program
 545 implemented pursuant to law or to rules adopted by the Agency
 546 for Health Care Administration:

547 (1) DEFINITIONS.—Except where the context otherwise
 548 requires, as used in this act:

549 (d) "Drug rehabilitation program" means a service provider
 550 as defined in s. 397.311 which, established pursuant to s.
 551 ~~397.311(43), that~~ provides confidential, timely, and expert

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552 identification, assessment, and resolution of employee drug
 553 abuse.

554 (g) "Employee assistance program" means an established
 555 program capable of providing expert assessment of employee
 556 personal concerns; confidential and timely identification
 557 services with regard to employee drug abuse; referrals of
 558 employees for appropriate diagnosis, treatment, and assistance;
 559 and followup services for employees who participate in the
 560 program or require monitoring after returning to work. If, in
 561 addition to the above activities, an employee assistance program
 562 provides diagnostic and treatment services, these services shall
 563 in all cases be provided by service providers as defined in s.
 564 397.311 pursuant to s. 397.311(43).

565 Section 14. Subsection (7) of section 744.2007, Florida
 566 Statutes, is amended to read:

567 744.2007 Powers and duties.—

568 (7) A public guardian may not commit a ward to a treatment
 569 facility, as defined in s. 394.455 ~~s. 394.455(47)~~, without an
 570 involuntary placement proceeding as provided by law.

571 Section 15. This act shall take effect July 1, 2018.



The Florida Senate
State Senator René García
36th District

Please reply to:

□ District Office:

1490 West 68 Street
Suite # 201
Hialeah, FL. 33014
Phone# (305) 364-3100

January 11, 2018

The Honorable Rob Bradley
Chair, Appropriations Committee
201 The Capitol
404 S. Monroe Street
Tallahassee, FL 32399-1100

Dear Senator Bradley,

Please have this letter serve as my formal request to have **SB 450 Mental Health and Substance Use Disorders** be heard during the next Appropriations Committee Meeting. Should you have any questions or concerns, please do not hesitate to contact my office.

Sincerely,

A handwritten signature in black ink, appearing to read "René García".

State Senator René García
District 36

CC: Mike Hansen
Alicia Weiss

Committees: Children, Families, and Elder Affairs, Chair, Appropriations Subcommittee on Finance and Tax, Vice Chair, Appropriations Subcommittee on the Environment and Natural Resources, Appropriations Subcommittee on General Government, Banking and Insurance, Judiciary, Joint Administrative Procedures Committee.

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/15/18

Meeting Date

450

Bill Number (if applicable)

Topic Mental Health & Substance Use

Amendment Barcode (if applicable)

Name Shane Messer

Job Title Legislative Affairs Director

Address 316 E Park Ave

Phone 224-2859

Tallahassee FL 32301

Email Shane@fcmh.org

Speaking: For Against Information

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

Representing Florida Council for Behavioral Health Care

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)

2/15/18

Meeting Date

450

Bill Number (if applicable)

Topic Mental Health

Amendment Barcode (if applicable)

Name Alisa Lafont

Job Title Executive Director

Address TCH 32302

Phone 850-671-4445

Street

City

State

Zip

Email

Speaking: [] For [] Against [] Information

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

Representing National Alliance on Mental Illness - Florida

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

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

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

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/15/18
Meeting Date

450
Bill Number (if applicable)

Topic Peer Services

Amendment Barcode (if applicable)

Name Jill Bran

Job Title Senior Policy Director

Address 2818 Mahan Dr
Street

Phone 8782196

Tallahassee FL 32308
City State Zip

Email jill@myflha.org

Speaking: For Against Information

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

Representing FL Behavioral Health 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.

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 470 (261158)

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Criminal and Civil Justice); Military and Veterans Affairs, Space, and Domestic Security Committee; and Senator Stargel

SUBJECT: Minimum Basic Recruit Training Exemptions

DATE: February 14, 2018 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Sanders</u>	<u>Ryon</u>	<u>MS</u>	<u>Fav/CS</u>
2.	<u>Forbes</u>	<u>Sadberry</u>	<u>ACJ</u>	<u>Recommend: Fav/CS</u>
3.	<u>Forbes</u>	<u>Hansen</u>	<u>AP</u>	<u>Pre-meeting</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/CS/SB 470 creates an exemption from a Criminal Justice Standards and Training Commission (Commission)-approved law enforcement, correctional, or correctional probation officer basic recruit training program (BRTP) for an applicant who successfully completed a special operations forces training course and served in the special operations forces for a minimum of 5 years. An applicant's last date of service in the special operations forces must be within 4 years of applying for an exemption from a BRTP.

An applicant who qualifies for an exemption from a BRTP under the bill must complete training required by the Commission, and demonstrate proficiency in high-liability areas and pass the state officer certification exam within one year after receiving an exemption. Prior to employment or appointment the applicant must also meet the minimum qualifications described in s. 943.13(1)-(8), F.S.

The bill defines the term "special operations forces" to mean those active and reserve component forces of the military services designated by the Secretary of Defense and specifically organized, trained, and equipped to conduct and support special operations. The term includes servicemembers of the:

- U.S. Army Special Forces;
- U.S. Army 75th Ranger Regiment;

- U.S. Navy SEALs and Special Warfare Combatant-Craft Crewmen;
- U.S. Air Force Combat Control, Pararescue, and Tactical Air Control Party specialists; and
- U.S. Marine Corps Critical Skills Operators.

The term also includes any other component of the United States Special Operations Command approved by the Commission.

Lowers the minimum age for employment as a correctional officer from 19 years of age to 18 years of age. However, a correctional officer who is younger than 19 years of age may not supervise inmates but may perform all other duties performed by a full-time, part-time, or auxiliary correctional officer.

The Florida Department of Law Enforcement and the Department of Corrections expect minimal increases in costs in implementing the provisions of the bill.

The bill takes effect on July 1, 2018.

II. Present Situation:

Criminal Justice Standards and Training Commission

The Criminal Justice Standards and Training Commission (Commission) was created within the Florida Department of Law Enforcement to actively provide statewide leadership in the establishment, implementation, and evaluation of criminal justice standards and training for all law enforcement, correctional, and correctional probation officers.¹ The powers, duties, and functions of the Commission include, but are not limited to:

- Adopting rules for the administration of ss. 943.085-943.255, F.S.;²
- Certifying, and revoking the certification of, officers, instructors, and criminal justice training schools;
- Establishing uniform minimum employment and training standards for the various criminal justice disciplines;
- Establishing minimum curricular requirements for criminal justice training schools;
- Establishing a central repository of records for the proper administration of the Commission's duties, powers, and functions; and³
- Implementing, administering, maintaining, and revising a job-related officer certification examination for each criminal justice discipline.⁴

Criminal Justice Training and Selection Centers

There are 40 training centers, or training schools, certified by the Commission. Training centers are tasked with the delivery of all basic recruit, advanced, and specialized training programs,

¹ Sections 943.11(1)(a) and 943.085(3), F.S.

² Sections 943.085-943.255, F.S., govern the administration, development, implementation, and enforcement of training and employment standards in various criminal justice disciplines.

³ The Commission utilizes a system called the Automated Training Management System to secure and store records required by statute and in Commission rules.

⁴ See s. 943.12, F.S.

which are intended to provide job-related training to law enforcement, correctional, and correctional probation officers.⁵ Attached to the training centers are 15 selection centers responsible for the evaluation of pre-service candidates and in-service officers for all units of the local criminal justice system in a region, thereby establishing a pool of qualified candidates for criminal justice agencies.⁶ Each selection center is under the direction and control of a postsecondary public school or a criminal justice agency within the selection center's region.⁷

Minimum Qualifications for Employment or Appointment

Section 943.13, F.S., specifies the minimum qualifications for any person seeking employment or appointment as a law enforcement, correctional, or correctional probation officer. An applicant must:

- Be at least 19 years of age, a citizen of the U.S., and a high school graduate or its equivalent;⁸
- Not have been convicted of any felony or of a misdemeanor involving perjury or a false statement, or have received a dishonorable discharge from any of the U.S. Armed Forces;
- Have documentation of his or her processed fingerprints on file with the employing agency or, if a private correctional officer, have documentation of his or her processed fingerprints on file with the Department of Corrections or the Commission;
- Pass a physical examination by a licensed physician, physician assistant, or certified advanced registered nurse practitioner, based on specifications established by the Commission;⁹
- Have a good moral character as determined by a background investigation under procedures established by the Commission;¹⁰
- Execute and submit to the employing agency or, if a private correctional officer, submit to the appropriate governmental entity an affidavit-of-applicant form, adopted by the Commission, attesting to his or her compliance with the aforementioned qualifications;
- Complete a Commission-approved basic recruit training program for the applicable criminal justice discipline, unless exempt under s. 943.13(9), F.S.;
- Achieve an acceptable score on the officer certification examination for the applicable criminal justice discipline; and
- Comply with the continuing training or education requirements of s. 943.135, F.S.

Basic Recruit Training Program

The Commission is required to adopt rules to design, implement, maintain, evaluate, and revise entry requirements and job-related curricula and performance standards for a basic recruit training program (BRTP).¹¹ The Commission must assure that entrance into a BRTP for law enforcement, correctional, and correctional probation officers be limited to those who have

⁵ Rule 11B-35.001(1), F.A.C.

⁶ Sections 943.256(2) and (3), F.S.

⁷ Section 943.256(1), F.S.

⁸ Rule 11B-27.0021(1), F.A.C., defines a high school graduate as an individual who has completed a secondary education program through a public school, private school, an equivalency diploma program, or home education program through an educational provider recognized by a public educational system within the United States or its territories, or received a foreign high school diploma.

⁹ See 11B-27.002(1)(d), F.A.C.

¹⁰ See 11B-27.002(1)(g), F.A.C.

¹¹ Section 943.17, F.S.

passed a Commissioned-approved basic abilities test.¹² After an applicant passes the discipline specific basic abilities test, he or she may enter the appropriate BRTP.¹³ The applicant must successfully complete their program, pass the corresponding state officer certification exam, and gain employment within four years of beginning the BRTP.¹⁴

Basic Recruit Training Program Exemption

Current law provides an exemption from a BRTP for those who:

- Completed a comparable BRTP for the applicable criminal justice discipline in another state or for the federal government; and
- Served as a full-time sworn officer in another state or for the federal government for at least one year provided there is no more than an eight-year break in employment, as measured from the separation date of the most recent qualifying employment to the time a complete application is submitted for an exemption from the BRTP.¹⁵

Additionally, current law provides that a certified Florida officer who has separated from employment and who is not reemployed within four years after the date of separation must meet the requirements of s. 943.13, F.S., but does not have to complete a BRTP.¹⁶ Officers who are not reemployed within eight years after separation must meet the requirements of s. 943.13, F.S., and complete a BRTP.¹⁷

If an applicant is seeking any of these exemptions, the applicant's employing agency or a selection center must verify that the applicant meets the above-described exemption criteria and submit documentation about the applicant's criminal justice experience to the Commission.¹⁸ An applicant who ultimately receives an exemption from a BRTP must still demonstrate proficiency in high-liability areas¹⁹ and pass the state officer certification exam within one year after receiving an exemption. If these requirements are not met within one year, the person must complete a BRTP.²⁰

Equivalency of Training

Employing agencies and selection centers utilize the equivalency of training process to verify that an applicant meets the exemption criteria and is eligible for an exemption from a BRTP. As part of the process, an employing agency or selection center will review the applicant's previous

¹² See s. 493.17(1)(g), F.S., and Rule 11B-35.0011, F.A.C. The basic abilities test assesses written comprehension and expression, information ordering, spatial orientation, memorization, problem sensitivity, and inductive and deductive reasoning. See also Florida Department of Law Enforcement, *Basic Abilities Test (BAT)*, <http://www.fdle.state.fl.us/CJSTC/Officer-Requirements/Basic-Abilities-Test.aspx> (last visited Jan. 16, 2018).

¹³ Rule 11B-35.002(5), F.A.C. There is a separate BRTP for law enforcement, correctional, and correctional probation officers. Each of the three programs consist of multiple courses totaling 770, 420, and 482 hours of course work, respectively.

¹⁴ Rule 11B-35.002(2)(a), F.A.C.

¹⁵ Section 943.13(9), F.S.

¹⁶ Section 943.1395(3), F.S.

¹⁷ Section 943.131(2), F.S.

¹⁸ *Id.*

¹⁹ Rule 11B-35.0021, F.A.C., establishes four high-liability training courses: Criminal Justice Firearms, Law Enforcement Vehicle Operations, Criminal Justice Defensive Tactics, and First Aid for Criminal Justice Officers.

²⁰ *Supra* note 17.

law enforcement,²¹ correctional,²² or correctional probation²³ officer training to determine what, if any, courses are comparable to those of a BRTP.²⁴ According to the Florida Department of Law Enforcement, the curriculum review may determine that additional training is necessary for the applicant and a partial exemption is granted in lieu of the full exemption from a BRTP.²⁵

U.S. Special Operations Forces

Special operations forces are those active and reserve component forces of the U.S. Armed Forces specifically organized, trained, and equipped to conduct and support special operations.²⁶ The Department of Defense's Special Operations Command (SOCOM), headquartered at MacDill Air Force Base in Tampa, trains, equips, and oversees the special operations forces of each military service. SOCOM's components include:

- The U.S. Army Special Operations Command;
- The Naval Special Warfare Command;
- The Air Force Special Operations Command; and
- The Marine Corps Forces Special Operations Command.

Special operations forces are intended to be versatile forces, capable of conducting a wide range of missions, including those that other military units would not be suited to undertake.²⁷ Among their multiple roles, the most important are considered to be direct action, special reconnaissance, foreign internal defense, and security force assistance. The last two activities involve helping friendly governments improve their military capabilities, which requires the largest commitments of special operations forces personnel and time.²⁸

Special operations require unique modes of employment, tactical techniques, equipment, and training. These operations are often conducted in hostile, denied, or politically sensitive environments and are characterized by one or more of the following elements: time sensitive, clandestine, low visibility, conducted with and/or through indigenous forces, requiring regional expertise, and/or a high degree of risk.

²¹ Comparable law enforcement officer training must cover the following topics: Legal, interactions in a diverse community, interviewing and reporting writing, patrol (including fundamentals, calls for service, and critical incidents), criminal investigations (including crime scene and courtroom), traffic stops, traffic crash investigations, and the high-liability subject areas. Rule 11B-.5.009(3)(a), F.A.C.

²² Comparable correctional officer training must cover the following topics: Legal, communications, officer safety, facility and equipment, intake and release, supervising in a correctional facility, supervising special populations, responding to incidents and emergencies, firearms, defensive tactics, and first aid or equivalent. Rule 11B-35.009(3)(b), F.A.C.

²³ Comparable correctional probation officer training must cover the following topics: Legal foundations for correctional probation, communications, intake and orientation, caseload management, supervision of offenders, field supervision, defensive tactics, and first aid or equivalent. Rule 11B-35.009(3)(c), F.A.C.

²⁴ 11B-35.009(3)(a), (b), and (c), F.A.C.

²⁵ Senate Military and Veterans Affairs, Space, and Domestic Security Committee staff telephone conversation with Florida Department of Law Enforcement staff (October 31, 2017).

²⁶ Congressional Research Service, *U.S. Special Operations Forces (SOF): Background and Issues for Congress*, 1 (Jan. 6, 2017), <http://fas.org/sgp/crs/natsec/RS21048.pdf> (last visited on Jan. 16, 2018).

²⁷ Congressional Budget Office, *The U.S. Military's Force Structure: A Primer*, 112 (July 2016), <https://www.cbo.gov/sites/default/files/114th-congress-2015-2016/reports/51535-fsprimer.pdf> (last visited Jan. 16, 2018).

²⁸ *Id.*

In fiscal year 2014, there were approximately 62,800 special operations military personnel, which equated to just under 3 percent of the military services' total force levels for that year.²⁹ The Department of Defense plans to field an average of about 60,000 special-operations military personnel over the 2017-2021 period.³⁰ The Army has the largest concentration of special operations forces members of all the military services. In 2014, 54 percent of all special operations forces members were in the Army, 25 percent were in the Air Force, 16 percent were in the Navy, and 5 percent were in the Marine Corps.³¹

Correctional Officer Requirements

The Criminal Justice Standards and Training Commission (Commission), which is housed within the Florida Department of Law Enforcement (FDLE) is, in part, responsible for implementing requirements related to the training, certification, and discipline of full-time, part-time,³² and auxiliary³³ correctional officers.³⁴

Section 943.10(2), F.S., defines “correctional officer” to mean any person who is appointed or employed full time by the state or any political subdivision thereof, or by any private entity which has contracted with the state or county, and whose primary responsibility is the supervision, protection, care, custody, and control, or investigation, of inmates within a correctional institution; however, the term “correctional officer” does not include any secretarial, clerical, or professionally trained personnel.³⁵

Section 943.13, F.S., provides that, to be eligible to be employed as a correctional officer, the person must:

- Be at least 19 years of age;
- Be a citizen of the United States, notwithstanding any law of the state to the contrary;
- Be a high school graduate or its equivalent;³⁶

²⁹ U.S. Government Accountability Office, *Report No. 15-571: Special Operations Forces: Opportunities Exist to Improve Transparency of Funding and Assess Potential to Lesson Some Deployments*, 8-9 (July 2015), <https://www.gao.gov/assets/680/671462.pdf> (last visited Jan. 17, 2018).

³⁰ Supra note 27.

³¹ Supra note 29, at 11.

³² Section 943.10(7), F.S., defines “part-time correctional officer” to mean any person who is employed or appointed less than full time, as defined by the employing or appointing agency, with or without compensation, whose responsibilities include the supervision, protection, care, custody, and control of inmates within a correctional institution.

³³ Section 943.10(9), F.S., defines “auxiliary correctional officer” to mean any person employed or appointed, with or without compensation, who aids or assists a full-time or part-time correctional officer and who, while under the supervision of a full-time or part-time correctional officer, has the same authority as a full-time or part-time correctional officer for the purpose of providing supervision, protection, care, custody, and control of inmates within a correctional institution or a county or municipal detention facility.

³⁴ Correctional officers are eligible for special risk class benefits in accordance with s. 121.0515, F.S. Special risk class membership awards more retirement credit per year of service than is awarded to other employees due to the increased risk that such employees undertake as a part of their duties. Membership of correctional officers in the special risk class is determined by whether the officer's primary duties and responsibilities involve the custody of prisoners or inmates within a prison, jail, or other criminal detention facility, or while on work detail outside the facility, or while being transported; or whether the officer is the supervisor or command officer of a member or members who have such responsibilities. Section 121.0515(1) and (3)(c), F.S.

³⁵ Section 943.10(2), F.S.

³⁶ Section 943.13(3), F.S., provides that the Commission must define the term high school equivalency in rule.

- Not have been convicted of any felony or of a misdemeanor involving perjury or a false statement, or have received a dishonorable discharge from any of the Armed Forces of the United States;³⁷
- Have documentation of his or her processed fingerprints on file with the employing agency or, if a private correctional officer, have documentation of his or her processed fingerprints on file with the Department of Corrections (DOC) or the Commission;³⁸
- Have passed a physical examination by a licensed physician, physician assistant, or certified advanced registered nurse practitioner, based on specifications established by the Commission;
- Have a good moral character as determined by a background investigation by the Commission;
- Execute and submit a sworn affidavit-of-applicant form attesting to his or her compliance with the above-listed requirements to the employing agency or, if a private correctional officer, submit to the appropriate governmental entity;
- Complete a Commission approved basic recruit training program for the applicable criminal justice discipline, unless exempt under law;³⁹ and
- Achieve an acceptable score on the officer certification examination for the applicable criminal justice discipline.

If a critical need for officers exists, the employing agency may temporarily employ a person as a correctional officer, if he or she has met all the requirements listed above, even if he or she has not completed basic recruit school or received an acceptable score on the certification examination.⁴⁰ Any person employed as a temporary correctional officer must be supervised by another correctional officer anytime he or she is performing any duties of a correctional officer and must attend the first basic recruit training program offered in the geographic area within 180 consecutive days of employment.⁴¹ A person temporarily employed as a correctional officer is prohibited from being employed in the position for more than 30 months. However, a person that is attending the first available basic recruit training program offered in his or her geographic area may continue to be employed as a temporary correctional officer until he or she:

³⁷ Section 943.13(4), F.S., further specifies that: a. Any person who, after July 1, 1981, pleads guilty or nolo contendere to or is found guilty of any felony or of a misdemeanor involving perjury or a false statement is not eligible for employment or appointment as an officer, notwithstanding suspension of sentence or withholding of adjudication; and b. Any person who has pled nolo contendere to a misdemeanor involving a false statement, prior to December 1, 1985, and has had such record sealed or expunged shall not be deemed ineligible for employment or appointment as an officer.

³⁸ Section 943.13(5), F.S., provides that the FDLE must retain and enter into the statewide automated biometric identification system all fingerprints submitted. Thereafter, the fingerprints must be available for all purposes and uses authorized for arrest fingerprints entered in the statewide automated biometric identification system pursuant to s. 943.051, F.S. The FDLE is also required to search all arrest fingerprints received pursuant to s. 943.051, F.S., against the fingerprints retained in the statewide automated biometric identification system in accordance with s. 943.13, F.S., and report to the employing agency any arrest records that are identified with the retained employee's fingerprints. These fingerprints must be forwarded to the FDLE for processing and retention.

³⁹ Section 943.13(9), F.S., provides an exemption for an applicant to be required to take the basic recruit training program, including that if the applicant has completed a comparable basic recruit training program for the applicable criminal justice discipline in another state or for the Federal Government and served as a full-time sworn officer in another state or for the Federal Government for at least 1 year. For the exemption to be available, the applicant cannot have more than an 8-year break in employment, as measured from the separation date of the most recent qualifying employment to the time a complete application is submitted for the exemption.

⁴⁰ Section 943.131(1)(a), F.S.

⁴¹ Section 943.131(1)(a) and (c), F.S.

- Fails or withdraws from the basic recruit training program; or
- Is separated from employment or appointment by the employing agency.⁴²

Any person employed as a correctional officer, regardless of age, must comply with all the above-described eligibility criteria and any other requirements imposed by the Commission, including such requirements as continuing education requirements proscribed in s. 943.135, F.S.

III. Effect of Proposed Changes:

Section 1 amends s. 943.10, F.S., to define the term “special operations forces” to mean those active and reserve component forces of the military services designated by the Secretary of Defense and specifically organized, trained, and equipped to conduct and support special operations. The term includes service members of the:

- U.S. Army Special Forces;
- U.S. Army 75th Ranger Regiment;
- U.S. Navy SEALs and Special Warfare Combatant-Craft Crewmen;
- U.S. Air Force Combat Control, Pararescue, and Tactical Air Control Party specialists; and
- U.S. Marine Corps Critical Skills Operators.

The term also includes any other component of the United States Special Operations Command approved by the Criminal Justice Standards and Training Commission (Commission).

Sections 2 and 3 amend ss. 913.13 and 943.131, F.S., respectively, to reduce the minimum age requirement for correctional officers from 19 years of age to 18 years of age. Create exemptions from a Commission-approved law enforcement, correctional, or correctional probation officer basic recruit training program (BRTP) for an applicant who successfully completed a special operations forces training course and served in the special operations forces for a minimum of 5 years. An applicant’s last date of service in the special operations forces must be within 4 years of applying for an exemption from a BRTP under the bill.

The Commission must adopt rules that establish the criteria and procedures to determine if a special operations forces applicant is exempt from completing a BRTP.

An applicant who qualifies for an exemption from a BRTP under the bill must complete training required by the Commission, and demonstrate proficiency in high-liability areas and pass the state officer certification exam within one year after receiving an exemption. If the demonstration of proficiencies and certification exam requirements are not completed within one year, the applicant must seek an additional exemption. Prior to employment or appointment the applicant must also meet the minimum qualifications described in s. 943.13(1)-(8), F.S.

The bill requires a criminal justice training center, in addition to an employing agency or criminal justice selection center, to verify and document to the Commission that an applicant requesting an exemption from a law enforcement, correctional, or correctional probation officer BRTP satisfies the requirements of the applicable exemption.

⁴² Section 943.131(1)(b), F.S.

Section 4 creates s. 944.145, F.S., to prohibit a correctional officer younger than 19 years of age from supervising inmates. A correctional officer that is younger than 19 years of age may perform all other duties performed by a full-time, part-time, or auxiliary correctional officer.⁴³ Sections 5-9 reenact ss. 943.1395, 943.17296, 626.989, and 943.133, F.S., respectively, for the purpose of incorporating amendments to s. 943.13 and s. 943.131, F.S. The bill takes effect on July 1, 2018.

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:

An applicant who is required by the Criminal Justice Standards and Training Commission to complete additional training is responsible for the cost of tuition. However, in some cases, an employing agency will pay the cost of a trainee's tuition, as authorized in s. 943.16, F.S.

C. Government Sector Impact:

The Automated Training Management System, which serves as the central repository of records for Criminal Justice Standards and Training Commission, must include programming to allow for the entry of individuals who qualify for the special operations forces exemption created in the bill. The Florida Department of Law Enforcement states that this change is minimal and there is no fiscal impact.⁴⁴

The number of individuals this would affect is indeterminate, as the Department of Corrections does not track employees with "special operations forces" experience. Any

⁴³ A person employed as a correctional officer who is younger than 19 years of age will not qualify for special risk class benefits because he or she will not be supervising inmates, which is required pursuant to s. 121.0515, F.S.

⁴⁴ Florida Department of Law Enforcement, *Senate Bill 470 Agency Analysis* (Oct. 31, 2017) (on file with the Senate Committee on Military and Veterans Affairs, Space, and Domestic Security).

additional administrative resources in administering this bill is anticipated to be negligible as much of the information required should be contained on documents already provided by applicants in the hiring process.⁴⁵

The bill permits the DOC to hire persons who are between 18 and 19 years of age to perform limited correctional officer functions. To the extent that this bill increases the number of persons the DOC is able to hire, the bill could potentially reduce the current vacancy rate within correctional facilities.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

The bill substantially amends the following sections of the Florida Statutes: 943.10, 943.13, and 943.131.

The bill reenacts sections 626.989, 943.133, 943.1395, and 943.17296, Florida Statutes, for the purpose of incorporating the amendments to sections 943.13 and 943.131, 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 Criminal and Civil Justice on February 8, 2018:

The committee substitute amends s. 943.13, F.S., expanding the eligibility requirements of a correctional officer to include a person who is 18 years of age, rather than 19 years of age or older. The committee substitute also creates s. 944.145, F.S., prohibiting a correctional officer younger than 19 years of age from supervising inmates.

CS by Military and Veterans Affairs, Space, and Domestic Security on January 18, 2018:

The committee substitute:

- Changes the title of the bill to more accurately reflect the subject of the bill;
- Changes the definition of “special operations forces” to exclude the military occupational skill numbers;
- Requires an applicant for a basic recruit training program exemption to have served a minimum of 5 years in the special operations forces;

⁴⁵ Florida Department of Corrections, *Senate Bill 470 Agency Analysis* (Oct. 31, 2017).

- Requires that an applicant's last date of service in the special operations forces must be within 4 years of applying for an exemption from a basic recruit training program;
- Requires an applicant who is exempt from a basic recruit training program to complete training, if required by the Criminal Justice Standards and Training Commission;
- Requires an employing agency, training center, or selection center to verify and document if an applicant qualifies for an exemption from a basic recruit training program; and
- Amends s. 943.13(9), F.S., to reference the special operations forces exemption created by the bill among the existing basic recruit training program exemptions.

B. Amendments:

None.



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Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on Criminal and Civil Justice)

A bill to be entitled

An act relating to law enforcement and correctional officers; amending s. 943.10, F.S.; defining the term "special operations forces"; amending s. 943.13, F.S.; authorizing a full-time, part-time, or auxiliary correctional officer to be employed at 18 years of age; exempting former special operations forces members who meet certain requirements from the Criminal Justice Standards and Training Commission-approved basic recruit training program; amending s. 943.131, F.S.; requiring an employing agency, training center, or criminal justice selection center to verify and document that special operations forces applicants meet certain requirements if the applicants seek an exemption from a basic recruit training program approved by the commission; requiring the employing agency, training center, or criminal justice selection center to submit the documentation to the commission; creating s. 944.145, F.S.; prohibiting a correctional officer who is under 19 years of age from supervising inmates; authorizing a correctional officer who is under 19 years of age to perform all other tasks performed by a full-time, part-time, or auxiliary correctional officer; reenacting ss. 943.1395(3) and 943.17296, F.S., relating to certification for employment or appointment as an officer and training in identifying and investigating elder abuse and



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neglect, respectively, to incorporate the amendment made to s. 943.13, F.S., in references thereto; reenacting ss. 626.989(7), 943.133(1) and (6), and 943.1395(3), (9), and (10), F.S., relating to investigations by the Division of Investigative and Forensic Services, the responsibilities of certain employing entities, and certification for certain employment or appointment, respectively, to incorporate the amendment made to s. 943.131, F.S., in references thereto; providing an effective date.

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

Section 1. Subsection (22) is added to section 943.10, Florida Statutes, to read:

943.10 Definitions; ss. 943.085-943.255.—The following words and phrases as used in ss. 943.085-943.255 are defined as follows:

(22) "Special operations forces" means those active and reserve component forces of the military services designated by the Secretary of Defense and specifically organized, trained, and equipped to conduct and support special operations. The term includes servicemembers of the United States Army Special Forces; the United States Army 75th Ranger Regiment; the United States Navy SEALs and Special Warfare Combatant-Craft Crewmen; the United States Air Force Combat Control, Pararescue, and Tactical Air Control Party specialists; the United States Marine Corps Critical Skills Operators; and any other component of the United States Special Operations Command approved by the



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57 commission.

58 Section 2. Subsections (1) and (9) of section 943.13,
59 Florida Statutes, are amended to read:

60 943.13 Officers' minimum qualifications for employment or
61 appointment.—On or after October 1, 1984, any person employed or
62 appointed as a full-time, part-time, or auxiliary law
63 enforcement officer or correctional officer; on or after October
64 1, 1986, any person employed as a full-time, part-time, or
65 auxiliary correctional probation officer; and on or after
66 October 1, 1986, any person employed as a full-time, part-time,
67 or auxiliary correctional officer by a private entity under
68 contract to the Department of Corrections, to a county
69 commission, or to the Department of Management Services shall:

70 (1) Be at least 19 years of age, except that any person
71 employed as a full-time, part-time, or auxiliary correctional
72 officer may be at least 18 years of age.

73 (9) Complete a commission-approved basic recruit training
74 program for the applicable criminal justice discipline, unless
75 exempt under this subsection. An applicant who has:

76 (a) 1. Completed a comparable basic recruit training program
77 for the applicable criminal justice discipline in another state
78 or for the Federal Government; and

79 2. ~~(b)~~ Served as a full-time sworn officer in another state
80 or for the Federal Government for at least 1 year provided there
81 is no more than an 8-year break in employment, as measured from
82 the separation date of the most recent qualifying employment to
83 the time a complete application is submitted for an exemption
84 under this section; or

85 (b) Successfully completed a special operations forces



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86 training course, served in the special operations forces for a
87 minimum of 5 years, and no more than 4 years have passed from
88 the last date of service in the special operations forces to the
89 date that a complete application is submitted for an exemption
90 under this subsection,

91
92 is exempt in accordance with s. 943.131(2) from completing a the
93 commission-approved basic recruit training program.

94 Section 3. Subsection (2) of section 943.131, Florida
95 Statutes, is amended, and paragraph (a) of subsection (1) of
96 that section is republished, to read:

97 943.131 Temporary employment or appointment; minimum basic
98 recruit training exemptions ~~exemption.~~—

99 (1) (a) An employing agency may temporarily employ or
100 appoint a person who complies with the qualifications for
101 employment in s. 943.13(1)-(8), but has not fulfilled the
102 requirements of s. 943.13(9) and (10), if a critical need exists
103 to employ or appoint the person and such person is or will be
104 enrolled in the next approved basic recruit training program
105 available in the geographic area or that no assigned state
106 training program for state officers is available within a
107 reasonable time. The employing agency must maintain
108 documentation which demonstrates that a critical need exists to
109 employ a person pursuant to this section. Prior to the
110 employment or appointment of any person other than a
111 correctional probation officer under this subsection, the person
112 shall comply with the firearms provisions established pursuant
113 to s. 943.17(1) (a). Any person temporarily employed or appointed
114 as an officer under this subsection must attend the first



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115 training program offered in the geographic area, or the first
116 assigned state training program for a state officer, subsequent
117 to his or her employment or appointment. A person temporarily
118 employed or appointed as an officer under this subsection must
119 begin basic recruit training within 180 consecutive days after
120 employment. Such person must fulfill the requirements of s.
121 943.13(9) within 18 months after beginning basic recruit
122 training and must fulfill the certification examination
123 requirements of s. 943.13(10) within 180 consecutive days after
124 completing basic recruit training. A person hired after he or
125 she has commenced basic recruit training or after completion of
126 basic recruit training must fulfill the certification
127 examination requirements of s. 943.13(10) within 180 consecutive
128 days after completion of basic recruit training or the
129 commencement of employment, whichever occurs later.

130 (2) If an applicant seeks an exemption from completing a
131 commission-approved basic recruit training program, the
132 employing agency, training center, or criminal justice selection
133 center must do one of the following, as appropriate:

134 (a) Verify and document that the applicant has successfully
135 completed a comparable basic recruit training program for the
136 discipline in which the applicant is seeking certification in
137 another state or for the Federal Government or a previous
138 Florida basic recruit training program. Further, the employing
139 agency, training center, or criminal justice selection center
140 must verify and document that the applicant has served as a
141 full-time sworn officer in another state or for the Federal
142 Government for at least 1 year provided there is no more than an
143 8-year break in employment or was a previously certified Florida



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144 officer provided there is no more than an 8-year break in
145 employment, as measured from the separation date of the most
146 recent qualifying employment to the time a complete application
147 is submitted for an exemption under this section. ~~When~~ The
148 employing agency, training center, or criminal justice selection
149 center ~~shall submit~~ obtains written documentation of
150 satisfaction of this requirement to the commission ~~regarding the~~
151 ~~applicant's criminal justice experience, the documentation must~~
152 ~~be submitted to the commission. The commission shall adopt rules~~
153 ~~that establish criteria and procedures to determine if the~~
154 ~~applicant is exempt from completing the commission approved~~
155 ~~basic recruit training program and, upon making a determination,~~
156 ~~shall notify the employing agency or criminal justice selection~~
157 ~~center. An applicant who is exempt from completing the~~
158 ~~commission approved basic recruit training program must~~
159 ~~demonstrate proficiency in the high-liability areas, as defined~~
160 ~~by commission rule, and must complete the requirements of s.~~
161 ~~943.13(10) within 1 year after receiving an exemption. If the~~
162 ~~proficiencies and requirements of s. 943.13(10) are not met~~
163 ~~within the 1 year, the applicant must seek an additional~~
164 ~~exemption pursuant to the requirements of this subsection.~~
165 ~~Except as provided in subsection (1), before the employing~~
166 ~~agency may employ or appoint the applicant as an officer, the~~
167 ~~applicant must meet the minimum qualifications described in s.~~
168 ~~943.13(1)-(8), and must fulfill the requirements of s.~~
169 ~~943.13(10).~~

170 (b) Verify and document that the applicant has successfully
171 completed a special operations forces training course and served
172 in the special operations forces for a minimum of 5 years.



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173 Further, the employing agency, training center, or criminal
174 justice selection center must verify and document that no more
175 than 4 years have passed from the last date of service in the
176 special operations forces to the time a complete application is
177 submitted for an exemption under this section. The employing
178 agency, training center, or criminal justice selection center
179 shall submit documentation of satisfaction of these requirements
180 to the commission.

181
182 The commission shall adopt rules that establish criteria and
183 procedures to determine if the applicant is exempt from
184 completing the commission-approved basic recruit training
185 program and, upon making a determination, shall notify the
186 employing agency, training center, or criminal justice selection
187 center, as appropriate. An applicant who is exempt under this
188 subsection must complete training required by the commission and
189 demonstrate proficiency in the high-liability areas as defined
190 by commission rule and complete the requirements of s.
191 943.13(10) within 1 year after receiving an exemption.
192 If the proficiencies and requirements of s. 943.13(10) are not
193 met within the 1-year period, the applicant must seek an
194 additional exemption pursuant to the requirements of this
195 subsection. Except as provided in subsection (1), before the
196 employing agency may employ or appoint the applicant as an
197 officer, the applicant must meet the minimum qualifications
198 described in s. 943.13(1)-(8), and must fulfill the requirements
199 of s. 943.13(10).

200 Section 4. Section 944.145, Florida Statutes, is created to
201 read:



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202 944.145 Correctional officers under the age of 19.-A
203 correctional officer who is under the age of 19 years may not
204 supervise inmates, but may perform all of the other duties
205 performed by a full-time, part-time, or auxiliary correctional
206 officer.

207 Section 5. For the purpose of incorporating the amendment
208 made by this act to section 943.13, Florida Statutes, in a
209 reference thereto, subsection (3) of section 943.1395, Florida
210 Statutes, is reenacted to read:

211 943.1395 Certification for employment or appointment;
212 concurrent certification; reemployment or reappointment;
213 inactive status; revocation; suspension; investigation.-

214 (3) Any certified officer who has separated from employment
215 or appointment and who is not reemployed or reappointed by an
216 employing agency within 4 years after the date of separation
217 must meet the minimum qualifications described in s. 943.13,
218 except for the requirement found in s. 943.13(9). Further, such
219 officer must complete any training required by the commission by
220 rule in compliance with s. 943.131(2). Any such officer who
221 fails to comply with the requirements provided in s. 943.131(2)
222 must meet the minimum qualifications described in s. 943.13, to
223 include the requirement of s. 943.13(9).

224 Section 6. For the purpose of incorporating the amendment
225 made by this act to section 943.13, Florida Statutes, in a
226 reference thereto, section 943.17296, Florida Statutes, is
227 reenacted to read:

228 943.17296 Training in identifying and investigating elder
229 abuse and neglect.-Each certified law enforcement officer must
230 successfully complete training on identifying and investigating



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231 elder abuse and neglect as a part of the basic recruit training
232 of the officer required in s. 943.13(9) or continuing education
233 under s. 943.135(1) before June 30, 2011. The training shall be
234 developed in consultation with the Department of Elderly Affairs
235 and the Department of Children and Families and must incorporate
236 instruction on the identification of and appropriate responses
237 for persons suffering from dementia and on identifying and
238 investigating elder abuse and neglect. If an officer fails to
239 complete the required training, his or her certification is
240 inactive until the employing agency notifies the commission that
241 the officer has completed the training.

242 Section 7. For the purpose of incorporating the amendment
243 made by this act to section 943.131, Florida Statutes, in a
244 reference thereto, subsection (7) of section 626.989, Florida
245 Statutes, is reenacted to read:

246 626.989 Investigation by department or Division of
247 Investigative and Forensic Services; compliance; immunity;
248 confidential information; reports to division; division
249 investigator's power of arrest.-

250 (7) Division investigators shall have the power to make
251 arrests for criminal violations established as a result of
252 investigations. Such investigators shall also be considered
253 state law enforcement officers for all purposes and shall have
254 the power to execute arrest warrants and search warrants; to
255 serve subpoenas issued for the examination, investigation, and
256 trial of all offenses; and to arrest upon probable cause without
257 warrant any person found in the act of violating any of the
258 provisions of applicable laws. Investigators empowered to make
259 arrests under this section shall be empowered to bear arms in



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260 the performance of their duties. In such a situation, the
261 investigator must be certified in compliance with the provisions
262 of s. 943.1395 or must meet the temporary employment or
263 appointment exemption requirements of s. 943.131 until
264 certified.

265 Section 8. For the purpose of incorporating the amendment
266 made by this act to section 943.131, Florida Statutes, in
267 references thereto, subsections (1) and (6) of section 943.133,
268 Florida Statutes, are reenacted to read:

269 943.133 Responsibilities of employing agency, commission,
270 and program with respect to compliance with employment
271 qualifications and the conduct of background investigations;
272 injunctive relief.-

273 (1) The employing agency is fully responsible for the
274 collection, verification, and maintenance of documentation
275 establishing that an applicant complies with the requirements of
276 ss. 943.13 and 943.131, and any rules adopted pursuant to ss.
277 943.13 and 943.131.

278 (6) If an employing agency employs or appoints an officer
279 in violation of this section or of s. 943.13, s. 943.131, or s.
280 943.135, or any rules adopted pursuant thereto, the Department
281 of Legal Affairs, at the request of the chair of the commission,
282 shall apply to the circuit court in the county of the employing
283 agency for injunctive relief prohibiting the employment or
284 appointment of the person contrary to this section.

285 Section 9. For the purpose of incorporating the amendment
286 made by this act to section 943.131, Florida Statutes, in
287 references thereto, subsections (3), (9), and (10) of section
288 943.1395, Florida Statutes, are reenacted to read:



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289 943.1395 Certification for employment or appointment;
290 concurrent certification; reemployment or reappointment;
291 inactive status; revocation; suspension; investigation.—

292 (3) Any certified officer who has separated from employment
293 or appointment and who is not reemployed or reappointed by an
294 employing agency within 4 years after the date of separation
295 must meet the minimum qualifications described in s. 943.13,
296 except for the requirement found in s. 943.13(9). Further, such
297 officer must complete any training required by the commission by
298 rule in compliance with s. 943.131(2). Any such officer who
299 fails to comply with the requirements provided in s. 943.131(2)
300 must meet the minimum qualifications described in s. 943.13, to
301 include the requirement of s. 943.13(9).

302 (9) Each person employed pursuant to s. 943.131 is subject
303 to discipline by the commission. Persons who have been subject
304 to disciplinary action pursuant to this subsection are
305 ineligible for employment or appointment under s. 943.131.

306 (a) The commission shall cause to be investigated any
307 conduct defined in subsection (6) or subsection (7) by a person
308 employed under s. 943.131 and shall set disciplinary guidelines
309 and penalties prescribed in rules applicable to such
310 noncertified persons.

311 (b) The disciplinary guidelines and prescribed penalties
312 must be based upon the severity of specific offenses. The
313 guidelines must provide reasonable and meaningful notice to
314 officers and to the public of penalties that may be imposed for
315 prohibited conduct. The penalties must be consistently applied
316 by the commission.

317 (c) In addition, the commission may establish violations



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318 and disciplinary penalties for intentional abuse of the
319 employment option provided by s. 943.131 by an individual or
320 employing agency.

321 (10) An officer whose certification has been revoked
322 pursuant to this section shall be ineligible for employment or
323 appointment under s. 943.131.

324 Section 10. This act shall take effect July 1, 2018.

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 470

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Criminal and Civil Justice); Military and Veterans Affairs, Space, and Domestic Security Committee; and Senator Stargel

SUBJECT: Minimum Basic Recruit Training Exemptions

DATE: February 16, 2018 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Sanders</u>	<u>Ryon</u>	<u>MS</u>	<u>Fav/CS</u>
2.	<u>Forbes</u>	<u>Sadberry</u>	<u>ACJ</u>	<u>Recommend: Fav/CS</u>
3.	<u>Forbes</u>	<u>Hansen</u>	<u>AP</u>	<u>Fav/CS</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 470 creates an exemption from a Criminal Justice Standards and Training Commission (Commission)-approved law enforcement, correctional, or correctional probation officer basic recruit training program (BRTP) for an applicant who successfully completed a special operations forces training course and served in the special operations forces for a minimum of 5 years. An applicant's last date of service in the special operations forces must be within 4 years of applying for an exemption from a BRTP.

An applicant who qualifies for an exemption from a BRTP under the bill must complete training required by the Commission, and demonstrate proficiency in high-liability areas and pass the state officer certification exam within one year after receiving an exemption. Prior to employment or appointment the applicant must also meet the minimum qualifications described in s. 943.13(1)-(8), F.S.

The bill defines the term "special operations forces" to mean those active and reserve component forces of the military services designated by the Secretary of Defense and specifically organized, trained, and equipped to conduct and support special operations. The term includes servicemembers of the:

- U.S. Army Special Forces;
- U.S. Army 75th Ranger Regiment;

- U.S. Navy SEALs and Special Warfare Combatant-Craft Crewmen;
- U.S. Air Force Combat Control, Pararescue, and Tactical Air Control Party specialists; and
- U.S. Marine Corps Critical Skills Operators.

The term also includes any other component of the United States Special Operations Command approved by the Commission.

The bill lowers the minimum age for employment as a correctional officer from 19 years of age to 18 years of age. However, a correctional officer who is younger than 19 years of age may not supervise inmates but may perform all other duties performed by a full-time, part-time, or auxiliary correctional officer.

The Florida Department of Law Enforcement and the Department of Corrections expect minimal increases in costs in implementing the provisions of the bill.

The bill takes effect on July 1, 2018.

II. Present Situation:

Criminal Justice Standards and Training Commission

The Criminal Justice Standards and Training Commission (Commission) was created within the Florida Department of Law Enforcement to actively provide statewide leadership in the establishment, implementation, and evaluation of criminal justice standards and training for all law enforcement, correctional, and correctional probation officers.¹ The powers, duties, and functions of the Commission include, but are not limited to:

- Adopting rules for the administration of ss. 943.085-943.255, F.S.;²
- Certifying, and revoking the certification of, officers, instructors, and criminal justice training schools;
- Establishing uniform minimum employment and training standards for the various criminal justice disciplines;
- Establishing minimum curricular requirements for criminal justice training schools;
- Establishing a central repository of records for the proper administration of the Commission's duties, powers, and functions; and³
- Implementing, administering, maintaining, and revising a job-related officer certification examination for each criminal justice discipline.⁴

Criminal Justice Training and Selection Centers

There are 40 training centers, or training schools, certified by the Commission. Training centers are tasked with the delivery of all basic recruit, advanced, and specialized training programs,

¹ Sections 943.11(1)(a) and 943.085(3), F.S.

² Sections 943.085-943.255, F.S., govern the administration, development, implementation, and enforcement of training and employment standards in various criminal justice disciplines.

³ The Commission utilizes a system called the Automated Training Management System to secure and store records required by statute and in Commission rules.

⁴ See s. 943.12, F.S.

which are intended to provide job-related training to law enforcement, correctional, and correctional probation officers.⁵ Attached to the training centers are 15 selection centers responsible for the evaluation of pre-service candidates and in-service officers for all units of the local criminal justice system in a region, thereby establishing a pool of qualified candidates for criminal justice agencies.⁶ Each selection center is under the direction and control of a postsecondary public school or a criminal justice agency within the selection center's region.⁷

Minimum Qualifications for Employment or Appointment

Section 943.13, F.S., specifies the minimum qualifications for any person seeking employment or appointment as a law enforcement, correctional, or correctional probation officer. An applicant must:

- Be at least 19 years of age, a citizen of the U.S., and a high school graduate or its equivalent;⁸
- Not have been convicted of any felony or of a misdemeanor involving perjury or a false statement, or have received a dishonorable discharge from any of the U.S. Armed Forces;
- Have documentation of his or her processed fingerprints on file with the employing agency or, if a private correctional officer, have documentation of his or her processed fingerprints on file with the Department of Corrections or the Commission;
- Pass a physical examination by a licensed physician, physician assistant, or certified advanced registered nurse practitioner, based on specifications established by the Commission;⁹
- Have a good moral character as determined by a background investigation under procedures established by the Commission;¹⁰
- Execute and submit to the employing agency or, if a private correctional officer, submit to the appropriate governmental entity an affidavit-of-applicant form, adopted by the Commission, attesting to his or her compliance with the aforementioned qualifications;
- Complete a Commission-approved basic recruit training program for the applicable criminal justice discipline, unless exempt under s. 943.13(9), F.S.;
- Achieve an acceptable score on the officer certification examination for the applicable criminal justice discipline; and
- Comply with the continuing training or education requirements of s. 943.135, F.S.

Basic Recruit Training Program

The Commission is required to adopt rules to design, implement, maintain, evaluate, and revise entry requirements and job-related curricula and performance standards for a basic recruit training program (BRTP).¹¹ The Commission must assure that entrance into a BRTP for law enforcement, correctional, and correctional probation officers be limited to those who have

⁵ Rule 11B-35.001(1), F.A.C.

⁶ Sections 943.256(2) and (3), F.S.

⁷ Section 943.256(1), F.S.

⁸ Rule 11B-27.0021(1), F.A.C., defines a high school graduate as an individual who has completed a secondary education program through a public school, private school, an equivalency diploma program, or home education program through an educational provider recognized by a public educational system within the United States or its territories, or received a foreign high school diploma.

⁹ See 11B-27.002(1)(d), F.A.C.

¹⁰ See 11B-27.002(1)(g), F.A.C.

¹¹ Section 943.17, F.S.

passed a Commissioned-approved basic abilities test.¹² After an applicant passes the discipline specific basic abilities test, he or she may enter the appropriate BRTP.¹³ The applicant must successfully complete their program, pass the corresponding state officer certification exam, and gain employment within four years of beginning the BRTP.¹⁴

Basic Recruit Training Program Exemption

Current law provides an exemption from a BRTP for those who:

- Completed a comparable BRTP for the applicable criminal justice discipline in another state or for the federal government; and
- Served as a full-time sworn officer in another state or for the federal government for at least one year provided there is no more than an eight-year break in employment, as measured from the separation date of the most recent qualifying employment to the time a complete application is submitted for an exemption from the BRTP.¹⁵

Additionally, current law provides that a certified Florida officer who has separated from employment and who is not reemployed within four years after the date of separation must meet the requirements of s. 943.13, F.S., but does not have to complete a BRTP.¹⁶ Officers who are not reemployed within eight years after separation must meet the requirements of s. 943.13, F.S., and complete a BRTP.¹⁷

If an applicant is seeking any of these exemptions, the applicant's employing agency or a selection center must verify that the applicant meets the above-described exemption criteria and submit documentation about the applicant's criminal justice experience to the Commission.¹⁸ An applicant who ultimately receives an exemption from a BRTP must still demonstrate proficiency in high-liability areas¹⁹ and pass the state officer certification exam within one year after receiving an exemption. If these requirements are not met within one year, the person must complete a BRTP.²⁰

Equivalency of Training

Employing agencies and selection centers utilize the equivalency of training process to verify that an applicant meets the exemption criteria and is eligible for an exemption from a BRTP. As part of the process, an employing agency or selection center will review the applicant's previous

¹² See s. 493.17(1)(g), F.S., and Rule 11B-35.0011, F.A.C. The basic abilities test assesses written comprehension and expression, information ordering, spatial orientation, memorization, problem sensitivity, and inductive and deductive reasoning. See also Florida Department of Law Enforcement, *Basic Abilities Test (BAT)*, <http://www.fdle.state.fl.us/CJSTC/Officer-Requirements/Basic-Abilities-Test.aspx> (last visited Jan. 16, 2018).

¹³ Rule 11B-35.002(5), F.A.C. There is a separate BRTP for law enforcement, correctional, and correctional probation officers. Each of the three programs consist of multiple courses totaling 770, 420, and 482 hours of course work, respectively.

¹⁴ Rule 11B-35.002(2)(a), F.A.C.

¹⁵ Section 943.13(9), F.S.

¹⁶ Section 943.1395(3), F.S.

¹⁷ Section 943.131(2), F.S.

¹⁸ *Id.*

¹⁹ Rule 11B-35.0021, F.A.C., establishes four high-liability training courses: Criminal Justice Firearms, Law Enforcement Vehicle Operations, Criminal Justice Defensive Tactics, and First Aid for Criminal Justice Officers.

²⁰ *Supra* note 17.

law enforcement,²¹ correctional,²² or correctional probation²³ officer training to determine what, if any, courses are comparable to those of a BRTP.²⁴ According to the Florida Department of Law Enforcement, the curriculum review may determine that additional training is necessary for the applicant and a partial exemption is granted in lieu of the full exemption from a BRTP.²⁵

U.S. Special Operations Forces

Special operations forces are those active and reserve component forces of the U.S. Armed Forces specifically organized, trained, and equipped to conduct and support special operations.²⁶ The Department of Defense's Special Operations Command (SOCOM), headquartered at MacDill Air Force Base in Tampa, trains, equips, and oversees the special operations forces of each military service. SOCOM's components include:

- The U.S. Army Special Operations Command;
- The Naval Special Warfare Command;
- The Air Force Special Operations Command; and
- The Marine Corps Forces Special Operations Command.

Special operations forces are intended to be versatile forces, capable of conducting a wide range of missions, including those that other military units would not be suited to undertake.²⁷ Among their multiple roles, the most important are considered to be direct action, special reconnaissance, foreign internal defense, and security force assistance. The last two activities involve helping friendly governments improve their military capabilities, which requires the largest commitments of special operations forces personnel and time.²⁸

Special operations require unique modes of employment, tactical techniques, equipment, and training. These operations are often conducted in hostile, denied, or politically sensitive environments and are characterized by one or more of the following elements: time sensitive, clandestine, low visibility, conducted with and/or through indigenous forces, requiring regional expertise, and/or a high degree of risk.

²¹ Comparable law enforcement officer training must cover the following topics: Legal, interactions in a diverse community, interviewing and reporting writing, patrol (including fundamentals, calls for service, and critical incidents), criminal investigations (including crime scene and courtroom), traffic stops, traffic crash investigations, and the high-liability subject areas. Rule 11B-.5.009(3)(a), F.A.C.

²² Comparable correctional officer training must cover the following topics: Legal, communications, officer safety, facility and equipment, intake and release, supervising in a correctional facility, supervising special populations, responding to incidents and emergencies, firearms, defensive tactics, and first aid or equivalent. Rule 11B-35.009(3)(b), F.A.C.

²³ Comparable correctional probation officer training must cover the following topics: Legal foundations for correctional probation, communications, intake and orientation, caseload management, supervision of offenders, field supervision, defensive tactics, and first aid or equivalent. Rule 11B-35.009(3)(c), F.A.C.

²⁴ 11B-35.009(3)(a), (b), and (c), F.A.C.

²⁵ Senate Military and Veterans Affairs, Space, and Domestic Security Committee staff telephone conversation with Florida Department of Law Enforcement staff (October 31, 2017).

²⁶ Congressional Research Service, *U.S. Special Operations Forces (SOF): Background and Issues for Congress*, 1 (Jan. 6, 2017), <http://fas.org/sgp/crs/natsec/RS21048.pdf> (last visited on Jan. 16, 2018).

²⁷ Congressional Budget Office, *The U.S. Military's Force Structure: A Primer*, 112 (July 2016), <https://www.cbo.gov/sites/default/files/114th-congress-2015-2016/reports/51535-fsprimer.pdf> (last visited Jan. 16, 2018).

²⁸ *Id.*

In fiscal year 2014, there were approximately 62,800 special operations military personnel, which equated to just under 3 percent of the military services' total force levels for that year.²⁹ The Department of Defense plans to field an average of about 60,000 special-operations military personnel over the 2017-2021 period.³⁰ The Army has the largest concentration of special operations forces members of all the military services. In 2014, 54 percent of all special operations forces members were in the Army, 25 percent were in the Air Force, 16 percent were in the Navy, and 5 percent were in the Marine Corps.³¹

Correctional Officer Requirements

The Criminal Justice Standards and Training Commission (Commission), which is housed within the Florida Department of Law Enforcement (FDLE) is, in part, responsible for implementing requirements related to the training, certification, and discipline of full-time, part-time,³² and auxiliary³³ correctional officers.³⁴

Section 943.10(2), F.S., defines “correctional officer” to mean any person who is appointed or employed full time by the state or any political subdivision thereof, or by any private entity which has contracted with the state or county, and whose primary responsibility is the supervision, protection, care, custody, and control, or investigation, of inmates within a correctional institution; however, the term “correctional officer” does not include any secretarial, clerical, or professionally trained personnel.³⁵

Section 943.13, F.S., provides that, to be eligible to be employed as a correctional officer, the person must:

- Be at least 19 years of age;
- Be a citizen of the United States, notwithstanding any law of the state to the contrary;
- Be a high school graduate or its equivalent;³⁶

²⁹ U.S. Government Accountability Office, *Report No. 15-571: Special Operations Forces: Opportunities Exist to Improve Transparency of Funding and Assess Potential to Lesson Some Deployments*, 8-9 (July 2015), <https://www.gao.gov/assets/680/671462.pdf> (last visited Jan. 17, 2018).

³⁰ Supra note 27.

³¹ Supra note 29, at 11.

³² Section 943.10(7), F.S., defines “part-time correctional officer” to mean any person who is employed or appointed less than full time, as defined by the employing or appointing agency, with or without compensation, whose responsibilities include the supervision, protection, care, custody, and control of inmates within a correctional institution.

³³ Section 943.10(9), F.S., defines “auxiliary correctional officer” to mean any person employed or appointed, with or without compensation, who aids or assists a full-time or part-time correctional officer and who, while under the supervision of a full-time or part-time correctional officer, has the same authority as a full-time or part-time correctional officer for the purpose of providing supervision, protection, care, custody, and control of inmates within a correctional institution or a county or municipal detention facility.

³⁴ Correctional officers are eligible for special risk class benefits in accordance with s. 121.0515, F.S. Special risk class membership awards more retirement credit per year of service than is awarded to other employees due to the increased risk that such employees undertake as a part of their duties. Membership of correctional officers in the special risk class is determined by whether the officer's primary duties and responsibilities involve the custody of prisoners or inmates within a prison, jail, or other criminal detention facility, or while on work detail outside the facility, or while being transported; or whether the officer is the supervisor or command officer of a member or members who have such responsibilities. Section 121.0515(1) and (3)(c), F.S.

³⁵ Section 943.10(2), F.S.

³⁶ Section 943.13(3), F.S., provides that the Commission must define the term high school equivalency in rule.

- Not have been convicted of any felony or of a misdemeanor involving perjury or a false statement, or have received a dishonorable discharge from any of the Armed Forces of the United States;³⁷
- Have documentation of his or her processed fingerprints on file with the employing agency or, if a private correctional officer, have documentation of his or her processed fingerprints on file with the Department of Corrections (DOC) or the Commission;³⁸
- Have passed a physical examination by a licensed physician, physician assistant, or certified advanced registered nurse practitioner, based on specifications established by the Commission;
- Have a good moral character as determined by a background investigation by the Commission;
- Execute and submit a sworn affidavit-of-applicant form attesting to his or her compliance with the above-listed requirements to the employing agency or, if a private correctional officer, submit to the appropriate governmental entity;
- Complete a Commission approved basic recruit training program for the applicable criminal justice discipline, unless exempt under law;³⁹ and
- Achieve an acceptable score on the officer certification examination for the applicable criminal justice discipline.

If a critical need for officers exists, the employing agency may temporarily employ a person as a correctional officer, if he or she has met all the requirements listed above, even if he or she has not completed basic recruit school or received an acceptable score on the certification examination.⁴⁰ Any person employed as a temporary correctional officer must be supervised by another correctional officer anytime he or she is performing any duties of a correctional officer and must attend the first basic recruit training program offered in the geographic area within 180 consecutive days of employment.⁴¹ A person temporarily employed as a correctional officer is prohibited from being employed in the position for more than 30 months. However, a person that is attending the first available basic recruit training program offered in his or her geographic area may continue to be employed as a temporary correctional officer until he or she:

³⁷ Section 943.13(4), F.S., further specifies that: a. Any person who, after July 1, 1981, pleads guilty or nolo contendere to or is found guilty of any felony or of a misdemeanor involving perjury or a false statement is not eligible for employment or appointment as an officer, notwithstanding suspension of sentence or withholding of adjudication; and b. Any person who has pled nolo contendere to a misdemeanor involving a false statement, prior to December 1, 1985, and has had such record sealed or expunged shall not be deemed ineligible for employment or appointment as an officer.

³⁸ Section 943.13(5), F.S., provides that the FDLE must retain and enter into the statewide automated biometric identification system all fingerprints submitted. Thereafter, the fingerprints must be available for all purposes and uses authorized for arrest fingerprints entered in the statewide automated biometric identification system pursuant to s. 943.051, F.S. The FDLE is also required to search all arrest fingerprints received pursuant to s. 943.051, F.S., against the fingerprints retained in the statewide automated biometric identification system in accordance with s. 943.13, F.S., and report to the employing agency any arrest records that are identified with the retained employee's fingerprints. These fingerprints must be forwarded to the FDLE for processing and retention.

³⁹ Section 943.13(9), F.S., provides an exemption for an applicant to be required to take the basic recruit training program, including that if the applicant has completed a comparable basic recruit training program for the applicable criminal justice discipline in another state or for the Federal Government and served as a full-time sworn officer in another state or for the Federal Government for at least 1 year. For the exemption to be available, the applicant cannot have more than an 8-year break in employment, as measured from the separation date of the most recent qualifying employment to the time a complete application is submitted for the exemption.

⁴⁰ Section 943.131(1)(a), F.S.

⁴¹ Section 943.131(1)(a) and (c), F.S.

- Fails or withdraws from the basic recruit training program; or
- Is separated from employment or appointment by the employing agency.⁴²

Any person employed as a correctional officer, regardless of age, must comply with all the above-described eligibility criteria and any other requirements imposed by the Commission, including such requirements as continuing education requirements proscribed in s. 943.135, F.S.

III. Effect of Proposed Changes:

Section 1 amends s. 943.10, F.S., to define the term “special operations forces” to mean those active and reserve component forces of the military services designated by the Secretary of Defense and specifically organized, trained, and equipped to conduct and support special operations. The term includes service members of the:

- U.S. Army Special Forces;
- U.S. Army 75th Ranger Regiment;
- U.S. Navy SEALs and Special Warfare Combatant-Craft Crewmen;
- U.S. Air Force Combat Control, Pararescue, and Tactical Air Control Party specialists; and
- U.S. Marine Corps Critical Skills Operators.

The term also includes any other component of the United States Special Operations Command approved by the Criminal Justice Standards and Training Commission (Commission).

Sections 2 and 3 amend ss. 913.13 and 943.131, F.S., respectively, to reduce the minimum age requirement for correctional officers from 19 years of age to 18 years of age. Create exemptions from a Commission-approved law enforcement, correctional, or correctional probation officer basic recruit training program (BRTP) for an applicant who successfully completed a special operations forces training course and served in the special operations forces for a minimum of 5 years. An applicant’s last date of service in the special operations forces must be within 4 years of applying for an exemption from a BRTP under the bill.

The Commission must adopt rules that establish the criteria and procedures to determine if a special operations forces applicant is exempt from completing a BRTP.

An applicant who qualifies for an exemption from a BRTP under the bill must complete training required by the Commission, and demonstrate proficiency in high-liability areas and pass the state officer certification exam within one year after receiving an exemption. If the demonstration of proficiencies and certification exam requirements are not completed within one year, the applicant must seek an additional exemption. Prior to employment or appointment the applicant must also meet the minimum qualifications described in s. 943.13(1)-(8), F.S.

The bill requires a criminal justice training center, in addition to an employing agency or criminal justice selection center, to verify and document to the Commission that an applicant requesting an exemption from a law enforcement, correctional, or correctional probation officer BRTP satisfies the requirements of the applicable exemption.

⁴² Section 943.131(1)(b), F.S.

Section 4 creates s. 944.145, F.S., to prohibit a correctional officer younger than 19 years of age from supervising inmates. A correctional officer that is younger than 19 years of age may perform all other duties performed by a full-time, part-time, or auxiliary correctional officer.⁴³

Sections 5 through 9 reenact ss. 943.1395, 943.17296, 626.989, and 943.133, F.S., respectively, for the purpose of incorporating amendments to s. 943.13 and s. 943.131, F.S. The bill takes effect on July 1, 2018.

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:

An applicant who is required by the Criminal Justice Standards and Training Commission to complete additional training is responsible for the cost of tuition. However, in some cases, an employing agency will pay the cost of a trainee's tuition, as authorized in s. 943.16, F.S.

C. Government Sector Impact:

The Automated Training Management System, which serves as the central repository of records for Criminal Justice Standards and Training Commission, must include programming to allow for the entry of individuals who qualify for the special operations forces exemption created in the bill. The Florida Department of Law Enforcement states that this change is minimal and there is no fiscal impact.⁴⁴

⁴³ A person employed as a correctional officer who is younger than 19 years of age will not qualify for special risk class benefits because he or she will not be supervising inmates, which is required pursuant to s. 121.0515, F.S.

⁴⁴ Florida Department of Law Enforcement, *Senate Bill 470 Agency Analysis* (Oct. 31, 2017) (on file with the Senate Committee on Military and Veterans Affairs, Space, and Domestic Security).

The number of individuals this would affect is indeterminate, as the Department of Corrections does not track employees with “special operations forces” experience. Any additional administrative resources in administering this bill is anticipated to be negligible as much of the information required should be contained on documents already provided by applicants in the hiring process.⁴⁵

The bill permits the DOC to hire persons who are between 18 and 19 years of age to perform limited correctional officer functions. To the extent that this bill increases the number of persons the DOC is able to hire, the bill could potentially reduce the current vacancy rate within correctional facilities.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

The bill substantially amends the following sections of the Florida Statutes: 943.10, 943.13, and 943.131.

The bill reenacts sections 626.989, 943.133, 943.1395, and 943.17296, Florida Statutes, for the purpose of incorporating the amendments to sections 943.13 and 943.131, 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 February 15, 2018:

The committee substitute amends s. 943.13, F.S., expanding the eligibility requirements of a correctional officer to include a person who is 18 years of age, rather than 19 years of age or older. The committee substitute also creates s. 944.145, F.S., prohibiting a correctional officer younger than 19 years of age from supervising inmates.

CS by Military and Veterans Affairs, Space, and Domestic Security on January 18, 2018:

The committee substitute:

- Changes the title of the bill to more accurately reflect the subject of the bill;
- Changes the definition of “special operations forces” to exclude the military occupational skill numbers;

⁴⁵ Florida Department of Corrections, *Senate Bill 470 Agency Analysis* (Oct. 31, 2017).

- Requires an applicant for a basic recruit training program exemption to have served a minimum of 5 years in the special operations forces;
- Requires that an applicant's last date of service in the special operations forces must be within 4 years of applying for an exemption from a basic recruit training program;
- Requires an applicant who is exempt from a basic recruit training program to complete training, if required by the Criminal Justice Standards and Training Commission;
- Requires an employing agency, training center, or selection center to verify and document if an applicant qualifies for an exemption from a basic recruit training program; and
- Amends s. 943.13(9), F.S., to reference the special operations forces exemption created by the bill among the existing basic recruit training program exemptions.

B. Amendments:

None.

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

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1 A bill to be entitled
 2 An act relating to minimum basic recruit training
 3 exemptions; amending s. 943.10, F.S.; defining the
 4 term "special operations forces"; amending s. 943.13,
 5 F.S.; exempting former special operations forces
 6 members who meet certain requirements from the
 7 Criminal Justice Standards and Training Commission-
 8 approved basic recruit training program; amending s.
 9 943.131, F.S.; requiring an employing agency, training
 10 center, or criminal justice selection center to verify
 11 and document that special operations forces applicants
 12 meet certain requirements if the applicants seek an
 13 exemption from a basic recruit training program
 14 approved by the commission; requiring the employing
 15 agency, training center, or criminal justice selection
 16 center to submit the documentation to the commission;
 17 reenacting ss. 943.1395(3) and 943.17296, F.S.,
 18 relating to certification for employment or
 19 appointment as an officer and training in identifying
 20 and investigating elder abuse and neglect,
 21 respectively, to incorporate the amendment made to s.
 22 943.13, F.S., in references thereto; reenacting ss.
 23 626.989(7), 943.133(1) and (6), and 943.1395(3), (9),
 24 and (10), F.S., relating to investigations by the
 25 Division of Investigative and Forensic Services, the
 26 responsibilities of certain employing entities, and
 27 certification for certain employment or appointment,
 28 respectively, to incorporate the amendment made to s.
 29 943.131, F.S., in references thereto; providing an

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30 effective date.
 31
 32 Be It Enacted by the Legislature of the State of Florida:
 33
 34 Section 1. Subsection (22) is added to section 943.10,
 35 Florida Statutes, to read:
 36 943.10 Definitions; ss. 943.085-943.255.—The following
 37 words and phrases as used in ss. 943.085-943.255 are defined as
 38 follows:
 39 (22) "Special operations forces" means those active and
 40 reserve component forces of the military services designated by
 41 the Secretary of Defense and specifically organized, trained,
 42 and equipped to conduct and support special operations. The term
 43 includes servicemembers of the United States Army Special
 44 Forces; the United States Army 75th Ranger Regiment; the United
 45 States Navy SEALs and Special Warfare Combatant-Craft Crewmen;
 46 the United States Air Force Combat Control, Pararescue, and
 47 Tactical Air Control Party specialists; the United States Marine
 48 Corps Critical Skills Operators; and any other component of the
 49 United States Special Operations Command approved by the
 50 commission.
 51 Section 2. Subsection (9) of section 943.13, Florida
 52 Statutes, is amended to read:
 53 943.13 Officers' minimum qualifications for employment or
 54 appointment.—On or after October 1, 1984, any person employed or
 55 appointed as a full-time, part-time, or auxiliary law
 56 enforcement officer or correctional officer; on or after October
 57 1, 1986, any person employed as a full-time, part-time, or
 58 auxiliary correctional probation officer; and on or after

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59 October 1, 1986, any person employed as a full-time, part-time,
60 or auxiliary correctional officer by a private entity under
61 contract to the Department of Corrections, to a county
62 commission, or to the Department of Management Services shall:

63 (9) Complete a commission-approved basic recruit training
64 program for the applicable criminal justice discipline, unless
65 exempt under this subsection. An applicant who has:

66 (a) 1. Completed a comparable basic recruit training program
67 for the applicable criminal justice discipline in another state
68 or for the Federal Government; and

69 2. ~~(b)~~ Served as a full-time sworn officer in another state
70 or for the Federal Government for at least 1 year provided there
71 is no more than an 8-year break in employment, as measured from
72 the separation date of the most recent qualifying employment to
73 the time a complete application is submitted for an exemption
74 under this section; or

75 (b) Successfully completed a special operations forces
76 training course, served in the special operations forces for a
77 minimum of 5 years, and no more than 4 years have passed from
78 the last date of service in the special operations forces to the
79 date that a complete application is submitted for an exemption
80 under this subsection,

81
82 is exempt in accordance with s. 943.131(2) from completing a ~~the~~
83 commission-approved basic recruit training program.

84 Section 3. Subsection (2) of section 943.131, Florida
85 Statutes, is amended, and paragraph (a) of subsection (1) of
86 that section is republished, to read:

87 943.131 Temporary employment or appointment; minimum basic

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88 recruit training exemptions ~~exemption.~~-

89 (1) (a) An employing agency may temporarily employ or
90 appoint a person who complies with the qualifications for
91 employment in s. 943.13(1)-(8), but has not fulfilled the
92 requirements of s. 943.13(9) and (10), if a critical need exists
93 to employ or appoint the person and such person is or will be
94 enrolled in the next approved basic recruit training program
95 available in the geographic area or that no assigned state
96 training program for state officers is available within a
97 reasonable time. The employing agency must maintain
98 documentation which demonstrates that a critical need exists to
99 employ a person pursuant to this section. Prior to the
100 employment or appointment of any person other than a
101 correctional probation officer under this subsection, the person
102 shall comply with the firearms provisions established pursuant
103 to s. 943.17(1)(a). Any person temporarily employed or appointed
104 as an officer under this subsection must attend the first
105 training program offered in the geographic area, or the first
106 assigned state training program for a state officer, subsequent
107 to his or her employment or appointment. A person temporarily
108 employed or appointed as an officer under this subsection must
109 begin basic recruit training within 180 consecutive days after
110 employment. Such person must fulfill the requirements of s.
111 943.13(9) within 18 months after beginning basic recruit
112 training and must fulfill the certification examination
113 requirements of s. 943.13(10) within 180 consecutive days after
114 completing basic recruit training. A person hired after he or
115 she has commenced basic recruit training or after completion of
116 basic recruit training must fulfill the certification

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117 examination requirements of s. 943.13(10) within 180 consecutive
 118 days after completion of basic recruit training or the
 119 commencement of employment, whichever occurs later.

120 (2) If an applicant seeks an exemption from completing a
 121 commission-approved basic recruit training program, the
 122 employing agency, training center, or criminal justice selection
 123 center must do one of the following, as appropriate:

124 (a) Verify and document that the applicant has successfully
 125 completed a comparable basic recruit training program for the
 126 discipline in which the applicant is seeking certification in
 127 another state or for the Federal Government or a previous
 128 Florida basic recruit training program. Further, the employing
 129 agency, training center, or criminal justice selection center
 130 must verify and document that the applicant has served as a
 131 full-time sworn officer in another state or for the Federal
 132 Government for at least 1 year provided there is no more than an
 133 8-year break in employment or was a previously certified Florida
 134 officer provided there is no more than an 8-year break in
 135 employment, as measured from the separation date of the most
 136 recent qualifying employment to the time a complete application
 137 is submitted for an exemption under this section. ~~When~~ The
 138 employing agency, training center, or criminal justice selection
 139 center shall submit ~~obtains written~~ documentation of
 140 satisfaction of this requirement to the commission regarding the
 141 applicant's criminal justice experience, the documentation must
 142 be submitted to the commission. The commission shall adopt rules
 143 that establish criteria and procedures to determine if the
 144 applicant is exempt from completing the commission-approved
 145 basic recruit training program and, upon making a determination,

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

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146 ~~shall notify the employing agency or criminal justice selection~~
 147 ~~center. An applicant who is exempt from completing the~~
 148 ~~commission-approved basic recruit training program must~~
 149 ~~demonstrate proficiency in the high-liability areas, as defined~~
 150 ~~by commission rule, and must complete the requirements of s.~~
 151 ~~943.13(10) within 1 year after receiving an exemption. If the~~
 152 ~~proficiencies and requirements of s. 943.13(10) are not met~~
 153 ~~within the 1 year, the applicant must seek an additional~~
 154 ~~exemption pursuant to the requirements of this subsection.~~
 155 ~~Except as provided in subsection (1), before the employing~~
 156 ~~agency may employ or appoint the applicant as an officer, the~~
 157 ~~applicant must meet the minimum qualifications described in s.~~
 158 ~~943.13(1) (8), and must fulfill the requirements of s.~~
 159 ~~943.13(10).~~

160 (b) Verify and document that the applicant has successfully
 161 completed a special operations forces training course and served
 162 in the special operations forces for a minimum of 5 years.
 163 Further, the employing agency, training center, or criminal
 164 justice selection center must verify and document that no more
 165 than 4 years have passed from the last date of service in the
 166 special operations forces to the time a complete application is
 167 submitted for an exemption under this section. The employing
 168 agency, training center, or criminal justice selection center
 169 shall submit documentation of satisfaction of these requirements
 170 to the commission.

171
 172 The commission shall adopt rules that establish criteria and
 173 procedures to determine if the applicant is exempt from
 174 completing the commission-approved basic recruit training

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175 program and, upon making a determination, shall notify the
 176 employing agency, training center, or criminal justice selection
 177 center, as appropriate. An applicant who is exempt under this
 178 subsection must complete training required by the commission and
 179 demonstrate proficiency in the high-liability areas as defined
 180 by commission rule and complete the requirements of s.
 181 943.13(10) within 1 year after receiving an exemption.
 182 If the proficiencies and requirements of s. 943.13(10) are not
 183 met within the 1-year period, the applicant must seek an
 184 additional exemption pursuant to the requirements of this
 185 subsection. Except as provided in subsection (1), before the
 186 employing agency may employ or appoint the applicant as an
 187 officer, the applicant must meet the minimum qualifications
 188 described in s. 943.13(1)-(8), and must fulfill the requirements
 189 of s. 943.13(10).

190 Section 4. For the purpose of incorporating the amendment
 191 made by this act to section 943.13, Florida Statutes, in a
 192 reference thereto, subsection (3) of section 943.1395, Florida
 193 Statutes, is reenacted to read:

194 943.1395 Certification for employment or appointment;
 195 concurrent certification; reemployment or reappointment;
 196 inactive status; revocation; suspension; investigation.—

197 (3) Any certified officer who has separated from employment
 198 or appointment and who is not reemployed or reappointed by an
 199 employing agency within 4 years after the date of separation
 200 must meet the minimum qualifications described in s. 943.13,
 201 except for the requirement found in s. 943.13(9). Further, such
 202 officer must complete any training required by the commission by
 203 rule in compliance with s. 943.131(2). Any such officer who

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204 fails to comply with the requirements provided in s. 943.131(2)
 205 must meet the minimum qualifications described in s. 943.13, to
 206 include the requirement of s. 943.13(9).

207 Section 5. For the purpose of incorporating the amendment
 208 made by this act to section 943.13, Florida Statutes, in a
 209 reference thereto, section 943.17296, Florida Statutes, is
 210 reenacted to read:

211 943.17296 Training in identifying and investigating elder
 212 abuse and neglect.—Each certified law enforcement officer must
 213 successfully complete training on identifying and investigating
 214 elder abuse and neglect as a part of the basic recruit training
 215 of the officer required in s. 943.13(9) or continuing education
 216 under s. 943.135(1) before June 30, 2011. The training shall be
 217 developed in consultation with the Department of Elderly Affairs
 218 and the Department of Children and Families and must incorporate
 219 instruction on the identification of and appropriate responses
 220 for persons suffering from dementia and on identifying and
 221 investigating elder abuse and neglect. If an officer fails to
 222 complete the required training, his or her certification is
 223 inactive until the employing agency notifies the commission that
 224 the officer has completed the training.

225 Section 6. For the purpose of incorporating the amendment
 226 made by this act to section 943.131, Florida Statutes, in a
 227 reference thereto, subsection (7) of section 626.989, Florida
 228 Statutes, is reenacted to read:

229 626.989 Investigation by department or Division of
 230 Investigative and Forensic Services; compliance; immunity;
 231 confidential information; reports to division; division
 232 investigator's power of arrest.—

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233 (7) Division investigators shall have the power to make
 234 arrests for criminal violations established as a result of
 235 investigations. Such investigators shall also be considered
 236 state law enforcement officers for all purposes and shall have
 237 the power to execute arrest warrants and search warrants; to
 238 serve subpoenas issued for the examination, investigation, and
 239 trial of all offenses; and to arrest upon probable cause without
 240 warrant any person found in the act of violating any of the
 241 provisions of applicable laws. Investigators empowered to make
 242 arrests under this section shall be empowered to bear arms in
 243 the performance of their duties. In such a situation, the
 244 investigator must be certified in compliance with the provisions
 245 of s. 943.1395 or must meet the temporary employment or
 246 appointment exemption requirements of s. 943.131 until
 247 certified.

248 Section 7. For the purpose of incorporating the amendment
 249 made by this act to section 943.131, Florida Statutes, in
 250 references thereto, subsections (1) and (6) of section 943.133,
 251 Florida Statutes, are reenacted to read:

252 943.133 Responsibilities of employing agency, commission,
 253 and program with respect to compliance with employment
 254 qualifications and the conduct of background investigations;
 255 injunctive relief.-

256 (1) The employing agency is fully responsible for the
 257 collection, verification, and maintenance of documentation
 258 establishing that an applicant complies with the requirements of
 259 ss. 943.13 and 943.131, and any rules adopted pursuant to ss.
 260 943.13 and 943.131.

261 (6) If an employing agency employs or appoints an officer

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262 in violation of this section or of s. 943.13, s. 943.131, or s.
 263 943.135, or any rules adopted pursuant thereto, the Department
 264 of Legal Affairs, at the request of the chair of the commission,
 265 shall apply to the circuit court in the county of the employing
 266 agency for injunctive relief prohibiting the employment or
 267 appointment of the person contrary to this section.

268 Section 8. For the purpose of incorporating the amendment
 269 made by this act to section 943.131, Florida Statutes, in
 270 references thereto, subsections (3), (9), and (10) of section
 271 943.1395, Florida Statutes, are reenacted to read:

272 943.1395 Certification for employment or appointment;
 273 concurrent certification; reemployment or reappointment;
 274 inactive status; revocation; suspension; investigation.-

275 (3) Any certified officer who has separated from employment
 276 or appointment and who is not reemployed or reappointed by an
 277 employing agency within 4 years after the date of separation
 278 must meet the minimum qualifications described in s. 943.13,
 279 except for the requirement found in s. 943.13(9). Further, such
 280 officer must complete any training required by the commission by
 281 rule in compliance with s. 943.131(2). Any such officer who
 282 fails to comply with the requirements provided in s. 943.131(2)
 283 must meet the minimum qualifications described in s. 943.13, to
 284 include the requirement of s. 943.13(9).

285 (9) Each person employed pursuant to s. 943.131 is subject
 286 to discipline by the commission. Persons who have been subject
 287 to disciplinary action pursuant to this subsection are
 288 ineligible for employment or appointment under s. 943.131.

289 (a) The commission shall cause to be investigated any
 290 conduct defined in subsection (6) or subsection (7) by a person

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291 employed under s. 943.131 and shall set disciplinary guidelines
292 and penalties prescribed in rules applicable to such
293 noncertified persons.

294 (b) The disciplinary guidelines and prescribed penalties
295 must be based upon the severity of specific offenses. The
296 guidelines must provide reasonable and meaningful notice to
297 officers and to the public of penalties that may be imposed for
298 prohibited conduct. The penalties must be consistently applied
299 by the commission.

300 (c) In addition, the commission may establish violations
301 and disciplinary penalties for intentional abuse of the
302 employment option provided by s. 943.131 by an individual or
303 employing agency.

304 (10) An officer whose certification has been revoked
305 pursuant to this section shall be ineligible for employment or
306 appointment under s. 943.131.

307 Section 9. This act shall take effect July 1, 2018.

THE FLORIDA SENATE
APPEARANCE RECORD

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

2-15-18

Meeting Date

470

Bill Number (if applicable)

Topic MIN BASIC RECRUIT TRAINING

Amendment Barcode (if applicable)

Name RON DIAA

Job Title EXTERNAL AFFAIRS DIR

Address 233 PHILLIPS ROAD

Phone 850-410-7020

Street

TALL

City

FL

State

32308

Zip

Email RONALDDIAA@FDLE.STATE.FL.US

Speaking: For Against Information

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

Representing FDLE

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)

2/15/18

Meeting Date

470

Bill Number (if applicable)

Topic Minimum Basic Recruit Training Exemptions

Amendment Barcode (if applicable)

Name Chase Daniels

Job Title Assistant Executive Director

Address 8700 Citizens Dr

Phone 727-277-6226

Street

New Port Richey

FL

34654

Email cdaniels@pascosheriff.org

City

State

Zip

Speaking: For Against Information

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

Representing Pasco Sheriff's Office

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)

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 504

INTRODUCER: Appropriations Committee and Senator Perry

SUBJECT: Motor Vehicles

DATE: February 19, 2018

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Jones	Miller	TR	Favorable
2.	Wells	Hrdlicka	ATD	Recommend: Favorable
3.	Wells	Hansen	AP	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 504 defines the term “autocycle,” requires that occupants of autocycles wear safety belts, and exempts drivers of autocycles from motorcycle endorsement or motorcycle license requirements, which exempts them from completing motorcycle knowledge and skills testing in order to operate an autocycle.

The bill also defines the term “mobile carrier” and exempts such devices from regulation as motor vehicles and personal delivery devices and creates regulations for the devices.

Due to motorcycle licenses or endorsements no longer being a requirement to operate an autocycle, the bill will reduce revenues received by the Department of Highway Safety and Motor Vehicles (DHSMV) by an insignificant amount annually.

The bill takes effect July 1, 2018.

II. Present Situation:

Autocycles

An autocycle is commonly defined as a three-wheel motorcycle that has a steering wheel and seating that does not require the operator to straddle or sit astride it.¹ The term “autocycle” is not

¹ American Association of Motor Vehicle Administrators (AAMVA), *Best Practices for the Regulation of Three-Wheel Vehicles* (October 2013), available at <http://www.aamva.org/3wheelvehiclebp/> at p. 4 (last visited Dec. 14, 2017).

defined in federal law; however, as of May 2017, at least 34 states statutorily define the term “autocycle.”²

Both federal and Florida law define “motorcycle” as a motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground.³ In 2015, the U.S. Department of Transportation (DOT) and the National Highway Traffic Safety Administration (NHTSA) proposed a rulemaking framework to change the federal regulatory definition of “motorcycle” to exclude three-wheeled vehicles configured like passenger cars, but that rule has not been finalized and no additional action has been taken on it since November 2015.⁴ Currently, the DHSMV registers autocycles as motorcycles.⁵ This means an operator of an autocycle, generally, is not required to maintain motor vehicle insurance⁶ or wear safety belts⁷, but is required to:

- Maintain a motorcycle endorsement or motorcycle license;⁸
- Wear a helmet, unless he or she is over 21 years of age with at least \$10,000 of medical insurance or riding in an enclosed cab;⁹ and
- Wear eye protection.¹⁰

In Fiscal Year 2016-2017, the DHSMV processed 589 original autocycle registrations and 988 autocycle registration renewals.¹¹

Because autocycles share more characteristics with passenger motor vehicles than motorcycles, some of the motorcycle requirements, or lack of requirements, may or may not be necessary for autocycles. For example, studies suggest a motorcycle endorsement or motorcycle license should not be required for operating an autocycle.¹² Motorcycle rider courses primarily focus on operating a motorcycle in which the operator sits astride the saddle and uses handlebars, while using his or her body weight, balance, and position on the motorcycle to corner or stop; however, operating an autocycle requires mechanics similar to a passenger motor vehicle. At least 22 states do not require a motorcycle endorsement or motorcycle license to operate an autocycle.¹³

² National Conference of State Legislatures (NCSL), *The Confusing World of Autocycles* (May 30, 2017), available at <http://www.ncsl.org/blog/2017/05/30/the-confusing-world-of-autocycles.aspx> (last visited Dec. 14, 2017).

³ 49 C.F.R. 571.3; and ss. 316.003(41) and 320.01(26), F.S.

⁴ *Id.* and DOT/NHTSA RIN: 2127-AL15, *Amend Definition of 3-Wheeled Vehicles* (Fall 2015), available at <https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201510&RIN=2127-AL15> (last visited Dec. 14, 2017).

⁵ DHSMV Technical Advisory RS/TL16-015, *Registering the Slingshot* (June 20, 2016), available at https://www.flhsmv.gov/dmv/bulletins/2016/ta_rst16-015.pdf (last visited Dec. 14, 2017).

⁶ See ch. 324, F.S., on Motor Vehicle Financial Responsibility.

⁷ See s. 316.614(3)(a)5., F.S.

⁸ Section 322.03(4), F.S.; s. 322.21(1)(g), F.S., provides that a license endorsement is \$7.

⁹ Section 316.211, F.S.

¹⁰ Section 316.211(2), F.S.

¹¹ Revenue Estimating Conference, *Autocycles – HB 215* (Oct. 27, 2017) available at http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2018/_pdf/page69.pdf (last visited Jan. 3, 2017).

¹² AAMVA, *supra* note 1 at p. 5 and 9.

¹³ NCSL, *Traffic Safety Trends – State Legislative Action 2015* (Feb. 2016), available at http://www.ncsl.org/Portals/1/Documents/transportation/2015_Traffic_Safety_Trends.pdf at p. 23 (last visited Dec. 14, 2017).

Additionally, states vary in the definition and safety requirements of an autocycle. Of the states that have a statutory definition for autocycle:¹⁴

- 19 states require autocycles to have seat belts;
- 15 states require autocycles to be enclosed;
- 11 states require autocycles to meet federal motorcycle safety requirements;
- 10 states require autocycles to have a roll cage or roll bar;
- 8 states require autocycles to have antilock brakes; and
- 4 states require autocycles to have airbags.

There is little research or crash data available concerning the safety of autocycles. Because autocycles fall under the definition of a motorcycle they are required to meet the federal safety standards required for motorcycles; thus, autocycles are not required to meet the crash safety standards or occupant safety criteria that a regular passenger motor vehicle is required to meet. NHTSA has concerns that the overall appearance of autocycles, being closer to the appearance of a car than a motorcycle, may cause people to think autocycles are as safe as passenger motor vehicles.¹⁵

Mobile Carriers

A mobile carrier is an electronic device designed to carry cargo and follow its operator through an electronic connection. For example, Piaggio Fast Forward has created a mobile carrier named Gita,¹⁶ which is capable of hauling up to 40 pounds of goods while following a human operator or moving autonomously through an environment that has been previously mapped by the device.¹⁷ The device does this by “linking” up to a belt with cameras worn by the user or by the device referring back to a specific map of a path it has already traveled. The device utilizes cameras and an ultrasonic range-finding system to avoid obstacles in its way.¹⁸

Currently, a mobile carrier is not defined in Florida law and Florida law does not contain any provisions regarding the operation of mobile carriers.

III. Effect of Proposed Changes:

Section 1 amends s. 316.003, F.S., to define an autocycle as a three-wheeled motorcycle that has two wheels in the front and one wheel in the back; is equipped with a roll cage or roll hoops, a seat belt for each occupant, antilock brakes, a steering wheel, and seating that does not require the operator to straddle or sit astride it; and is manufactured by a NHTSA-registered manufacturer in accordance with the applicable federal motorcycle safety standards.

¹⁴ NCSL, *Transportation Review - Autocycles* (Apr., 17, 2017), available at <http://www.ncsl.org/research/transportation/transportation-review-autocycles.aspx> (last visited Nov. 3, 2017).

¹⁵ AAMVA, *supra* note 1 at p. 2.

¹⁶ Gita means a trip or outing in Italian.

¹⁷ See Piaggio Fast Forward, *Introducing Gita*, available at <https://www.piaggiofastforward.com/gita> (last visited Feb. 16, 2018).

¹⁸ Wired, *The Cute Robot That Follows You Around and Schleps All Your Stuff* (Feb. 16, 2017), available at <https://www.wired.com/2017/02/piaggio-gita-drone/> (last visited Feb. 16, 2018).

Sections 1 and 5 amend ss. 316.003 and 320.01, F.S., respectively, to include an autocycle in the definition of a motorcycle. The definition of motorcycle is amended in both section to provide consistency.

Section 1 also defines mobile carrier as an electronically powered device that weighs less than 80 pounds (excluding cargo), has a maximum speed of 12.5 miles per hour, is operated on sidewalks and crosswalks, is intended primarily for transporting property, is primarily designed to remain within 25 feet of the property owner, and is equipped with technology to transport personal property with active monitoring of the property owner.

This section also provides that a mobile carrier is not considered a vehicle, motor vehicle, or a personal delivery device.

Section 2 amends s. 316.008, F.S., to authorize a mobile carrier to be operated on sidewalks and crosswalks within a county or municipality when such use is permissible under federal law,¹⁹ but does not restrict a county or municipality from adopting regulations for the safe operation of mobile carriers.

Section 3 amends s. 316.2071, F.S., relating to personal delivery devices (PDDs), to provide regulation of mobile carriers similar to the state's regulation of PDDs. Specifically, the bill provides that a mobile carrier:

- Operating on a sidewalk or crosswalk has all the rights and duties applicable to a pedestrian under the same circumstances, except that the mobile carrier may not unreasonably interfere with pedestrians or traffic and must yield the right-of-way to pedestrians;
- Must obey all official traffic and pedestrian control signals and devices;
- Must be equipped with a braking system that, when active or engaged, enables the mobile carrier to come to a controlled stop;
- May not operate on a public highway except to cross a crosswalk;
- May not operate on a sidewalk or crosswalk unless the property owner remains within 25 feet of the mobile carrier; and
- May not transport hazardous materials.²⁰

Section 4 amends s. 316.614, F.S., to require that the operator, front seat passenger, and any passenger under the age of 18 years old in an autocycle wear a safety belt.

Sections 5 and 9 amend ss. 320.01 and 324.021, F.S., respectively, to provide that the term "motor vehicle" does not include mobile carriers.

Section 6 amends s. 320.02(19), F.S., to provide that a mobile carrier is not required to be registered or insured to be operated within the state.

¹⁹ Federal law, specifically 23 U.S.C. s. 217(h), prohibits any motorized vehicle on pedestrian walkways funded in whole or in part with federal dollars, except for maintenance purposes, snowmobiles when snow conditions and state or local regulations permit, motorized wheelchairs, electric bicycles when state or local regulations permit, and such other circumstances as the U.S. Department of Transportation secretary deems appropriate.

²⁰ As defined in s. 316.003(28), F.S., a hazardous material is any substance or material determined by U.S. Department of Transportation Secretary to be capable of imposing an unreasonable risk to health, safety, and property. This includes hazardous waste as defined in s. 403.703, F.S.

Sections 7 and 8 amend ss. 322.03 and 322.12, F.S., respectively, to exempt an operator of an autocycle from motorcycle endorsement or motorcycle license requirements, and from the motorcycle skills and motorcycle knowledge testing requirement to operate an autocycle.

Sections 10, 11, 12 and 13 amend ss. 212.05, 316.303, 320.08, and 655.960, F.S., respectively, to correct cross-references.

Section 14 provides that the bill takes effect July 1, 2018.

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:

Operators of autocycles will no longer be required to obtain motorcycle endorsements or motorcycle licenses to operate autocycles or to complete motorcycle safety courses and a motorcycle knowledge and skills tests currently required to obtain such licenses or endorsements.

Businesses that offer basic rider courses may see a decrease in course registrations for operators of autocycles.

Manufacturers of mobile carriers may have an increase in revenues because the mobile carriers will be authorized to be operated on sidewalks and crosswalks in the state.

C. Government Sector Impact:

The Revenue Estimating Conference (REC) reviewed similar provisions in HB 215 and determined the bill will reduce revenues deposited into the Highway Safety Operating

Trust Fund of the DHSMV by an insignificant amount annually as a result of autocycle operators no longer needing a motorcycle endorsement to operate the vehicle lawfully.²¹

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 316.003, 316.008, 316.2071, 316.614, 320.01, 320.02, 322.03, 322.12, 324.021, 212.05, 316.303, 320.08, and 655.960.

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 February 15, 2018:

The committee substitute defines mobile carriers and provides regulations for such devices.

B. Amendments:

None.

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

²¹ REC, *supra* note 11.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/15/2018	.	
	.	
	.	
	.	

The Committee on Appropriations (Bradley) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Present subsections (2) through (36) of section 316.003, Florida Statutes, are renumbered as subsections (3) through (37), respectively, a new subsection (2) is added to that section, present subsections (37) through (99) of section 316.003, Florida Statutes, are renumbered as subsections (39) through (101), respectively, a new subsection (38) is added to



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11 that section, and present subsections (40), (41), (51), (57),
12 and (97) are amended, to read:

13 316.003 Definitions.—The following words and phrases, when
14 used in this chapter, shall have the meanings respectively
15 ascribed to them in this section, except where the context
16 otherwise requires:

17 (2) AUTOCYCLE.—A three-wheeled motorcycle that has two
18 wheels in the front and one wheel in the back; is equipped with
19 a roll cage or roll hoops, a seat belt for each occupant,
20 antilock brakes, a steering wheel, and seating that does not
21 require the operator to straddle or sit astride it; and is
22 manufactured in accordance with the applicable federal
23 motorcycle safety standards in 49 C.F.R. part 571 by a
24 manufacturer registered with the National Highway Traffic Safety
25 Administration.

26 (38) MOBILE CARRIER.—An electrically powered device that:

27 (a) Is operated on sidewalks and crosswalks and is intended
28 primarily for transporting property;

29 (b) Weighs less than 80 pounds, excluding cargo;

30 (c) Has a maximum speed of 12.5 mph; and

31 (d) Is equipped with a technology to transport personal
32 property with the active monitoring of a property owner, and
33 primarily designed to remain within 25 feet of the property
34 owner.

35
36 A mobile carrier is not considered a vehicle or personal
37 delivery device unless expressly defined by law as a vehicle or
38 personal delivery device.

39 (42)-(40) MOTOR VEHICLE.—Except when used in s. 316.1001, a



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40 self-propelled vehicle not operated upon rails or guideway, but
41 not including any bicycle, motorized scooter, electric personal
42 assistive mobility device, mobile carrier, personal delivery
43 device, swamp buggy, or moped. For purposes of s. 316.1001,
44 "motor vehicle" has the same meaning as provided in s.
45 320.01(1)(a).

46 (43)-(41) MOTORCYCLE.—Any motor vehicle having a seat or
47 saddle for the use of the rider and designed to travel on not
48 more than three wheels in contact with the ground. The term
49 includes an autocycle, but does not include excluding a tractor,
50 or a moped, or any vehicle in which the operator is enclosed by
51 a cabin unless it meets the requirements set forth by the
52 National Highway Traffic Safety Administration for a motorcycle.

53 (53)-(51) PERSONAL DELIVERY DEVICE.—An electrically powered
54 device that:

55 (a) Is operated on sidewalks and crosswalks and intended
56 primarily for transporting property;

57 (b) Weighs less than 80 pounds, excluding cargo;

58 (c) Has a maximum speed of 10 miles per hour; and

59 (d) Is equipped with technology to allow for operation of
60 the device with or without the active control or monitoring of a
61 natural person.

62
63 A personal delivery device is not considered a vehicle unless
64 expressly defined by law as a vehicle. A mobile carrier is not
65 considered a personal delivery device.

66 (59)-(57) PRIVATE ROAD OR DRIVEWAY.—Except as otherwise
67 provided in paragraph (81)(b) ~~(79)(b)~~, any privately owned way
68 or place used for vehicular travel by the owner and those having



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69 express or implied permission from the owner, but not by other
70 persons.

71 ~~(99)(97)~~ VEHICLE.—Every device in, upon, or by which any
72 person or property is or may be transported or drawn upon a
73 highway, except personal delivery devices, mobile carriers, and
74 devices used exclusively upon stationary rails or tracks.

75 Section 2. Paragraph (b) of subsection (7) of section
76 316.008, Florida Statutes, is amended to read:

77 316.008 Powers of local authorities.—

78 (7)

79 (b)1. Except as provided in subparagraph 2., a personal
80 delivery device and a mobile carrier may be operated on
81 sidewalks and crosswalks within a county or municipality when
82 such use is permissible under federal law. This paragraph does
83 not restrict a county or municipality from otherwise adopting
84 regulations for the safe operation of personal delivery devices
85 and mobile carriers.

86 2. A personal delivery device may not be operated on the
87 Florida Shared-Use Nonmotorized Trail Network created under s.
88 339.81 or components of the Florida Greenways and Trails System
89 created under chapter 260.

90 Section 3. Section 316.2071, Florida Statutes, is amended
91 to read:

92 316.2071 Personal delivery devices and mobile carriers.—

93 (1) Notwithstanding any provision of law to the contrary, a
94 personal delivery device or mobile carrier may operate on
95 sidewalks and crosswalks, subject to s. 316.008(7)(b). A
96 personal delivery device or mobile carrier operating on a
97 sidewalk or crosswalk has all the rights and duties applicable



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98 to a pedestrian under the same circumstances, except that the
99 personal delivery device or mobile carrier must not unreasonably
100 interfere with pedestrians or traffic and must yield the right-
101 of-way to pedestrians on the sidewalk or crosswalk.

102 (2) A personal delivery device and a mobile carrier must:

103 (a) Obey all official traffic and pedestrian control
104 signals and devices.

105 (b) For personal delivery devices, include a plate or
106 marker that has a unique identifying device number and
107 identifies the name and contact information of the personal
108 delivery device operator.

109 (c) Be equipped with a braking system that, when active or
110 engaged, enables the personal delivery device or mobile carrier
111 to come to a controlled stop.

112 (3) A personal delivery device and a mobile carrier may
113 not:

114 (a) Operate on a public highway except to the extent
115 necessary to cross a crosswalk.

116 (b) Operate on a sidewalk or crosswalk unless the personal
117 delivery device operator is actively controlling or monitoring
118 the navigation and operation of the personal delivery device or
119 a property owner remains within 25 feet of the mobile carrier.

120 (c) Transport hazardous materials as defined in s. 316.003.

121 (4) A person who owns and operates a personal delivery
122 device in this state must maintain an insurance policy, on
123 behalf of himself or herself and his or her agents, which
124 provides general liability coverage of at least \$100,000 for
125 damages arising from the combined operations of personal
126 delivery devices under the entity's or agent's control.



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127 Section 4. Subsections (4) and (5) of section 316.614,
128 Florida Statutes, are amended to read:

129 316.614 Safety belt usage.—

130 (4) It is unlawful for any person:

131 (a) To operate a motor vehicle or an autocycle in this
132 state unless each passenger and the operator of the vehicle or
133 autocycle under the age of 18 years are restrained by a safety
134 belt or by a child restraint device pursuant to s. 316.613, if
135 applicable; or

136 (b) To operate a motor vehicle or an autocycle in this
137 state unless the person is restrained by a safety belt.

138 (5) It is unlawful for any person 18 years of age or older
139 to be a passenger in the front seat of a motor vehicle or an
140 autocycle unless such person is restrained by a safety belt when
141 the vehicle or autocycle is in motion.

142 Section 5. Subsections (1) and (26) of section 320.01,
143 Florida Statutes, are amended to read:

144 320.01 Definitions, general.—As used in the Florida
145 Statutes, except as otherwise provided, the term:

146 (1) "Motor vehicle" means:

147 (a) An automobile, motorcycle, truck, trailer, semitrailer,
148 truck tractor and semitrailer combination, or any other vehicle
149 operated on the roads of this state, used to transport persons
150 or property, and propelled by power other than muscular power,
151 but the term does not include traction engines, road rollers,
152 personal delivery devices and mobile carriers as defined in s.
153 316.003, special mobile equipment as defined in s. 316.003,
154 vehicles that run only upon a track, bicycles, swamp buggies, or
155 mopeds.



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156 (26) "Motorcycle" means any motor vehicle having a seat or
157 saddle for the use of the rider and designed to travel on not
158 more than three wheels in contact with the ground. The term
159 includes an autocycle, as defined in s. 316.003, but excludes a
160 tractor, a moped, or any ~~excluding a~~ vehicle in which the
161 operator is enclosed by a cabin unless it meets the requirements
162 set forth by the National Highway Traffic Safety Administration
163 for a motorcycle. ~~The term "motorcycle" does not include a~~
164 ~~tractor or a moped.~~

165 Section 6. Subsection (19) of section 320.02, Florida
166 Statutes, is amended to read:

167 320.02 Registration required; application for registration;
168 forms.-

169 (19) A personal delivery device and a mobile carrier as
170 defined in s. 316.003 are ~~is~~ not required to satisfy the
171 registration and insurance requirements of this section.

172 Section 7. Subsection (4) of section 322.03, Florida
173 Statutes, is amended to read:

174 322.03 Drivers must be licensed; penalties.-

175 (4) A person may not operate a motorcycle unless he or she
176 holds a driver license that authorizes such operation, subject
177 to the appropriate restrictions and endorsements. A person may
178 operate an autocycle, as defined in s. 316.003, without a
179 motorcycle endorsement.

180 Section 8. Paragraph (c) is added to subsection (5) of
181 section 322.12, Florida Statutes, to read:

182 322.12 Examination of applicants.-

183 (5)

184 (c) This subsection does not apply to the operation of an



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185 autocycle, as defined in s. 316.003.

186 Section 9. Subsection (1) of section 324.021, Florida
187 Statutes, is amended to read:

188 324.021 Definitions; minimum insurance required.—The
189 following words and phrases when used in this chapter shall, for
190 the purpose of this chapter, have the meanings respectively
191 ascribed to them in this section, except in those instances
192 where the context clearly indicates a different meaning:

193 (1) MOTOR VEHICLE.—Every self-propelled vehicle that is
194 designed and required to be licensed for use upon a highway,
195 including trailers and semitrailers designed for use with such
196 vehicles, except traction engines, road rollers, farm tractors,
197 power shovels, and well drillers, and every vehicle that is
198 propelled by electric power obtained from overhead wires but not
199 operated upon rails, but not including any personal delivery
200 device or mobile carrier as defined in s. 316.003, bicycle, or
201 moped. However, the term "motor vehicle" does not include a
202 motor vehicle as defined in s. 627.732(3) when the owner of such
203 vehicle has complied with the requirements of ss. 627.730-
204 627.7405, inclusive, unless the provisions of s. 324.051 apply;
205 and, in such case, the applicable proof of insurance provisions
206 of s. 320.02 apply.

207 Section 10. Paragraph (c) of subsection (1) of section
208 212.05, Florida Statutes, is amended to read:

209 212.05 Sales, storage, use tax.—It is hereby declared to be
210 the legislative intent that every person is exercising a taxable
211 privilege who engages in the business of selling tangible
212 personal property at retail in this state, including the
213 business of making mail order sales, or who rents or furnishes



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214 any of the things or services taxable under this chapter, or who
215 stores for use or consumption in this state any item or article
216 of tangible personal property as defined herein and who leases
217 or rents such property within the state.

218 (1) For the exercise of such privilege, a tax is levied on
219 each taxable transaction or incident, which tax is due and
220 payable as follows:

221 (c) At the rate of 6 percent of the gross proceeds derived
222 from the lease or rental of tangible personal property, as
223 defined herein; however, the following special provisions apply
224 to the lease or rental of motor vehicles:

225 1. When a motor vehicle is leased or rented for a period of
226 less than 12 months:

227 a. If the motor vehicle is rented in Florida, the entire
228 amount of such rental is taxable, even if the vehicle is dropped
229 off in another state.

230 b. If the motor vehicle is rented in another state and
231 dropped off in Florida, the rental is exempt from Florida tax.

232 2. Except as provided in subparagraph 3., for the lease or
233 rental of a motor vehicle for a period of not less than 12
234 months, sales tax is due on the lease or rental payments if the
235 vehicle is registered in this state; provided, however, that no
236 tax shall be due if the taxpayer documents use of the motor
237 vehicle outside this state and tax is being paid on the lease or
238 rental payments in another state.

239 3. The tax imposed by this chapter does not apply to the
240 lease or rental of a commercial motor vehicle as defined in s.
241 316.003(13)(a) ~~316.003(12)(a)~~ to one lessee or rentee for a
242 period of not less than 12 months when tax was paid on the



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243 purchase price of such vehicle by the lessor. To the extent tax
244 was paid with respect to the purchase of such vehicle in another
245 state, territory of the United States, or the District of
246 Columbia, the Florida tax payable shall be reduced in accordance
247 with the provisions of s. 212.06(7). This subparagraph shall
248 only be available when the lease or rental of such property is
249 an established business or part of an established business or
250 the same is incidental or germane to such business.

251 Section 11. Subsections (1) and (3) of section 316.303,
252 Florida Statutes, are amended to read:

253 316.303 Television receivers.—

254 (1) No motor vehicle may be operated on the highways of
255 this state if the vehicle is actively displaying moving
256 television broadcast or pre-recorded video entertainment content
257 that is visible from the driver's seat while the vehicle is in
258 motion, unless the vehicle is equipped with autonomous
259 technology, as defined in s. 316.003(3) ~~316.003(2)~~, and is being
260 operated in autonomous mode, as provided in s. 316.85(2).

261 (3) This section does not prohibit the use of an electronic
262 display used in conjunction with a vehicle navigation system; an
263 electronic display used by an operator of a vehicle equipped
264 with autonomous technology, as defined in s. 316.003(3) ~~316.003~~;
265 or an electronic display used by an operator of a vehicle
266 equipped and operating with driver-assistive truck platooning
267 technology, as defined in s. 316.003.

268 Section 12. Section 320.08, Florida Statutes, is amended to
269 read:

270 320.08 License taxes.—Except as otherwise provided herein,
271 there are hereby levied and imposed annual license taxes for the



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272 operation of motor vehicles, mopeds, motorized bicycles as
273 defined in s. 316.003(4) ~~316.003(3)~~, tri-vehicles as defined in
274 s. 316.003, and mobile homes as defined in s. 320.01, which
275 shall be paid to and collected by the department or its agent
276 upon the registration or renewal of registration of the
277 following:

278 (1) MOTORCYCLES AND MOPEDS.—

279 (a) Any motorcycle: \$10 flat.

280 (b) Any moped: \$5 flat.

281 (c) Upon registration of a motorcycle, motor-driven cycle,
282 or moped, in addition to the license taxes specified in this
283 subsection, a nonrefundable motorcycle safety education fee in
284 the amount of \$2.50 shall be paid. The proceeds of such
285 additional fee shall be deposited in the Highway Safety
286 Operating Trust Fund to fund a motorcycle driver improvement
287 program implemented pursuant to s. 322.025, the Florida
288 Motorcycle Safety Education Program established in s. 322.0255,
289 or the general operations of the department.

290 (d) An ancient or antique motorcycle: \$7.50 flat, of which
291 \$2.50 shall be deposited into the General Revenue Fund.

292 (2) AUTOMOBILES OR TRI-VEHICLES FOR PRIVATE USE.—

293 (a) An ancient or antique automobile, as defined in s.
294 320.086, or a street rod, as defined in s. 320.0863: \$7.50 flat.

295 (b) Net weight of less than 2,500 pounds: \$14.50 flat.

296 (c) Net weight of 2,500 pounds or more, but less than 3,500
297 pounds: \$22.50 flat.

298 (d) Net weight of 3,500 pounds or more: \$32.50 flat.

299 (3) TRUCKS.—

300 (a) Net weight of less than 2,000 pounds: \$14.50 flat.



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301 (b) Net weight of 2,000 pounds or more, but not more than
302 3,000 pounds: \$22.50 flat.

303 (c) Net weight more than 3,000 pounds, but not more than
304 5,000 pounds: \$32.50 flat.

305 (d) A truck defined as a "goat," or other vehicle if used
306 in the field by a farmer or in the woods for the purpose of
307 harvesting a crop, including naval stores, during such
308 harvesting operations, and which is not principally operated
309 upon the roads of the state: \$7.50 flat. The term "goat" means a
310 motor vehicle designed, constructed, and used principally for
311 the transportation of citrus fruit within citrus groves or for
312 the transportation of crops on farms, and which can also be used
313 for hauling associated equipment or supplies, including required
314 sanitary equipment, and the towing of farm trailers.

315 (e) An ancient or antique truck, as defined in s. 320.086:
316 \$7.50 flat.

317 (4) HEAVY TRUCKS, TRUCK TRACTORS, FEES ACCORDING TO GROSS
318 VEHICLE WEIGHT.—

319 (a) Gross vehicle weight of 5,001 pounds or more, but less
320 than 6,000 pounds: \$60.75 flat, of which \$15.75 shall be
321 deposited into the General Revenue Fund.

322 (b) Gross vehicle weight of 6,000 pounds or more, but less
323 than 8,000 pounds: \$87.75 flat, of which \$22.75 shall be
324 deposited into the General Revenue Fund.

325 (c) Gross vehicle weight of 8,000 pounds or more, but less
326 than 10,000 pounds: \$103 flat, of which \$27 shall be deposited
327 into the General Revenue Fund.

328 (d) Gross vehicle weight of 10,000 pounds or more, but less
329 than 15,000 pounds: \$118 flat, of which \$31 shall be deposited



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330 into the General Revenue Fund.

331 (e) Gross vehicle weight of 15,000 pounds or more, but less
332 than 20,000 pounds: \$177 flat, of which \$46 shall be deposited
333 into the General Revenue Fund.

334 (f) Gross vehicle weight of 20,000 pounds or more, but less
335 than 26,001 pounds: \$251 flat, of which \$65 shall be deposited
336 into the General Revenue Fund.

337 (g) Gross vehicle weight of 26,001 pounds or more, but less
338 than 35,000: \$324 flat, of which \$84 shall be deposited into the
339 General Revenue Fund.

340 (h) Gross vehicle weight of 35,000 pounds or more, but less
341 than 44,000 pounds: \$405 flat, of which \$105 shall be deposited
342 into the General Revenue Fund.

343 (i) Gross vehicle weight of 44,000 pounds or more, but less
344 than 55,000 pounds: \$773 flat, of which \$201 shall be deposited
345 into the General Revenue Fund.

346 (j) Gross vehicle weight of 55,000 pounds or more, but less
347 than 62,000 pounds: \$916 flat, of which \$238 shall be deposited
348 into the General Revenue Fund.

349 (k) Gross vehicle weight of 62,000 pounds or more, but less
350 than 72,000 pounds: \$1,080 flat, of which \$280 shall be
351 deposited into the General Revenue Fund.

352 (l) Gross vehicle weight of 72,000 pounds or more: \$1,322
353 flat, of which \$343 shall be deposited into the General Revenue
354 Fund.

355 (m) Notwithstanding the declared gross vehicle weight, a
356 truck tractor used within a 150-mile radius of its home address
357 is eligible for a license plate for a fee of \$324 flat if:

358 1. The truck tractor is used exclusively for hauling



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359 forestry products; or

360 2. The truck tractor is used primarily for the hauling of
361 forestry products, and is also used for the hauling of
362 associated forestry harvesting equipment used by the owner of
363 the truck tractor.

364

365 Of the fee imposed by this paragraph, \$84 shall be deposited
366 into the General Revenue Fund.

367 (n) A truck tractor or heavy truck, not operated as a for-
368 hire vehicle, which is engaged exclusively in transporting raw,
369 unprocessed, and nonmanufactured agricultural or horticultural
370 products within a 150-mile radius of its home address, is
371 eligible for a restricted license plate for a fee of:

372 1. If such vehicle's declared gross vehicle weight is less
373 than 44,000 pounds, \$87.75 flat, of which \$22.75 shall be
374 deposited into the General Revenue Fund.

375 2. If such vehicle's declared gross vehicle weight is
376 44,000 pounds or more and such vehicle only transports from the
377 point of production to the point of primary manufacture; to the
378 point of assembling the same; or to a shipping point of a rail,
379 water, or motor transportation company, \$324 flat, of which \$84
380 shall be deposited into the General Revenue Fund.

381

382 Such not-for-hire truck tractors and heavy trucks used
383 exclusively in transporting raw, unprocessed, and
384 nonmanufactured agricultural or horticultural products may be
385 incidentally used to haul farm implements and fertilizers
386 delivered direct to the growers. The department may require any
387 documentation deemed necessary to determine eligibility prior to



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388 issuance of this license plate. For the purpose of this
389 paragraph, "not-for-hire" means the owner of the motor vehicle
390 must also be the owner of the raw, unprocessed, and
391 nonmanufactured agricultural or horticultural product, or the
392 user of the farm implements and fertilizer being delivered.

393 (5) SEMITRAILERS, FEES ACCORDING TO GROSS VEHICLE WEIGHT;
394 SCHOOL BUSES; SPECIAL PURPOSE VEHICLES.—

395 (a)1. A semitrailer drawn by a GVW truck tractor by means
396 of a fifth-wheel arrangement: \$13.50 flat per registration year
397 or any part thereof, of which \$3.50 shall be deposited into the
398 General Revenue Fund.

399 2. A semitrailer drawn by a GVW truck tractor by means of a
400 fifth-wheel arrangement: \$68 flat per permanent registration, of
401 which \$18 shall be deposited into the General Revenue Fund.

402 (b) A motor vehicle equipped with machinery and designed
403 for the exclusive purpose of well drilling, excavation,
404 construction, spraying, or similar activity, and which is not
405 designed or used to transport loads other than the machinery
406 described above over public roads: \$44 flat, of which \$11.50
407 shall be deposited into the General Revenue Fund.

408 (c) A school bus used exclusively to transport pupils to
409 and from school or school or church activities or functions
410 within their own county: \$41 flat, of which \$11 shall be
411 deposited into the General Revenue Fund.

412 (d) A wrecker, as defined in s. 320.01, which is used to
413 tow a vessel as defined in s. 327.02, a disabled, abandoned,
414 stolen-recovered, or impounded motor vehicle as defined in s.
415 320.01, or a replacement motor vehicle as defined in s. 320.01:
416 \$41 flat, of which \$11 shall be deposited into the General



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417 Revenue Fund.

418 (e) A wrecker that is used to tow any nondisabled motor
419 vehicle, a vessel, or any other cargo unless used as defined in
420 paragraph (d), as follows:

421 1. Gross vehicle weight of 10,000 pounds or more, but less
422 than 15,000 pounds: \$118 flat, of which \$31 shall be deposited
423 into the General Revenue Fund.

424 2. Gross vehicle weight of 15,000 pounds or more, but less
425 than 20,000 pounds: \$177 flat, of which \$46 shall be deposited
426 into the General Revenue Fund.

427 3. Gross vehicle weight of 20,000 pounds or more, but less
428 than 26,000 pounds: \$251 flat, of which \$65 shall be deposited
429 into the General Revenue Fund.

430 4. Gross vehicle weight of 26,000 pounds or more, but less
431 than 35,000 pounds: \$324 flat, of which \$84 shall be deposited
432 into the General Revenue Fund.

433 5. Gross vehicle weight of 35,000 pounds or more, but less
434 than 44,000 pounds: \$405 flat, of which \$105 shall be deposited
435 into the General Revenue Fund.

436 6. Gross vehicle weight of 44,000 pounds or more, but less
437 than 55,000 pounds: \$772 flat, of which \$200 shall be deposited
438 into the General Revenue Fund.

439 7. Gross vehicle weight of 55,000 pounds or more, but less
440 than 62,000 pounds: \$915 flat, of which \$237 shall be deposited
441 into the General Revenue Fund.

442 8. Gross vehicle weight of 62,000 pounds or more, but less
443 than 72,000 pounds: \$1,080 flat, of which \$280 shall be
444 deposited into the General Revenue Fund.

445 9. Gross vehicle weight of 72,000 pounds or more: \$1,322



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446 flat, of which \$343 shall be deposited into the General Revenue
447 Fund.

448 (f) A hearse or ambulance: \$40.50 flat, of which \$10.50
449 shall be deposited into the General Revenue Fund.

450 (6) MOTOR VEHICLES FOR HIRE.—

451 (a) Under nine passengers: \$17 flat, of which \$4.50 shall
452 be deposited into the General Revenue Fund; plus \$1.50 per cwt,
453 of which 50 cents shall be deposited into the General Revenue
454 Fund.

455 (b) Nine passengers and over: \$17 flat, of which \$4.50
456 shall be deposited into the General Revenue Fund; plus \$2 per
457 cwt, of which 50 cents shall be deposited into the General
458 Revenue Fund.

459 (7) TRAILERS FOR PRIVATE USE.—

460 (a) Any trailer weighing 500 pounds or less: \$6.75 flat per
461 year or any part thereof, of which \$1.75 shall be deposited into
462 the General Revenue Fund.

463 (b) Net weight over 500 pounds: \$3.50 flat, of which \$1
464 shall be deposited into the General Revenue Fund; plus \$1 per
465 cwt, of which 25 cents shall be deposited into the General
466 Revenue Fund.

467 (8) TRAILERS FOR HIRE.—

468 (a) Net weight under 2,000 pounds: \$3.50 flat, of which \$1
469 shall be deposited into the General Revenue Fund; plus \$1.50 per
470 cwt, of which 50 cents shall be deposited into the General
471 Revenue Fund.

472 (b) Net weight 2,000 pounds or more: \$13.50 flat, of which
473 \$3.50 shall be deposited into the General Revenue Fund; plus
474 \$1.50 per cwt, of which 50 cents shall be deposited into the



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475 General Revenue Fund.

476 (9) RECREATIONAL VEHICLE-TYPE UNITS.—

477 (a) A travel trailer or fifth-wheel trailer, as defined by
478 s. 320.01(1)(b), that does not exceed 35 feet in length: \$27
479 flat, of which \$7 shall be deposited into the General Revenue
480 Fund.

481 (b) A camping trailer, as defined by s. 320.01(1)(b)2.:
482 \$13.50 flat, of which \$3.50 shall be deposited into the General
483 Revenue Fund.

484 (c) A motor home, as defined by s. 320.01(1)(b)4.:

485 1. Net weight of less than 4,500 pounds: \$27 flat, of which
486 \$7 shall be deposited into the General Revenue Fund.

487 2. Net weight of 4,500 pounds or more: \$47.25 flat, of
488 which \$12.25 shall be deposited into the General Revenue Fund.

489 (d) A truck camper as defined by s. 320.01(1)(b)3.:

490 1. Net weight of less than 4,500 pounds: \$27 flat, of which
491 \$7 shall be deposited into the General Revenue Fund.

492 2. Net weight of 4,500 pounds or more: \$47.25 flat, of
493 which \$12.25 shall be deposited into the General Revenue Fund.

494 (e) A private motor coach as defined by s. 320.01(1)(b)5.:

495 1. Net weight of less than 4,500 pounds: \$27 flat, of which
496 \$7 shall be deposited into the General Revenue Fund.

497 2. Net weight of 4,500 pounds or more: \$47.25 flat, of
498 which \$12.25 shall be deposited into the General Revenue Fund.

499 (10) PARK TRAILERS; TRAVEL TRAILERS; FIFTH-WHEEL TRAILERS;
500 35 FEET TO 40 FEET.—

501 (a) *Park trailers.*—Any park trailer, as defined in s.
502 320.01(1)(b)7.: \$25 flat.

503 (b) *Travel trailers or fifth-wheel trailers.*—A travel



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504 trailer or fifth-wheel trailer, as defined in s. 320.01(1)(b),
505 that exceeds 35 feet: \$25 flat.

506 (11) MOBILE HOMES.—

507 (a) A mobile home not exceeding 35 feet in length: \$20
508 flat.

509 (b) A mobile home over 35 feet in length, but not exceeding
510 40 feet: \$25 flat.

511 (c) A mobile home over 40 feet in length, but not exceeding
512 45 feet: \$30 flat.

513 (d) A mobile home over 45 feet in length, but not exceeding
514 50 feet: \$35 flat.

515 (e) A mobile home over 50 feet in length, but not exceeding
516 55 feet: \$40 flat.

517 (f) A mobile home over 55 feet in length, but not exceeding
518 60 feet: \$45 flat.

519 (g) A mobile home over 60 feet in length, but not exceeding
520 65 feet: \$50 flat.

521 (h) A mobile home over 65 feet in length: \$80 flat.

522 (12) DEALER AND MANUFACTURER LICENSE PLATES.—A franchised
523 motor vehicle dealer, independent motor vehicle dealer, marine
524 boat trailer dealer, or mobile home dealer and manufacturer
525 license plate: \$17 flat, of which \$4.50 shall be deposited into
526 the General Revenue Fund.

527 (13) EXEMPT OR OFFICIAL LICENSE PLATES.—Any exempt or
528 official license plate: \$4 flat, of which \$1 shall be deposited
529 into the General Revenue Fund, except that the registration or
530 renewal of a registration of a marine boat trailer exempt under
531 s. 320.102 is not subject to any license tax.

532 (14) LOCALLY OPERATED MOTOR VEHICLES FOR HIRE.—A motor



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533 vehicle for hire operated wholly within a city or within 25
534 miles thereof: \$17 flat, of which \$4.50 shall be deposited into
535 the General Revenue Fund; plus \$2 per cwt, of which 50 cents
536 shall be deposited into the General Revenue Fund.

537 (15) TRANSPORTER.—Any transporter license plate issued to a
538 transporter pursuant to s. 320.133: \$101.25 flat, of which
539 \$26.25 shall be deposited into the General Revenue Fund.

540 Section 13. Subsection (1) of section 655.960, Florida
541 Statutes, is amended to read:

542 655.960 Definitions; ss. 655.960-655.965.—As used in this
543 section and ss. 655.961-655.965, unless the context otherwise
544 requires:

545 (1) "Access area" means any paved walkway or sidewalk which
546 is within 50 feet of any automated teller machine. The term does
547 not include any street or highway open to the use of the public,
548 as defined in s. 316.003(81)(a) ~~316.003(79)(a)~~ or (b), including
549 any adjacent sidewalk, as defined in s. 316.003.

550 Section 14. This act shall take effect July 1, 2018.

551
552 ===== T I T L E A M E N D M E N T =====

553 And the title is amended as follows:

554 Delete everything before the enacting clause
555 and insert:

556 A bill to be entitled
557 An act relating to motor vehicles; amending s.
558 316.003, F.S.; adding and revising definitions;
559 conforming a cross-reference; amending s. 316.008,
560 F.S.; authorizing a mobile carrier to be operated on
561 sidewalks and crosswalks within a county or



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562 municipality when such use is permissible under
563 federal law; providing construction; amending s.
564 316.2071, F.S.; authorizing a mobile carrier to
565 operate on sidewalks and crosswalks; providing that a
566 mobile carrier operating on a sidewalk or crosswalk
567 has all the rights and duties applicable to a
568 pedestrian under the same circumstances, except that
569 the mobile carrier must not unreasonably interfere
570 with pedestrians or traffic and must yield the right-
571 of-way to pedestrians on the sidewalk or crosswalk;
572 specifying requirements for a mobile carrier;
573 prohibiting a mobile carrier from taking specified
574 actions; amending s. 316.614, F.S.; requiring safety
575 belt or, if applicable, child restraint usage by an
576 operator or passenger of an autocycle; amending s.
577 320.01, F.S.; revising the term "motor vehicle";
578 including an autocycle in the definition of the term
579 "motorcycle"; amending s. 320.02, F.S.; providing that
580 a mobile carrier is not required to satisfy specified
581 registration and insurance requirements; amending s.
582 322.03, F.S.; authorizing a person to operate an
583 autocycle without a motorcycle endorsement; amending
584 s. 322.12, F.S.; providing applicability; amending s.
585 324.021, F.S.; revising the definition of the term
586 "motor vehicle"; amending ss. 212.05, 316.303, 320.08,
587 and 655.960, F.S.; conforming cross-references;
588 providing an effective date.

By Senator Perry

8-00391-18

2018504__

A bill to be entitled

An act relating to autocycles; amending s. 316.003, F.S.; defining the term "autocycle"; revising the definition of the term "motorcycle"; conforming a cross-reference; amending s. 316.614, F.S.; requiring safety belt or, if applicable, child restraint usage by an operator or passenger of an autocycle; amending s. 320.01, F.S.; including an autocycle in the definition of the term "motorcycle"; amending s. 322.03, F.S.; authorizing a person to operate an autocycle without a motorcycle endorsement; amending s. 322.12, F.S.; providing applicability; amending ss. 212.05, 316.303, 320.08, and 655.960, F.S.; conforming cross-references; providing an effective date.

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

Section 1. Present subsections (2) through (99) of section 316.003, Florida Statutes, are renumbered as subsections (3) through (100), respectively, a new subsection (2) is added to that section, and present subsections (41) and (57) are amended, 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:

(2) AUTOCYCLE.—A three-wheeled motorcycle that has two wheels in the front and one wheel in the back; is equipped with a roll cage or roll hoops, a seat belt for each occupant,

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

8-00391-18

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antilock brakes, a steering wheel, and seating that does not require the operator to straddle or sit astride it; and is manufactured in accordance with the applicable federal motorcycle safety standards in 49 C.F.R. part 571 by a manufacturer registered with the National Highway Traffic Safety Administration.

(42)(41) MOTORCYCLE.—Any motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground. The term includes an autocycle, but does not include ~~excluding~~ a tractor, ~~or~~ a moped, or any vehicle in which the operator is enclosed by a cabin unless it meets the requirements set forth by the National Highway Traffic Safety Administration for a motorcycle.

(58)(57) PRIVATE ROAD OR DRIVEWAY.—Except as otherwise provided in paragraph (80)(b) ~~(79)(b)~~, any privately owned way or place used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.

Section 2. Subsections (4) and (5) of section 316.614, Florida Statutes, are amended to read:

316.614 Safety belt usage.—

(4) It is unlawful for any person:

(a) To operate a motor vehicle or an autocycle in this state unless each passenger and the operator of the vehicle or autocycle under the age of 18 years are restrained by a safety belt or by a child restraint device pursuant to s. 316.613, if applicable; or

(b) To operate a motor vehicle or an autocycle in this state unless the person is restrained by a safety belt.

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59 (5) It is unlawful for any person 18 years of age or older
60 to be a passenger in the front seat of a motor vehicle or an
61 autocycle unless such person is restrained by a safety belt when
62 the vehicle or autocycle is in motion.

63 Section 3. Subsection (26) of section 320.01, Florida
64 Statutes, is amended to read:

65 320.01 Definitions, general.—As used in the Florida
66 Statutes, except as otherwise provided, the term:

67 (26) "Motorcycle" means any motor vehicle having a seat or
68 saddle for the use of the rider and designed to travel on not
69 more than three wheels in contact with the ground. The term
70 includes an autocycle, as defined in s. 316.003, but excludes a
71 tractor, a moped, or any ~~excluding a~~ vehicle in which the
72 operator is enclosed by a cabin unless it meets the requirements
73 set forth by the National Highway Traffic Safety Administration
74 for a motorcycle. ~~The term "motoreycle" does not include a~~
75 ~~tractor or a moped.~~

76 Section 4. Subsection (4) of section 322.03, Florida
77 Statutes, is amended to read:

78 322.03 Drivers must be licensed; penalties.—

79 (4) A person may not operate a motorcycle unless he or she
80 holds a driver license that authorizes such operation, subject
81 to the appropriate restrictions and endorsements. A person may
82 operate an autocycle, as defined in s. 316.003, without a
83 motorcycle endorsement.

84 Section 5. Paragraph (c) is added to subsection (5) of
85 section 322.12, Florida Statutes, to read:

86 322.12 Examination of applicants.—

87 (5)

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88 (c) This subsection does not apply to the operation of an
89 autocycle, as defined in s. 316.003.

90 Section 6. Paragraph (c) of subsection (1) of section
91 212.05, Florida Statutes, is amended to read:

92 212.05 Sales, storage, use tax.—It is hereby declared to be
93 the legislative intent that every person is exercising a taxable
94 privilege who engages in the business of selling tangible
95 personal property at retail in this state, including the
96 business of making mail order sales, or who rents or furnishes
97 any of the things or services taxable under this chapter, or who
98 stores for use or consumption in this state any item or article
99 of tangible personal property as defined herein and who leases
100 or rents such property within the state.

101 (1) For the exercise of such privilege, a tax is levied on
102 each taxable transaction or incident, which tax is due and
103 payable as follows:

104 (c) At the rate of 6 percent of the gross proceeds derived
105 from the lease or rental of tangible personal property, as
106 defined herein; however, the following special provisions apply
107 to the lease or rental of motor vehicles:

108 1. When a motor vehicle is leased or rented for a period of
109 less than 12 months:

110 a. If the motor vehicle is rented in Florida, the entire
111 amount of such rental is taxable, even if the vehicle is dropped
112 off in another state.

113 b. If the motor vehicle is rented in another state and
114 dropped off in Florida, the rental is exempt from Florida tax.

115 2. Except as provided in subparagraph 3., for the lease or
116 rental of a motor vehicle for a period of not less than 12

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 117 months, sales tax is due on the lease or rental payments if the
 118 vehicle is registered in this state; provided, however, that no
 119 tax shall be due if the taxpayer documents use of the motor
 120 vehicle outside this state and tax is being paid on the lease or
 121 rental payments in another state.

122 3. The tax imposed by this chapter does not apply to the
 123 lease or rental of a commercial motor vehicle as defined in s.
 124 316.003(13)(a) ~~316.003(12)(a)~~ to one lessee or rentee for a
 125 period of not less than 12 months when tax was paid on the
 126 purchase price of such vehicle by the lessor. To the extent tax
 127 was paid with respect to the purchase of such vehicle in another
 128 state, territory of the United States, or the District of
 129 Columbia, the Florida tax payable shall be reduced in accordance
 130 with the provisions of s. 212.06(7). This subparagraph shall
 131 only be available when the lease or rental of such property is
 132 an established business or part of an established business or
 133 the same is incidental or germane to such business.

134 Section 7. Subsections (1) and (3) of section 316.303,
 135 Florida Statutes, are amended to read:

136 316.303 Television receivers.—

137 (1) No motor vehicle may be operated on the highways of
 138 this state if the vehicle is actively displaying moving
 139 television broadcast or pre-recorded video entertainment content
 140 that is visible from the driver's seat while the vehicle is in
 141 motion, unless the vehicle is equipped with autonomous
 142 technology, as defined in s. 316.003(3) ~~316.003(2)~~, and is being
 143 operated in autonomous mode, as provided in s. 316.85(2).

144 (3) This section does not prohibit the use of an electronic
 145 display used in conjunction with a vehicle navigation system; an

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 146 electronic display used by an operator of a vehicle equipped
 147 with autonomous technology, as defined in s. 316.003(3) ~~316.003~~;
 148 or an electronic display used by an operator of a vehicle
 149 equipped and operating with driver-assistive truck platooning
 150 technology, as defined in s. 316.003.

151 Section 8. Section 320.08, Florida Statutes, is amended to
 152 read:

153 320.08 License taxes.—Except as otherwise provided herein,
 154 there are hereby levied and imposed annual license taxes for the
 155 operation of motor vehicles, mopeds, motorized bicycles as
 156 defined in s. 316.003(4) ~~316.003(3)~~, tri-vehicles as defined in
 157 s. 316.003, and mobile homes as defined in s. 320.01, which
 158 shall be paid to and collected by the department or its agent
 159 upon the registration or renewal of registration of the
 160 following:

161 (1) MOTORCYCLES AND MOPEDS.—

162 (a) Any motorcycle: \$10 flat.

163 (b) Any moped: \$5 flat.

164 (c) Upon registration of a motorcycle, motor-driven cycle,
 165 or moped, in addition to the license taxes specified in this
 166 subsection, a nonrefundable motorcycle safety education fee in
 167 the amount of \$2.50 shall be paid. The proceeds of such
 168 additional fee shall be deposited in the Highway Safety
 169 Operating Trust Fund to fund a motorcycle driver improvement
 170 program implemented pursuant to s. 322.025, the Florida
 171 Motorcycle Safety Education Program established in s. 322.0255,
 172 or the general operations of the department.

173 (d) An ancient or antique motorcycle: \$7.50 flat, of which
 174 \$2.50 shall be deposited into the General Revenue Fund.

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- 175 (2) AUTOMOBILES OR TRI-VEHICLES FOR PRIVATE USE.—
 176 (a) An ancient or antique automobile, as defined in s.
 177 320.086, or a street rod, as defined in s. 320.0863: \$7.50 flat.
 178 (b) Net weight of less than 2,500 pounds: \$14.50 flat.
 179 (c) Net weight of 2,500 pounds or more, but less than 3,500
 180 pounds: \$22.50 flat.
 181 (d) Net weight of 3,500 pounds or more: \$32.50 flat.
 182 (3) TRUCKS.—
 183 (a) Net weight of less than 2,000 pounds: \$14.50 flat.
 184 (b) Net weight of 2,000 pounds or more, but not more than
 185 3,000 pounds: \$22.50 flat.
 186 (c) Net weight more than 3,000 pounds, but not more than
 187 5,000 pounds: \$32.50 flat.
 188 (d) A truck defined as a "goat," or other vehicle if used
 189 in the field by a farmer or in the woods for the purpose of
 190 harvesting a crop, including naval stores, during such
 191 harvesting operations, and which is not principally operated
 192 upon the roads of the state: \$7.50 flat. The term "goat" means a
 193 motor vehicle designed, constructed, and used principally for
 194 the transportation of citrus fruit within citrus groves or for
 195 the transportation of crops on farms, and which can also be used
 196 for hauling associated equipment or supplies, including required
 197 sanitary equipment, and the towing of farm trailers.
 198 (e) An ancient or antique truck, as defined in s. 320.086:
 199 \$7.50 flat.
 200 (4) HEAVY TRUCKS, TRUCK TRACTORS, FEES ACCORDING TO GROSS
 201 VEHICLE WEIGHT.—
 202 (a) Gross vehicle weight of 5,001 pounds or more, but less
 203 than 6,000 pounds: \$60.75 flat, of which \$15.75 shall be

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- 204 deposited into the General Revenue Fund.
 205 (b) Gross vehicle weight of 6,000 pounds or more, but less
 206 than 8,000 pounds: \$87.75 flat, of which \$22.75 shall be
 207 deposited into the General Revenue Fund.
 208 (c) Gross vehicle weight of 8,000 pounds or more, but less
 209 than 10,000 pounds: \$103 flat, of which \$27 shall be deposited
 210 into the General Revenue Fund.
 211 (d) Gross vehicle weight of 10,000 pounds or more, but less
 212 than 15,000 pounds: \$118 flat, of which \$31 shall be deposited
 213 into the General Revenue Fund.
 214 (e) Gross vehicle weight of 15,000 pounds or more, but less
 215 than 20,000 pounds: \$177 flat, of which \$46 shall be deposited
 216 into the General Revenue Fund.
 217 (f) Gross vehicle weight of 20,000 pounds or more, but less
 218 than 26,001 pounds: \$251 flat, of which \$65 shall be deposited
 219 into the General Revenue Fund.
 220 (g) Gross vehicle weight of 26,001 pounds or more, but less
 221 than 35,000: \$324 flat, of which \$84 shall be deposited into the
 222 General Revenue Fund.
 223 (h) Gross vehicle weight of 35,000 pounds or more, but less
 224 than 44,000 pounds: \$405 flat, of which \$105 shall be deposited
 225 into the General Revenue Fund.
 226 (i) Gross vehicle weight of 44,000 pounds or more, but less
 227 than 55,000 pounds: \$773 flat, of which \$201 shall be deposited
 228 into the General Revenue Fund.
 229 (j) Gross vehicle weight of 55,000 pounds or more, but less
 230 than 62,000 pounds: \$916 flat, of which \$238 shall be deposited
 231 into the General Revenue Fund.
 232 (k) Gross vehicle weight of 62,000 pounds or more, but less

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233 than 72,000 pounds: \$1,080 flat, of which \$280 shall be
234 deposited into the General Revenue Fund.

235 (l) Gross vehicle weight of 72,000 pounds or more: \$1,322
236 flat, of which \$343 shall be deposited into the General Revenue
237 Fund.

238 (m) Notwithstanding the declared gross vehicle weight, a
239 truck tractor used within a 150-mile radius of its home address
240 is eligible for a license plate for a fee of \$324 flat if:

241 1. The truck tractor is used exclusively for hauling
242 forestry products; or

243 2. The truck tractor is used primarily for the hauling of
244 forestry products, and is also used for the hauling of
245 associated forestry harvesting equipment used by the owner of
246 the truck tractor.

247
248 Of the fee imposed by this paragraph, \$84 shall be deposited
249 into the General Revenue Fund.

250 (n) A truck tractor or heavy truck, not operated as a for-
251 hire vehicle, which is engaged exclusively in transporting raw,
252 unprocessed, and nonmanufactured agricultural or horticultural
253 products within a 150-mile radius of its home address, is
254 eligible for a restricted license plate for a fee of:

255 1. If such vehicle's declared gross vehicle weight is less
256 than 44,000 pounds, \$87.75 flat, of which \$22.75 shall be
257 deposited into the General Revenue Fund.

258 2. If such vehicle's declared gross vehicle weight is
259 44,000 pounds or more and such vehicle only transports from the
260 point of production to the point of primary manufacture; to the
261 point of assembling the same; or to a shipping point of a rail,

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262 water, or motor transportation company, \$324 flat, of which \$84
263 shall be deposited into the General Revenue Fund.

264
265 Such not-for-hire truck tractors and heavy trucks used
266 exclusively in transporting raw, unprocessed, and
267 nonmanufactured agricultural or horticultural products may be
268 incidentally used to haul farm implements and fertilizers
269 delivered direct to the growers. The department may require any
270 documentation deemed necessary to determine eligibility prior to
271 issuance of this license plate. For the purpose of this
272 paragraph, "not-for-hire" means the owner of the motor vehicle
273 must also be the owner of the raw, unprocessed, and
274 nonmanufactured agricultural or horticultural product, or the
275 user of the farm implements and fertilizer being delivered.

276 (5) SEMITRAILERS, FEES ACCORDING TO GROSS VEHICLE WEIGHT;
277 SCHOOL BUSES; SPECIAL PURPOSE VEHICLES.—

278 (a)1. A semitrailer drawn by a GVW truck tractor by means
279 of a fifth-wheel arrangement: \$13.50 flat per registration year
280 or any part thereof, of which \$3.50 shall be deposited into the
281 General Revenue Fund.

282 2. A semitrailer drawn by a GVW truck tractor by means of a
283 fifth-wheel arrangement: \$68 flat per permanent registration, of
284 which \$18 shall be deposited into the General Revenue Fund.

285 (b) A motor vehicle equipped with machinery and designed
286 for the exclusive purpose of well drilling, excavation,
287 construction, spraying, or similar activity, and which is not
288 designed or used to transport loads other than the machinery
289 described above over public roads: \$44 flat, of which \$11.50
290 shall be deposited into the General Revenue Fund.

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291 (c) A school bus used exclusively to transport pupils to
 292 and from school or school or church activities or functions
 293 within their own county: \$41 flat, of which \$11 shall be
 294 deposited into the General Revenue Fund.

295 (d) A wrecker, as defined in s. 320.01, which is used to
 296 tow a vessel as defined in s. 327.02, a disabled, abandoned,
 297 stolen-recovered, or impounded motor vehicle as defined in s.
 298 320.01, or a replacement motor vehicle as defined in s. 320.01:
 299 \$41 flat, of which \$11 shall be deposited into the General
 300 Revenue Fund.

301 (e) A wrecker that is used to tow any nondisabled motor
 302 vehicle, a vessel, or any other cargo unless used as defined in
 303 paragraph (d), as follows:

304 1. Gross vehicle weight of 10,000 pounds or more, but less
 305 than 15,000 pounds: \$118 flat, of which \$31 shall be deposited
 306 into the General Revenue Fund.

307 2. Gross vehicle weight of 15,000 pounds or more, but less
 308 than 20,000 pounds: \$177 flat, of which \$46 shall be deposited
 309 into the General Revenue Fund.

310 3. Gross vehicle weight of 20,000 pounds or more, but less
 311 than 26,000 pounds: \$251 flat, of which \$65 shall be deposited
 312 into the General Revenue Fund.

313 4. Gross vehicle weight of 26,000 pounds or more, but less
 314 than 35,000 pounds: \$324 flat, of which \$84 shall be deposited
 315 into the General Revenue Fund.

316 5. Gross vehicle weight of 35,000 pounds or more, but less
 317 than 44,000 pounds: \$405 flat, of which \$105 shall be deposited
 318 into the General Revenue Fund.

319 6. Gross vehicle weight of 44,000 pounds or more, but less

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320 than 55,000 pounds: \$772 flat, of which \$200 shall be deposited
 321 into the General Revenue Fund.

322 7. Gross vehicle weight of 55,000 pounds or more, but less
 323 than 62,000 pounds: \$915 flat, of which \$237 shall be deposited
 324 into the General Revenue Fund.

325 8. Gross vehicle weight of 62,000 pounds or more, but less
 326 than 72,000 pounds: \$1,080 flat, of which \$280 shall be
 327 deposited into the General Revenue Fund.

328 9. Gross vehicle weight of 72,000 pounds or more: \$1,322
 329 flat, of which \$343 shall be deposited into the General Revenue
 330 Fund.

331 (f) A hearse or ambulance: \$40.50 flat, of which \$10.50
 332 shall be deposited into the General Revenue Fund.

333 (6) MOTOR VEHICLES FOR HIRE.—

334 (a) Under nine passengers: \$17 flat, of which \$4.50 shall
 335 be deposited into the General Revenue Fund; plus \$1.50 per cwt,
 336 of which 50 cents shall be deposited into the General Revenue
 337 Fund.

338 (b) Nine passengers and over: \$17 flat, of which \$4.50
 339 shall be deposited into the General Revenue Fund; plus \$2 per
 340 cwt, of which 50 cents shall be deposited into the General
 341 Revenue Fund.

342 (7) TRAILERS FOR PRIVATE USE.—

343 (a) Any trailer weighing 500 pounds or less: \$6.75 flat per
 344 year or any part thereof, of which \$1.75 shall be deposited into
 345 the General Revenue Fund.

346 (b) Net weight over 500 pounds: \$3.50 flat, of which \$1
 347 shall be deposited into the General Revenue Fund; plus \$1 per
 348 cwt, of which 25 cents shall be deposited into the General

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349 Revenue Fund.

350 (8) TRAILERS FOR HIRE.—

351 (a) Net weight under 2,000 pounds: \$3.50 flat, of which \$1

352 shall be deposited into the General Revenue Fund; plus \$1.50 per

353 cwt, of which 50 cents shall be deposited into the General

354 Revenue Fund.

355 (b) Net weight 2,000 pounds or more: \$13.50 flat, of which

356 \$3.50 shall be deposited into the General Revenue Fund; plus

357 \$1.50 per cwt, of which 50 cents shall be deposited into the

358 General Revenue Fund.

359 (9) RECREATIONAL VEHICLE-TYPE UNITS.—

360 (a) A travel trailer or fifth-wheel trailer, as defined by

361 s. 320.01(1)(b), that does not exceed 35 feet in length: \$27

362 flat, of which \$7 shall be deposited into the General Revenue

363 Fund.

364 (b) A camping trailer, as defined by s. 320.01(1)(b)2.:

365 \$13.50 flat, of which \$3.50 shall be deposited into the General

366 Revenue Fund.

367 (c) A motor home, as defined by s. 320.01(1)(b)4.:

368 1. Net weight of less than 4,500 pounds: \$27 flat, of which

369 \$7 shall be deposited into the General Revenue Fund.

370 2. Net weight of 4,500 pounds or more: \$47.25 flat, of

371 which \$12.25 shall be deposited into the General Revenue Fund.

372 (d) A truck camper as defined by s. 320.01(1)(b)3.:

373 1. Net weight of less than 4,500 pounds: \$27 flat, of which

374 \$7 shall be deposited into the General Revenue Fund.

375 2. Net weight of 4,500 pounds or more: \$47.25 flat, of

376 which \$12.25 shall be deposited into the General Revenue Fund.

377 (e) A private motor coach as defined by s. 320.01(1)(b)5.:

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378 1. Net weight of less than 4,500 pounds: \$27 flat, of which

379 \$7 shall be deposited into the General Revenue Fund.

380 2. Net weight of 4,500 pounds or more: \$47.25 flat, of

381 which \$12.25 shall be deposited into the General Revenue Fund.

382 (10) PARK TRAILERS; TRAVEL TRAILERS; FIFTH-WHEEL TRAILERS;

383 35 FEET TO 40 FEET.—

384 (a) *Park trailers.*—Any park trailer, as defined in s.

385 320.01(1)(b)7.: \$25 flat.

386 (b) *Travel trailers or fifth-wheel trailers.*—A travel

387 trailer or fifth-wheel trailer, as defined in s. 320.01(1)(b),

388 that exceeds 35 feet: \$25 flat.

389 (11) MOBILE HOMES.—

390 (a) A mobile home not exceeding 35 feet in length: \$20

391 flat.

392 (b) A mobile home over 35 feet in length, but not exceeding

393 40 feet: \$25 flat.

394 (c) A mobile home over 40 feet in length, but not exceeding

395 45 feet: \$30 flat.

396 (d) A mobile home over 45 feet in length, but not exceeding

397 50 feet: \$35 flat.

398 (e) A mobile home over 50 feet in length, but not exceeding

399 55 feet: \$40 flat.

400 (f) A mobile home over 55 feet in length, but not exceeding

401 60 feet: \$45 flat.

402 (g) A mobile home over 60 feet in length, but not exceeding

403 65 feet: \$50 flat.

404 (h) A mobile home over 65 feet in length: \$80 flat.

405 (12) DEALER AND MANUFACTURER LICENSE PLATES.—A franchised

406 motor vehicle dealer, independent motor vehicle dealer, marine

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407 boat trailer dealer, or mobile home dealer and manufacturer
408 license plate: \$17 flat, of which \$4.50 shall be deposited into
409 the General Revenue Fund.

410 (13) EXEMPT OR OFFICIAL LICENSE PLATES.—Any exempt or
411 official license plate: \$4 flat, of which \$1 shall be deposited
412 into the General Revenue Fund, except that the registration or
413 renewal of a registration of a marine boat trailer exempt under
414 s. 320.102 is not subject to any license tax.

415 (14) LOCALLY OPERATED MOTOR VEHICLES FOR HIRE.—A motor
416 vehicle for hire operated wholly within a city or within 25
417 miles thereof: \$17 flat, of which \$4.50 shall be deposited into
418 the General Revenue Fund; plus \$2 per cwt, of which 50 cents
419 shall be deposited into the General Revenue Fund.

420 (15) TRANSPORTER.—Any transporter license plate issued to a
421 transporter pursuant to s. 320.133: \$101.25 flat, of which
422 \$26.25 shall be deposited into the General Revenue Fund.

423 Section 9. Subsection (1) of section 655.960, Florida
424 Statutes, is amended to read:

425 655.960 Definitions; ss. 655.960-655.965.—As used in this
426 section and ss. 655.961-655.965, unless the context otherwise
427 requires:

428 (1) "Access area" means any paved walkway or sidewalk which
429 is within 50 feet of any automated teller machine. The term does
430 not include any street or highway open to the use of the public,
431 as defined in s. 316.003(80)(a) ~~316.003(79)(a)~~ or (b), including
432 any adjacent sidewalk, as defined in s. 316.003.

433 Section 10. This act shall take effect July 1, 2018.

THE FLORIDA SENATE

APPEARANCE RECORD

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

2-15-18

Meeting Date

504

Bill Number (if applicable)

Topic Auto cycle

Amendment Barcode (if applicable)

Name James Harold Thompson

Job Title _____

Address 123 S. Calhoun St.

Phone _____

Street

Tallahassee FL 32302

Email _____

City

State

Zip

Speaking: For Against Information

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

Representing Polaris

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: CS/SB 614

INTRODUCER: Community Affairs Committee and Senator Montford and others

SUBJECT: Participant Local Government Advisory Council

DATE: February 14, 2018

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Cochran</u>	<u>Yeatman</u>	<u>CA</u>	Fav/CS
2.	<u>Davis/McVaney</u>	<u>Betta</u>	<u>AGG</u>	Recommend: Favorable
3.	<u>Davis/McVaney</u>	<u>Hansen</u>	<u>AP</u>	Favorable

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

The Local Government Surplus Funds Trust Fund (Florida PRIME) was created in 1977 to promote, through state assistance, the maximization of net interest earnings on invested surplus funds of local governments. All units of local government in Florida are permitted to invest their surplus funds in Florida PRIME. The State Board of Administration is responsible for administering Florida PRIME, and independent oversight is provided by the Investment Advisory Council (IAC) and the Participant Local Government Advisory Council (PLGAC). The six member Participant Local Government Advisory Council was created by the Legislature in 2008 following an unanticipated liquidity crisis in Florida PRIME for the purpose of regularly reviewing the administration of Florida PRIME and making recommendations regarding such administration to the Trustees. In its 2017 report, the PLGAC expressed that it had achieved all of its objectives, and recommended discontinuing the PLGAC.

CS/SB 614 abolishes the Participant Local Government Advisory Council and makes conforming changes due to the abolishment.

The State Board of Administration (SBA) anticipates a reduction in expenditures of approximately \$25,000 associated with the abolishment of the PLGAC.

II. Present Situation:

The State Board of Administration

The State Board of Administration (“SBA”) is established by article IV, section 4 of the state Constitution.¹ The SBA is composed of the Governor as chair, the chief financial officer, and the attorney general (known collectively as the Trustees).² The statutory mandate of the SBA is to invest, manage, and safeguard assets of the Florida Retirement System Trust Fund, as well as the assets of a variety of other funds, including Florida PRIME.³ The SBA’s current assets under management, as of October 26, 2017, total \$195,681,813,624.⁴

The Investment Advisory Council (“IAC”) provides independent oversight of the SBA’s funds and major investment responsibilities, including Florida PRIME.⁵ The SBA appoints nine members to serve on the council for four-year terms.⁶ Those appointed must possess special knowledge, experience, and familiarity with portfolio management, institutional investments, and fiduciary responsibilities.⁷ The IAC is responsible for reviewing investments made by SBA, and makes recommendations regarding investment policy, strategy, and procedures. The IAC meets quarterly to discuss general policies like risk budgets, alternative investments, and investment protection principles.⁸

Florida PRIME and Fund B Surplus Funds Trust Fund

Florida PRIME was created in 1977 to promote the maximization of net interest earnings on invested surplus funds of local governments.⁹ All units of local government in Florida are permitted to invest their surplus funds in Florida PRIME.¹⁰ The SBA may invest any funds of state agencies, state universities or colleges, and any of their direct support organizations in Florida PRIME.¹¹ The SBA is responsible for administering Florida PRIME,¹² and the IAC and the PLGAC provide independent oversight.¹³ As of August 31, 2017, Florida PRIME contains approximately \$8.9 billion in assets and serves 745 participants across the state.¹⁴

In 2007, Florida PRIME experienced an unanticipated liquidity crisis when participants withdrew an unprecedented \$14 billion in funds in a single month.¹⁵ The withdrawals were triggered by fears of exposure to “subprime commercial paper.”¹⁶ Florida PRIME held a small

¹ FLA. CONST. art. IV, s. 4(e).

² *Id.*

³ Section 215.44(1), F.S.

⁴ State Board of Administration, *Senate Bill 614 Analysis* (October 27, 2017).

⁵ Section 215.444, F.S.

⁶ *Id.*

⁷ *Id.*

⁸ State Board of Administration, *Senate Bill 614 Analysis* (October 27, 2017).

⁹ Section 218.405, F.S.

¹⁰ State Board of Administration, *Senate Bill 614 Analysis* (October 27, 2017).

¹¹ *Id.*

¹² Section 218.405, F.S.

¹³ Section 218.409, F.S.

¹⁴ State Board of Administration, *Senate Bill 614 Analysis* (October 27, 2017).

¹⁵ *Id.*

¹⁶ *Id.*

amount of securities that, while rated top-tier at the time of purchase, subsequently became distressed. As a result, the SBA Trustees implemented a temporary four-day freeze on withdrawals and deposits and created a separate second fund, the Fund B Surplus Funds Trust Fund (“Fund B”), to hold these distressed securities.¹⁷

In 2008, the Legislature passed a law to address the repayment of principal to Florida PRIME participants and statutorily created Fund B to maximize the present value of original principal balances.¹⁸

Participant Local Government Agency Council

In 2008, the Legislature also created the PLGAC.¹⁹ The six-member council had the purposes of regularly reviewing the administration of Florida PRIME and making recommendations regarding such administration to the SBA Trustees.²⁰ The members are appointed by the SBA for four-year terms and must be confirmed by the Senate.²¹ Members must possess special knowledge, experience, and familiarity obtained through active, long-standing, and material participation in the dealings of the trust fund.²² The PLGAC must prepare and submit a biennial report to the SBA, the SBA Trustees, the IAC, and the Joint Legislative Auditing Committee that describes the council’s activities and recommendations.²³

In its 2017 report, the PLGAC expressed that it had achieved all of its objectives, including providing guidance and oversight for all of Florida PRIME’s operations and investment activities.²⁴ Specifically, Florida PRIME’s investment portfolio had increased by 86 percent, representing \$4.9 billion in net-asset-value growth.²⁵ In addition, in September 2015, the legacy Fund B original principal amount was returned in full to fund participants alongside a significant proportion of the November 2007 interest earnings.²⁶ For these reasons, the report recommended discontinuing the PLGAC while simultaneously maintaining all current risk controls, investment policies, and participant disclosures.²⁷

III. Effect of Proposed Changes:

The bill abolishes the PLGAC from the statutes governing Florida PRIME and Fund B, and makes conforming changes because of the abolishment. The IAC will continue to provide independent oversight of both funds.

¹⁷ *Id.*

¹⁸ Chapter 2008-93, Laws of Fla. (creating 218.417, F.S., effective May 28, 2008.)

¹⁹ Chapter 2008-59, Laws of Fla. (creating 218.409(10), F.S., effective May 28, 2008).

²⁰ Section 218.409 (10), F.S.

²¹ *Id.*

²² *Id.*

²³ *Id.*

²⁴ Participant Local Government Advisory Council, *Biennial Report 2017*, at page 19, https://www.sbafla.com/prime/Portals/8/PLGAC/PLGAC_BiennialReport2017.pdf?ver=2017-03-14-121204-983 (last visited November 20, 2017).

²⁵ *Id.*

²⁶ *Id.*

²⁷ *Id.*

The bill takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The SBA reports there will be a reduction of expenses by approximately \$25,000 due to the abolishment of the PLGAC.

VI. Technical Deficiencies:

None.

VII. Related Issues:

SB 1344, reviser's bill, repeals ss. 218.417, 218.418, 218.421, and 218.422, F.S.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 218.409, 218.421, and 218.422.

IX. Additional Information:

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

CS by Community Affairs on January 16, 2018:
Amends the effective date of the bill at the recommendation of the SBA.

- 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 Community Affairs; and Senator Montford

578-02144-18

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1 A bill to be entitled
 2 An act relating to the Participant Local Government
 3 Advisory Council; amending s. 218.409, F.S.;
 4 abolishing the Participant Local Government Advisory
 5 Council; amending ss. 218.421 and 218.422, F.S.;
 6 conforming provisions to changes made by the act;
 7 providing an effective date.

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

10 Section 1. Paragraph (d) of subsection (2), subsection (6),
 11 paragraph (a) of subsection (8), and subsections (9) and (10) of
 12 section 218.409, Florida Statutes, are amended to read:

13 218.409 Administration of the trust fund; ~~creation of~~
 14 ~~advisory council.~~-

15 (2)

16 (d) The investment policy shall be reviewed and approved
 17 annually by the trustees or when market changes dictate, and in
 18 each event the investment policy shall be reviewed by the
 19 Investment Advisory Council ~~and by the Participant Local~~
 20 ~~Government Advisory Council.~~

21 (6) (a) The board or a professional money management firm
 22 shall provide a report, at a minimum monthly or upon the
 23 occurrence of a material event, to every participant having a
 24 beneficial interest in the trust fund, the board's executive
 25 director, the trustees, the Joint Legislative Auditing
 26 Committee, and the Investment Advisory Council, ~~and the~~
 27 ~~Participant Local Government Advisory Council.~~ The report shall
 28 include:
 29

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

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30 1. Reports of any material impacts on the trust fund and
 31 any actions or escalations taken by staff to address such
 32 impacts. The trustees shall provide quarterly a report to the
 33 Joint Legislative Auditing Committee that the trustees have
 34 reviewed and approved the monthly reports and actions taken, if
 35 any, to address any impacts.

36 2. A management summary that provides an analysis of the
 37 status of the current investment portfolio and the individual
 38 transactions executed over the last month. This management
 39 summary shall be prepared in a manner that will allow anyone to
 40 ascertain whether investment activities during the reporting
 41 period have conformed to investment policies. Such reporting
 42 shall be in conformance with best market practices. The board or
 43 a professional money management firm shall furnish upon request
 44 the details of an investment transaction to any participant, the
 45 trustees, and the Investment Advisory Council, ~~and the~~
 46 ~~Participant Local Government Advisory Council.~~

47 (b) The market value of the portfolio shall be calculated
 48 daily. Withdrawals from the trust fund shall be based on a
 49 process that is transparent to participants and will ensure that
 50 advantages or disadvantages do not occur to parties making
 51 deposits or withdrawals on any particular day. A statement of
 52 the market value and amortized cost of the portfolio shall be
 53 issued to participants in conjunction with any deposits or
 54 withdrawals. In addition, this information shall be reported
 55 monthly with the items in paragraph (a) to participants, the
 56 trustees, and the Investment Advisory Council, ~~and the~~
 57 ~~Participant Local Government Advisory Council.~~ The review of the
 58 investment portfolio, in terms of value and price volatility,

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59 shall be performed with practices consistent with the GFOA
60 Recommended Practice on "Mark-to-Market Practices for State and
61 Local Government Investment Portfolios and Investment Pools." In
62 defining market value, consideration shall be given to GASB
63 Statement 31. Additional reporting may be made to pool
64 participants through regular and frequent ongoing multimedia
65 educational materials and communications, including, but not
66 limited to, historical performance, investment holdings,
67 amortized cost and market value of the trust fund, credit
68 quality, and average maturity of the trust fund investments.

69 (8) (a) The principal, and any part thereof, of each account
70 constituting the trust fund is subject to payment at any time
71 from the moneys in the trust fund. However, the executive
72 director may, in good faith, on the occurrence of an event that
73 has a material impact on liquidity or operations of the trust
74 fund, for 48 hours limit contributions to or withdrawals from
75 the trust fund to ensure that the board can invest moneys
76 entrusted to it in exercising its fiduciary responsibility. Such
77 action must be immediately disclosed to all participants, the
78 trustees, the Joint Legislative Auditing Committee, and the
79 Investment Advisory Council, ~~and the Participant Local~~
80 ~~Government Advisory Council.~~ The trustees shall convene an
81 emergency meeting as soon as practicable from the time the
82 executive director has instituted such measures and review the
83 necessity of those measures. If the trustees are unable to
84 convene an emergency meeting before the expiration of the 48-
85 hour moratorium on contributions and withdrawals, the moratorium
86 may be extended by the executive director until the trustees are
87 able to meet to review the necessity for the moratorium. If the

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88 trustees agree with such measures, the trustees shall vote to
89 continue the measures for up to an additional 15 days. The
90 trustees must convene and vote to continue any such measures
91 before the expiration of the time limit set, but in no case may
92 the time limit set by the trustees exceed 15 days.

93 (9) The Auditor General shall conduct an annual financial
94 audit of the trust fund, which shall include testing for
95 compliance with the investment policy. The completed audit shall
96 be provided to the participants, the board, the trustees, the
97 Investment Advisory Council, ~~the Participant Local Government~~
98 ~~Advisory Council,~~ and the Joint Legislative Auditing Committee.
99 As soon as practicable, but no later than 30 days after
100 completion of the audit, the trustees shall report to the Joint
101 Legislative Auditing Committee that the trustees have reviewed
102 the audit of the trust fund and shall certify that any necessary
103 items are being addressed by a corrective action plan that
104 includes target completion dates.

105 ~~(10) (a) There is created a six-member Participant Local~~
106 ~~Government Advisory Council for the purposes of regularly~~
107 ~~reviewing the administration of the trust fund and making~~
108 ~~recommendations regarding such administration to the trustees.~~
109 ~~The members of the council shall be appointed by the board and~~
110 ~~subject to confirmation by the Senate. Members must possess~~
111 ~~special knowledge, experience, and familiarity obtained through~~
112 ~~active, long-standing, and material participation in the~~
113 ~~dealings of the trust fund. Each member shall serve a 4-year~~
114 ~~term. Any vacancy shall be filled for the remainder of the~~
115 ~~unexpired term. The council shall annually elect a chair and~~
116 ~~vice chair from within its membership. A member may not serve~~

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117 ~~consecutive terms as chair or vice chair.~~

118 ~~(b) The council shall prepare and submit a written biennial~~
 119 ~~report to the board, trustees, the Investment Advisory Council,~~
 120 ~~and the Joint Legislative Auditing Committee that describes the~~
 121 ~~activities and recommendations of the council.~~

122 Section 2. Paragraph (c) of subsection (2) and paragraph
 123 (a) of subsection (3) of section 218.421, Florida Statutes, are
 124 amended to read:

125 218.421 Fund B Surplus Funds Trust Fund; purpose;
 126 rulemaking; administration; reporting.—

127 (2)

128 (c) The investment policy shall be reviewed and approved by
 129 the trustees upon the transfer of the funds into the trust fund
 130 or when market changes dictate, and in each event, the
 131 investment policy shall be reviewed by the Investment Advisory
 132 Council ~~and by the Participant Local Government Advisory~~
 133 ~~Council.~~

134 (3) (a) The board or a professional money management firm
 135 shall provide a report at a minimum, monthly, or upon the
 136 occurrence of a material event, to every participant having a
 137 beneficial interest in the trust fund, the board's executive
 138 director, the trustees, the Joint Legislative Auditing
 139 Committee, and the Investment Advisory Council, ~~and the~~
 140 ~~Participant Local Government Advisory Council.~~ The report shall
 141 include:

142 1. Reports of any material impacts on the trust fund, and
 143 any actions or escalations taken by staff to address such
 144 impacts. The trustees shall provide quarterly a report to the
 145 Joint Legislative Auditing Committee that the trustees have

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146 reviewed and approved the monthly reports and actions taken, if
 147 any, to address any impacts.

148 2. A management summary that provides an analysis of the
 149 status of the current investment portfolio and the individual
 150 transactions executed over the last month. This management
 151 summary shall be prepared in a manner that will allow anyone to
 152 ascertain whether investment activities during the reporting
 153 period have conformed to investment policies. Such reporting
 154 shall be in conformance with best market practices.

155 3. The board or a professional money management firm shall
 156 furnish upon request the details of an investment transaction to
 157 any participant, the trustees, and the Investment Advisory
 158 Council, ~~and the Participant Local Government Advisory Council.~~

159 Section 3. Section 218.422, Florida Statutes, is amended to
 160 read:

161 218.422 Fund B Surplus Funds Trust Fund; review.—Unless the
 162 Fund B Surplus Funds Trust Fund has been terminated by law or
 163 through self-liquidation, prior to the 2013 Regular Session of
 164 the Legislature, the Auditor General shall review the trust fund
 165 and the steps taken up to that time to return as much of the
 166 principal to the participants as possible and provide a summary
 167 report to the board, the trustees, the President of the Senate,
 168 the Speaker of the House of Representatives, and the Investment
 169 Advisory Council, ~~and the Participant Local Government Advisory~~
 170 ~~Council.~~

171 Section 4. This act shall take effect upon becoming a law.



The Florida Senate

Committee Agenda Request

To: Senator Rob Bradley, Chair
Senate Committee on Appropriations

Subject: Committee Agenda Request

Date: February 8, 2018

I respectfully request that SB 614 Participant Local Government Advisory Council be placed on the:

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

A handwritten signature in cursive script that reads "Bill Montford".

Senator Bill Montford
Florida Senate, District 3

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/15/18

Meeting Date

614

Bill Number (if applicable)

Topic PLGAC / SBA

Amendment Barcode (if applicable)

Name JOHN KUCZWANSKI

COZ WON SKI

Job Title EXTERNAL AFFAIRS MANAGER

Address 1801 HERMITAGE BLVD

Street

Phone (850) 413-1254

JOHN.KUCZWANSKI

TALLAHASSEE FL 32308

City

State

Zip

Email @SBAFLA.COM

Speaking: For Against Information

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

Representing STATE BOARD OF ADMINISTRATION

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 740

INTRODUCER: Agriculture Committee and Senator Stargel

SUBJECT: Department of Agriculture and Consumer Services

DATE: February 14, 2018 REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Akhavein	Becker	AG	Fav/CS
2. Blizzard	Betta	AEN	Recommend: Favorable
3. Blizzard	Hansen	AP	Pre-meeting

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/SB 740 addresses various issues related to agriculture and certain powers and duties of the Department of Agriculture and Consumer Services (department). Specifically, the bill:

- Provides that screen enclosed structures used in citrus production for pest exclusion, when consistent with department adopted best management practices, have no separately assessable value for purposes of ad valorem taxation;
- Shifts the issuance of a local oyster harvesting license for Apalachicola Bay from the department to the City of Apalachicola;
- Removes the electronic payment mandate for pesticide registration payments;
- Allows persons who have served as a military firearms instructor within the last three years of military service to obtain and to maintain a Class “K” firearms instructor license;
- Creates an additional method of recertification for Class “K” firearms instructor licensees;
- Prohibits comingling charitable and non-charitable funds collected through solicitation or sponsor sales and requires organizations to keep detailed records;
- Prohibits ringless direct-to-voicemail solicitation telephone calls under Florida’s Do Not Call (DNC) statute and adds the opportunity for businesses to add their telephone numbers to the DNC list;
- Revises department sampling and analysis requirements for antifreeze;
- Allows for the lawful seizure of “skimming devices” by department inspectors;
- Revises application requirements and fees for brake fluid brands;

- Transfers responsibility for liquefied petroleum gas (LPG) insurance issues to the Commissioner of Agriculture instead of the Governor of Florida;
- Consolidates and reduces the number of LPG categories and expands the license period from one to three years;
- Eliminates the original and renewal LPG fee structure and replaces it with a new revenue neutral fee structure;
- Updates the dollar threshold for required reporting of LPG accidents from \$1,000 to \$3,000;
- Extends the expiration date for seven weights, measures, and standards sections from July 1, 2020 to July 1, 2025;
- Defines the Commissioner of Agriculture's authority to waive fees during emergencies;
- Updates the Florida Seed Law in response to technological and federal regulatory changes;
- Authorizes the department to cover the cost of the initial Commercial Driver's License (CDL) examination fee for those Florida Forest Service employees whose positions entail operating CDL-requiring equipment;
- Requires the department to expedite the resolution of issues concerning eligibility requirements for a concealed weapon or firearm license and to issue licenses in absence of disqualifying information within 90 days of the receipt of a completed application;
- Permits tax collectors' offices to provide fingerprinting and photographing services to complete online concealed weapon and firearm license applications and allows tax collectors to print duplicate licenses; and
- Creates the "Government Impostor and Deceptive Advertisements Act" to prevent Florida consumers and businesses from being scammed by companies selling free government forms or mimicking government services.

The bill modifies several agricultural, consumer service, and licensing activities resulting in a negative fiscal impact in the General Inspection Trust Fund. However, the trust fund can sustain the revenue reductions associated with the modifications. The department anticipates a reduction in expenditures associated with the transfer of the oyster harvesting license program to the City of Apalachicola that will offset a portion of the revenue reductions in the General Inspection Trust Fund. See Section V.

The Revenue Estimating Conference (REC) estimates the reduction in the ad valorem tax on screen enclosed structures used in citrus production will have no fiscal impact in Fiscal Year 2018-2019. However, the REC estimates beginning in Fiscal Year 2019-2020, there will be a recurring reduction in local ad valorem taxes of \$100,000 relating to the assessment of these structures.

II. Present Situation:

The mission of the Department of Agriculture and Consumer Services (department) is to safeguard the public and support Florida's agricultural economy by:

- Ensuring the safety and wholesomeness of food and other consumer products through inspection and testing programs;
- Protecting consumers from unfair and deceptive business practices and providing consumer information;

- Assisting Florida's farmers and agricultural industries with the production and promotion of agricultural products; and
- Conserving and protecting the state's agricultural and natural resources by reducing wildfires, promoting environmentally safe agricultural practices, and managing public lands.

The bill modifies several agricultural, consumer services, and licensing activities under the department's jurisdiction.

Citrus Protection Structures (Section 1)

Present Situation

Section 196.461, F.S., Florida's "greenbelt law," allows properties classified as bona fide agricultural operations to be taxed according to the "use" value of the agricultural operation, rather than the development value. Generally, tax assessments for qualifying lands are lower than tax assessments for other uses. For purposes of the income methodology approach to assessment of property used for agricultural purposes, certain structures that are attached physically to the land are considered a part of the average yields per acre and have no separately assessable contributory (taxable) value. These structures include the following:

- Irrigation systems, including pumps and motors;
- Litter containment structures located on producing poultry farms and animal waste nutrient containment structures located on producing dairy farms; and
- Structures or improvements used in horticultural production for frost or freeze protection, which are consistent with the interim measures or best management practices adopted by the department.

Effect of Proposed Changes

The bill provides that screen enclosed structures used in citrus production for pest exclusion, when consistent with the department's adopted best management practices, have no separately assessable value for purposes of ad valorem taxation. These structures are considered as part of the average yields per acre and have no separately assessable contributory value.

Apalachicola Bay Oyster Harvesting Licenses (Section 2)

Present Situation

Current law sets forth requirements for the Apalachicola Bay oyster harvesting license (license).¹ The license is administered by the department and is required for persons who harvest commercial quantities of oysters from Apalachicola Bay.

Proceeds from license fees are deposited in the General Inspection Trust Fund and, less reasonable administrative costs, used or distributed by the department for the following purposes in Apalachicola Bay:

- Relaying and transplanting live oysters.
- Shell planting to construct or rehabilitate oyster bars.

¹ s. 379.361(5), F.S.

- Education programs for licensed oyster harvesters on oyster biology, aquaculture, boating and water safety, sanitation, resource conservation, small business management, marketing, and other relevant subjects.
- Research directed toward the enhancement of oyster production in the bay and the water management needs of the bay.

Effect of Proposed Changes

The bill transfers the license administrative responsibilities from the department to the City of Apalachicola. Specifically, the bill requires the City of Apalachicola to issue the license, and collect, deposit, and distribute the license fees. The bill requires the proceeds to be deposited into a trust account instead of the General Inspection Trust Fund, less reasonable administrative costs, used or distributed by the City of Apalachicola for the purposes listed in current law. However, instead of using the funds for the purpose of relaying and transplanting live oysters, the bill requires the City of Apalachicola to use or distribute the funds for an Apalachicola Bay oyster shell recycling program.

Pesticide Registration Fees (Section 3)

Currently, payments of all pesticide registration fees are submitted electronically by using the department's website.² The bill removes the electronic submission requirement of payments allowing for alternate payment methods.

Firearm Licenses (Sections 4 & 5)

Present Situation

Current law requires that an applicant for an initial Class "K" (firearms instructor) license³ submit an application, photograph, requisite fees and a full set of fingerprints, and provide proof of firearm training.⁴ Specifically, the law requires firearms instructor license applicants to submit one of the following as proof of firearm training:

- The Florida Criminal Justice Standards and Training Commission Instructor Certificate and written confirmation by the commission that the applicant possesses an active firearms certification.
- A valid National Rifle Association Private Security Firearm Instructor Certificate issued not more than three years before the submission of the applicant's Class "K" application.
- A valid firearms instructor certificate issued by a federal law enforcement agency issued not more than three years before the submission of the applicant's Class "K" application.

Each Class "K" license renewal applicant is also required to submit one of these certificates as proof that he or she remains certified to provide firearms instruction.⁵

² s. 487.041(1)(i), F.S.

³ s. 493.6101(14), F.S., defines "firearm instructor" as any Class "K" licensee who provides classroom or range instruction to applicants for a Class "G" statewide firearm license.

⁴ s. 493.6105(6), F.S.

⁵ s. 493.6113(3)(d), F.S.

Effect of Proposed Changes

The bill allows veterans who served as firearms instructors in the military to provide proof of firearms instructor status when applying for initial and renewal Class “K” licensure. For an initial application, the bill allows the applicant to submit a valid DD form 214 issued not more than three years before the submission of the applicant’s Class “K” application, indicating the applicant has been honorably discharged and served at least three years in the military as a firearms instructor.

For a renewal application, the bill allows the applicant to submit proof of having taught no less than six, 28 hour firearms instruction courses to Class “G” (statewide firearm) license applicants during the previous triennial licensure period.

Solicitation of Funds (Section 6 & 7)

Present Situation

Organizations that intend to solicit donations in Florida are required to register with the department pursuant to the Solicitation of Contributions Act (SCA).⁶ The SCA contains basic registration, financial disclosure, and notification requirements for charitable organizations and sponsors, fundraising consultants, and solicitors. Veterans’ organizations that have been granted a federal charter under Title 36, U.S.C., are exempt from the department’s registration requirements.⁷

Current law does not prohibit comingling or contain recordkeeping requirements, regarding charitable and non-charitable funds. According to the department, investigations of alleging misuse of charitably solicited funds are often made more challenging by the need to decouple charitable and non-charitable monies in the accounting records.⁸

Effect of Proposed Changes

The bill prohibits the comingling of contributions with noncharitable funds by charitable organizations and sponsors. The bill requires that each charitable organization, sponsor, professional fundraising consultant, and professional solicitor that collects or takes control or possession of contributions made for a charitable purpose keep accurate records and must not comingle contributions with noncharitable funds as specified in s. 496.415(19), F.S.

Water Vending Machines (Section 8)

Present Situation

Water vending machine applicants must submit forms to the department “in writing,” thus prohibiting the use of digital applications. Additionally, the department issues serialized permit ID decals to approved vending machine owners.

⁶ ch. 496, F.S.

⁷ s. 496.406(1)(c), F.S.

⁸ Florida Department of Agriculture and Consumer Services, Agency Analysis of 2018 Senate Bill 740.

Effect of Proposed Changes

The bill removes the requirements that an application for a water vending machine operating permit be made “in writing”, and that the operating permit number be placed on each water vending machine. These changes allow for the electronic submission of water vending-machine application forms and the issuance of non-serialized decals.

Telephone Solicitation (Sections 9 & 10)

Present Situation

The federal Telephone Consumer Protection Act imposes restrictions on unsolicited advertisement to a telephone.⁹ The state mirrors this provision statutorily and requires the department to maintain the state's Do Not Call list, also known as the “no sales solicitation calls” list.¹⁰

A “telephonic sales call” is defined as a telephone call or text message to a consumer for the purpose of soliciting a sale of any consumer goods or services, soliciting an extension of credit for consumer goods or services, or obtaining information that will or may be used for the direct solicitation of a sale of consumer goods or services or an extension of credit for such purposes.

According to the department, advances in ringless communication technology allow telemarketers to directly deliver voicemail messages without causing a customer’s phone to ring. The department believes that ringless communication constitutes a telephonic sales call under the state’s Do Not Call statute. In the absence of a federal rule regarding this technological innovation, the department believes adding a state prohibition of ringless voicemails is necessary.

Effect of Proposed Changes

The bill expands consumer protections provided under the state’s Do Not Call statute, prohibiting ringless direct-to-voicemail solicitation phone calls and requiring commercial telephone sellers to retain and make call records available.

The bill requires a commercial telephone seller to keep the following information for two years after the date the information first becomes part of the seller's business records:

- The name and telephone number of each consumer contacted by a telephone sales call;
- All express requests authorizing the telephone solicitor to contact the consumer; and
- Any script, outline, or presentation the applicant requires or suggests a salesperson use when soliciting, including sales information or literature to be provided by the commercial telephone seller to a salesperson and a consumer in connection with any solicitation.

Florida Antifreeze Act (Sections 11-14)

Each brand of antifreeze to be distributed in Florida must register with the department before distribution. The bill makes several changes to the state Antifreeze Act. The bill consolidates the

⁹ 47 U.S.C. § 227.

¹⁰ s. 501.059(3), F.S.

definition of antifreeze to include all antifreeze-coolant, antifreeze and summer coolant, extends antifreeze permitting for up to 24-months, eliminates phased-out product affidavits, and removes the requirement for the department's internal testing.

The bill changes the registration application timeframe from annual to both annual and biennial, and requires the expiration timeframes to be indicated on the registration certificate. The bill specifies that for each brand of antifreeze, the application fee for a 12-month registration is \$200 and a 24-month registration is \$400.

The bill removes the provisions that addresses a registered brand that is not in production for distribution in this state. The bill requires a completed registration application be accompanied by specimens or copies of the label for each brand of antifreeze.

The bill removes the requirement that a completed application be accompanied by a one to two gallon labeled sample of each brand of antifreeze, and instead requires that all first-time applications be accompanied by a certified report from an independent testing laboratory, dated no more than six months prior to the registration application, setting forth the analysis which shows that the antifreeze conforms to minimum standards required for antifreeze by this part or rules of the department, and is not adulterated.

Credit and Debit Card Skimming Devices (Section 15)

Present Situation

Skimming is the theft of credit card information used in an otherwise legitimate transaction. A thief can procure a victim's credit card by using a small electronic device to swipe and store card numbers. Last year, the department identified 340 credit and debit card skimming devices for seizure, in connection with gasoline and oil inspections. When department inspectors locate the devices, they contact the Office of Agriculture Law Enforcement (OALE), or when geographic and staffing issues prevent a response from OALE, local law enforcement is asked to remove the devices. Law enforcement personnel must seize the illegal devices and maintain a proper chain of custody for future legal proceedings.

Effect of Proposed Changes

The bill authorizes the department to seize without a warrant, any skimming device as defined in s. 817.625, F.S.

Brake Fluid (Sections 16 & 17)

Present Situation

The department regularly conducts inspections of the petroleum distribution system and analyzes samples of petroleum products to ensure that Florida consumers are getting the amount they pay for and the quality they expect. Gasoline, alternative fuels, kerosene, diesel, fuel oil, antifreeze products, and brake fluid products are routinely tested and must meet strict standards.

Applicants must submit all brake fluid brands and products to the Bureau of Standards' laboratory for testing prior to initial registration. Despite this requirement, there are no

assurances that the samples the department tests are the same as the products being offered for sale since the applicant collects and ships samples directly to the laboratory.

Effect of Proposed Changes

The bill authorizes a 24-month brake fluid registration period in addition to the 12-month registration period, and sets forth an application fee of \$50 for the 12-month registration, or \$100 for the 24-month registration. The bill requires completed brake fluid registration applications to be accompanied by specimens or copies of the label for each brand of brake fluid, and an application fee of \$50 for a 12-month registration or \$100 for a 24-month registration for each brand of brake fluid.

The bill requires that the certified report from an independent testing laboratory required of all first time-applicants be dated no more than six months before the registration application. The bill removes the requirement that an applicant submit to the department a sample of at least 24 fluid ounces of brake fluid in a container with a label printed in the same manner that it will be labeled when sold, and removes the requirement that the sample and container be analyzed and inspected by the department in order that compliance be verified.

Liquefied Petroleum Gas (Sections 18-28)

Currently, the department regulates the licensing, inspection and training requirements relating to the liquefied petroleum gas (LPG) industry.¹¹ Current law governing LPG provides definitions for numerous LPG and the LPG license categories.¹² These licenses include those for selling propane, installation, service or repair work, manufacture of equipment, and other miscellaneous activities.

Definitions (Section 18)

Current law governing LPG provides definitions for numerous LPG and the LPG license categories. These licenses include those for selling propane, installation, service or repair work, manufacture of equipment, and other miscellaneous activities.

The bill clarifies LPG license categories, revises the license year terminology, and expands the license period from one to three years from the issuance of the license. The bill also removes the word “ultimate” from the definition of “ultimate consumer” throughout the LPG chapter of law.

License, Penalty, Fees (Section 19)

The bill redefines the LPG unlawful activities by incorporating the activities specified in s. 527.01(6)-(11), F.S., replaces the two-tiered LPG fee structure with a single tiered annual fee structure with new fees, allows a material change in license information prior to renewal with a \$10 fee. In addition, the bill revises the requirement that the department waive the initial license fee for honorably discharged veterans, their spouses, or the businesses they own by only allowing the waiver to occur for one year.

¹¹ ch. 527, F.S.

¹² s. 527.02, F.S.

The bill deletes the provisions related to pipeline-system operator licensure and fees. According to the department, pipeline-operator requirements are now regulated under federal code 43 and only monitored by the department during the startup phase or after an incident. The bill deletes the transferability of LPG licensure as licenses may be applied for continuously instead of once annually.

Qualifiers; Master Qualifiers; Examinations (Section 20)

The bill requires only persons applying for a license to engage in category I, II, and V activities to prove competency by passing the written the department examination. The bill reduces the examination grade percentage that applicants must achieve for passage from 75 percent or above, to 70 percent or above. The bill requires the department to register an examinee who successfully completes the examination, instead of issuing the examinee a qualifier identification card. The bill revises the automatic expiration provision for qualifiers so that it addresses the registration instead of the identification cards, and makes conforming changes regarding registration as opposed to qualifier status. The bill requires businesses in license categories I, II and V to employ a full time qualifier in each business location.

The bill provides that qualifier registration, instead of cards, expire three years after the date of issuance. The bill removes an outdated qualifier renewal date, and requires persons failing to renew before the expiration date to reapply and take a qualifier competency examination in order to reestablish qualifier status.

The bill removes the requirement that, if a category I LPG qualifier or LPG installer qualifier becomes a master qualifier at any time during the effective date of the qualifier card, the card remains in effect until expiration of the master qualifier certification.

Registration of Transport Vehicles (Section 21)

The bill revises the annual registration requirement to instead require each LPG bulk delivery vehicle owned or leased by an LPG licensee to be registered as part of the licensing application or when placed into service.

License Renewals (Section 22)

Present Situation

Current law requires all LPG licenses to be renewed annually within certain timeframes and subject to the license fees.¹³ All licenses, except category III LPG cylinder exchange unit operator licenses and dealer in appliances and equipment for use of LPG licenses, must be renewed for the period beginning September 1 and expire on the following August 31 unless suspended, revoked, or otherwise terminated sooner. Category III LPG cylinder exchange unit operator licenses and dealer in appliances and equipment for use of LPG licenses must be renewed for the period beginning April 1 and expire on the following March 31 unless suspended, revoked, or otherwise terminated sooner. Any license allowed to expire becomes inoperative because of failure to renew. The fee for restoration of a license is equal to the original license fee and must be paid before the licensee is allowed to resume operations.

¹³ s. 527.03, F.S.

Effect of Proposed Changes

The bill allows LPG licenses to be renewed annually, biennially, or triennially, as elected by the licensee; requires all renewals to meet the same requirements and conditions as an annual license for each licensed year; and removes the timeframes for license category renewals. According to the department, these changes optimize the application process and should accelerate application processing, especially during periods of high volume.¹⁴

Proof of Insurance (Section 23)

Currently, LPG companies are required to provide the department with proof of insurance coverage or a surety bond to conduct business in the state. However, for a license other than a dealer in appliances and equipment for use of LPG or a category III LPG cylinder exchange operator, the Governor is authorized to accept a \$1 million bond in lieu of the insurance policy requirements.¹⁵

Effect of Proposed Changes

This bill replaces the Governor with the Commissioner of Agriculture as the responsible party authorized to accept the \$1 million and the \$300,000 bonds in lieu of the insurance policy requirements. The bill also adds category IV licenses to the exceptions to the insurance requirements.

Bulk Storage Locations; Jurisdiction (Section 24)

Present Situation

Current law requires, prior to the installation of any bulk storage container, an LPG licensee to submit to the department a site plan of the facility, which shows the proposed location of the container, and to obtain written approval of such location from the department. A fee of \$200 is assessed for each site plan that the department reviews. The review must include preconstruction inspection of the proposed site, plan review, and final inspection of the completed facility.

Effect of Proposed Changes

The bill removes the requirements that an LPG licensee submit to the department a site plan of the facility, which shows the proposed location of the container, the requirement to obtain written approval of such location from department, and the fee of \$200, which is assessed for each site plan that the department reviews. The bill also removes the requirement for the review to include preconstruction inspection of the proposed site, plan review, and final inspection of the completed facility.

¹⁴ Florida Department of Agriculture and Consumer Services, Agency Analysis of 2018 Senate Bill 740, p. 10 (Nov. 15, 2017).

¹⁵ s. 527.04(1), F.S.

Notification of Accidents; Leak Calls; Jurisdiction (Section 25)**Present Situation**

Currently, immediately upon discovery, all LPG licensees are required to notify the department of any LPG related accident that involves an LPG licensee or customer account. The accident must fall under one of the following descriptions:

- Caused a death or personal injury requiring professional medical treatment;
- Uncontrolled ignition of LPG resulted in death, personal injury, or property damage exceeding \$1,000; or
- Caused estimated damage to property exceeding \$1,000.

Effect of Proposed Changes

The bill increases the cost threshold for reporting LPG accidents involving property damage and/or personal injury from \$1,000 to \$3,000. According to the department, this reflects inflation adjusted costs.¹⁶ The dollar value has not been updated since 2003.¹⁷

Restriction on Use of Unsafe Container or System (Section 26) & Definitions Relating to Florida Propane Gas Education, Safety, and Research Act (Section 27)

Currently, the definition for “dealer” and “wholesaler” relating to the Florida Propane Gas Education, Safety, and Research Act include the term “ultimate consumer.”

The bill removes the term “ultimate” from “ultimate consumer” to make these provisions consistent with the rest of the chapter regarding consumers.

Florida Propane Gas Education, Safety, and Research Council¹⁸ Established; Membership; Duties and Responsibilities (Section 28)

The bill removes the requirement that the Commissioner of Agriculture make a call to qualified industry organizations for nominees to the Florida Propane Gas Education, Safety, and Research Council but retains the submission of nominees by qualified industry organizations.

Weights, Measures and Standards (Section 29)**Present Situation**

Currently, the department’s Bureau of Standards is responsible for the inspection of weights and measures devices or instruments in Florida.¹⁹ The law defines “weights and measures” as all weights and measures of every kind, instruments, and devices for weighing and measuring, and any appliance and accessories associated with any or all such instruments and devices, excluding those weights and measures used for the purpose of inspecting the accuracy of devices used in

¹⁶ Florida Department of Agriculture and Consumer Services, Agency Analysis of 2018 Senate Bill 740, p. 11 (Nov. 21, 2017).

¹⁷ The last time the dollar value was revised was in 2003 (Ch. No. 2003-132, Laws of Florida.) providing that an LP gas-related incident must be reported by an LP gas licensee only when it involves death, personal injury, or property damage exceeding \$1,000.

¹⁸ s. 527.22, F.S.

¹⁹ ch. 531, F.S., “Weights and Measures Act of 1971.”

conjunction with aviation fuel.²⁰ The weights and measures program is funded through permit fees.²¹ This framework including provisions related to general permitting, initial and renewal applications, maximum permit fees, suspensions, penalties, revocations, and exemptions, is set to expire on July 1, 2020.

Effect of Proposed Changes

The bill extends the expiration date for the weights and measures program permitting fee framework until July 1, 2025. According to the department, it will no longer be able to cover the costs to perform this function if the permitting statute is not extended.²²

Emergency Powers (Section 30)

Present Situation

Current law governing emergency management gives the Governor extensive authority to act as he or she deems necessary during a declared state of emergency. The law authorizes the Governor to assume or delegate direct operational control over all or any part of the emergency management functions within this state. In addition, the Governor may issue executive orders, proclamations, and rules, which have the force and effect of law.

Currently, the department is authorized to declare an emergency when one exists in any matter pertaining to agriculture, and to make, adopt, and promulgate rules and issue orders, which will be effective during the term of the emergency.

Effect of Proposed Changes

The bill authorizes the Commissioner of Agriculture during a state of emergency declared pursuant to s. 252.36, F.S., to waive fees by emergency order for duplicate copies or renewal of permits, licenses, certifications, or other similar types of authorizations during a period specified by the commissioner.

Marketing Order Notice (Section 31)

Present Situation

The “Florida Agricultural Commodities Marketing Law” regulates the marketing of agricultural commodities through the establishment of marketing orders and agreements. A marketing order is an order issued by the department, prescribing rules governing the distribution, or handling in any manner, of agricultural commodities in the primary channel of trade during any specified period or periods. Before the issuance of any marketing order, or any suspension, amendment, or termination thereof, a notice must be posted on a public bulletin board maintained by the department in the Nathan Mayo Building.

²⁰ s. 531.37(1), F.S.

²¹ s. 531.67, F.S.

²² Florida Department of Agriculture and Consumer Services, Agency Analysis of 2018 Senate Bill 740, p. 12 (Nov. 15, 2017).

Effect of Proposed Changes

The bill removes the requirement to post notice on a public bulletin board in the Nathan Mayo Building while retaining the requirement to post notice to the department's website.

Florida Seed Law (Sections 32-47)

The department regulates the sale and distribution of all seed sold in Florida pursuant to the Florida Seed Law (FSL).²³ According to the department, technological and federal regulatory changes have created the need for Florida to update and reorganize the FSL. Generally, trees and shrubs, and new seed types, are not addressed under the current law. However, the authority to regulate seed is not expressly preempted to the state.

Definitions (Section 32)

The bill makes numerous definitional changes to the Florida Seed Law pursuant to recommendations of the department's Agricultural Feed, Seed and Fertilizer Advisory Council.

Preemption (Section 33)

Present Situation

Currently, the department regulates the sale and distribution of all seed sold in Florida. However, the authority to regulate seed is not expressly preempted to the state.

Effect of Proposed Changes

The bill provides that it is the intent of the Legislature to eliminate duplication of regulation of seed. The bill provides that this chapter is intended as comprehensive and exclusive and occupies the whole field of regulation of seed. The bill preempts to the state the authority to regulate seed or matters relating to seed. The bill prohibits a local government or political subdivision of the state from enacting or enforcing an ordinance that regulates seed, including the power to assess any penalties provided for violation of this chapter.

Registrations (Section 34)

Present Situation

Currently, any person who intends to sell, distribute for sale, offer for sale, expose for sale, handle for sale, or solicit orders for the purchase of any agricultural, vegetable, flower, or forest tree seed or mixture thereof, is required to register with the department as a seed dealer.²⁴

Effect of Proposed Changes

The bill removes references to s. 578.14, F.S., relating to packet vegetable and flower seed. The bill expands the definition of tree seed by deleting "forest" and including "shrub seed" to the types of seed that require registration.

²³ ch. 578, F.S.

²⁴ s. 578.08(1), F.S.

The bill requires the application for registration to include the name and location of each place of business at which the seed is sold, distributed for sale, offered for sale, exposed for sale, or handled for sale. The bill removes the requirement that registration and payment receipts from the department be in writing. This eliminates the need for the department to issue registration receipts, and thus allows for electronic receipts.

The bill removes the exemption from registration requirements for agricultural experiment stations of the State University System and places it in the section of the FSL directly relating to exemptions.

The bill also provides that when packet seed is sold, offered for sale, or exposed for sale, the company who packs seed for retail sale must register and pay fees as provided.

Label Requirements for Agricultural, Vegetable, Flower, and Tree or Shrub Seed (Section 35)

Present Situation

Current law sets forth seed label requirements for each container of agricultural, vegetable, or flower seed sold, offered for sale, exposed for sale, or distributed for sale within this state for sowing or planting purposes.²⁵As with the previous section, trees and shrubs are not explicitly covered under the current law, and sections relating to new seed types are not addressed.

When seed is treated with certain substances, the current statute only requires a cautionary statement such as “Do not use for food, feed, or oil purposes,” which is inconsistent with current Environmental Protection Agency (EPA) requirements and provisions of the Farm Service Agency.

Effect of Proposed Changes

The bill revises the labeling requirements to align with the Recommended Uniform State Seed Law (RUSSEL). The bill deletes specific terms and font requirements, adds provisions relating to coated and vegetable seed, moves the department’s authority to prescribe uniform analysis tags, for consistency, includes additional terms to clarify requirements of all seed types, including those of trees and shrubs, allows the term “blend,” as an option for identifying products containing more than one agricultural seed component, includes lawn and turf seed under the requirements and clarifies that hybrids thereof must be labeled as hybrids.

Forest Tree Seed (Section 36)

Present Situation

Current law governing forest tree seed requires each container sold, offered for sale, exposed for sale, or transported within this state for sowing purposes to meet certain labeling requirements.

²⁵ s. 578.09, F.S.

Effect of Proposed Changes

The bill repeals the section of law relating to labeling of forest tree seed. These requirements are replaced with expanded provisions relating to all tree and shrub seed, and included in the aforementioned revised section of law relating to label requirements.²⁶

Exemptions (Section 37)

Present Situation

Currently, the FSL exempts the following from the FSL labeling requirements and prohibitions:

- Seed or grain not intended for sowing or planting purposes.
- Seed in storage in, consigned to or being transported to seed cleaning or processing establishments for cleaning or processing only. Any labeling or other representation which may be made with respect to the unclean seed shall be subject to this law.²⁷

The FSL also provides an exemption from the criminal penalties of this law for persons having sold, offered, exposed, or distributed for sale in this state any agricultural, vegetable, or forest tree seed incorrectly labeled or represented.

Effect of Proposed Changes

The bill adds an exemption for seed under development or maintained exclusively for research purposes. The bill revises the exemption for incorrectly labeled seed. The bill provides that if seed cannot be identified by examination thereof, a person is not subject to the criminal penalties of this chapter for having sold or offered for sale seed subject to this chapter which were incorrectly labeled or represented as to kind, species, and, if appropriate, subspecies, variety, type, or origin, elevation, and, if required, year of collection unless he or she has failed to obtain an invoice, genuine grower's or tree seed collector's declaration, or other labeling information and to take such other precautions as may be reasonable to ensure the identity of the seed to be as stated by the grower. The bill provides that a genuine grower's declaration of variety must affirm that the grower holds records of proof of identity concerning parent seed, such as invoice and labels.

Duties, Authority, and Rules; Stop-Sale, Stop-Use, Removal, or Hold Orders (Sections 38 & 39)

Present Situation

Multiple references to “forest tree seed” is used throughout the sections of law that sets forth the duties, authority and rulemaking requirements of the department relating to the FSL,²⁸ and the section of law that addresses stop-sale, stop-use, removal, or hold orders for violations of the FSL.

Effect of Proposed Changes

The bill replaces the multiple references to “forest tree seed” with “tree or shrub seed.”

²⁶ s. 578.091, F.S.

²⁷ s. 578.10(2), F.S.

²⁸ s. 578.11, F.S.

Prohibitions (Section 40)**Present Situation**

Currently, it is unlawful for any person to sell, distribute for sale, offer for sale, expose for sale, handle for sale, or solicit orders for the purchase of any agricultural, vegetable, flower, or forest tree seed within this state.²⁹

Effect of Proposed Changes

The bill revises the section of law relating to prohibitions to be consistent with changes throughout the bill that expand the definition of seed to include shrubs. The bill clarifies the stop-sale provisions and the requirements for certified seed labeling. The bill removes the seven month timeframe within which the test to determine the percentage of germination required by the FSL labeling requirements must be completed as all seed types are listed in the proposed section of the bill relating to labeling requirements, and each category of seed contains a specific germination testing requirement.

Packet Vegetable and Flower Seed (Section 41)**Present Situation**

Currently, when vegetable or flower seed are sold, offered for sale, or exposed for sale in packets of less than eight ounces, the company who packs the seed for retail sale is required to register and pay fees as provided under s. 578.08, F.S.³⁰

Effect of Proposed Changes

The bill repeals the section of the FSL relating to packet vegetable and flower seed. The bill moves the registration requirements to the revised section of the FSL relating to registrations, and the labeling information to the revised section of the FSL relating to registrations, for consistency.

Penalties and Administrative Fine (Section 42)**Present Situation**

Currently, the department is authorized to enter an order imposing one or more of the following penalties against a person who violates the FSL or the rules adopted under the FSL, or who impedes, obstructs, or hinders the department in performing its duties under the FSL:

- Imposition of an administrative fine in the Class I category pursuant to s. 570.971, F.S., for each occurrence after the issuance of a warning letter.
- Revocation or suspension of the registration as a seed dealer.

Any person who violates the provisions of the FSL is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082, F.S., or s. 775.083, F.S. According to the

²⁹ s. 578.13(1), F.S.

³⁰ s. 578.14, F.S.

department, the current language could benefit from being aligned with penalty language found in other chapters.³¹

Effect of Proposed Changes

The bill revises the penalty provisions in the FSL relating to circumstances by which the department may enter an order, and the types of violations the order may be based on. The bill also revises the requirement that the department issue a warning letter before the imposition of an administrative fine in the Class I category.

Dealers' Records (Section 43)

Present Situation

Currently, every seed dealer is required to make and keep for a period of three years satisfactory records of all agricultural, vegetable, flower, or forest tree seed bought or handled to be sold. The records must at all times be made readily available for inspection, examination, or audit by the department, and must also be maintained by persons who purchase seed for production of plants for resale.

Effect of Proposed Changes

The bill requires each person who allows his or her name or brand to appear on the label as handling agricultural, vegetable, flower, tree, or shrub seed subject to the FSL to keep records pursuant to the following timeframes:

- For two years, complete records of each lot of agricultural, vegetable, flower, tree, or shrub seed handled.
- For one year after final disposition a file sample of each.

The bill also requires the records and samples pertaining to the shipment or shipments involved to be accessible for inspection by the department or its authorized representative during normal business hours.

Complaints (Section 44)

Present Situation

Current law provides a complaint process to farmers when seed fails to produce or perform as represented by the label.³² Farmers are required to make a sworn complaint to the department against the dealer alleging damages sustained, and the Seed Investigation and Conciliation Council (council) assists in determining the validity of complaints.

Effect of Proposed Changes

The bill expands the types of complainants by replacing the term “farmer” with “buyer,” revises the reference to “forest tree seed” to instead reference “tree or shrub seed,” and limits complaints to those that stem from seed planted in this state. The labeling provision is broadened to include any labeling of such seed, instead of only the label attached to the seed.

³¹ *Id.*

³² s. 578.26, F.S.

The bill broadens the council's inspection authority, and prohibits the buyer from commencing legal proceedings against the dealer or asserting such a claim as a counterclaim or defense in any action brought by the dealer until the findings and recommendations of the council are transmitted to the complainant and the dealer. The bill removes the requirement that the department, upon receipt of the findings and recommendation of the council, transmit them to the farmer and to the dealer by certified mail, and requires the department to mail a copy of the council's procedures to each party upon receipt of a complaint by the department.

Seed Investigation and Conciliation Council (Section 45)

Present Situation

Current law requires the council to assist farmers and agricultural seed dealers in determining the validity of complaints made by farmers against dealers.³³ The law establishes the process by which council members are appointed and how it operates.

Effect of Proposed Changes

To conform to changes made in the complaints section of the bill, the bill expands covered complainants to include all "buyers," expands the types of seed dealers by removing the term "agricultural," and expands the council's authority to recommend settlements beyond cost damages. In addition, the bill streamlines the terms and succession of the council members, updates the name of the Florida Seedsmen and Garden Supply Association, and clarifies the council's inspection requirements regarding the complainant's farming operation.

Regarding terms and succession of the council, the bill requires each member to be appointed for a term of four years or less and to serve until his or her successor is appointed, removes the staggered term lengths, and removes the requirement that each alternate member serve only in the absence of the member for whom she or he is an alternate.

The bill expands the council's requirement to recommend settlements when appropriate that are not restricted to cost damages, and requires council inspections of the complainant's farm operation to apply to the buyer's property, crops, plants, or trees referenced in or relating to the complaint.

Seed in Hermetically Sealed Containers (Section 46)

The bill renumbers the section of law relating to seed in hermetically sealed containers from s. 578.28, F.S., to s. 578.092, F.S., as part of the overall reorganization of the Seed Law chapter.

Prohibited Noxious Weed Seed (Section 47)

Although there is a definition of prohibited noxious weed seed in current law, there is no expressed authority banning these weeds. The bill creates s. 578.29, F.S., to prohibit noxious weed seed from being present in seed offered for sale in Florida.

³³ s. 578.27, F.S.

Florida Forest Service Commercial Driver License (Section 48)

Present Situation

The Florida Forest Service (FFS) has 20 different job classes that require a Class A or B Commercial Driver's License (CDL) as a condition of employment. In any given year, the FFS has approximately 80 new employees (mostly forest rangers) that must obtain their Class A or B CDL. The Department of Financial Services' *Reference Guide for State Expenditures* prohibits the use of public funds to pay license or examination fees under Chapter 691-40.002(23), F.A.C.

Effect of Proposed Changes

The bill authorizes, but does not obligate, the Florida Forest Service (FFS) to pay the cost of an initial commercial driver license (CDL) examination for employees whose position requires them to operate such equipment.

Weapons and Firearms (Sections 49 & 50)

Currently, the department is authorized to issue licenses to carry concealed weapons or concealed firearms to qualified applicants.³⁴ Within 90 days after the date of receipt of the completed application and other required items, the department must issue or deny the license. If the department receives criminal history information with no final disposition on a crime which may disqualify the applicant, the time limitation may be suspended until receipt of the final disposition or proof of restoration of civil and firearm rights. The bill requires the department, if it receives incomplete criminal history information or no final disposition on a crime, which may disqualify the applicant, to expedite efforts to acquire the:

- Final disposition or proof of restoration of civil and firearm rights, or
- Confirmation that clarifying records are not available from the jurisdiction where the criminal history originated.

Further, the bill provides that ninety days after the date of receipt of the completed application, if the department has not acquired either the final disposition or the confirmation described above, it is required to issue the license in the absence of disqualifying information. However, such license must be immediately suspended and revoked upon receipt of disqualifying information pursuant to this section.

Current law provides that when a concealed weapon or firearm license is lost or destroyed, the license becomes automatically invalid. The person to whom the license was issued is authorized to, upon payment of \$15 to the department, obtain a duplicate, or substitute license by furnishing a notarized statement to the department that such license has been lost or destroyed. The bill requires a statement under oath, instead of a notarized statement, when a person is replacing a lost or destroyed concealed weapon or firearm license.

The bill allows a tax collector to replace a concealed weapon or firearm license to a licensee whose license has been lost or destroyed upon the following conditions:

- Receipt of a statement under oath to the department;

³⁴ s. 790.06, F.S.

- Payment of required fees; and
- Approval and confirmation from the department that a license is in good standing.

The bill also authorizes tax collectors to provide fingerprinting and photographing services, for a fee of \$6 each, to aid concealed weapon and firearm applicants and licensees with online initial and renewal applications.

Government Impostor and Deceptive Advertisement Act (Section 51)

Present Situation

The department receives numerous complaints from consumers and businesses that have been scammed by companies selling free government forms or mimicking government services. Businesses that sell free government forms or trick businesses into filing unnecessary paperwork have operated in Florida for several years. The U.S. Post Office currently prohibits this type of mailing of federal government forms or program offers. However, the only remedy is to throw away the offending material, which does not protect unsuspecting consumers.

Effect of Proposed Changes

The bill creates the “Government Impostor and Deceptive Advertisements Act” and provides the department with the duty and responsibility to investigate potential violations, request and obtain information regarding potential violations, seek compliance, enforce this law, and adopt rules necessary to administer this law.

Violations

The bill provides that the following acts or practices constitute a violation:

- Disseminating an advertisement that:
 - Simulates a summons, complaint, jury notice, or other court, judicial, or administrative process of any kind.
 - Represents, implies, or otherwise engages in an action that may reasonably cause confusion that the person using or employing the advertisement is a part of or associated with a governmental entity, when such is not true.
- Representing, implying, or otherwise reasonably causing confusion that goods, services, an advertisement, or an offer was disseminated by or has been approved, authorized, or endorsed, in whole or in part, by a governmental entity, when such is not true.
- Using or employing language, symbols, website or e-mail addresses, or any other term or other content that implies or otherwise reasonably causes confusion that goods, services, an advertisement, or an offer is from a governmental entity, when such is not true.
- Failing to provide the disclosures as required.
- Failing to timely submit to the department written responses and answers to its inquiries.

Disclosure Requirements

The bill requires mailings, emails, or websites to contain prominent and specific disclaimers stating that the sales material are not related to any government filing and/or that the information or forms can be obtained for free or at a lesser cost from a governmental agency. Businesses are required to give consumers the name and contact information of the governmental agency.

Penalties

The bill authorizes any person who is substantially affected by a violation of this section to bring an action in a court of proper jurisdiction to enforce the provisions of this section. A person prevailing in a civil action for a violation of this section must be awarded costs, including reasonable attorney fees, and may be awarded punitive damages in addition to actual damages proven. This provision is in addition to any other remedies prescribed by law.

The bill authorizes the department to bring one or more of the following for a violation:

- A civil action in circuit court for the following:
 - Temporary or permanent injunctive relief to enforce this section.
 - For printed advertisements and e-mail, a fine of up to \$1,000 for each separately addressed advertisement or message containing content in violation, except for failing to timely submit written responses to the department that is received by or addressed to a state resident.
 - For websites, a fine of up to \$5,000 for each day a website has content in violation.
 - For violations of failing to timely submit written responses to the department, a fine of up to \$5,000 for each violation.
 - Recovery of restitution and damages on behalf of persons substantially affected by a violation of this section.
 - The recovery of court costs and reasonable attorney fees.
- An action for an administrative fine in the Class III category pursuant to s. 570.971, F.S., for each act or omission, which constitutes a violation under this section.

The bill authorizes the department to terminate any investigation or action upon agreement by the alleged offender to pay a stipulated fine, make restitution, pay damages to customers, or satisfy any other relief authorized by this section. Any person in violation, except for failing to timely submit written responses to the department, also commits an unfair and deceptive trade practice in violation of part II of chapter 501, F.S., and is subject to the penalties and remedies imposed for such violation.

Conforming Cross References (Section 52)

Currently, the definition for “plumbing contractor” located in the chapter of law relating to contracting cross references the outdated LPG definition for “specialty installer” that the bill deletes. The cross reference is changed to “specialty installer” to conform to the changes consistent with the bill.

Liquefied Petroleum Gas – Rules (Section 53)

The bill removes redundant implementation language from the notes section of the National Fire Protection Association provision.

III. Effect of Proposed Changes:

Section 1 amends s. 193.461, F.S., to provide that screen enclosed structures used in citrus production for pest exclusion, when consistent with department adopted best management practices, have no separately assessable value for purposes of ad valorem taxation.

Section 2 amends s. 379.361, F.S., to transfer the responsibilities for Apalachicola Bay oyster harvesting licensure from the Department of Agriculture and Consumer Services (department) to the City of Apalachicola, Florida. The bill also allows annual license fees collected by the city to be used for the Apalachicola Bay oyster shell recycling program.

Section 3 amends s. 487.041, F.S., to eliminate the requirement that payment of any pesticide registration fee must be submitted electronically using the department's Internet website.

Section 4 amends s. 493.6105, F.S., to allow persons who have served as a military firearms-instructor within the last three years of military service to obtain and to maintain a Class "K" firearms instructor license.

Section 5 amends s. 493.6113, F.S., to create an additional method of recertification for Class "K" firearms instructor licensees. Licensees will be allowed to submit proof that they have taught at least six 28-hour firearms instruction courses to Class "G" statewide firearms license applicants during the previous triennial licensure period.

Section 6 amends s. 496.415, F.S., to prohibit the comingling of charitable contributions with noncharitable funds in connection with the planning, conduct, or execution of any solicitation or charitable or sponsor sales promotion.

Section 7 amends s. 496.418, F.S., to define noncharitable funds to include any funds that are not used or intended to be used for the operation of a charity or for charitable purposes. It also requires those soliciting charitable funds to keep accurate and separate sets of records to justify charitable expenses.

Section 8 amends s. 500.459, F.S., to eliminate the requirement that water vending machine applicants must submit forms to the department "in writing." This change will permit applications to be submitted electronically.

Section 9 amends s. 501.059, F.S., to revise the term "telephone sales call" in order to keep pace with advances in ringless communication technology used by telemarketers to solicit sales from consumers. The bill also prohibits a telephone solicitor or other person to call or text a business that does not wish to receive an outbound telephone call or text message.

Section 10 creates s. 501.6175, F.S., to require telemarketers to maintain specified records for two years after a consumer is contacted. A telemarketer must make records available for inspection and copying within 10 days after a department request.

Section 11 amends s. 501.912, F.S., to revise the definition of “antifreeze” to include antifreeze-coolant, antifreeze and summer coolant, and summer coolant. This change consolidates separate definitions and removes the unnecessary distinction between coolant types.

Section 12 amends s. 501.913, F.S., to allow applicants (person whose name appears on the label, the manufacturer, or the packager) to choose between a one-year or a two-year permit when registering antifreeze brands and products. The bill eliminates affidavit requirements when a registered brand is no longer in production or distribution. The bill also eliminates the requirement that the department independently test the fluids upon application. In lieu of departmental testing, all first time applicants will submit a certified report from an independent testing laboratory, dated within the last six months.

Section 13 amends s. 501.917, F.S., to require the department to perform the analysis of all samples of antifreeze that are collected in the inspection of a business that sells antifreeze. The department’s certificate of analysis will be evidence that, if not overcome, will be sufficient evidence to demonstrate that the stated facts are true.

Section 14 amends s. 501.92, F.S., to conform this section’s antifreeze formula requirements to the internal departmental testing requirements specified in s. 501.917, F.S.

Section 15 amends s. 525.07, F.S., to allow department inspectors to seize without warrant any credit or debit card skimming device.

Section 16 amends s. 526.51, F.S., to allow a brake fluid business to submit readily available product analysis reports for new products to the department. The bill allows businesses to register products for 24 months, creating greater efficiency for the business as well as the department. The bill also eliminates affidavit requirements when a registered brand and formula combination is no longer in production or distribution.

Section 17 amends s. 526.53, F.S., to require the department to perform the analysis of all samples of brake fluid that are collected in the inspection of a business that sells brake fluid. The department’s certificate of analysis will be evidence that, if not overcome, will be sufficient evidence to demonstrate that the stated facts are true.

Section 18 amends s. 527.01, F.S., to update definitions concerning liquefied petroleum gas licensee categories so they will more accurately reflect current business practices. The bill also provides an optional expansion of the license period from one to three years.

Section 19 amends s. 527.02, F.S., to revise the persons subject to liquefied petroleum business licensing provisions. The bill eliminates the original and renewal liquefied petroleum gas license fee structure and replaces it with a new revenue neutral fee structure. The bill allows a licensee to make information changes for a \$10 fee, removing the requirement for the licensee to apply for a new license and again pay the full license fee. The bill also deletes pipeline system operator license provisions because they are now regulated by the federal government under 49 CFR 191 and 192.

Section 20 amends s. 527.0201, F.S., to clarify the difference between qualifier and master qualifier registration and licenses pertaining to the sale of liquefied petroleum gas. The bill increases the requirements to achieve master qualifier status and removes the employer's name from master qualifier certificates issued by the department. The bill also removes the overly punitive 90-day registration revocation for firms without a master qualifier.

Section 21 amends s. 527.021, F.S., to revise the circumstances under which liquefied petroleum gas bulk delivery vehicles must be registered with the department. Vehicles will be registered at the time they are placed into service or during the licensing application process by the liquefied petroleum gas dealer.

Section 22 amends s. 527.03, F.S., to allow for 12, 24, or 36-month liquefied petroleum gas licenses at the discretion of the licensee. The bill optimizes the application process by eliminating defined application periods.

Section 23 amends s. 527.04, F.S., to make the Commissioner of Agriculture responsible for liquefied petroleum gas insurance issues rather than the Governor of Florida.

Section 24 amends s. 527.0605, F.S., to remove the requirement that licensees submit a site plan and a review fee for liquefied petroleum bulk storage container site inspections prior to commencing operations and allows for master qualifier compliance reviews. A final inspection by the department is still required prior to commencing operations.

Section 25 amends s. 527.065, F.S., to update the dollar threshold for required reporting of liquefied petroleum gas accidents from \$1,000 to \$3,000.

Section 26 amends s. 527.10, F.S., to conform provisions to changes made by this act.

Section 27 amends s. 527.21, F.S., to conform provisions to changes made by this act.

Section 28 amends s. 527.22, F.S., to streamline the Florida Propane Gas Education, Safety, and Research Council nomination procedures.

Section 29 amends s. 531.67, F.S., to extend the expiration date of seven weights, measures, and standards sections which provide testing, inspections, and regulations for the operation of weighing and measuring devices used in commercial transactions. The date will be extended from July 1, 2020 to July 1, 2025.

Section 30 amends s. 570.07, F.S., to clarify that the Commissioner of Agriculture has the authority during a state of emergency to waive fees for duplicate copies or renewal of permits, licenses, certifications, or other similar types of authorizations.

Section 31 amends s. 573.111, F.S., to eliminate the requirement to post a notice on the public bulletin board in the Mayo Building in Tallahassee, FL, before the issuance, suspension, amendment, or termination of any marketing order covered by chapter 573, F.S., or departmental actions affecting marketing orders. This information will continue to be available on the department's website for individuals to review.

Section 32 amends s. 578.011, F.S., to clarify and update the definitions in chapter 578, F.S., to reflect current technological developments in seed production.

Section 33 creates s. 578.012, F.S., to explicitly provide for state preemption of the authority to regulate seed or matters relating to seed in order to eliminate regulatory duplication. A local government or political subdivision of the state may not enact or enforce any ordinance that regulates seed, including the power to assess any penalties for violations.

Section 34 amends s. 578.08, F.S., to expand the definition of tree seed by deleting the limiting adjective “forest” and by including shrub seed into the types of seed that require registration. The bill eliminates the need for the department to issue written registration receipts, clarifies registration requirements for seed dealers, and requires registration and the payment of fees when packet seed is placed into commerce.

Section 35 amends s. 578.09, F.S., to revise labeling requirements for agricultural vegetable, flower, tree, and shrub seed. The bill also requires seed labels for agricultural seed, including lawn and turf grass seed and mixtures, to label hybrids as hybrids.

Section 36 repeals s. 578.091, F.S., pertaining to forest tree seed. The provisions in this section have been moved to s. 578.09, F.S.

Section 37 amends s. 578.10, F.S., to clarify the release from liability afforded to a person who unknowingly sells seed that is mislabeled. The bill requires sellers to take reasonable actions to ensure the identity of seed in cases involving criminal penalties for incorrect labels. The bill exempts seed under development or maintained for research purposes from the provisions of s. 578.09 and 578.13, F.S., because they are not commercially available to consumers or businesses.

Section 38 amends s. 578.11, F.S., to make technical changes and to conform provisions to changes made by this act.

Section 39 amends s. 578.12, F.S., to conform provisions to changes made by this act.

Section 40 amends s. 578.13, F.S., to expand the definition of seed to include shrubs. The bill specifies that it is unlawful to move, handle, or dispose of seed or tags under a stop-sale notice or order without permission from the department. The bill specifies that it is unlawful to represent seed as certified except under specified conditions or to label seed with a variety name under certain conditions.

Section 41 repeals s. 578.14, F.S., relating to packet vegetable and flower seed. The section’s registration requirements are moved to s. 578.08(5), F.S.

Section 42 amends s. 578.181, F.S., to clarify when penalties may be imposed. The bill expands what constitutes obstruction of departmental efforts and clarifies that the pre-penalty warning letter requirement is appropriate for minor seed-related violations while fines and other administrative action may be taken for major seed-related violations.

Section 43 amends s. 578.23, F.S., to reduce the seed record retention periods from three to two years. The bill adds a one-year seed holding requirement after final disposition and continues to require all such records and samples be made available for departmental inspection.

Section 44 amends s. 578.26, F.S., to change the word “farmer” to the word “buyer.” The bill allows buyers, instead of exclusively farmers, to file complaints with the Seed Investigation and Conciliation Council (SICC), which is given broader authority to recommend settlements beyond cost damages. The bill requires that any contested seed be planted in the state and that all administrative remedies be exhausted prior to commencing any legal action. The bill also restates that the department is to mail a copy of the SICC’s procedures to each party once a complaint has been filed.

Section 45 amends s. 578.27, F.S., to remove alternate membership from the SICC and revise the terms of members of the council. The bill revises the purpose of the council to assist buyers, instead of exclusively farmers, and seed dealers. The bill also clarifies language regarding inspections by the SICC of the complainant’s farming operations and practices.

Section 46 renumbers s. 578.28, F.S., pertaining to seed in hermetically sealed containers, as s. 578.092, F.S.

Section 47 creates s. 578.29, F.S., to prohibit the presence of “prohibited noxious weed seed,” as defined in s. 578.011, F.S., in agricultural, vegetable, flower, tree, or shrub seed offered or exposed for sale in Florida.

Section 48 amends s. 590.02, F.S., to authorize the department to cover the cost of the initial Commercial Driver’s License (CDL) examination fee for those Florida Forest Service employees whose positions entail operating CDL-requiring equipment. The bill authorizes the department to make rules to accomplish this provision.

Section 49 amends s. 790.06, F.S., to revise department handling of incomplete criminal history information in relation to licensure to carry concealed firearms. The bill requires the department to expedite the resolution of issues concerning eligibility requirements for a concealed weapon or firearm license and to issue licenses in absence of disqualifying information within 90 days of the receipt of a completed application. The bill substitutes an oath for a notary requirement on applications to replace a lost or destroyed firearm license.

Section 50 amends s. 790.0625, F.S., to expand services that authorized tax collector offices can provide for applicants of concealed weapon or firearms licenses. The bill allows tax collectors’ offices to print duplicate licenses, the distribution of which is contingent upon approval and confirmation from the department. The bill permits tax collectors’ offices to provide fingerprinting and photographing services to complete online concealed weapon and firearm license applications. The bill also revises the fees which a tax collector may collect and remit weekly to the department.

Section 51 creates s. 817.417, F.S., to create the “Government Impostor and Deceptive Advertisement Act” to prevent Florida consumers and businesses from being scammed by

companies selling free government forms or mimicking government services. The bill defines terms and specifies department duties and responsibilities. The act will prohibit mailings, emails, or websites that target Floridians without prominent disclaimers stating that the sales materials are not related to any government filing and/or that the information or forms can be obtained free of charge. Businesses will be required to give consumers the website or phone number of the agency that provides the free information or face potential fines.

Section 52 amends s. 489.105, F.S., to conform provisions made by this act.

Section 53 reenacts s. 527.06, F.S., relating to published standards of the National Fire Protection Association.

Section 54 provides that this act shall take effect July 1, 2018.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

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

Subsection (b) of s. 18, Art. VII, Florida Constitution, provides that except upon approval of each house of the Legislature by two-thirds vote of the membership, the legislature may not enact, amend, or repeal any general law if the anticipated effect of doing so would be to reduce the authority that municipalities or counties have to raise revenue in the aggregate, as such authority existed on February 1, 1989. However, the mandates requirements do not apply to laws having an insignificant impact,³⁵ which for Fiscal Year 2017-2018, is \$2.1 million or less.³⁶

The Revenue Estimating Conference estimates this bill will reduce the authority that counties have to raise revenue from the local ad valorem tax by \$100,000. Therefore, this bill has an insignificant fiscal impact on local governments and may not be a mandate requiring a two-thirds vote of the membership.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

³⁵ An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year times \$0.10. See Florida Senate Committee on Community Affairs, *Interim Report 2012-115: Insignificant Impact*, (September 2011), available at <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last visited Nov. 9, 2017).

³⁶ Based on the Demographic Estimating Conference's population adopted on December 5, 2017. The conference packet is available at <http://edr.state.fl.us/Content/conferences/population/ConferenceResults.pdf> (last visited Dec. 22, 2017).

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

The Revenue Estimating Conference (REC) estimates the reduction in the ad valorem tax on screen enclosed structures used in citrus production will have no fiscal impact in Fiscal Year 2018-2019. However, the REC estimates beginning in Fiscal Year 2019-2020, there will be a recurring reduction in local ad valorem taxes of \$100,000 relating to the assessment of these structures.

The bill authorizes tax collectors to collect three new convenience fees. The new fees include \$12 for each duplicate license issued to replace a lost or destroyed license, \$6 for fingerprinting, and \$6 for photographing services.

B. Private Sector Impact:

The bill requires the City of Apalachicola to take over administrative responsibilities of the Apalachicola Bay oyster harvesting license fees. This will allow the city to control the allocation of funds for oyster shell restoration activities.

C. Government Sector Impact:

The department estimates the bill will reduce revenues deposited in the General Inspection Trust Fund by \$82,900 annually beginning in Fiscal Year 2018-2019 as a result of the transfer of the oyster harvesting license program to the City of Apalachicola and the liquid petroleum gas license consolidation. As a result, the amount of the service charge sent from the trust fund to the General Revenue Fund is expected to decrease by \$6,632 annually.

The department expects \$79,000 of annual expenditures, relating to oyster harvesting licenses, will no longer be necessary. In addition, the department will experience new workload associated with its additional responsibilities for antifreeze regulation, gasoline and oil inspection, and brake fluid regulation. The costs associated with this workload is insignificant (approximately \$9,000 annually).

The department is granted the discretion to pay for the commercial driver licenses for Florida Forest Service employees required to drive certain vehicles. If the department exercised this discretion and paid for such licenses, the cost is anticipated to be \$36,000 annually.

General Inspection Trust Fund Revenue Reductions

	FY 2018-19	FY 2019-20	FY 2020-21
Transfer Oyster Harvesting Licensing Program to City of Apalachicola	(79,900)	(79,900)	(79,900)
Liquid Petroleum Gas (license consolidation)	(3,000)	(3,000)	(3,000)
Total Revenue Reduction	(82,900)	(82,900)	(82,900)
8% Surcharge to GR Reduction	(6,632)	(6,632)	(6,632)

General Inspection Trust Fund Expenditure Adjustments

	FY 2018-19	FY 2019-20	FY 2020-21
Transfer Oyster Harvesting Licensing Program to City of Apalachicola	(79,900)	(79,900)	(79,900)
Antifreeze (sample purchasing increase)	6,000	6,000	6,000
Gasoline and Oil Inspection (shipping costs increase)	4,800	4,800	4,800
Brake Fluid (sample purchasing increase)	4,370	4,370	4,370
Florida Forest Service (Commercial Driver License)	36,000	36,000	36,000
Total Expenditures	(28,730)	(28,730)	(28,730)
Net Fiscal Impact:	(54,170)	(54,170)	(54,170)

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill amends the following sections of the Florida Statutes: 193.461, 379.361, 487.041, 493.6105, 493.6113, 496.415, 496.418, 500.459, 501.059, 501.912, 501.913, 501.917, 501.92, 525.07, 526.51, 526.53, 527.01, 527.02, 527.0201, 527.021, 527.03, 527.04, 527.0605, 527.065, 527.10, 527.21, 527.22, 531.67, 570.07, 573.111, 578.011, 578.08, 578.09, 578.10, 578.11, 578.12, 578.13, 578.181, 578.23, 578.26, 578.27, 578.28, 578.092, 590.02, 790.06, 790.0625, and 489.105.

This bill creates the following sections of the Florida Statutes: 501.6175, 578.012, 578.29, and 817.417.

This bill repeals the following sections of the Florida Statutes: 578.091 and 578.14.

The bill reenacts the following section of the Florida Statutes: 527.06(3).

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

CS by Agriculture on January 11, 2018:

The committee substitute:

- Provides that screen enclosed structures used in citrus production for pest exclusion, when consistent with department adopted best management practices, have no separately assessable value for purposes of ad valorem taxation;
- Retains the language of current law, which was unintentionally struck, pertaining to labeling requirements of agricultural, vegetable, flower, tree, or shrub seed;
- Requires seed labels for agricultural seed, including lawn and turf grass seed and mixtures, to label hybrids as hybrids; and
- Corrects a cross-reference.

B. Amendments:

None.

By the Committee on Agriculture; and Senator Stargel

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1 A bill to be entitled
 2 An act relating to the Department of Agriculture and
 3 Consumer Services; amending s. 193.461, F.S.;
 4 specifying a methodology for the assessment of certain
 5 structures in citrus production; amending s. 379.361,
 6 F.S.; transferring authority to issue licenses for
 7 oyster harvesting in Apalachicola Bay from the
 8 department to the City of Apalachicola; revising the
 9 disposition and permitted uses of license proceeds;
 10 amending s. 487.041, F.S.; deleting obsolete
 11 provisions; deleting a requirement that all pesticide
 12 registration fees be submitted electronically;
 13 amending s. 493.6105, F.S.; revising the submission
 14 requirements for a Class "K" firearm license
 15 application; amending s. 493.6113, F.S.; revising
 16 submission requirements for a Class "K" firearm
 17 license renewal; amending s. 496.415, F.S.;
 18 prohibiting the comingling of funds in connection with
 19 the planning, conduct, or execution of any
 20 solicitation or charitable or sponsor sales promotion;
 21 amending s. 496.418, F.S.; revising recordkeeping and
 22 accounting requirements for solicitations of funds;
 23 amending s. 500.459, F.S.; revising permitting
 24 requirements and operating standards for water vending
 25 machines; amending s. 501.059, F.S.; revising the term
 26 "telephonic sales call"; prohibiting telephone
 27 solicitors from initiating certain contact with
 28 businesses who previously communicated that they did
 29 not wish to be so contacted; creating s. 501.6175,

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30 F.S.; specifying recordkeeping requirements for
 31 commercial telephone sellers; amending s. 501.912,
 32 F.S.; revising terms; amending s. 501.913, F.S.;
 33 authorizing antifreeze brands to be registered for a
 34 specified period; deleting a provision relating to the
 35 registration of brands that are no longer in
 36 production; specifying a certified report requirement
 37 for first-time applications; amending s. 501.917,
 38 F.S.; revising department sampling and analysis
 39 requirements for antifreeze; specifying that the
 40 certificate of analysis is prima facie evidence of the
 41 facts stated therein; amending s. 501.92, F.S.;
 42 revising when the department may require an antifreeze
 43 formula for analysis; amending s. 525.07, F.S.;
 44 authorizing the department to seize skimming devices
 45 without a warrant; amending s. 526.51, F.S.; revising
 46 application requirements and fees for brake fluid
 47 brands; deleting a provision relating to the
 48 registration of brands that are no longer in
 49 production; amending s. 526.53, F.S.; revising
 50 department sampling and analysis requirements for
 51 brake fluid; specifying that the certificate of
 52 analysis is prima facie evidence of the facts stated
 53 therein; amending s. 527.01, F.S.; revising terms;
 54 amending s. 527.02, F.S.; revising the persons subject
 55 to liquefied petroleum business licensing provisions;
 56 revising such licensing fees and requirements;
 57 revising reporting and fee requirements for certain
 58 material changes to license information; deleting a

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59 provision authorizing license transfers; amending s.
60 527.0201, F.S.; revising the persons subject to
61 liquefied petroleum qualifier competency examination,
62 registry, supervisory, and employment requirements;
63 revising the expiration of qualifier registrations;
64 revising the persons subject to master qualifier
65 requirements; revising master qualifier application
66 requirements; deleting provisions specifying that a
67 failure to replace master qualifiers within certain
68 periods constitutes grounds for license revocation;
69 deleting a provision relating to facsimile
70 transmission of duplicate licenses; amending s.
71 527.021, F.S.; revising the circumstances under which
72 liquefied petroleum gas bulk delivery vehicles must be
73 registered with the department; amending s. 527.03,
74 F.S.; authorizing certain liquefied petroleum gas
75 registrations to be renewed for 2 or 3 years; deleting
76 certain renewal period requirements; amending s.
77 527.04, F.S.; revising the persons required to provide
78 the department with proof of insurance; revising the
79 required payee for a bond in lieu of such insurance;
80 amending s. 527.0605, F.S.; deleting provisions
81 requiring licensees to submit a site plan and review
82 fee for liquefied petroleum bulk storage container
83 locations; amending s. 527.065, F.S.; revising the
84 circumstances under which a liquefied petroleum gas
85 licensee must notify the department of an accident;
86 amending ss. 527.10 and 527.21, F.S.; conforming
87 provisions to changes made by the act; amending s.

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88 527.22, F.S.; deleting an obsolete provision; amending
89 s. 531.67, F.S.; extending the expiration date of
90 certain provisions relating to permits for
91 commercially operated or tested weights or measures
92 instruments or devices; amending s. 570.07, F.S.;
93 authorizing the department to waive certain fees
94 during a state of emergency; amending s. 573.111,
95 F.S.; revising the required posting location for the
96 issuance of an agricultural commodity marketing order;
97 amending s. 578.011, F.S.; revising and defining
98 terms; creating s. 578.012, F.S.; providing
99 legislative intent; creating a preemption of local law
100 relating to regulation of seed; amending s. 578.08,
101 F.S.; revising application requirements for the
102 registration of seed dealers; conforming provisions to
103 changes made by the act; specifying that a receipt
104 from the department need not be written to constitute
105 a permit; deleting an exception to registration
106 requirements for certain experiment stations;
107 requiring the payment of fees when packet seed is
108 placed into commerce; amending s. 578.09, F.S.;
109 revising labeling requirements for agricultural,
110 vegetable, flower, tree, and shrub seeds; conforming a
111 cross-reference; repealing s. 578.091, F.S., relating
112 to labeling of forest tree seed; amending s. 578.10,
113 F.S.; revising exemptions to seed labeling, sale, and
114 solicitation requirements; amending s. 578.11, F.S.;
115 conforming provisions to changes made by the act;
116 making technical changes; amending s. 578.12, F.S.;

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117 conforming provisions to changes made by the act;
 118 amending s. 578.13, F.S.; conforming provisions to
 119 changes made by the act; specifying that it is
 120 unlawful to move, handle, or dispose of seeds or tags
 121 under a stop-sale notice or order without permission
 122 from the department; specifying that it is unlawful to
 123 represent seed as certified except under specified
 124 conditions or to label seed with a variety name under
 125 certain conditions; repealing s. 578.14, F.S.,
 126 relating to packet vegetable and flower seed; amending
 127 s. 578.181, F.S.; revising penalties; amending s.
 128 578.23, F.S.; revising recordkeeping requirements
 129 relating to seed labeling; amending s. 578.26, F.S.;
 130 conforming provisions to changes made by the act;
 131 specifying that certain persons may not commence legal
 132 proceedings or make certain claims against a seed
 133 dealer before certain findings and recommendations are
 134 transmitted by the seed investigation and conciliation
 135 council to the complainant and dealer; deleting a
 136 requirement that the department transmit such findings
 137 and recommendations to complainants and dealers;
 138 requiring the department to mail a copy of the
 139 council's procedures to both parties upon receipt of a
 140 complaint; amending s. 578.27, F.S.; removing
 141 alternate membership from the seed investigation and
 142 conciliation council; revising the terms of members of
 143 the council; conforming provisions to changes made by
 144 the act; revising the purpose of the council; revising
 145 the council's investigatory process; renumbering and

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146 amending s. 578.28, F.S.; making a technical change;
 147 creating s. 578.29, F.S.; prohibiting certain noxious
 148 weed seed from being offered or exposed for sale;
 149 amending s. 590.02, F.S.; authorizing the Florida
 150 Forest Service to pay certain employees' initial
 151 commercial driver license examination fees; amending
 152 s. 790.06, F.S.; revising required department handling
 153 of incomplete criminal history information in relation
 154 to licensure to carry concealed firearms; revising the
 155 required furnished statement to obtain a duplicate or
 156 substitute concealed weapon or firearm license;
 157 amending s. 790.0625, F.S.; revising required tax
 158 collector collection and remittance of firearm license
 159 fees; revising the fees which a tax collector may
 160 retain; authorizing certain tax collectors to print
 161 and deliver certain replacement licenses under certain
 162 conditions; authorizing certain tax collectors to
 163 offer fingerprinting and photographing services to aid
 164 license applicants; creating s. 817.417, F.S.;
 165 providing a short title; defining terms; specifying
 166 department duties and responsibilities relating to
 167 government impostor and deceptive advertisements;
 168 requiring rulemaking by the department; specifying
 169 that it is a violation to disseminate certain
 170 misleading or confusing advertisements, to make
 171 certain misleading or confusing representations, to
 172 use content implying or leading to confusion that such
 173 content is from a governmental entity when such is not
 174 true, to fail to provide certain disclosures, and to

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175 fail to provide certain responses and answers to the
 176 department; requiring a person offering documents that
 177 are available free of charge or at a lesser price from
 178 a governmental entity to provide a certain disclosure;
 179 providing penalties; amending s. 489.105, F.S.;
 180 conforming provisions to changes made by the act;
 181 reenacting s. 527.06(3), F.S., relating to published
 182 standards of the National Fire Protection Association;
 183 providing an effective date.

184
 185 Be It Enacted by the Legislature of the State of Florida:

186
 187 Section 1. Paragraph (c) of subsection (6) of section
 188 193.461, Florida Statutes, is amended to read:
 189 193.461 Agricultural lands; classification and assessment;
 190 mandated eradication or quarantine program.—
 191 (6)
 192 (c)1. For purposes of the income methodology approach to
 193 assessment of property used for agricultural purposes,
 194 irrigation systems, including pumps and motors, which are
 195 physically attached to the land are ~~shall be~~ considered a part
 196 of the average yields per acre and do not ~~shall~~ have any ~~no~~
 197 separately assessable contributory value.
 198 2. Litter containment structures located on producing
 199 poultry farms and animal waste nutrient containment structures
 200 located on producing dairy farms must ~~shall~~ be assessed by the
 201 methodology described in subparagraph 1.
 202 3. Structures or improvements used in horticultural
 203 production for frost or freeze protection and screen enclosed

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204 structures used in citrus production for pest exclusion, which
 205 are consistent with the interim measures or best management
 206 practices adopted by the Department of Agriculture and Consumer
 207 Services pursuant to s. 570.93 or s. 403.067(7) (c), must ~~shall~~
 208 be assessed by the methodology described in subparagraph 1.
 209 Section 2. Paragraphs (b), (d), and (i) of subsection (5)
 210 of section 379.361, Florida Statutes, are amended to read:
 211 379.361 Licenses.—
 212 (5) APALACHICOLA BAY OYSTER HARVESTING LICENSE.—
 213 (b) A ~~No~~ person may not ~~shall~~ harvest oysters from the
 214 Apalachicola Bay without a valid Apalachicola Bay oyster
 215 harvesting license issued by the City of Apalachicola ~~Department~~
 216 ~~of Agriculture and Consumer Services~~. This requirement does
 217 ~~shall~~ not apply to anyone harvesting noncommercial quantities of
 218 oysters in accordance with commission rules, or to any person
 219 less than 18 years old.
 220 (d) The City of Apalachicola ~~Department of Agriculture and~~
 221 ~~Consumer Services~~ shall collect an annual fee of \$100 from state
 222 residents and \$500 from nonresidents for the issuance of an
 223 Apalachicola Bay oyster harvesting license. The license year
 224 shall begin on July 1 of each year and end on June 30 of the
 225 following year. The license shall be valid only for the
 226 licensee. Only bona fide residents of the state Florida may
 227 obtain a resident license pursuant to this subsection.
 228 (i) The proceeds from Apalachicola Bay oyster harvesting
 229 license fees shall be deposited by the City of Apalachicola into
 230 a trust account in the General Inspection Trust Fund and, less
 231 reasonable administrative costs, must ~~shall~~ be used or
 232 distributed by the City of Apalachicola ~~Department of~~

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233 ~~Agriculture and Consumer Services~~ for the following purposes in
 234 Apalachicola Bay:

- 235 1. An Apalachicola Bay oyster shell recycling program
 236 ~~Relaying and transplanting live oysters.~~
- 237 2. Shell planting to construct or rehabilitate oyster bars.
- 238 3. Education programs for licensed oyster harvesters on
 239 oyster biology, aquaculture, boating and water safety,
 240 sanitation, resource conservation, small business management,
 241 marketing, and other relevant subjects.
- 242 4. Research directed toward the enhancement of oyster
 243 production in the bay and the water management needs of the bay.

244 Section 3. Paragraphs (a), (b), and (i) of subsection (1)
 245 of section 487.041, Florida Statutes, are amended to read:

246 487.041 Registration.—

247 (1) (a) ~~Effective January 1, 2009,~~ Each brand of pesticide,
 248 as defined in s. 487.021, which is distributed, sold, or offered
 249 for sale, except as provided in this section, within this state
 250 or delivered for transportation or transported in intrastate
 251 commerce or between points within this state through any point
 252 outside this state must be registered in the office of the
 253 department, and such registration shall be renewed biennially.
 254 Emergency exemptions from registration may be authorized in
 255 accordance with the rules of the department. The registrant
 256 shall file with the department a statement including:

- 257 1. The name, business mailing address, and street address
 258 of the registrant.
- 259 2. The name of the brand of pesticide.
- 260 3. An ingredient statement and a complete current copy of
 261 the labeling accompanying the brand of pesticide, which must

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262 conform to the registration, and a statement of all claims to be
 263 made for it, including directions for use and a guaranteed
 264 analysis showing the names and percentages by weight of each
 265 active ingredient, the total percentage of inert ingredients,
 266 and the names and percentages by weight of each "added
 267 ingredient."

268 (b) ~~Effective January 1, 2009,~~ For the purpose of defraying
 269 expenses of the department in connection with carrying out the
 270 provisions of this part, each registrant shall pay a biennial
 271 registration fee for each registered brand of pesticide. The
 272 registration of each brand of pesticide shall cover a designated
 273 2-year period beginning on January 1 of each odd-numbered year
 274 and expiring on December 31 of the following year.

275 (i) ~~Effective January 1, 2013,~~ all payments of any
 276 pesticide registration fees, including late fees, shall be
 277 submitted electronically using the department's Internet website
 278 for registration of pesticide product brands.

279 Section 4. Paragraph (a) of subsection (6) of section
 280 493.6105, Florida Statutes, is amended to read:

281 493.6105 Initial application for license.—

282 (6) In addition to the requirements under subsection (3),
 283 an applicant for a Class "K" license must:

284 (a) Submit one of the following:

- 285 1. The Florida Criminal Justice Standards and Training
 286 Commission Instructor Certificate and written confirmation by
 287 the commission that the applicant possesses an active firearms
 288 certification.
- 289 2. A valid National Rifle Association Private Security
 290 Firearm Instructor Certificate issued not more than 3 years

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291 before the submission of the applicant's Class "K" application.

292 3. A valid firearms instructor certificate issued by a
293 federal law enforcement agency issued not more than 3 years
294 before the submission of the applicant's Class "K" application.

295 4. A valid DD form 214 issued by the United States
296 Department of Defense, an acceptable form as specified by the
297 Department of Veterans' Affairs, or other official military
298 documentation. Such form or documentation must be issued not
299 more than 3 years before the submission of the applicant's Class
300 "K" application, indicating that the applicant has been
301 honorably discharged and has served as a military firearms
302 instructor within the last 3 years of service.

303 Section 5. Paragraph (d) of subsection (3) of section
304 493.6113, Florida Statutes, is amended to read:

305 493.6113 Renewal application for licensure.-

306 (3) Each licensee is responsible for renewing his or her
307 license on or before its expiration by filing with the
308 department an application for renewal accompanied by payment of
309 the renewal fee and the fingerprint retention fee to cover the
310 cost of ongoing retention in the statewide automated biometric
311 identification system established in s. 943.05(2)(b). Upon the
312 first renewal of a license issued under this chapter before
313 January 1, 2017, the licensee shall submit a full set of
314 fingerprints and fingerprint processing fees to cover the cost
315 of entering the fingerprints into the statewide automated
316 biometric identification system pursuant to s. 493.6108(4)(a)
317 and the cost of enrollment in the Federal Bureau of
318 Investigation's national retained print arrest notification
319 program. Subsequent renewals may be completed without submission

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320 of a new set of fingerprints.

321 (d) Each Class "K" licensee shall additionally submit:

322 1. One of the certificates specified under s. 493.6105(6)
323 as proof that he or she remains certified to provide firearms
324 instruction; or

325 2. Proof of having taught no less than six 28-hour firearms
326 instruction courses to Class "G" applicants, as specified in s.
327 493.6105(5), during the previous triennial licensure period.

328 Section 6. Subsection (19) is added to section 496.415,
329 Florida Statutes, to read:

330 496.415 Prohibited acts.-It is unlawful for any person in
331 connection with the planning, conduct, or execution of any
332 solicitation or charitable or sponsor sales promotion to:

333 (19) Commingle charitable contributions with noncharitable
334 funds.

335 Section 7. Section 496.418, Florida Statutes, is amended to
336 read:

337 496.418 Recordkeeping and accounting Records.-

338 (1) Each charitable organization, sponsor, professional
339 fundraising consultant, and professional solicitor that collects
340 or takes control or possession of contributions made for a
341 charitable purpose must keep records to permit accurate
342 reporting and auditing as required by law, must not commingle
343 contributions with noncharitable funds as specified in s.
344 496.415(19), and must be able to account for the funds. When
345 expenditures are not properly documented and disclosed by
346 records, there exists a presumption that the charitable
347 organization, sponsor, professional fundraising consultant, or
348 professional solicitor did not properly expend such funds.

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349 Noncharitable funds include any funds that are not used or
 350 intended to be used for the operation of the charity or for
 351 charitable purposes.

352 (2) Each charitable organization, sponsor, professional
 353 fundraising consultant, and professional solicitor must keep for
 354 a period of at least 3 years true and accurate records as to its
 355 activities in this state which are covered by ss. 496.401-
 356 496.424. The records must be made available, without subpoena,
 357 to the department for inspection and must be furnished no later
 358 than 10 working days after requested.

359 Section 8. Paragraph (b) of subsection (3) and paragraph
 360 (i) of subsection (5) of section 500.459, Florida Statutes, are
 361 amended to read:

362 500.459 Water vending machines.-

363 (3) PERMITTING REQUIREMENTS.-

364 (b) An application for an operating permit must be made ~~in~~
 365 ~~writing~~ to the department on forms provided by the department
 366 and must be accompanied by a fee as provided in subsection (4).
 367 The application must state the location of each water vending
 368 machine, the source of the water to be vended, the treatment the
 369 water will receive prior to being vended, and any other
 370 information considered necessary by the department.

371 (5) OPERATING STANDARDS.-

372 (i) The operator shall place on each water vending machine,
 373 in a position clearly visible to customers, the following
 374 information: the name and address of the operator; ~~the operating~~
 375 ~~permit number~~; the fact that the water is obtained from a public
 376 water supply; the method of treatment used; the method of
 377 postdisinfection used; and a local or toll-free telephone number

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378 that may be called for obtaining further information, reporting
 379 problems, or making complaints.

380 Section 9. Paragraph (g) of subsection (1) and subsection
 381 (5) of section 501.059, Florida Statutes, are amended to read:

382 501.059 Telephone solicitation.-

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

384 (g) "Telephonic sales call" means a telephone call,
 385 ringless direct-to-voicemail delivery, or text message to a
 386 consumer for the purpose of soliciting a sale of any consumer
 387 goods or services, soliciting an extension of credit for
 388 consumer goods or services, or obtaining information that will
 389 or may be used for the direct solicitation of a sale of consumer
 390 goods or services or an extension of credit for such purposes.

391 (5) A telephone solicitor or other person may not initiate
 392 an outbound telephone call or text message to a consumer,
 393 business, or donor or potential donor who has previously
 394 communicated to the telephone solicitor or other person that he
 395 or she does not wish to receive an outbound telephone call or
 396 text message:

397 (a) Made by or on behalf of the seller whose goods or
 398 services are being offered; or

399 (b) Made on behalf of a charitable organization for which a
 400 charitable contribution is being solicited.

401 Section 10. Section 501.6175, Florida Statutes, is created
 402 to read:

403 501.6175 Recordkeeping.-A commercial telephone seller shall
 404 keep all of the following information for 2 years after the date
 405 the information first becomes part of the seller's business
 406 records:

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407 (1) The name and telephone number of each consumer
 408 contacted by a telephone sales call.
 409 (2) All express requests authorizing the telephone
 410 solicitor to contact the consumer.
 411 (3) Any script, outline, or presentation the applicant
 412 requires or suggests a salesperson use when soliciting; sales
 413 information or literature to be provided by the commercial
 414 telephone seller to a salesperson; and sales information or
 415 literature to be provided by the commercial telephone seller to
 416 a consumer in connection with any solicitation.
 417
 418 Within 10 days of an oral or written request by the department,
 419 including a written request transmitted by electronic mail, a
 420 commercial telephone seller must make the records it keeps
 421 pursuant to this section available for inspection and copying by
 422 the department during the department's normal business hours.
 423 This section does not limit the department's ability to inspect
 424 and copy material pursuant to any other law.
 425 Section 11. Section 501.912, Florida Statutes, is amended
 426 to read:
 427 501.912 Definitions.—As used in ss. 501.91-501.923:
 428 (1) "Antifreeze" means any substance or preparation,
 429 including, but not limited to, antifreeze-coolant, antifreeze
 430 and summer coolant, or summer coolant, that is sold,
 431 distributed, or intended for use;
 432 (a) As the cooling liquid, or to be added to the cooling
 433 liquid, in the cooling system of internal combustion engines of
 434 motor vehicles to prevent freezing of the cooling liquid or to
 435 lower its freezing point; or

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436 (b) To raise the boiling point of water or for the
 437 prevention of engine overheating, whether or not the liquid is
 438 used as a year-round cooling system fluid.
 439 ~~(2) "Antifreeze-coolant," "antifreeze and summer coolant,"~~
 440 ~~or "summer coolant" means any substance as defined in subsection~~
 441 ~~(1) which also is sold, distributed, or intended for raising the~~
 442 ~~boiling point of water or for the prevention of engine~~
 443 ~~overheating whether or not used as a year-round cooling system~~
 444 ~~fluid. Unless otherwise stated, the term "antifreeze" includes~~
 445 ~~"antifreeze," "antifreeze-coolant," "antifreeze and summer~~
 446 ~~coolant," and "summer coolant."~~
 447 ~~(2)(3)~~ "Department" means the Department of Agriculture and
 448 Consumer Services.
 449 ~~(3)(4)~~ "Distribute" means to hold with an intent to sell,
 450 offer for sale, sell, barter, or otherwise supply to the
 451 consumer.
 452 ~~(4)(5)~~ "Package" means a sealed, tamperproof retail
 453 package, drum, or other container designed for the sale of
 454 antifreeze directly to the consumer or a container from which
 455 the antifreeze may be installed directly by the seller into the
 456 cooling system. However, this term, but does not include
 457 shipping containers containing properly labeled inner
 458 containers.
 459 ~~(5)(6)~~ "Label" means any display of written, printed, or
 460 graphic matter on, or attached to, a package or to the outside
 461 individual container or wrapper of the package.
 462 ~~(6)(7)~~ "Labeling" means the labels and any other written,
 463 printed, or graphic matter accompanying a package.
 464 Section 12. Section 501.913, Florida Statutes, is amended

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465 to read:

466 501.913 Registration.—

467 (1) Each brand of antifreeze to be distributed in this
 468 state ~~must shall~~ be registered with the department before
 469 distribution. The person whose name appears on the label, the
 470 manufacturer, or the packager shall make application annually or
 471 biennially to the department on forms provided by the
 472 department. The registration certificate expires shall expire 12
 473 or 24 months after the date of issue, as indicated on the
 474 registration certificate. The registrant assumes, by application
 475 to register the brand, full responsibility for the registration,
 476 quality, and quantity of the product sold, offered, or exposed
 477 for sale in this state. ~~If a registered brand is not in~~
 478 ~~production for distribution in this state and to ensure any~~
 479 ~~remaining product that is still available for sale in the state~~
 480 ~~is properly registered, the registrant must submit a notarized~~
 481 ~~affidavit on company letterhead to the department certifying~~
 482 ~~that:~~

483 ~~(a) The stated brand is no longer in production;~~484 ~~(b) The stated brand will not be distributed in this state;~~

485 and

486 ~~(c) All existing product of the stated brand will be~~
 487 ~~removed by the registrant from the state within 30 days after~~
 488 ~~expiration of the registration or the registrant will reregister~~
 489 ~~the brand for two subsequent registration periods.~~

490

491 ~~If production resumes, the brand must be reregistered before it~~
 492 ~~is distributed in this state.~~

493 (2) The completed application shall be accompanied by:

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494 (a) Specimens or copies ~~faesimiles~~ of the label for each
 495 brand of antifreeze;

496 (b) An application fee of \$200 for a 12-month registration
 497 or \$400 for a 24-month registration for each brand of
 498 antifreeze; and

499 (c) For first-time applications, a certified report from an
 500 independent testing laboratory, dated no more than 6 months
 501 before the registration application, providing analysis showing
 502 that the antifreeze conforms to minimum standards required for
 503 antifreeze by this part or rules of the department and is not
 504 adulterated ~~A properly labeled sample of between 1 and 2 gallons~~
 505 ~~for each brand of antifreeze.~~

506 (3) The department may analyze or inspect the antifreeze to
 507 ensure that it:

508 (a) Meets the labeling claims;

509 (b) Conforms to minimum standards required for antifreeze
 510 by this part ~~chapter~~ or rules of the department; and

511 (c) Is not adulterated as prescribed for antifreeze by this
 512 part ~~chapter~~.

513 (4) (a) If the registration requirements are met, and, if
 514 the antifreeze meets the minimum standards, is not adulterated,
 515 and meets the labeling claims, the department shall issue a
 516 certificate of registration authorizing the distribution of that
 517 antifreeze in the state for the permit period ~~year~~.

518 (b) If registration requirements are not met, or, if the
 519 antifreeze fails to meet the minimum standards, is adulterated,
 520 or fails to meet the labeling claims, the department shall
 521 refuse to register the antifreeze.

522 Section 13. Section 501.917, Florida Statutes, is amended

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523 to read:

524 501.917 Inspection by department; sampling and analysis.—
 525 The department ~~has~~ shall have the right to have access at
 526 reasonable hours to all places and property where antifreeze is
 527 stored, distributed, or offered or intended to be offered for
 528 sale, including the right to inspect and examine all antifreeze
 529 and to take reasonable samples of antifreeze for analysis
 530 together with specimens of labeling. Collected samples must be
 531 analyzed by the department. The certificate of analysis by the
 532 department shall be prima facie evidence of the facts stated
 533 therein in any legal proceeding in this state ~~All samples taken~~
 534 ~~shall be properly sealed and sent to a laboratory designated by~~
 535 ~~the department for examination together with all labeling~~
 536 ~~pertaining to such samples. It shall be the duty of said~~
 537 ~~laboratory to examine promptly all samples received in~~
 538 ~~connection with the administration and enforcement of this act.~~

539 Section 14. Section 501.92, Florida Statutes, is amended to
 540 read:

541 501.92 Formula may be required.—The department may, if
 542 required for the analysis of antifreeze by ~~the laboratory~~
 543 ~~designated by the department for the purpose of registration,~~
 544 require the applicant to furnish a statement of the formula of
 545 such antifreeze, unless the applicant can furnish other
 546 satisfactory evidence that such antifreeze is not adulterated or
 547 misbranded. Such statement need not include inhibitor or other
 548 minor ingredients which total less than 5 percent by weight of
 549 the antifreeze; and, if over 5 percent, the composition of the
 550 inhibitor and such other ingredients may be given in generic
 551 terms.

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552 Section 15. Paragraph (e) of subsection (10) of section
 553 525.07, Florida Statutes, is redesignated as paragraph (f), and
 554 a new paragraph (e) is added to that subsection, to read:

555 525.07 Powers and duties of department; inspections;
 556 unlawful acts.—

557 (10)

558 (e) The department may seize without warrant any skimming
 559 device, as defined in s. 817.625, for use as evidence.

560 Section 16. Subsection (1) of section 526.51, Florida
 561 Statutes, is amended to read:

562 526.51 Registration; renewal and fees; departmental
 563 expenses; cancellation or refusal to issue or renew.—

564 (1) (a) Application for registration of each brand of brake
 565 fluid shall be made on forms supplied by the department. The
 566 applicant shall give his or her name and address and the brand
 567 name of the brake fluid, state that he or she owns the brand
 568 name and has complete control over the product sold thereunder
 569 in this state, and provide the name and address of the resident
 570 agent in this state. If the applicant does not own the brand
 571 name but wishes to register the product with the department, a
 572 notarized affidavit that gives the applicant full authorization
 573 to register the brand name and that is signed by the owner of
 574 the brand name must accompany the application for registration.
 575 The affidavit must include all affected brand names, the owner's
 576 company or corporate name and address, the applicant's company
 577 or corporate name and address, and a statement from the owner
 578 authorizing the applicant to register the product with the
 579 department. The owner of the brand name shall maintain complete
 580 control over each product sold under that brand name in this

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581 state.

582 (b) The completed application must be accompanied by the
 583 following:

584 1. Specimens or copies of the label for each brand of brake
 585 fluid.

586 2. An application fee of \$50 for a 12-month registration or
 587 \$100 for a 24-month registration for each brand of brake fluid.

588 3. For ~~All~~ first-time applications for a brand and formula
 589 combination, ~~must be accompanied by~~ a certified report from an
 590 independent testing laboratory, ~~dated no more than 6 months~~
 591 before the registration application, setting forth the analysis
 592 of the brake fluid which shows its quality to be not less than
 593 the specifications established by the department for brake
 594 fluids. A sample of not less than 24 fluid ounces of brake fluid
 595 shall be submitted, in a container with a label printed in the
 596 same manner that it will be labeled when sold, and the sample
 597 and container shall be analyzed and inspected by the department
 598 in order that compliance with the department's specifications
 599 and labeling requirements may be verified.

600

601 Upon approval of the application, the department shall register
 602 the brand name of the brake fluid and issue to the applicant a
 603 permit authorizing the registrant to sell the brake fluid in
 604 this state. The registration certificate expires shall expire 12
 605 or 24 months after the date of issue, as indicated on the
 606 registration certificate.

607 (c) ~~(b)~~ Each applicant shall pay a fee of \$100 with each
 608 application. A permit may be renewed by application to the
 609 department, accompanied by a renewal fee of \$50 for a 12-month

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610 registration, or \$100 for a 24-month registration, on or before
 611 the expiration of the previously issued permit. To reregister a
 612 previously registered brand and formula combination, an
 613 applicant must submit a completed application and all materials
 614 as required in this section to the department before the
 615 expiration of the previously issued permit. A brand and formula
 616 combination for which a completed application and all materials
 617 required in this section are not received before the expiration
 618 of the previously issued permit may not be registered with the
 619 department until a completed application and all materials
 620 required in this section have been received and approved. If the
 621 brand and formula combination was previously registered with the
 622 department and a fee, application, or materials required in this
 623 section are received after the expiration of the previously
 624 issued permit, a penalty of \$25 accrues, which shall be added to
 625 the fee. Renewals shall be accepted only on brake fluids that
 626 have no change in formula, composition, or brand name. Any
 627 change in formula, composition, or brand name of a brake fluid
 628 constitutes a new product that must be registered in accordance
 629 with this part.

630 ~~(e) If a registered brand and formula combination is no~~
 631 ~~longer in production for distribution in this state, in order to~~
 632 ~~ensure that any remaining product still available for sale in~~
 633 ~~this state is properly registered, the registrant must submit a~~
 634 ~~notarized affidavit on company letterhead to the department~~
 635 ~~certifying that:~~

636 1. The stated brand and formula combination is no longer in
 637 production;

638 2. The stated brand and formula combination will not be

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639 ~~distributed in this state; and~~

640 ~~3. Either all existing product of the stated brand and~~
 641 ~~formula combination will be removed by the registrant from the~~
 642 ~~state within 30 days after the expiration of the registration or~~
 643 ~~that the registrant will reregister the brand and formula~~
 644 ~~combination for 2 subsequent years.~~

645
 646 ~~If production resumes, the brand and formula combination must be~~
 647 ~~reregistered before it is again distributed in this state.~~

648 Section 17. Subsection (1) of section 526.53, Florida
 649 Statutes, is amended to read:

650 526.53 Enforcement; inspection and analysis, stop-sale and
 651 disposition, regulations.-

652 (1) The department shall enforce ~~the provisions of this~~
 653 ~~part through the department, and may sample, inspect, analyze,~~
 654 ~~and test any brake fluid manufactured, packed, or sold within~~
 655 ~~this state. Collected samples must be analyzed by the~~
 656 ~~department. The certificate of analysis by the department shall~~
 657 ~~be prima facie evidence of the facts stated therein in any legal~~
 658 ~~proceeding in this state. The department ~~has~~ shall have free~~
 659 ~~access during business hours to all premises, buildings,~~
 660 ~~vehicles, cars, or vessels used in the manufacture, packing,~~
 661 ~~storage, sale, or transportation of brake fluid, and may open~~
 662 ~~any box, carton, parcel, or container of brake fluid and take~~
 663 ~~samples for inspection and analysis or for evidence.~~

664 Section 18. Section 527.01, Florida Statutes, is amended to
 665 read:

666 527.01 Definitions.-As used in this chapter:

667 (1) "Liquefied petroleum gas" means any material which is

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668 composed predominantly of any of the following hydrocarbons, or
 669 mixtures of the same: propane, propylene, butanes (normal butane
 670 or isobutane), and butylenes.

671 (2) "Person" means any individual, firm, partnership,
 672 corporation, company, association, organization, or cooperative.

673 (3) ~~"Ultimate Consumer"~~ means the person last purchasing
 674 liquefied petroleum gas in its liquid or vapor state for
 675 industrial, commercial, or domestic use.

676 (4) "Department" means the Department of Agriculture and
 677 Consumer Services.

678 (5) "Qualifier" means any person who has passed a
 679 competency examination administered by the department and is
 680 employed by a licensed category I, category II, or category V
 681 business. in one or more of the following classifications:

682 ~~(a) Category I liquefied petroleum gas dealer.~~

683 ~~(b) Category II liquefied petroleum gas dispenser.~~

684 ~~(c) LP gas installer.~~

685 ~~(d) Specialty installer.~~

686 ~~(e) Requalifier of cylinders.~~

687 ~~(f) Fabricator, repairer, and tester of vehicles and cargo~~
 688 ~~tanks.~~

689 ~~(g) Category IV liquefied petroleum gas dispensing unit~~
 690 ~~operator and recreational vehicle servicer.~~

691 ~~(h) Category V liquefied petroleum gases dealer for~~
 692 ~~industrial uses only.~~

693 (6) "Category I liquefied petroleum gas dealer" means any
 694 person selling or offering to sell by delivery or at a
 695 stationary location any liquefied petroleum gas to the ~~ultimate~~
 696 consumer for industrial, commercial, or domestic use; any person

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697 leasing or offering to lease, or exchanging or offering to
 698 exchange, any apparatus, appliances, and equipment for the use
 699 of liquefied petroleum gas; any person installing, servicing,
 700 altering, or modifying apparatus, piping, tubing, appliances,
 701 and equipment for the use of liquefied petroleum or natural gas;
 702 any person installing carburetion equipment; or any person
 703 requalifying cylinders.

704 (7) "Category II liquefied petroleum gas dispenser" means
 705 any person engaging in the business of operating a liquefied
 706 petroleum gas dispensing unit for the purpose of serving liquid
 707 products to the ~~ultimate~~ consumer for industrial, commercial, or
 708 domestic use, and selling or offering to sell, or leasing or
 709 offering to lease, apparatus, appliances, and equipment for the
 710 use of liquefied petroleum gas, including maintaining a cylinder
 711 storage rack at the licensed business location for the purpose
 712 of storing cylinders filled by the licensed business for sale or
 713 use at a later date.

714 (8) "Category III liquefied petroleum gas cylinder exchange
 715 operator" means any person operating a storage facility used for
 716 the purpose of storing filled propane cylinders of not more than
 717 43.5 pounds propane capacity or 104 pounds water capacity, while
 718 awaiting sale to the ~~ultimate~~ consumer, or a facility used for
 719 the storage of empty or filled containers which have been
 720 offered for exchange.

721 (9) "Category IV dealer in appliances and equipment
 722 ~~liquefied petroleum gas dispenser and recreational vehicle~~
 723 ~~servicer~~" means any person selling or offering to sell, or
 724 leasing or offering to lease, apparatus, appliances, and
 725 equipment for the use of liquefied petroleum gas engaging in the

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726 ~~business of operating a liquefied petroleum gas dispensing unit~~
 727 ~~for the purpose of serving liquid product to the ultimate~~
 728 ~~consumer for industrial, commercial, or domestic use, and~~
 729 ~~selling or offering to sell, or leasing or offering to lease,~~
 730 ~~apparatus, appliances, and equipment for the use of liquefied~~
 731 ~~petroleum gas, and whose services include the installation,~~
 732 ~~service, or repair of recreational vehicle liquefied petroleum~~
 733 ~~gas appliances and equipment.~~

734 (10) "Category V LP gas installer" means any person who is
 735 engaged in the liquefied petroleum gas business and whose
 736 services include the installation, servicing, altering, or
 737 modifying of apparatus, piping, tubing, tanks, and equipment for
 738 the use of liquefied petroleum or natural gas and selling or
 739 offering to sell, or leasing or offering to lease, apparatus,
 740 appliances, and equipment for the use of liquefied petroleum or
 741 natural gas.

742 (11) "Category VI miscellaneous operator" means any person
 743 who is engaged in operation as a manufacturer of LP gas
 744 appliances and equipment; a fabricator, repairer, and tester of
 745 vehicles and cargo tanks; a requalifier of LP gas cylinders; or
 746 a pipeline system operator ~~Specialty installer~~" means any person
 747 ~~involved in the installation, service, or repair of liquefied~~
 748 ~~petroleum or natural gas appliances and equipment, and selling~~
 749 ~~or offering to sell, or leasing or offering to lease, apparatus,~~
 750 ~~appliances, and equipment for the use of liquefied petroleum~~
 751 ~~gas, whose activities are limited to specific types of~~
 752 ~~appliances and equipment as designated by department rule.~~

753 (12) "~~Dealer in appliances and equipment for use of~~
 754 ~~liquefied petroleum gas~~" means any person selling or offering to

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755 ~~sell, or leasing or offering to lease, apparatus, appliances,~~
756 ~~and equipment for the use of liquefied petroleum gas.~~

757 ~~(12)-(13)~~ "Manufacturer of liquefied petroleum gas
758 appliances and equipment" means any person in this state
759 manufacturing and offering for sale or selling tanks, cylinders,
760 or other containers and necessary appurtenances for use in the
761 storage, transportation, or delivery of such gas to the ultimate
762 consumer, or manufacturing and offering for sale or selling
763 apparatus, appliances, and equipment for the use of liquefied
764 petroleum gas to the ultimate consumer.

765 ~~(13)-(14)~~ "Wholesaler" means any person, as defined by
766 subsection (2), selling or offering to sell any liquefied
767 petroleum gas for industrial, commercial, or domestic use to any
768 person except the ultimate consumer.

769 ~~(14)-(15)~~ "Requalifier of cylinders" means any person
770 involved in the retesting, repair, qualifying, or requalifying
771 of liquefied petroleum gas tanks or cylinders manufactured under
772 specifications of the United States Department of Transportation
773 ~~or former Interstate Commerce Commission.~~

774 ~~(15)-(16)~~ "Fabricator, repairer, and tester of vehicles and
775 cargo tanks" means any person involved in the hydrostatic
776 testing, fabrication, repair, or requalifying of any motor
777 vehicles or cargo tanks used for the transportation of liquefied
778 petroleum gases, when such tanks are permanently attached to or
779 forming a part of the motor vehicle.

780 ~~(17)~~ "Recreational vehicle" means ~~a motor vehicle designed~~
781 ~~to provide temporary living quarters for recreational, camping,~~
782 ~~or travel use, which has its own propulsion or is mounted on or~~
783 ~~towed by another motor vehicle.~~

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784 ~~(16)-(18)~~ "Pipeline system operator" means any person who
785 owns or operates a liquefied petroleum gas pipeline system that
786 is used to transmit liquefied petroleum gas from a common source
787 to the ultimate customer and that serves 10 or more customers.

788 ~~(19)~~ "Category V liquefied petroleum gases dealer for
789 industrial uses only" means any person engaged in the business
790 of filling, selling, and transporting liquefied petroleum gas
791 containers for use in welding, forklifts, or other industrial
792 applications.

793 ~~(17)-(20)~~ "License period year" means the period 1 to 3
794 years from the issuance of the license from September 1 through
795 the following August 31, or April 1 through the following March
796 31, depending upon the type of license.

797 Section 19. Section 527.02, Florida Statutes, is amended to
798 read:

799 527.02 License; penalty; fees.—

800 (1) It is unlawful for any person to engage in this state
801 in the activities defined in s. 527.01(6) through (11) of a
802 pipeline system operator, category I liquefied petroleum gas
803 dealer, category II liquefied petroleum gas dispenser, category
804 III liquefied petroleum gas cylinder exchange operator, category
805 IV liquefied petroleum gas dispenser and recreational vehicle
806 servicer, category V liquefied petroleum gas dealer for
807 industrial uses only, LP gas installer, specialty installer,
808 dealer in liquefied petroleum gas appliances and equipment,
809 manufacturer of liquefied petroleum gas appliances and
810 equipment, requalifier of cylinders, or fabricator, repairer,
811 and tester of vehicles and cargo tanks without first obtaining
812 from the department a license to engage in one or more of these

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813 businesses. The sale of liquefied petroleum gas cylinders with a
 814 volume of 10 pounds water capacity or 4.2 pounds liquefied
 815 petroleum gas capacity or less is exempt from the requirements
 816 of this chapter. It is a felony of the third degree, punishable
 817 as provided in s. 775.082, s. 775.083, or s. 775.084, to
 818 intentionally or willfully engage in any of said activities
 819 without first obtaining appropriate licensure from the
 820 department.

821 (2) Each business location of a person having multiple
 822 locations must ~~shall~~ be separately licensed and must meet the
 823 requirements of this section. Such license shall be granted to
 824 any applicant determined by the department to be competent,
 825 qualified, and trustworthy who files with the department a
 826 surety bond, insurance affidavit, or other proof of insurance,
 827 as hereinafter specified, and pays for such license the
 828 following annual license ~~original application fee for new~~
 829 ~~licenses and annual renewal fees for existing licenses:~~

License Category	<u>License</u> Original Application Fee	<u>Per</u> Year	<u>Renewal</u> Fee
Category I liquefied petroleum gas dealer	<u>\$400</u>	\$525	\$425
Category II liquefied petroleum gas dispenser	<u>\$400</u>	525	375

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833 Category III
 liquefied petroleum
 gas cylinder
 exchange unit
 operator \$65 ~~100~~ ~~65~~

834 Category IV
dealer in appliances
and equipment ~~liquefied~~
~~petroleum~~
~~gas dispenser and~~
~~recreational vehicle~~
~~service~~ \$65 ~~525~~ 400

835 Category V LP gas
installer ~~liquefied~~
~~petroleum gases~~
~~dealer for industrial~~
~~uses only~~ \$200 ~~300~~ 200

836 Category VI
miscellaneous operator
~~LP gas~~
~~installer~~ \$200 ~~300~~ 200

837 ~~Specialty~~
~~installer~~ 300 200

838

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	Dealer in appliances		
	and equipment		
	for use of liquefied		
839	petroleum gas	50	45
	Manufacturer of		
	liquefied petroleum		
	gas appliances and		
840	equipment	525	375
	Requalifier of		
	eylinders	525	375
841	Fabricator, repairer,		
	and tester of		
	vehicles and		
	oargo tanks	525	375

842
 843 (3) (a) ~~An applicant for an original license who submits an~~
 844 ~~application during the last 6 months of the license year may~~
 845 ~~have the original license fee reduced by one-half for the 6-~~
 846 ~~month period. This provision applies only to those companies~~
 847 ~~applying for an original license and may not be applied to~~
 848 ~~licensees who held a license during the previous license year~~
 849 ~~and failed to renew the license.~~ The department may refuse to
 850 issue an initial license to an applicant who is under
 851 investigation in any jurisdiction for an action that would
 852 constitute a violation of this chapter until such time as the
 853 investigation is complete.

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854 (b) The department shall waive the initial license fee for
 855 1 year for an honorably discharged veteran of the United States
 856 Armed Forces, the spouse of such a veteran, or a business entity
 857 that has a majority ownership held by such a veteran or spouse
 858 if the department receives an application, in a format
 859 prescribed by the department, within 60 months after the date of
 860 the veteran's discharge from any branch of the United States
 861 Armed Forces. To qualify for the waiver, a veteran must provide
 862 to the department a copy of his or her DD Form 214, as issued by
 863 the United States Department of Defense or another acceptable
 864 form of identification as specified by the Department of
 865 Veterans' Affairs; the spouse of a veteran must provide to the
 866 department a copy of the veteran's DD Form 214, as issued by the
 867 United States Department of Defense, or another acceptable form
 868 of identification as specified by the Department of Veterans'
 869 Affairs, and a copy of a valid marriage license or certificate
 870 verifying that he or she was lawfully married to the veteran at
 871 the time of discharge; or a business entity must provide to the
 872 department proof that a veteran or the spouse of a veteran holds
 873 a majority ownership in the business, a copy of the veteran's DD
 874 Form 214, as issued by the United States Department of Defense,
 875 or another acceptable form of identification as specified by the
 876 Department of Veterans' Affairs, and, if applicable, a copy of a
 877 valid marriage license or certificate verifying that the spouse
 878 of the veteran was lawfully married to the veteran at the time
 879 of discharge.
 880 (4) Any licensee submitting a material change in their
 881 information for licensing, before the date for renewal, must
 882 submit such change to the department in the manner prescribed by

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883 ~~the department, along with a fee in the amount of \$10 Any person~~
 884 ~~applying for a liquefied petroleum gas license as a specialty~~
 885 ~~installer, as defined by s. 527.01(11), shall upon application~~
 886 ~~to the department identify the specific area of work to be~~
 887 ~~performed. Upon completion of all license requirements set forth~~
 888 ~~in this chapter, the department shall issue the applicant a~~
 889 ~~license specifying the scope of work, as identified by the~~
 890 ~~applicant and defined by rule of the department, for which the~~
 891 ~~person is authorized.~~

892 ~~(5) The license fee for a pipeline system operator shall be~~
 893 ~~\$100 per system owned or operated by the person, not to exceed~~
 894 ~~\$400 per license year. Such license fee applies only to a~~
 895 ~~pipeline system operator who owns or operates a liquefied~~
 896 ~~petroleum gas pipeline system that is used to transmit liquefied~~
 897 ~~petroleum gas from a common source to the ultimate customer and~~
 898 ~~that serves 10 or more customers.~~

899 ~~(5)(6) The department shall adopt promulgate rules~~
 900 ~~specifying acts deemed by the department to demonstrate a lack~~
 901 ~~of trustworthiness to engage in activities requiring a license~~
 902 ~~or qualifier identification card under this section.~~

903 ~~(7) Any license issued by the department may be transferred~~
 904 ~~to any person, firm, or corporation for the remainder of the~~
 905 ~~current license year upon written request to the department by~~
 906 ~~the original licenseholder. Prior to approval of any transfer,~~
 907 ~~all licensing requirements of this chapter must be met by the~~
 908 ~~transferee. A license transfer fee of \$50 shall be charged for~~
 909 ~~each such transfer.~~

910 Section 20. Section 527.0201, Florida Statutes, is amended
 911 to read:

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912 527.0201 Qualifiers; master qualifiers; examinations.-

913 (1) In addition to the requirements of s. 527.02, any
 914 person applying for a license to engage in category I, category
 915 II, or category V the activities of a ~~pipeline system operator,~~
 916 ~~category I liquefied petroleum gas dealer, category II liquefied~~
 917 ~~petroleum gas dispenser, category IV liquefied petroleum gas~~
 918 ~~dispenser and recreational vehicle servicer, category V~~
 919 ~~liquefied petroleum gases dealer for industrial uses only, LP~~
 920 ~~gas installer, specialty installer, requalifier of cylinders, or~~
 921 ~~fabricator, repairer, and tester of vehicles and cargo tanks~~
 922 must prove competency by passing a written examination
 923 administered by the department or its agent with a grade of 70
 924 75 percent or above in each area tested. Each applicant for
 925 examination shall submit a \$20 nonrefundable fee. The department
 926 shall by rule specify the general areas of competency to be
 927 covered by each examination and the relative weight to be
 928 assigned in grading each area tested.

929 (2) Application for examination for competency may be made
 930 by an individual or by an owner, a partner, or any person
 931 employed by the license applicant. Upon successful completion of
 932 the competency examination, the department shall register ~~issue~~
 933 ~~a qualifier identification card~~ to the examinee.

934 (a) Qualifier registration automatically expires if
 935 ~~identification cards, except those issued to category I~~
 936 ~~liquefied petroleum gas dealers and liquefied petroleum gas~~
 937 ~~installers, shall remain in effect as long as the individual~~
 938 ~~shows to the department proof of active employment in the area~~
 939 ~~of examination and all continuing education requirements are~~
 940 ~~met. Should the individual terminates terminate active~~

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941 employment in the area of examination for a period exceeding 24
 942 months, or ~~fails fail~~ to provide documentation of continuing
 943 education, ~~the individual's qualifier status shall automatically~~
 944 ~~expire~~. If the qualifier registration status has expired, the
 945 individual must apply for and successfully complete an
 946 examination by the department in order to reestablish qualifier
 947 status.

948 (b) Every business organization in license category I,
 949 category II, or category V shall employ at all times a full-time
 950 qualifier who has successfully completed an examination in the
 951 corresponding category of the license held by the business
 952 organization. A person may not act as a qualifier for more than
 953 one licensed location.

954 (3) Qualifier registration expires ~~cards issued to category~~
 955 ~~I liquefied petroleum gas dealers and liquefied petroleum gas~~
 956 ~~installers shall expire 3 years after the date of issuance. All~~
 957 ~~category I liquefied petroleum gas dealer qualifiers and~~
 958 ~~liquefied petroleum gas installer qualifiers holding a valid~~
 959 ~~qualifier card upon the effective date of this act shall retain~~
 960 ~~their qualifier status until July 1, 2003, and may sit for the~~
 961 ~~master qualifier examination at any time during that time~~
 962 ~~period. All such category I liquefied petroleum gas dealer~~
 963 ~~qualifiers and liquefied petroleum gas installer qualifiers may~~
 964 ~~renew their qualification on or before July 1, 2003, upon~~
 965 ~~application to the department, payment of a \$20 renewal fee, and~~
 966 ~~documentation of the completion of a minimum of 16 hours of~~
 967 ~~approved continuing education courses, as defined by department~~
 968 ~~rule, during the previous 3-year period. Applications for~~
 969 ~~renewal must be made 30 calendar days before expiration. Persons~~

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970 failing to renew before the expiration date must reapply and
 971 take a qualifier competency examination in order to reestablish
 972 ~~category I liquefied petroleum gas dealer qualifier and~~
 973 ~~liquefied petroleum gas installer qualifier status. If a~~
 974 ~~category I liquefied petroleum gas qualifier or liquefied~~
 975 ~~petroleum gas installer qualifier becomes a master qualifier at~~
 976 ~~any time during the effective date of the qualifier card, the~~
 977 ~~card shall remain in effect until expiration of the master~~
 978 ~~qualifier certification.~~

979 (4) A qualifier for a business ~~organization involved in~~
 980 ~~installation, repair, maintenance, or service of liquefied~~
 981 ~~petroleum gas appliances, equipment, or systems~~ must actually
 982 function in a supervisory capacity of other company employees
 983 performing licensed activities installing, repairing,
 984 maintaining, or servicing liquefied petroleum gas appliances,
 985 equipment, or systems. A separate qualifier shall be required
 986 for every 10 such employees. ~~Additional qualifiers are required~~
 987 ~~for those business organizations employing more than 10~~
 988 ~~employees that install, repair, maintain, or service liquefied~~
 989 ~~petroleum gas equipment and systems.~~

990 (5) In addition to all other licensing requirements, each
 991 category I and category V licensee ~~liquefied petroleum gas~~
 992 ~~dealer and liquefied petroleum gas installer~~ must, at the time
 993 of application for licensure, identify to the department one
 994 master qualifier who is a full-time employee at the licensed
 995 location. This person shall be a manager, owner, or otherwise
 996 primarily responsible for overseeing the operations of the
 997 licensed location and must provide documentation to the
 998 department as provided by rule. The master qualifier requirement

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999 shall be in addition to the requirements of subsection (1).

1000 (a) In order to apply for certification as a master

1001 ~~qualifier, each applicant must have been a registered be a~~

1002 ~~category I liquefied petroleum gas dealer qualifier or liquefied~~

1003 ~~petroleum gas installer~~ qualifier for a minimum of 3 years

1004 immediately preceding submission of the application, must be

1005 employed by a licensed category I or category V licensee

1006 ~~liquefied petroleum gas dealer, liquefied petroleum gas~~

1007 ~~installer, or applicant for such license, must provide~~

1008 ~~documentation of a minimum of 1 year's work experience in the~~

1009 ~~gas industry, and must pass a master qualifier competency~~

1010 ~~examination. Master qualifier examinations shall be based on~~

1011 ~~Florida's laws, rules, and adopted codes governing liquefied~~

1012 ~~petroleum gas safety, general industry safety standards, and~~

1013 ~~administrative procedures. The applicant must successfully pass~~

1014 ~~the examination with a grade of 70 75 percent or above. Each~~

1015 ~~applicant for master qualifier registration status must submit~~

1016 ~~to the department a nonrefundable \$30 examination fee before the~~

1017 ~~examination.~~

1018 (b) Upon successful completion of the master qualifier

1019 examination, the department shall issue the examinee a

1020 ~~certificate of master qualifier registration status which shall~~

1021 ~~include the name of the licensed company for which the master~~

1022 ~~qualifier is employed. A master qualifier may transfer from one~~

1023 ~~licenseholder to another upon becoming employed by the company~~

1024 ~~and providing a written request to the department.~~

1025 (c) A master qualifier registration expires status shall

1026 ~~expire 3 years after the date of issuance of the certificate and~~

1027 ~~may be renewed by submission to the department of documentation~~

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1028 of completion of at least 16 hours of approved continuing

1029 education courses during the 3-year period; proof of employment

1030 ~~with a licensed category I liquefied petroleum gas dealer,~~

1031 ~~liquefied petroleum gas installer, or applicant; and a \$30~~

1032 ~~certificate renewal fee. The department shall define, by rule,~~

1033 ~~approved courses of continuing education.~~

1034 ~~(d) Each category I liquefied petroleum gas dealer or~~

1035 ~~liquefied petroleum gas installer licensed as of August 31,~~

1036 ~~2000, shall identify to the department one current category I~~

1037 ~~liquefied petroleum gas dealer qualifier or liquefied petroleum~~

1038 ~~gas installer qualifier who will be the designated master~~

1039 ~~qualifier for the licenseholder. Such individual must provide~~

1040 ~~proof of employment for 3 years or more within the liquefied~~

1041 ~~petroleum gas industry, and shall, upon approval of the~~

1042 ~~department, be granted a master qualifier certificate. All other~~

1043 ~~requirements with regard to master qualifier certificate~~

1044 ~~expiration, renewal, and continuing education shall apply.~~

1045 (6) A vacancy in a qualifier or master qualifier position

1046 in a business organization which results from the departure of

1047 the qualifier or master qualifier shall be immediately reported

1048 to the department by the departing qualifier or master qualifier

1049 and the licensed company.

1050 (a) If a business organization no longer possesses a duly

1051 designated qualifier, as required by this section, its liquefied

1052 petroleum gas licenses shall be suspended by order of the

1053 department after 20 working days. The license shall remain

1054 suspended until a competent qualifier has been employed, the

1055 order of suspension terminated by the department, and the

1056 license reinstated. A vacancy in the qualifier position for a

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1057 period of more than 20 working days shall be deemed to
 1058 constitute an immediate threat to the public health, safety, and
 1059 welfare. ~~Failure to obtain a replacement qualifier within 60~~
 1060 ~~days after the vacancy occurs shall be grounds for revocation of~~
 1061 ~~licensure or eligibility for licensure.~~

1062 (b) Any category I or category V licensee liquefied
 1063 ~~petroleum gas dealer or LP gas installer~~ who no longer possesses
 1064 a master qualifier but currently employs a ~~category I liquefied~~
 1065 ~~petroleum gas dealer or LP gas installer~~ qualifier as required
 1066 by this section, has ~~shall have~~ 60 days within which to replace
 1067 the master qualifier. If the company fails to replace the master
 1068 qualifier within the 60-day time period, the license of the
 1069 company shall be suspended by order of the department. The
 1070 license shall remain suspended until a competent master
 1071 qualifier has been employed, the order of suspension has been
 1072 terminated by the department, and the license reinstated.
 1073 ~~Failure to obtain a replacement master qualifier within 90 days~~
 1074 ~~after the vacancy occurs shall be grounds for revocation of~~
 1075 ~~licensure or eligibility for licensure.~~

1076 (7) The department may deny, refuse to renew, suspend, or
 1077 revoke any qualifier ~~card~~ or master qualifier registration
 1078 ~~certificate~~ for any of the following causes:

1079 (a) Violation of any provision of this chapter or any rule
 1080 or order of the department;

1081 (b) Falsification of records relating to the qualifier ~~card~~
 1082 or master qualifier registration certificate; or

1083 (c) Failure to meet any of the renewal requirements.

1084 (8) Any individual having competency qualifications on file
 1085 with the department may request the transfer of such

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1086 qualifications to any existing licenseholder by making a written
 1087 request to the department for such transfer. Any individual
 1088 having a competency examination on file with the department may
 1089 use such examination for a new license application after making
 1090 application in writing to the department. All examinations are
 1091 confidential and exempt from the provisions of s. 119.07(1).

1092 (9) If a duplicate license, qualifier ~~card~~, or master
 1093 qualifier registration certificate is requested by the licensee,
 1094 a fee of \$10 must be received before issuance of the duplicate
 1095 license or certificate card. ~~If a facsimile transmission of an~~
 1096 ~~original license is requested, upon completion of the~~
 1097 ~~transmission a fee of \$10 must be received by the department~~
 1098 ~~before the original license may be mailed to the requester.~~

1099 (10) All revenues collected herein shall be deposited in
 1100 the General Inspection Trust Fund for the purpose of
 1101 administering the provisions of this chapter.

1102 Section 21. Section 527.021, Florida Statutes, is amended
 1103 to read:

1104 527.021 Registration of transport vehicles.-

1105 (1) Each liquefied petroleum gas bulk delivery vehicle
 1106 owned or leased by a liquefied petroleum gas licensee must be
 1107 registered with the department as part of the licensing
 1108 application or when placed into service annually.

1109 (2) For the purposes of this section, a "liquefied
 1110 petroleum gas bulk delivery vehicle" means any vehicle that is
 1111 used to transport liquefied petroleum gas on any public street
 1112 or highway as liquid cargo in a cargo tank, which tank is
 1113 mounted on a conventional truck chassis or is an integral part
 1114 of a transporting vehicle in which the tank constitutes, in

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1115 whole or in part, the stress member used as a frame and is a
1116 permanent part of the transporting vehicle.

1117 (3) ~~Vehicle registrations shall be submitted by the vehicle~~
1118 ~~owner or lessee in conjunction with the annual renewal of his or~~
1119 ~~her liquefied petroleum gas license, but no later than August 31~~
1120 ~~of each year.~~ A dealer who fails to register a vehicle with the
1121 department does not submit the required vehicle registration by
1122 August 31 of each year is subject to the penalties in s. 527.13.

1123 (4) The department shall issue a decal to be placed on each
1124 vehicle that is inspected by the department and found to be in
1125 compliance with applicable codes.

1126 Section 22. Section 527.03, Florida Statutes, is amended to
1127 read:

1128 527.03 ~~Annual~~ Renewal of license.—All licenses required
1129 under this chapter shall be renewed annually, biennially, or
1130 triennially, as elected by the licensee, subject to the license
1131 fees prescribed in s. 527.02. All renewals must meet the same
1132 requirements and conditions as an annual license for each
1133 licensed year ~~All licenses, except Category III Liquefied~~
1134 ~~Petroleum Gas Cylinder Exchange Unit Operator licenses and~~
1135 ~~Dealer in Appliances and Equipment for Use of Liquefied~~
1136 ~~Petroleum Gas licenses, shall be renewed for the period~~
1137 ~~beginning September 1 and shall expire on the following August~~
1138 ~~31 unless sooner suspended, revoked, or otherwise terminated.~~
1139 ~~Category III Liquefied Petroleum Gas Cylinder Exchange Unit~~
1140 ~~Operator licenses and Dealer in Appliances and Equipment for Use~~
1141 ~~of Liquefied Petroleum Gas licenses shall be renewed for the~~
1142 ~~period beginning April 1 and shall expire on the following March~~
1143 ~~31 unless sooner suspended, revoked, or otherwise terminated.~~

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1144 Any license allowed to expire will ~~shall~~ become inoperative
1145 because of failure to renew. The fee for restoration of a
1146 license is equal to the original license fee and must be paid
1147 before the licensee may resume operations.

1148 Section 23. Section 527.04, Florida Statutes, is amended to
1149 read:

1150 527.04 Proof of insurance required.—

1151 (1) Before any license is issued, except to a category IV
1152 dealer in appliances and equipment ~~for use of liquefied~~
1153 ~~petroleum gas~~ or a category III liquefied petroleum gas cylinder
1154 exchange operator, the applicant must deliver to the department
1155 satisfactory evidence that the applicant is covered by a primary
1156 policy of bodily injury liability and property damage liability
1157 insurance that covers the products and operations with respect
1158 to such business and is issued by an insurer authorized to do
1159 business in this state for an amount not less than \$1 million
1160 and that the premium on such insurance is paid. An insurance
1161 certificate, affidavit, or other satisfactory evidence of
1162 acceptable insurance coverage shall be accepted as proof of
1163 insurance. In lieu of an insurance policy, the applicant may
1164 deliver a good and sufficient bond in the amount of \$1 million,
1165 payable to the Commissioner of Agriculture ~~Governor of Florida,~~
1166 with the applicant as principal and a surety company authorized
1167 to do business in this state as surety. The bond must be
1168 conditioned upon the applicant's compliance with this chapter
1169 and the rules of the department with respect to the conduct of
1170 such business and shall indemnify and hold harmless all persons
1171 from loss or damage by reason of the applicant's failure to
1172 comply. However, the aggregated liability of the surety may not

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1173 exceed \$1 million. If the insurance policy is canceled or
 1174 otherwise terminated or the bond becomes insufficient, the
 1175 department may require new proof of insurance or a new bond to
 1176 be filed, and if the licenseholder fails to comply, the
 1177 department shall cancel the license issued and give the
 1178 licenseholder written notice that it is unlawful to engage in
 1179 business without a license. A new bond is not required as long
 1180 as the original bond remains sufficient and in force. If the
 1181 licenseholder's insurance coverage as required by this
 1182 subsection is canceled or otherwise terminated, the insurer must
 1183 notify the department within 30 days after the cancellation or
 1184 termination.

1185 (2) Before any license is issued to a category class ~~class~~ III
 1186 liquefied petroleum gas cylinder exchange operator, the
 1187 applicant must deliver to the department satisfactory evidence
 1188 that the applicant is covered by a primary policy of bodily
 1189 injury liability and property damage liability insurance that
 1190 covers the products and operations with respect to the business
 1191 and is issued by an insurer authorized to do business in this
 1192 state for an amount not less than \$300,000 and that the premium
 1193 on the insurance is paid. An insurance certificate, affidavit,
 1194 or other satisfactory evidence of acceptable insurance coverage
 1195 shall be accepted as proof of insurance. In lieu of an insurance
 1196 policy, the applicant may deliver a good and sufficient bond in
 1197 the amount of \$300,000, payable to the Commissioner of
 1198 Agriculture ~~Governor~~, with the applicant as principal and a
 1199 surety company authorized to do business in this state as
 1200 surety. The bond must be conditioned upon the applicant's
 1201 compliance with this chapter and the rules of the department

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1202 with respect to the conduct of such business and must indemnify
 1203 and hold harmless all persons from loss or damage by reason of
 1204 the applicant's failure to comply. However, the aggregated
 1205 liability of the surety may not exceed \$300,000. If the
 1206 insurance policy is canceled or otherwise terminated or the bond
 1207 becomes insufficient, the department may require new proof of
 1208 insurance or a new bond to be filed, and if the licenseholder
 1209 fails to comply, the department shall cancel the license issued
 1210 and give the licenseholder written notice that it is unlawful to
 1211 engage in business without a license. A new bond is not required
 1212 as long as the original bond remains sufficient and in force. If
 1213 the licenseholder's insurance coverage required by this
 1214 subsection is canceled or otherwise terminated, the insurer must
 1215 notify the department within 30 days after the cancellation or
 1216 termination.

1217 (3) Any person having a cause of action on the bond may
 1218 bring suit against the principal and surety, and a copy of such
 1219 bond duly certified by the department shall be received in
 1220 evidence in the courts of this state without further proof. The
 1221 department shall furnish a certified copy of the ~~such~~ bond upon
 1222 payment to it of its lawful fee for making and certifying such
 1223 copy.

1224 Section 24. Section 527.0605, Florida Statutes, is amended
 1225 to read:

1226 527.0605 Liquefied petroleum gas bulk storage locations;
 1227 jurisdiction.—

1228 (1) The provisions of this chapter ~~shall~~ apply to liquefied
 1229 petroleum gas bulk storage locations when:

1230 (a) A single container in the bulk storage location has a

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1231 capacity of 2,000 gallons or more;

1232 (b) The aggregate container capacity of the bulk storage

1233 location is 4,000 gallons or more; or

1234 (c) A container or containers are installed for the purpose

1235 of serving the public the liquid product.

1236 ~~(2) Prior to the installation of any bulk storage~~

1237 ~~container, the licensee must submit to the department a site~~

1238 ~~plan of the facility which shows the proposed location of the~~

1239 ~~container and must obtain written approval of such location from~~

1240 ~~the department.~~

1241 ~~(3) A fee of \$200 shall be assessed for each site plan~~

1242 ~~reviewed by the division. The review shall include~~

1243 ~~preconstruction inspection of the proposed site, plan review,~~

1244 ~~and final inspection of the completed facility.~~

1245 (2)(4) No newly installed container may be placed in

1246 operation until it has been inspected and approved by the

1247 department.

1248 Section 25. Subsection (1) of section 527.065, Florida

1249 Statutes, is amended to read:

1250 527.065 Notification of accidents; leak calls.—

1251 (1) Immediately upon discovery, all liquefied petroleum gas

1252 licensees shall notify the department of any liquefied petroleum

1253 gas-related accident involving a liquefied petroleum gas

1254 licensee or customer account:

1255 (a) Which caused a death or personal injury requiring

1256 professional medical treatment;

1257 (b) Where uncontrolled ignition of liquefied petroleum gas

1258 resulted in death, personal injury, or property damage exceeding

1259 \$3,000 ~~\$1,000~~; or

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1260 (c) Which caused estimated damage to property exceeding

1261 \$3,000 ~~\$1,000~~.

1262 Section 26. Section 527.10, Florida Statutes, is amended to

1263 read:

1264 527.10 Restriction on use of unsafe container or system.—No

1265 liquefied petroleum gas shall be introduced into or removed from

1266 any container or system in this state that has been identified

1267 by the department or its duly authorized inspectors as not

1268 complying with the rules pertaining to such container or system,

1269 until such violations as specified have been satisfactorily

1270 corrected and authorization for continued service or removal

1271 granted by the department. A statement of violations of the

1272 rules that render such a system unsafe for use shall be

1273 furnished in writing by the department to the ~~ultimate~~ consumer

1274 or dealer in liquefied petroleum gas.

1275 Section 27. Subsections (3) and (17) of section 527.21,

1276 Florida Statutes, are amended to read:

1277 527.21 Definitions relating to Florida Propane Gas

1278 Education, Safety, and Research Act.—As used in ss. 527.20-

1279 527.23, the term:

1280 (3) "Dealer" means a business engaged primarily in selling

1281 propane gas and its appliances and equipment to the ~~ultimate~~

1282 consumer or to retail propane gas dispensers.

1283 (17) "Wholesaler" or "reseller" means a seller of propane

1284 gas who is not a producer and who does not sell propane gas to

1285 the ~~ultimate~~ consumer.

1286 Section 28. Paragraph (a) of subsection (2) of section

1287 527.22, Florida Statutes, is amended to read:

1288 527.22 Florida Propane Gas Education, Safety, and Research

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1289 Council established; membership; duties and responsibilities.-
 1290 (2) (a) ~~Within 90 days after the effective date of this act,~~
 1291 ~~the commissioner shall make a call to qualified industry~~
 1292 ~~organizations for nominees to the council.~~ The commissioner
 1293 shall appoint members of the council from a list of nominees
 1294 submitted by qualified industry organizations. The commissioner
 1295 may require such reports or documentation as is necessary to
 1296 document the nomination process for members of the council.
 1297 Qualified industry organizations, in making nominations, and the
 1298 commissioner, in making appointments, shall give due regard to
 1299 selecting a council that is representative of the industry and
 1300 the geographic regions of the state. Other than the public
 1301 member, council members must be full-time employees or owners of
 1302 propane gas producers or dealers doing business in this state.
 1303 Section 29. Section 531.67, Florida Statutes, is amended to
 1304 read:
 1305 531.67 Expiration of sections.—Sections 531.60, 531.61,
 1306 531.62, 531.63, 531.64, 531.65, and 531.66 shall expire July 1,
 1307 2025 ~~2020~~.
 1308 Section 30. Subsection (46) is added to section 570.07,
 1309 Florida Statutes, to read:
 1310 570.07 Department of Agriculture and Consumer Services;
 1311 functions, powers, and duties.—The department shall have and
 1312 exercise the following functions, powers, and duties:
 1313 (46) During a state of emergency declared pursuant to s.
 1314 252.36, to waive fees by emergency order for duplicate copies or
 1315 renewal of permits, licenses, certifications, or other similar
 1316 types of authorizations during a period specified by the
 1317 commissioner.

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1318 Section 31. Section 573.111, Florida Statutes, is amended
 1319 to read:
 1320 573.111 Notice of effective date of marketing order.—Before
 1321 the issuance of any marketing order, or any suspension,
 1322 amendment, or termination thereof, a notice ~~must~~ shall be posted
 1323 ~~on a public bulletin board to be maintained by the department in~~
 1324 ~~the Division of Marketing and Development of the department in~~
 1325 ~~the Nathan Mayo Building, Tallahassee, Leon County, and a copy~~
 1326 ~~of the notice shall be posted on the department website the same~~
 1327 ~~date that the notice is posted on the bulletin board. A No~~
 1328 marketing order, or any suspension, amendment, or termination
 1329 thereof, ~~may not~~ shall become effective until the ~~termination of~~
 1330 ~~a period of 5 days after from~~ the date of posting and
 1331 publication.
 1332 Section 32. Section 578.011, Florida Statutes, is amended
 1333 to read:
 1334 578.011 Definitions; Florida Seed Law.—When used in this
 1335 chapter, the term:
 1336 (1) "Advertisement" means all representations, other than
 1337 those on the label, disseminated in any manner or by any means,
 1338 relating to seed within the scope of this law.
 1339 (2) "Agricultural seed" includes the seed of grass, forage,
 1340 cereal and fiber crops, and chufas and any other seed commonly
 1341 recognized within the state as agricultural seed, lawn seed, and
 1342 combinations of such seed, and may include identified noxious
 1343 weed seed when the department determines that such seed is being
 1344 used as agricultural seed or field seed and mixtures of such
 1345 seed.
 1346 (3) "Blend" means seed consisting of more than one variety

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1347 of one kind, each present in excess of 5 percent by weight of
 1348 the whole.

1349 (4) "Buyer" means a person who purchases agricultural,
 1350 vegetable, flower, tree, or shrub seed in packaging of 1,000
 1351 seeds or more by count.

1352 (5) "Brand" means a distinguishing word, name, symbol,
 1353 number, or design used to identify seed produced, packaged,
 1354 advertised, or offered for sale by a particular person.

1355 (6)(3) "Breeder seed" means a class of certified seed
 1356 directly controlled by the originating or sponsoring plant
 1357 breeding institution or person, or designee thereof, and is the
 1358 source for the production of seed of the other classes of
 1359 certified seed that are released directly from the breeder or
 1360 experiment station that develops the seed. These seed are one
 1361 class above foundation seed.

1362 (7)(4) "Certified seed," means a class of seed which is the
 1363 progeny of breeder, foundation, or registered seed ~~"registered~~
 1364 ~~seed," and "foundation seed" mean seed that have been produced~~
 1365 ~~and labeled in accordance with the procedures and in compliance~~
 1366 ~~with the rules and regulations of any agency authorized by the~~
 1367 ~~laws of this state or the laws of another state.~~

1368 (8) "Certifying agency" means:

1369 (a) An agency authorized under the laws of a state,
 1370 territory, or possession of the United States to officially
 1371 certify seed and which has standards and procedures approved by
 1372 the United States Secretary of Agriculture to assure the genetic
 1373 purity and identity of the seed certified; or

1374 (b) An agency of a foreign country that the United States
 1375 Secretary of Agriculture has determined as adhering to

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1376 procedures and standards for seed certification comparable to
 1377 those adhered to generally by seed certifying agencies under
 1378 paragraph (a).

1379 (9) "Coated seed" means seed that has been covered by a
 1380 layer of materials that obscures the original shape and size of
 1381 the seed and substantially increases the weight of the product.
 1382 The addition of biologicals, pesticides, identifying colorants
 1383 or dyes, or other active ingredients including polymers may be
 1384 included in this process.

1385 (10)(5) "Date of test" means the month and year the
 1386 percentage of germination appearing on the label was obtained by
 1387 laboratory test.

1388 (11)(6) "Dealer" means any person who sells or offers for
 1389 sale any agricultural, vegetable, flower, ~~or forest tree, or~~
 1390 shrub seed for seeding purposes, and includes farmers who sell
 1391 cleaned, processed, packaged, and labeled seed.

1392 (12)(7) "Department" means the Department of Agriculture
 1393 and Consumer Services or its authorized representative.

1394 (13)(8) "Dormant seed" refers to viable seed, other than
 1395 hard seed, which neither germinate nor decay during the
 1396 prescribed test period and under the prescribed test conditions.

1397 (14)(9) "Flower seed" includes seed of herbaceous plants
 1398 grown for blooms, ornamental foliage, or other ornamental parts,
 1399 and commonly known and sold under the name of flower or
 1400 wildflower seed in this state.

1401 ~~(10) "Forest tree seed" includes seed of woody plants~~
 1402 ~~commonly known and sold as forest tree seed.~~

1403 (15) "Foundation seed" means a class of certified seed
 1404 which is the progeny of breeder or other foundation seed and is

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1405 produced and handled under procedures established by the
 1406 certifying agency, in accordance with this part, for producing
 1407 foundation seed, for the purpose of maintaining genetic purity
 1408 and identity.

1409 (16)-(11) "Germination" means the emergence and development
 1410 from the seed embryo of those essential structures which, for
 1411 the kind of seed in question, are indicative of the ability to
 1412 produce a normal plant under favorable conditions percentage of
 1413 seed capable of producing normal seedlings under ordinarily
 1414 favorable conditions. Broken seedlings and weak, malformed and
 1415 obviously abnormal seedlings shall not be considered to have
 1416 germinated.

1417 (17)-(12) "Hard seed" means seeds that remain hard at the
 1418 end of a prescribed test period because they have not absorbed
 1419 water due to an impermeable seed coat the percentage of seed
 1420 which because of hardness or impermeability did not absorb
 1421 moisture or germinate under prescribed tests but remain hard
 1422 during the period prescribed for germination of the kind of seed
 1423 concerned.

1424 (18)-(13) "Hybrid" means the first generation seed of a
 1425 cross produced by controlling the pollination and by combining:

- 1426 (a) Two or more inbred lines;
- 1427 (b) One inbred or a single cross with an open-pollinated
- 1428 variety; or
- 1429 (c) Two varieties or species, except open-pollinated
- 1430 varieties of corn (*Zea mays*).

1431
 1432 The second generation or subsequent generations from such
 1433 crosses may ~~shall~~ not be regarded as hybrids. Hybrid

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1434 designations shall be treated as variety names.

1435 (19)-(14) "Inert matter" means all matter that is not a full
 1436 seed includes broken seed when one-half in size or less; seed of
 1437 legumes or crucifers with the seed coats removed; undeveloped
 1438 and badly injured weed seed such as sterile dodder which, upon
 1439 visual examination, are clearly incapable of growth; empty
 1440 glumes of grasses; attached sterile glumes of grasses (which
 1441 must be removed from the fertile glumes except in Rhodes grass);
 1442 dirt, stone, chaff, nematode, fungus bodies, and any matter
 1443 other than seed.

1444 (20)-(15) "Kind" means one or more related species or
 1445 subspecies which singly or collectively is known by one common
 1446 name; e.g., corn, beans, lespedeza.

1447 (21) "Label" means the display or displays of written or
 1448 printed material upon or attached to a container of seed.

1449 (22)-(16) "Labeling" includes all labels and other written,
 1450 printed, or graphic representations, in any form, accompanying
 1451 and pertaining to any seed, whether in bulk or in containers,
 1452 and includes invoices and other bills of shipment when sold in
 1453 bulk.

1454 (23)-(17) "Lot of seed" means a definite quantity of seed
 1455 identified by a lot number or other mark identification, every
 1456 portion or bag of which is uniform within recognized tolerances
 1457 for the factors that appear in the labeling, for the factors
 1458 which appear in the labeling, within permitted tolerances.

1459 (24)-(18) "Mix," "mixed," or "mixture" means seed consisting
 1460 of more than one kind ~~or variety~~, each present in excess of 5
 1461 percent by weight of the whole.

1462 (25) "Mulch" means a protective covering of any suitable

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1463 substance placed with seed which acts to retain sufficient
 1464 moisture to support seed germination and sustain early seedling
 1465 growth and aid in the prevention of the evaporation of soil
 1466 moisture, the control of weeds, and the prevention of erosion.
 1467 (26) "Noxious weed seed" means seed in one of two classes
 1468 of seed:
 1469 (a) "Prohibited noxious weed seed" means the seed of weeds
 1470 that are highly destructive and difficult to control by good
 1471 cultural practices and the use of herbicides.
 1472 (b) "Restricted noxious weed seed" means weed seeds that
 1473 are objectionable in agricultural crops, lawns, and gardens of
 1474 this state and which can be controlled by good agricultural
 1475 practices or the use of herbicides.
 1476 (27)(19) "Origin" means the state, District of Columbia,
 1477 Puerto Rico, or possession of the United States, or the foreign
 1478 country where the seed were grown, except for native species,
 1479 where the term means the county or collection zone and the state
 1480 where the seed were grown for forest tree seed, with respect to
 1481 which the term "origin" means the county or state forest service
 1482 seed collection zone and the state where the seed were grown.
 1483 (28)(20) "Other crop seed" includes all seed of plants
 1484 grown in this state as crops, other than the kind or kind and
 1485 variety included in the pure seed, when not more than 5 percent
 1486 of the whole of a single kind or variety is present, unless
 1487 designated as weed seed.
 1488 (29) "Packet seed" means seed prepared for use in home
 1489 gardens and household plantings packaged in labeled, sealed
 1490 containers of less than 8 ounces and typically sold from seed
 1491 racks or displays in retail establishments, via the Internet, or

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1492 through mail order.
 1493 (30)(21) "Processing" means conditioning, cleaning,
 1494 scarifying, or blending to obtain uniform quality and other
 1495 operations which would change the purity or germination of the
 1496 seed and, therefore, require retesting to determine the quality
 1497 of the seed.
 1498 ~~(22) "Prohibited noxious weed seed" means the seed and~~
 1499 ~~bulbets of perennial weeds such as not only reproduce by seed~~
 1500 ~~or bulbets, but also spread by underground roots or stems and~~
 1501 ~~which, when established, are highly destructive and difficult to~~
 1502 ~~control in this state by ordinary good cultural practice.~~
 1503 (31)(23) "Pure seed" means the seed, exclusive of inert
 1504 matter, of the kind or kind and variety of seed declared on the
 1505 label or tag includes all seed of the kind or kind and variety
 1506 or strain under consideration, whether shriveled, cracked, or
 1507 otherwise injured, and pieces of broken seed larger than one-
 1508 half the original size.
 1509 (32)(24) "Record" includes the symbol identifying the seed
 1510 as to origin, amount, processing, testing, labeling, and
 1511 distribution, file sample of the seed, and any other document or
 1512 instrument pertaining to the purchase, sale, or handling of
 1513 agricultural, vegetable, flower, or forest tree, or shrub seed.
 1514 Such information includes seed samples and records of
 1515 declarations, labels, purchases, sales, conditioning, bulking,
 1516 treatment, handling, storage, analyses, tests, and examinations.
 1517 (33) "Registered seed" means a class of certified seed
 1518 which is the progeny of breeder or foundation seed and is
 1519 produced and handled under procedures established by the
 1520 certifying agency, in accordance with this part, for the purpose

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1521 of maintaining genetic purity and identity.

1522 ~~(25) "Restricted noxious weed seed" means the seed of such~~
 1523 ~~weeds as are very objectionable in fields, lawns, or gardens of~~
 1524 ~~this state, but can be controlled by good cultural practice.~~
 1525 ~~Seed of poisonous plants may be included.~~

1526 (34) "Shrub seed" means seed of a woody plant that is
 1527 smaller than a tree and has several main stems arising at or
 1528 near the ground.

1529 ~~(35)(26)~~ "Stop-sale" means any written or printed notice or
 1530 order issued by the department to the owner or custodian of any
 1531 lot of agricultural, vegetable, flower, ~~or forest tree, or shrub~~
 1532 seed in the state, directing the owner or custodian not to sell
 1533 or offer for sale seed designated by the order within the state
 1534 until the requirements of this law are complied with and a
 1535 written release has been issued; except that the seed may be
 1536 released to be sold for feed.

1537 ~~(36)(27)~~ "Treated" means that the seed has been given an
 1538 application of a material or subjected to a process designed to
 1539 control or repel disease organisms, insects, or other pests
 1540 attacking seed or seedlings grown therefrom to improve its
 1541 planting value or to serve any other purpose.

1542 (37) "Tree seed" means seed of a woody perennial plant
 1543 typically having a single stem or trunk growing to a
 1544 considerable height and bearing lateral branches at some
 1545 distance from the ground.

1546 ~~(38)(28)~~ "Type" means a group of varieties so nearly
 1547 similar that the individual varieties cannot be clearly
 1548 differentiated except under special conditions.

1549 (39)(29) "Variety" means a subdivision of a kind which is

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1550 distinct in the sense that the variety can be differentiated by
 1551 one or more identifiable morphological, physiological, or other
 1552 characteristics from all other varieties of public knowledge;
 1553 uniform in the sense that the variations in essential and
 1554 distinctive characteristics are describable; and stable in the
 1555 sense that the variety will remain unchanged in its essential
 1556 and distinctive characteristics and its uniformity when
 1557 reproduced or reconstituted characterized by growth, plant
 1558 fruit, seed, or other characteristics by which it can be
 1559 differentiated from other sorts of the same kind; e.g.,
 1560 Whatley's Prolific corn, Bountiful beans, Kobe lespedeza.

1561 ~~(40)(30)~~ "Vegetable seed" means the seed of those crops
 1562 that which are grown in gardens or on truck farms, and are
 1563 generally known and sold under the name of vegetable seed or
 1564 herb seed in this state.

1565 ~~(41)(31)~~ "Weed seed" includes the seed of all plants
 1566 generally recognized as weeds within this state, and includes
 1567 prohibited and restricted noxious weed seed, bulblets, ~~and~~
 1568 tubers, and any other vegetative propagules.

1569 Section 33. Section 578.012, Florida Statutes, is created
 1570 to read:

1571 578.012 Preemption.—

1572 (1) It is the intent of the Legislature to eliminate
 1573 duplication of regulation of seed. As such, this chapter is
 1574 intended as comprehensive and exclusive and occupies the whole
 1575 field of regulation of seed.

1576 (2) The authority to regulate seed or matters relating to
 1577 seed in this state is preempted to the state. A local government
 1578 or political subdivision of the state may not enact or enforce

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1579 an ordinance that regulates seed, including the power to assess
 1580 any penalties provided for violation of this chapter.

1581 Section 34. Section 578.08, Florida Statutes, is amended to
 1582 read:

1583 578.08 Registrations.—

1584 (1) Every person, except as provided in subsection (4) ~~and~~
 1585 ~~s. 578.14~~, before selling, distributing for sale, offering for
 1586 sale, exposing for sale, handling for sale, or soliciting orders
 1587 for the purchase of any agricultural, vegetable, flower, ~~or~~
 1588 ~~forest tree, or shrub~~ seed or mixture thereof, shall first
 1589 register with the department as a seed dealer. The application
 1590 for registration must include the name and location of each
 1591 place of business at which the seed is sold, distributed for
 1592 sale, offered for sale, exposed for sale, or handled for sale.

1593 The application must ~~for registration shall~~ be filed with the
 1594 department by using a form prescribed by the department or by
 1595 using the department's website and shall be accompanied by an
 1596 annual registration fee for each such place of business based on
 1597 the gross receipts from the sale of such seed for the last
 1598 preceding license year as follows:

1599 (a)1. Receipts of less than \$500, a fee of \$10.

1600 2. Receipts of \$500 or more but less than \$1,000, a fee of
 1601 \$25.

1602 3. Receipts of \$1,000 or more but less than \$2,500, a fee
 1603 of \$100.

1604 4. Receipts of \$2,500 or more but less than \$5,000, a fee
 1605 of \$200.

1606 5. Receipts of \$5,000 or more but less than \$10,000, a fee
 1607 of \$350.

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1608 6. Receipts of \$10,000 or more but less than \$20,000, a fee
 1609 of \$800.

1610 7. Receipts of \$20,000 or more but less than \$40,000, a fee
 1611 of \$1,000.

1612 8. Receipts of \$40,000 or more but less than \$70,000, a fee
 1613 of \$1,200.

1614 9. Receipts of \$70,000 or more but less than \$150,000, a
 1615 fee of \$1,600.

1616 10. Receipts of \$150,000 or more but less than \$400,000, a
 1617 fee of \$2,400.

1618 11. Receipts of \$400,000 or more, a fee of \$4,600.

1619 (b) For places of business not previously in operation, the
 1620 fee shall be based on anticipated receipts for the first license
 1621 year.

1622 (2) A ~~written~~ receipt from the department of the
 1623 registration and payment of the fee shall constitute a
 1624 sufficient permit for the dealer to engage in or continue in the
 1625 business of selling, distributing for sale, offering or exposing
 1626 for sale, handling for sale, or soliciting orders for the
 1627 purchase of any agricultural, vegetable, flower, ~~or forest tree,~~
 1628 or shrub seed within the state. However, the department has
 1629 ~~shall have~~ authority to suspend or revoke any permit for the
 1630 violation of any provision of this law or of any rule adopted
 1631 under authority hereof. The registration shall expire on June 30
 1632 of the next calendar year and shall be renewed on July 1 of each
 1633 year. If any person subject to the requirements of this section
 1634 fails to comply, the department may issue a stop-sale notice or
 1635 order which shall prohibit the person from selling or causing to
 1636 be sold any agricultural, vegetable, flower, ~~or forest tree,~~ or

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1637 shrub seed until the requirements of this section are met.

1638 (3) Every person selling, distributing for sale, offering
1639 for sale, exposing for sale, handling for sale, or soliciting
1640 orders for the purchase of any agricultural, vegetable, flower,
1641 ~~or forest tree, or shrub~~ seed in the state other than as
1642 provided in subsection (4) s. 578.14, shall be subject to the
1643 requirements of this section; ~~except that agricultural~~
1644 ~~experiment stations of the State University System shall not be~~
1645 ~~subject to the requirements of this section.~~

1646 (4) ~~The provisions of~~ This chapter does shall not apply to
1647 farmers who sell only uncleaned, unprocessed, unpackaged, and
1648 unlabeled seed, but shall apply to farmers who sell cleaned,
1649 processed, packaged, and labeled seed in amounts in excess of
1650 \$10,000 in any one year.

1651 (5) When packet seed is sold, offered for sale, or exposed
1652 for sale, the company who packs seed for retail sale must
1653 register and pay fees as provided under subsection (1).

1654 Section 35. Section 578.09, Florida Statutes, is amended to
1655 read:

1656 578.09 Label requirements for agricultural, vegetable,
1657 flower, tree, or shrub seeds.—Each container of agricultural,
1658 vegetable, ~~or flower, tree, or shrub~~ seed which is sold, offered
1659 for sale, exposed for sale, or distributed for sale within this
1660 state for sowing ~~or planting~~ purposes must shall bear thereon or
1661 have attached thereto, in a conspicuous place, ~~a label or labels~~
1662 ~~containing all information required under this section,~~ plainly
1663 written or printed label or tag in the English language, in
1664 Century type. All data pertaining to analysis must shall appear
1665 on a single label. Language setting forth the requirements for

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1666 filing and serving complaints as described in s. 578.26(1)(c)
1667 ~~must s. 578.26(1)(b)~~ shall be included on the analysis label or
1668 be otherwise attached to the package, except for packages
1669 containing less than 1,000 seeds by count.

1670 (1) ~~FOR TREATED SEED.~~ For all treated agricultural,
1671 vegetable, ~~or flower, tree, or shrub~~ seed ~~treated~~ as defined in
1672 this chapter:

1673 (a) A word or statement indicating that the seed has been
1674 treated ~~or description of process used.~~

1675 (b) The commonly accepted coined, chemical, or abbreviated
1676 chemical (generic) name of the applied substance or description
1677 of the process used and the words "poison treated" in red
1678 letters, in not less than 1/4 inch type.

1679 (c) If the substance in the amount present with the seed is
1680 harmful to humans or other vertebrate animals, a caution
1681 statement such as "Do not use for food, feed, or oil purposes."
1682 The caution for mercurials, Environmental Protection Agency
1683 Toxicity Category 1 as referenced in 7 C.F.R. 201.31a(c)(2), and
1684 similarly toxic substances shall be designated by a poison
1685 statement or symbol.

1686 ~~(d) Rate of application or statement "Treated at~~
1687 ~~manufacturer's recommended rate."~~

1688 ~~(d)(e)~~ If the seed is treated with an inoculant, the date
1689 beyond which the inoculant is not to be considered effective
1690 (date of expiration).

1691
1692 A label separate from other labels required by this section or
1693 other law may be used to identify seed treatments as required by
1694 this subsection.

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1695 (2) For agricultural seed, including lawn and turf grass
 1696 seed and mixtures thereof: AGRICULTURAL SEED.
 1697 (a) ~~Commonly accepted~~ The name of the kind and variety of
 1698 each agricultural seed component present in excess of 5 percent
 1699 of the whole, and the percentage by weight of each in the order
 1700 of its predominance. Where more than one component is required
 1701 to be named, the word "mixed," "mixture," or "blend" the word
 1702 "mixed" shall be shown conspicuously on the label. Hybrids must
 1703 be labeled as hybrids.
 1704 (b) Lot number or other lot identification.
 1705 (c) Net weight or seed count.
 1706 (d) Origin, if known. If the origin is ~~if~~ unknown, that
 1707 fact ~~must~~ shall be stated.
 1708 (e) Percentage by weight of all weed seed.
 1709 (f) ~~The~~ Name and number of noxious weed seed per pound, if
 1710 present per pound of each kind of restricted noxious weed seed.
 1711 (g) Percentage by weight of agricultural seed which may be
 1712 designated as other crop seed, other than those required to be
 1713 named on the label.
 1714 (h) Percentage by weight of inert matter.
 1715 (i) For each named agricultural seed, including lawn and
 1716 turf grass seed:
 1717 1. Percentage of germination, exclusive of hard or dormant
 1718 seed;
 1719 2. Percentage of hard or dormant seed, if when present, ~~if~~
 1720 desired; and
 1721 3. The calendar month and year the test was completed to
 1722 determine such percentages, provided that the germination test
 1723 must have been completed within the previous 9 months, exclusive

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1724 of the calendar month of test.
 1725 (j) Name and address of the person who labeled said seed or
 1726 who sells, distributes, offers, or exposes said seed for sale
 1727 within this state.
 1728 The sum total of the percentages listed pursuant to paragraphs
 1729 (a), (e), (g), and (h) must be equal to 100 percent.
 1730 (3) For seed that is coated:
 1731 (a) Percentage by weight of pure seed with coating material
 1732 removed. The percentage of coating material may be included with
 1733 the inert matter percentage or may be listed separately.
 1734 (b) Percentage of germination. This percentage must be
 1735 determined based on an examination of 400 coated units with or
 1736 without seed.
 1737
 1738 In addition to the requirements of this subsection, labeling of
 1739 coated seed must also comply with the requirements of any other
 1740 subsection pertaining to that type of seed. FOR VEGETABLE SEED
 1741 IN CONTAINERS OF 8 OUNCES OR MORE.
 1742 (a) ~~Name of kind and variety of seed.~~
 1743 (b) ~~Net weight or seed count.~~
 1744 (c) ~~Lot number or other lot identification.~~
 1745 (d) ~~Percentage of germination.~~
 1746 (e) ~~Calendar month and year the test was completed to~~
 1747 ~~determine such percentages.~~
 1748 (f) ~~Name and address of the person who labeled said seed or~~
 1749 ~~who sells, distributes, offers or exposes said seed for sale~~
 1750 ~~within this state.~~
 1751 (g) ~~For seed which germinate less than the standard last~~
 1752

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1753 established by the department the words "below standard," in not
 1754 less than 8-point type, must be printed or written in ink on the
 1755 face of the tag, in addition to the other information required.
 1756 ~~Provided, that no seed marked "below standard" shall be sold~~
 1757 ~~which falls more than 20 percent below the standard for such~~
 1758 ~~seed which has been established by the department, as authorized~~
 1759 ~~by this law.~~

1760 ~~(h) The name and number of restricted noxious weed seed per~~
 1761 ~~pound.~~

1762 (4) For combination mulch, seed, and fertilizer products:

1763 (a) The word "combination" followed, as appropriate, by the
 1764 words "mulch - seed - fertilizer" must appear prominently on the
 1765 principal display panel of the package.

1766 (b) If the product is an agricultural seed placed in a
 1767 germination medium, mat, tape, or other device or is mixed with
 1768 mulch or fertilizer, it must also be labeled with all of the
 1769 following:

1770 1. Product name.

1771 2. Lot number or other lot identification.

1772 3. Percentage by weight of pure seed of each kind and
 1773 variety named which may be less than 5 percent of the whole.

1774 4. Percentage by weight of other crop seed.

1775 5. Percentage by weight of inert matter.

1776 6. Percentage by weight of weed seed.

1777 7. Name and number of noxious weed seeds per pound, if
 1778 present.

1779 8. Percentage of germination, and hard or dormant seed if
 1780 appropriate, of each kind or kind and variety named. The
 1781 germination test must have been completed within the previous 12

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1782 months exclusive of the calendar month of test.

1783 9. The calendar month and year the test was completed to
 1784 determine such percentages.

1785 10. Name and address of the person who labeled the seed, or
 1786 who sells, offers, or exposes the seed for sale within the
 1787 state.

1788

1789 The sum total of the percentages listed pursuant to
 1790 subparagraphs 3., 4., 5., and 6. must be equal to 100 percent.

1791 (5) For vegetable seed in packets as prepared for use in
 1792 home gardens or household plantings or vegetable seeds in
 1793 preplanted containers, mats, tapes, or other planting devices:
 1794 ~~FOR VEGETABLE SEED IN CONTAINERS OF LESS THAN 8 OUNCES.~~

1795 (a) Name of kind and variety of seed. Hybrids must be
 1796 labeled as hybrids.

1797 (b) Lot number or other lot identification.

1798 (c) Germination test date identified in the following
 1799 manner:

1800 1. The calendar month and year the germination test was
 1801 completed and the statement "Sell by ...(month/year)...", which
 1802 may be no more than 12 months from the date of test, beginning
 1803 with the month after the test date;

1804 2. The month and year the germination test was completed,
 1805 provided that the germination test must have been completed
 1806 within the previous 12 months, exclusive of the calendar month
 1807 of test; or

1808 3. The year for which the seed was packaged for sale as
 1809 "Packed for ...(year)..." and the statement "Sell by
 1810 ...(year)..." which shall be one year after the seed was

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1811 packaged for sale.

1812 (d) (b) Name and address of the person who labeled the seed
 1813 or who sells, ~~distributes,~~ offers, or exposes said seed for sale
 1814 within this state.

1815 (e) (c) For seed which germinate less than standard last
 1816 established by the department, ~~the additional information must~~
 1817 ~~be shown:~~

1818 1. Percentage of germination, exclusive of hard or dormant
 1819 seed.

1820 2. Percentage of hard or dormant seed ~~when present,~~ if
 1821 present desired.

1822 3. ~~Calendar month and year the test was completed to~~
 1823 ~~determine such percentages.~~

1824 ~~3.4.~~ The words "Below Standard" prominently displayed in
 1825 ~~not less than 8-point type.~~

1826
 1827 (f) (d) No seed marked "below standard" ~~may~~ shall be sold
 1828 that ~~falls which fall~~ more than 20 percent below the established
 1829 standard for such seed. For seeds that do not have an
 1830 established standard, the minimum germination standard shall be
 1831 50 percent, and no such seed may be sold that is 20 percent
 1832 below this standard.

1833 (g) For seed placed in a germination medium, mat, tape, or
 1834 other device in such a way as to make it difficult to determine
 1835 the quantity of seed without removing the seeds from the medium,
 1836 mat, tape or device, a statement to indicate the minimum number
 1837 of seeds in the container.

1838 (6) For vegetable seed in containers, other than packets
 1839 prepared for use in home gardens or household plantings, and

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1840 other than preplanted containers, mats, tapes, or other planting
 1841 devices:

1842 (a) The name of each kind and variety present of any seed
 1843 in excess of 5 percent of the total weight in the container, and
 1844 the percentage by weight of each type of seed in order of its
 1845 predominance. Hybrids must be labeled as hybrids.

1846 (b) Net weight or seed count.

1847 (c) Lot number or other lot identification.

1848 (d) For each named vegetable seed:

1849 1. Percentage germination, exclusive of hard or dormant
 1850 seed;

1851 2. Percentage of hard or dormant seed, if present;

1852 3. Listed below the requirements of subparagraphs 1. and
 1853 2., the "total germination and hard or dormant seed" may be
 1854 stated as such, if desired; and

1855 4. The calendar month and year the test was completed to
 1856 determine the percentages specified in subparagraphs 1. and 2.,
 1857 provided that the germination test must have been completed
 1858 within 9 months, exclusive of the calendar month of test.

1859 (e) Name and address of the person who labeled the seed, or
 1860 who sells, offers, or exposes the seed for sale within this
 1861 state.

1862 (f) For seed which germinate less than the standard last
 1863 established by the department, the words "Below Standard"
 1864 prominently displayed.

1865 1. No seed marked "Below Standard" may be sold if the seed
 1866 is more than 20 percent below the established standard for such
 1867 seed.

1868 2. For seeds that do not have an established standard, the

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1869 minimum germination standard shall be 50 percent, and no such
 1870 seed may be sold that is 20 percent below this standard.

1871 (7)(5) For flower seed in packets prepared for use in home
 1872 gardens or household plantings or flower seed in preplanted
 1873 containers, mats, tapes, or other planting devices: ~~FOR FLOWER~~
 1874 ~~SEED IN PACKETS PREPARED FOR USE IN HOME GARDENS OR HOUSEHOLD~~
 1875 ~~PLANTINGS OR FLOWER SEED IN PREPLANTED CONTAINERS, MATS, TAPES,~~
 1876 ~~OR OTHER PLANTING DEVICES.~~

1877 (a) For all kinds of flower seed:

1878 1. The name of the kind and variety or a statement of type
 1879 and performance characteristics as prescribed in the rules and
 1880 regulations adopted ~~promulgated~~ under the provisions of this
 1881 chapter.

1882 2. Germination test date, identified in the following
 1883 manner:

1884 a. The calendar month and year the germination test was
 1885 completed and the statement "Sell by ...(month/year)...". The
 1886 sell by date must be no more than 12 months from the date of
 1887 test, beginning with the month after the test date;

1888 b. The year for which the seed was packed for sale as
 1889 "Packed for ...(year)..." and the statement "Sell by
 1890 ...(year)..." which shall be for a calendar year; or

1891 c. The calendar month and year the test was completed,
 1892 provided that the germination test must have been completed
 1893 within the previous 12 months, exclusive of the calendar month
 1894 of test.

1895 ~~2. The calendar month and year the seed was tested or the~~
 1896 ~~year for which the seed was packaged.~~

1897 3. The name and address of the person who labeled said

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1898 seed, or who sells, offers, or exposes said seed for sale within
 1899 this state.

1900 (b) For seed of those kinds for which standard testing
 1901 procedures are prescribed and which germinate less than the
 1902 germination standard last established under the provisions of
 1903 this chapter:

1904 1. The percentage of germination exclusive of hard or
 1905 dormant seed.

1906 2. Percentage of hard or dormant seed, if present.

1907 3. The words "Below Standard" prominently displayed in not
 1908 less than 8-point type.

1909 (c) For seed placed in a germination medium, mat, tape, or
 1910 other device in such a way as to make it difficult to determine
 1911 the quantity of seed without removing the seed from the medium,
 1912 mat, tape, or device, a statement to indicate the minimum number
 1913 of seed in the container.

1914 (8)(6) For flower seed in containers other than packets and
 1915 other than preplanted containers, mats, tapes, or other planting
 1916 devices and not prepared for use in home flower gardens or
 1917 household plantings: ~~FOR FLOWER SEED IN CONTAINERS OTHER THAN~~
 1918 ~~PACKETS PREPARED FOR USE IN HOME FLOWER GARDENS OR HOUSEHOLD~~
 1919 ~~PLANTINGS AND OTHER THAN PREPLANTED CONTAINERS, MATS, TAPES, OR~~
 1920 ~~OTHER PLANTING DEVICES.~~

1921 (a) The name of the kind and variety, and for wildflowers,
 1922 the genus and species and subspecies, if appropriate ~~or a~~
 1923 ~~statement of type and performance characteristics as prescribed~~
 1924 ~~in rules and regulations promulgated under the provisions of~~
 1925 ~~this chapter.~~

1926 (b) Net weight or seed count.

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1927 ~~(c)(b)~~ The Lot number or other lot identification.

1928 (d) For flower seed with a pure seed percentage of less

1929 than 90 percent:

1930 1. Percentage, by weight, of each component listed in order

1931 of its predominance.

1932 2. Percentage by weight of weed seed, if present.

1933 3. Percentage by weight of other crop seed.

1934 4. Percentage by weight of inert matter.

1935 (e) For those kinds of seed for which standard testing

1936 procedures are prescribed:

1937 1. Percentage germination exclusive of hard or dormant

1938 seed.

1939 2. Percentage of hard or dormant seed, if present.

1940 3. ~~(e)~~ The calendar month and year that the test was

1941 completed. The germination test must have been completed within

1942 the previous 9 months, exclusive of the calendar month of test.

1943 (f) For those kinds of seed for which standard testing

1944 procedures are not available, the year of production or

1945 collection ~~seed were tested or the year for which the seed were~~

1946 packaged.

1947 (g) ~~(d)~~ The name and address of the person who labeled said

1948 seed or who sells, offers, or exposes said seed for sale within

1949 this state.

1950 ~~(e) For those kinds of seed for which standard testing~~

1951 ~~procedures are prescribed:~~

1952 ~~1. The percentage germination exclusive of hard seed.~~

1953 ~~2. The percentage of hard seed, if present.~~

1954 (h) ~~(f)~~ For those seeds which germinate less than the

1955 standard last established by the department, the words "Below

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1956 Standard" prominently displayed in not less than 8 point type

1957 must be printed or written in ink on the face of the tag.

1958 (9) For tree or shrub seed:

1959 (a) Common name of the species of seed and, if appropriate,

1960 subspecies.

1961 (b) The scientific name of the genus, species, and, if

1962 appropriate, subspecies.

1963 (c) Lot number or other lot identification.

1964 (d) Net weight or seed count.

1965 (e) Origin, indicated in the following manner:

1966 1. For seed collected from a predominantly indigenous

1967 stand, the area of collection given by latitude and longitude or

1968 geographic description, or political subdivision, such as state

1969 or county.

1970 2. For seed collected from other than a predominantly

1971 indigenous stand, the area of collection and the origin of the

1972 stand or the statement "Origin not Indigenous".

1973 3. The elevation or the upper and lower limits of

1974 elevations within which the seed was collected.

1975 (f) Purity as a percentage of pure seed by weight.

1976 (g) For those species for which standard germination

1977 testing procedures are prescribed by the department:

1978 1. Percentage germination exclusive of hard or dormant

1979 seed.

1980 2. Percentage of hard or dormant seed, if present.

1981 3. The calendar month and year test was completed, provided

1982 that the germination test must have been completed within the

1983 previous 12 months, exclusive of the calendar month of test.

1984 (h) In lieu of subparagraphs (g)1., 2., and 3., the seed

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1985 may be labeled "Test is in progress; results will be supplied
 1986 upon request."

1987 (i) For those species for which standard germination
 1988 testing procedures have not been prescribed by the department,
 1989 the calendar year in which the seed was collected.

1990 (j) The name and address of the person who labeled the seed
 1991 or who sells, offers, or exposes the seed for sale within this
 1992 state.

1993 ~~(7) DEPARTMENT TO PRESCRIBE UNIFORM ANALYSIS TAG.—The~~
 1994 ~~department shall have the authority to prescribe a uniform~~
 1995 ~~analysis tag required by this section.~~

1996 The information required by this section to be placed on labels
 1997 attached to seed containers may not be modified or denied in the
 1998 labeling or on another label attached to the container. However,
 1999 labeling of seed supplied under a contractual agreement may be
 2000 by invoice accompanying the shipment or by an analysis tag
 2001 attached to the invoice if each bag or other container is
 2002 clearly identified by a lot number displayed on the bag or other
 2003 container. Each bag or container that is not so identified must
 2004 carry complete labeling.

2005 Section 36. Section 578.091, Florida Statutes, is repealed.

2006 Section 37. Subsections (2) and (3) of section 578.10,
 2007 Florida Statutes, are amended to read:

2008 578.10 Exemptions.—

2009 (2) The provisions of ss. 578.09 and 578.13 do not apply
 2010 to:

2011 (a) ~~Te~~ Seed or grain not intended for sowing or planting
 2012 purposes.
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2014 (b) ~~Te~~ Seed stored in storage in, consigned to, or being
 2015 transported to seed cleaning or processing establishments for
 2016 cleaning or processing only. Any labeling or other
 2017 representation which may be made with respect to the unclean
 2018 seed ~~is shall be~~ subject to this law.

2019 (c) Seed under development or maintained exclusively for
 2020 research purposes.

2021 (3) If seeds cannot be identified by examination thereof, a
 2022 person is not subject to the criminal penalties of this chapter
 2023 for having sold or offered for sale seeds subject to this
 2024 chapter which were incorrectly labeled or represented as to
 2025 kind, species, and, if appropriate, subspecies, variety, type,
 2026 or origin, elevation, and, if required, year of collection
 2027 unless he or she has failed to obtain an invoice, genuine
 2028 grower's or tree seed collector's declaration, or other labeling
 2029 information and to take such other precautions as may be
 2030 reasonable to ensure the identity of the seeds to be as stated
 2031 by the grower. A genuine grower's declaration of variety must
 2032 affirm that the grower holds records of proof of identity
 2033 concerning parent seed, such as invoice and labels ~~No person~~
 2034 ~~shall be subject to the criminal penalties of this law for~~
 2035 ~~having sold, offered, exposed, or distributed for sale in this~~
 2036 ~~state any agricultural, vegetable, or forest tree seed which~~
 2037 ~~were incorrectly labeled or represented as to kind and variety~~
 2038 ~~or origin, which seed cannot be identified by examination~~
 2039 ~~thereof, unless she or he has failed to obtain an invoice or~~
 2040 ~~grower's declaration giving kind and variety and origin.~~

2041 Section 38. Section 578.11, Florida Statutes, is amended to
 2042 read:

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2043 578.11 Duties, authority, and rules of the department.-
 2044 (1) The duty of administering this law and enforcing its
 2045 provisions and requirements shall be vested in the Department of
 2046 Agriculture and Consumer Services, which is hereby authorized to
 2047 employ such agents and persons as in its judgment shall be
 2048 necessary therefor. It shall be the duty of the department,
 2049 which may act through its authorized agents, to sample, inspect,
 2050 make analyses of, and test agricultural, vegetable, flower, ~~or~~
 2051 ~~forest tree, or shrub~~ seed transported, sold, offered or exposed
 2052 for sale, or distributed within this state for sowing or
 2053 planting purposes, at such time and place and to such extent as
 2054 it may deem necessary to determine whether said agricultural,
 2055 vegetable, flower, ~~or forest tree, or shrub~~ seed are in
 2056 compliance with the provisions of this law, and to notify
 2057 promptly the person who transported, distributed, sold, offered
 2058 or exposed the seed for sale, of any violation.

2059 (2) The department is authorized to:

2060 (a) ~~To~~ Enforce this ~~chapter act~~ and prescribe the methods
 2061 of sampling, inspecting, testing, and examining agricultural,
 2062 vegetable, flower, ~~or forest tree, or shrub~~ seed.

2063 (b) ~~To~~ Establish standards and tolerances to be followed in
 2064 the administration of this law, which shall be in general accord
 2065 with officially prescribed practices in interstate commerce.

2066 (c) ~~To~~ Prescribe uniform labels.

2067 (d) ~~To~~ Adopt prohibited and restricted noxious weed seed
 2068 lists.

2069 (e) ~~To~~ Prescribe limitations for each restricted noxious
 2070 weed to be used in enforcement of this ~~chapter act~~ and to add or
 2071 subtract therefrom from time to time as the need may arise.

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2072 (f) ~~To~~ Make commercial tests of seed and to fix and collect
 2073 charges for such tests.

2074 (g) ~~To~~ List the kinds of flower, and forest tree, and shrub
 2075 seed subject to this law.

2076 (h) ~~To~~ Analyze samples, as requested by a consumer. The
 2077 department shall establish, by rule, a fee schedule for
 2078 analyzing samples at the request of a consumer. The fees shall
 2079 be sufficient to cover the costs to the department for taking
 2080 the samples and performing the analysis, not to exceed \$150 per
 2081 sample.

2082 (i) ~~To~~ Adopt rules pursuant to ss. 120.536(1) and 120.54 to
 2083 implement ~~the provisions of this chapter act~~.

2084 (j) ~~To~~ Establish, by rule, requirements governing aircraft
 2085 used for the aerial application of seed, including requirements
 2086 for recordkeeping, annual aircraft registration, secure storage
 2087 when not in use, area-of-application information, and reporting
 2088 any sale, lease, purchase, rental, or transfer of such aircraft
 2089 to another person.

2090 (3) For the purpose of carrying out ~~the provisions of~~ this
 2091 law, the department, through its authorized agents, is
 2092 authorized to:

2093 (a) ~~To~~ Enter upon any public or private premises, where
 2094 agricultural, vegetable, flower, ~~or forest tree, or shrub~~ seed
 2095 is sold, offered, exposed, or distributed for sale during
 2096 regular business hours, in order to have access to seed subject
 2097 to this law and the rules and regulations hereunder.

2098 (b) ~~To~~ Issue and enforce a stop-sale notice or order to the
 2099 owner or custodian of any lot of agricultural, vegetable,
 2100 flower, ~~or forest tree, or shrub~~ seed, which the department

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2101 finds or has good reason to believe is in violation of any
 2102 provisions of this law, which shall prohibit further sale,
 2103 barter, exchange, or distribution of such seed until the
 2104 department is satisfied that the law has been complied with and
 2105 has issued a written release or notice to the owner or custodian
 2106 of such seed. After a stop-sale notice or order has been issued
 2107 against or attached to any lot of seed and the owner or
 2108 custodian of such seed has received confirmation that the seed
 2109 does not comply with this law, she or he has ~~shall have~~ 15 days
 2110 beyond the normal test period within which to comply with the
 2111 law and obtain a written release of the seed. ~~The provisions of~~
 2112 This paragraph may ~~shall~~ not be construed as limiting the right
 2113 of the department to proceed as authorized by other sections of
 2114 this law.

2115 (c) ~~To~~ Establish and maintain a seed laboratory, employ
 2116 seed analysts and other personnel, and incur such other expenses
 2117 as may be necessary to comply with these provisions.

2118 Section 39. Section 578.12, Florida Statutes, is amended to
 2119 read:

2120 578.12 Stop-sale, stop-use, removal, or hold orders.—When
 2121 agricultural, vegetable, flower, ~~or forest tree, or shrub~~ seed
 2122 is being offered or exposed for sale or held in violation of any
 2123 of the provisions of this chapter, the department, through its
 2124 authorized representative, may issue and enforce a stop-sale,
 2125 stop-use, removal, or hold order to the owner or custodian of
 2126 said seed ordering it to be held at a designated place until the
 2127 law has been complied with and said seed is released in writing
 2128 by the department or its authorized representative. If seed is
 2129 not brought into compliance with this law it shall be destroyed

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2130 within 30 days or disposed of by the department in such a manner
 2131 as it shall by regulation prescribe.

2132 Section 40. Section 578.13, Florida Statutes, is amended to
 2133 read:

2134 578.13 Prohibitions.—

2135 (1) It shall be unlawful for any person to sell, distribute
 2136 for sale, offer for sale, expose for sale, handle for sale, or
 2137 solicit orders for the purchase of any agricultural, vegetable,
 2138 flower, ~~or forest tree, or shrub,~~ seed within this state:

2139 (a) Unless the test to determine the percentage of
 2140 germination required by s. 578.09 has ~~shall have~~ been completed
 2141 ~~within a period of 7 months, exclusive of the calendar month in~~
 2142 ~~which the test was completed,~~ immediately prior to sale,
 2143 exposure for sale, offering for sale, or transportation, except
 2144 for a germination test for seed in hermetically sealed
 2145 containers which is provided for in s. 578.092 ~~s. 578.29~~.

2146 (b) Not labeled in accordance with ~~the provisions of~~ this
 2147 law, or having false or misleading labeling.

2148 (c) Pertaining to which there has been a false or
 2149 misleading advertisement.

2150 (d) Containing noxious weed seeds subject to tolerances and
 2151 methods of determination prescribed in the rules and regulations
 2152 under this law.

2153 (e) Unless a seed license has been obtained in accordance
 2154 with ~~the provisions of~~ this law.

2155 (f) Unless such seed conforms to the definition of a "lot
 2156 ~~of seed.~~"

2157 (2) It shall be unlawful for a any person within this state
 2158 to:

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2159 (a) ~~Te~~ Detach, deface, destroy, or use a second time any
 2160 label or tag provided for in this law or in the rules and
 2161 regulations made and promulgated hereunder or to alter or
 2162 substitute seed in a manner that may defeat the purpose of this
 2163 law.

2164 (b) ~~Te~~ Disseminate any false or misleading advertisement
 2165 concerning agricultural, vegetable, flower, ~~or forest tree~~ ,or
 2166 shrub seed in any manner or by any means.

2167 (c) ~~Te~~ Hinder or obstruct in any way any authorized person
 2168 in the performance of her or his duties under this law.

2169 (d) ~~Te~~ Fail to comply with a stop-sale order or to move,
 2170 handle, or dispose of any lot of seed, or tags attached to such
 2171 seed, held under a "stop-sale" order, except with express
 2172 permission of the department and for the purpose specified by
 2173 the department or seizure order.

2174 (e) Label, advertise, or otherwise represent seed subject
 2175 to this chapter to be certified seed or any class thereof,
 2176 including classes such as "registered seed," "foundation seed,"
 2177 "breeder seed" or similar representations, unless:

2178 1. A seed certifying agency determines that such seed
 2179 conformed to standards of purity and identify as to the kind,
 2180 variety, or species and, if appropriate, subspecies and the seed
 2181 certifying agency also determines that tree or shrub seed was
 2182 found to be of the origin and elevation claimed, in compliance
 2183 with the rules and regulations of such agency pertaining to such
 2184 seed; and

2185 2. The seed bears an official label issued for such seed by
 2186 a seed certifying agency certifying that the seed is of a
 2187 specified class and specified to the kind, variety, or species

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2188 and, if appropriate, subspecies.

2189 (f) Label, by variety name, seed not certified by an
 2190 official seed-certifying agency when it is a variety for which a
 2191 certificate of plant variety protection under the United States
 2192 Plant Variety Protection Act, 7 U.S.C. 2321 et. seq., specifies
 2193 sale only as a class of certified seed, except that seed from a
 2194 certified lot may be labeled as to variety name when used in a
 2195 mixture by, or with the written approval of, the owner of the
 2196 variety. ~~To sell, distribute for sale, offer for sale, expose~~
 2197 for sale, handle for sale, or solicit orders for the purchase of
 2198 any agricultural, vegetable, flower, or forest tree seed labeled
 2199 "certified seed," "registered seed," "foundation seed," "breeder
 2200 seed," or similar terms, unless it has been produced and labeled
 2201 under seal in compliance with the rules and regulations of any
 2202 agency authorized by law.

2203 (g) ~~(f)~~ ~~Te~~ Fail to keep a complete record, including a file
 2204 sample which shall be retained for 1 year after seed is sold, of
 2205 each lot of seed and to make available for inspection such
 2206 records to the department or its duly authorized agents.

2207 (h) ~~(g)~~ ~~Te~~ Use the name of the Department of Agriculture and
 2208 Consumer Services or Florida State Seed Laboratory in connection
 2209 with analysis tag, labeling advertisement, or sale of any seed
 2210 in any manner whatsoever.

2211 Section 41. Section 578.14, Florida Statutes, is repealed.

2212 Section 42. Subsection (1) of section 578.181, Florida
 2213 Statutes, is amended to read:

2214 578.181 Penalties; administrative fine.—

2215 (1) The department may enter an order imposing one or more
 2216 of the following penalties against a person who violates this

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2217 chapter or the rules adopted under this chapter or who impedes,
 2218 obstructs, ~~or hinders, or otherwise attempts to prevent~~ the
 2219 department from performing its duty in connection with
 2220 ~~performing its duties under~~ this chapter:

2221 (a) For a minor violation, issuance of a warning letter.

2222 (b) For violations other than a minor violation:

2223 1. Imposition of an administrative fine in the Class I
 2224 category pursuant to s. 570.971 for each occurrence ~~after the~~
 2225 ~~issuance of a warning letter.~~

2226 2. ~~(e)~~ Revocation or suspension of the registration as a
 2227 seed dealer.

2228 Section 43. Section 578.23, Florida Statutes, is amended to
 2229 read:

2230 578.23 ~~Dealers'~~ Records to be kept available. ~~Each person~~
 2231 who allows his or her name or brand to appear on the label as
 2232 handling agricultural, vegetable, flower, tree, or shrub seeds
 2233 subject to this chapter must keep, for 2 years, complete records
 2234 of each lot of agricultural, vegetable, flower, tree, or shrub
 2235 seed handled, and keep for 1 year after final disposition a file
 2236 sample of each lot of seed. All such records and samples
 2237 pertaining to the shipment or shipments involved must be
 2238 accessible for inspection by the department or its authorized
 2239 representative during normal business hours ~~Every seed dealer~~
 2240 ~~shall make and keep for a period of 3 years satisfactory records~~
 2241 ~~of all agricultural, vegetable, flower, or forest tree seed~~
 2242 ~~bought or handled to be sold, which records shall at all times~~
 2243 ~~be made readily available for inspection, examination, or audit~~
 2244 ~~by the department. Such records shall also be maintained by~~
 2245 ~~persons who purchase seed for production of plants for resale.~~

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2246 Section 44. Section 578.26, Florida Statutes, is amended to
 2247 read:

2248 578.26 Complaint, investigation, hearings, findings, and
 2249 recommendation prerequisite to legal action.-

2250 (1) (a) When any buyer farmer is damaged by the failure of
 2251 agricultural, vegetable, flower, ~~or forest tree, or shrub seed~~
 2252 planted in this state to produce or perform as represented by
 2253 the labeling of such label attached to the seed as required by
 2254 s. 578.09, as a prerequisite to her or his right to maintain a
 2255 legal action against the dealer from whom the seed was
 2256 purchased, the buyer must farmer shall make a sworn complaint
 2257 against the dealer alleging damages sustained. The complaint
 2258 shall be filed with the department, and a copy of the complaint
 2259 shall be served by the department on the dealer by certified
 2260 mail, within such time as to permit inspection of the property,
 2261 crops, plants, or trees referenced in, or related to, the
 2262 buyer's complaint by the seed investigation and conciliation
 2263 council or its representatives and by the dealer from whom the
 2264 seed was purchased.

2265 (b) For types of claims specified in paragraph (a), the
 2266 buyer may not commence legal proceedings against the dealer or
 2267 assert such a claim as a counterclaim or defense in any action
 2268 brought by the dealer until the findings and recommendations of
 2269 the seed investigation and conciliation council are transmitted
 2270 to the complainant and the dealer.

2271 (c) ~~(b)~~ Language setting forth the requirement for filing
 2272 and serving the complaint shall be legibly typed or printed on
 2273 the analysis label or be attached to the package containing the
 2274 seed at the time of purchase by the buyer farmer.

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2275 ~~(d)(e)~~ A nonrefundable filing fee of \$100 shall be paid to
 2276 the department with each complaint filed. However, the
 2277 complainant may recover the filing fee cost from the dealer upon
 2278 the recommendation of the seed investigation and conciliation
 2279 council.

2280 (2) Within 15 days after receipt of a copy of the
 2281 complaint, the dealer shall file with the department her or his
 2282 answer to the complaint and serve a copy of the answer on the
 2283 buyer farmer by certified mail. ~~Upon receipt of the findings and~~
 2284 ~~recommendation of the arbitration council, the department shall~~
 2285 ~~transmit them to the farmer and to the dealer by certified mail.~~

2286 (3) The department shall refer the complaint and the answer
 2287 thereto to the seed investigation and conciliation council
 2288 provided in s. 578.27 for investigation, informal hearing,
 2289 findings, and recommendation on the matters complained of.

2290 (a) Each party must ~~shall~~ be allowed to present its side of
 2291 the dispute at an informal hearing before the seed investigation
 2292 and conciliation council. Attorneys may be present at the
 2293 hearing to confer with their clients. However, no attorney may
 2294 participate directly in the proceeding.

2295 (b) Hearings, including the deliberations of the seed
 2296 investigation and conciliation council, must ~~shall~~ be open to
 2297 the public.

2298 (c) Within 30 days after completion of a hearing, the seed
 2299 investigation and conciliation council shall transmit its
 2300 findings and recommendations to the department. Upon receipt of
 2301 the findings and recommendation of the seed investigation and
 2302 conciliation council, the department shall transmit them to the
 2303 buyer farmer and to the dealer by certified mail.

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2304 (4) The department shall provide administrative support for
 2305 the seed investigation and conciliation council and shall mail a
 2306 copy of the council's procedures to each party upon receipt of a
 2307 complaint by the department.

2308 Section 45. Subsections (1), (2), and (4) of section
 2309 578.27, Florida Statutes, are amended to read:

2310 578.27 Seed investigation and conciliation council;
 2311 composition; purpose; meetings; duties; expenses.—

2312 (1) The Commissioner of Agriculture shall appoint a seed
 2313 investigation and conciliation council composed of seven members
 2314 ~~and seven alternate members~~, one member ~~and one alternate~~ to be
 2315 appointed upon the recommendation of each of the following: the
 2316 deans of extension and research, Institute of Food and
 2317 Agricultural Sciences, University of Florida; president of the
 2318 Florida Seed Seedsmen and Garden Supply Association; president
 2319 of the Florida Farm Bureau Federation; and the president of the
 2320 Florida Fruit and Vegetable Association. The Commissioner of
 2321 Agriculture shall appoint a representative ~~and an alternate~~ from
 2322 the agriculture industry at large and from the Department of
 2323 Agriculture and Consumer Services. Each member shall be
 2324 appointed for a term of 4 years or less and shall serve until
 2325 his or her successor is appointed ~~Initially, three members and~~
 2326 ~~their alternates shall be appointed for 4-year terms and four~~
 2327 ~~members and their alternates shall be appointed for 2-year~~
 2328 ~~terms. Thereafter, members and alternates shall be appointed for~~
 2329 ~~4-year terms. Each alternate member shall serve only in the~~
 2330 ~~absence of the member for whom she or he is an alternate. A~~
 2331 vacancy shall be filled for the remainder of the unexpired term
 2332 in the same manner as the original appointment. The council

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2333 shall annually elect a chair from its membership. It shall be
 2334 the duty of the chair to conduct all meetings and deliberations
 2335 held by the council and to direct all other activities of the
 2336 council. The department representative shall serve as secretary
 2337 of the council. It shall be the duty of the secretary to keep
 2338 accurate and correct records on all meetings and deliberations
 2339 and perform other duties for the council as directed by the
 2340 chair.

2341 (2) The purpose of the seed investigation and conciliation
 2342 council is to assist buyers ~~farmers~~ and ~~agricultural~~ seed
 2343 dealers in determining the validity of seed complaints made by
 2344 buyers ~~farmers~~ against dealers and recommend a settlement, when
 2345 appropriate, cost damages resulting from the alleged failure of
 2346 the seed to produce or perform as represented by the label of
 2347 such on the seed package.

2348 (4) (a) When the department refers to the seed investigation
 2349 and conciliation council any complaint made by a buyer ~~farmer~~
 2350 against a dealer, the said council must shall make a full and
 2351 complete investigation of the matters complained of and at the
 2352 conclusion of the said investigation must shall report its
 2353 findings and make its recommendation ~~of cost damages~~ and file
 2354 same with the department.

2355 (b) In conducting its investigation, the seed investigation
 2356 and conciliation council or any representative, member, or
 2357 members thereof are authorized to examine the buyer's property,
 2358 crops, plants, or trees referenced in or relating to the
 2359 complaint ~~farmer on her or his farming operation of which she or~~
 2360 ~~he complains~~ and the dealer on her or his packaging, labeling,
 2361 and selling operation of the seed alleged to be faulty; to grow

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2362 to production a representative sample of the alleged faulty seed
 2363 through the facilities of the state, under the supervision of
 2364 the department when such action is deemed to be necessary; to
 2365 hold informal hearings at a time and place directed by the
 2366 department or by the chair of the council upon reasonable notice
 2367 to the buyer ~~farmer~~ and the dealer.

2368 (c) Any investigation made by less than the whole
 2369 membership of the council must shall be by authority of a
 2370 written directive by the department or by the chair, and such
 2371 investigation must shall be summarized in writing and considered
 2372 by the council in reporting its findings and making its
 2373 recommendation.

2374 Section 46. Section 578.28, Florida Statutes, is renumbered
 2375 as section 578.092, Florida Statutes, and amended to read:

2376 578.092 ~~578.28~~ Seed in hermetically sealed containers.—The
 2377 period of validity of germination tests is extended to the
 2378 following periods for seed packaged in hermetically sealed
 2379 containers, under conditions and label requirements set forth in
 2380 this section:

2381 (1) GERMINATION TESTS.—The germination test for
 2382 agricultural and vegetable seed must shall have been completed
 2383 within the following periods, exclusive of the calendar month in
 2384 which the test was completed, immediately prior to shipment,
 2385 delivery, transportation, or sale:

2386 (a) In the case of agricultural or vegetable seed shipped,
 2387 delivered, transported, or sold to a dealer for resale, 18
 2388 months;

2389 (b) In the case of agricultural or vegetable seed for sale
 2390 or sold at retail, 24 months.

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2391 (2) CONDITIONS OF PACKAGING.—The following conditions are
2392 considered as minimum:

2393 (a) *Hermetically sealed packages or containers.*—A
2394 container, to be acceptable under the provisions of this
2395 section, shall not allow water vapor penetration through any
2396 wall, including the wall seals, greater than 0.05 gram of water
2397 per 24 hours per 100 square inches of surface at 100 °F. with a
2398 relative humidity on one side of 90 percent and on the other of
2399 0 percent. Water vapor penetration (WVP) is measured by the
2400 standards of the National Institute of Standards and Technology
2401 as: gm H₂O/24 hr./100 sq. in./100 °F/90 percent RH V. 0 percent
2402 RH.

2403 (b) *Moisture of seed packaged.*—The moisture of agricultural
2404 or vegetable seed subject to the provisions of this section
2405 shall be established by rule of the department.

2406 (3) LABELING REQUIRED.—In addition to the labeling required
2407 by s. 578.09, seed packaged under the provisions of this section
2408 shall be labeled with the following information:

2409 (a) Seed has been preconditioned as to moisture content.

2410 (b) Container is hermetically sealed.

2411 (c) "Germination test valid until (month, year)" may be
2412 used. (Not to exceed 24 months from date of test).

2413 Section 47. Section 578.29, Florida Statutes, is created to
2414 read:

2415 578.29 Prohibited noxious weed seed.—Seeds meeting the
2416 definition of prohibited noxious weed seed under s. 578.011, may
2417 not be present in agricultural, vegetable, flower, tree, or
2418 shrub seed offered or exposed for sale in this state.

2419 Section 48. Subsection (1) of section 590.02, Florida

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2420 Statutes, is amended to read:

2421 590.02 Florida Forest Service; powers, authority, and
2422 duties; liability; building structures; Withlacoochee Training
2423 Center.—

2424 (1) The Florida Forest Service has the following powers,
2425 authority, and duties to:

2426 (a) ~~Te~~ Enforce the provisions of this chapter;

2427 (b) ~~Te~~ Prevent, detect, and suppress wildfires wherever
2428 they may occur on public or private land in this state and to do
2429 all things necessary in the exercise of such powers, authority,
2430 and duties;

2431 (c) ~~Te~~ Provide firefighting crews, who shall be under the
2432 control and direction of the Florida Forest Service and its
2433 designated agents;

2434 (d) ~~Te~~ Appoint center managers, forest area supervisors,
2435 forestry program administrators, a forest protection bureau
2436 chief, a forest protection assistant bureau chief, a field
2437 operations bureau chief, deputy chiefs of field operations,
2438 district managers, forest operations administrators, senior
2439 forest rangers, investigators, forest rangers, firefighter
2440 rotorcraft pilots, and other employees who may, at the Florida
2441 Forest Service's discretion, be certified as forestry
2442 firefighters pursuant to s. 633.408(8). Other law
2443 notwithstanding, center managers, district managers, forest
2444 protection assistant bureau chief, and deputy chiefs of field
2445 operations ~~shall have~~ Selected Exempt Service status in the
2446 state personnel designation;

2447 (e) ~~Te~~ Develop a training curriculum for forestry
2448 firefighters which must contain the basic volunteer structural

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2449 fire training course approved by the Florida State Fire College
 2450 of the Division of State Fire Marshal and a minimum of 250 hours
 2451 of wildfire training;

2452 (f) Pay the cost of the initial commercial driver license
 2453 examination fee for those employees whose position requires them
 2454 to operate equipment requiring a license. This paragraph is
 2455 intended to be an authorization to the department to pay such
 2456 costs, not an obligation;

2457 ~~(f) To make rules to accomplish the purposes of this~~
 2458 ~~chapter;~~

2459 (g) ~~Provide~~ Provide fire management services and emergency
 2460 response assistance and to set and charge reasonable fees for
 2461 performance of those services. Moneys collected from such fees
 2462 shall be deposited into the Incidental Trust Fund of the Florida
 2463 Forest Service;

2464 (h) ~~Require~~ Require all state, regional, and local government
 2465 agencies operating aircraft in the vicinity of an ongoing
 2466 wildfire to operate in compliance with the applicable state
 2467 Wildfire Aviation Plan; ~~and~~

2468 (i) ~~Authorize~~ Authorize broadcast burning, prescribed burning,
 2469 pile burning, and land clearing debris burning to carry out the
 2470 duties of this chapter and the rules adopted thereunder; ~~and~~

2471 (j) Make rules to accomplish the purposes of this chapter.

2472 Section 49. Paragraph (c) of subsection (6) and subsection
 2473 (9) of section 790.06, Florida Statutes, are amended to read:
 2474 790.06 License to carry concealed weapon or firearm.—

2475 (6)

2476 (c) The Department of Agriculture and Consumer Services
 2477 shall, within 90 days after the date of receipt of the items

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2478 listed in subsection (5):

2479 1. Issue the license; or

2480 2. Deny the application based solely on the ground that the
 2481 applicant fails to qualify under the criteria listed in
 2482 subsection (2) or subsection (3). If the Department of
 2483 Agriculture and Consumer Services denies the application, it
 2484 shall notify the applicant in writing, stating the ground for
 2485 denial and informing the applicant of any right to a hearing
 2486 pursuant to chapter 120.

2487 3. In the event the department receives incomplete criminal
 2488 history information or with no final disposition on a crime
 2489 which may disqualify the applicant, the Department of
 2490 Agriculture and Consumer Services must expedite efforts to
 2491 acquire the final disposition or proof of restoration of civil
 2492 and firearm rights, or confirmation that clarifying records are
 2493 not available from the jurisdiction where the criminal history
 2494 originated. Ninety days after the date of receipt of the
 2495 completed application, if the department has not acquired final
 2496 disposition or proof of restoration of civil and firearm rights,
 2497 or confirmation that clarifying records are not available from
 2498 the jurisdiction where the criminal history originated, the
 2499 department shall issue the license in the absence of
 2500 disqualifying information. However, such license must be
 2501 immediately suspended and revoked upon receipt of disqualifying
 2502 information pursuant to this section time limitation prescribed
 2503 by this paragraph may be suspended until receipt of the final
 2504 disposition or proof of restoration of civil and firearm rights.

2505 (9) In the event that a concealed weapon or firearm license
 2506 is lost or destroyed, the license shall be automatically

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2507 invalid, and the person to whom the same was issued may, upon
 2508 payment of \$15 to the Department of Agriculture and Consumer
 2509 Services, obtain a duplicate, or substitute thereof, upon
 2510 furnishing a ~~notarized~~ statement under oath to the Department of
 2511 Agriculture and Consumer Services that such license has been
 2512 lost or destroyed.

2513 Section 50. Subsections (5) and (8) of section 790.0625,
 2514 Florida Statutes, are amended, and sections (9) and (10) are
 2515 added to that section, to read:

2516 790.0625 Appointment of tax collectors to accept
 2517 applications for a concealed weapon or firearm license; fees;
 2518 penalties.—

2519 (5) A tax collector appointed under this section shall
 2520 collect and remit weekly to the department the license fees
 2521 pursuant to s. 790.06 for deposit in the Division of Licensing
 2522 Trust Fund and may collect and retain a convenience fees for the
 2523 following: fee of \$22 for each new application and \$12 for each
 2524 renewal application and shall remit weekly to the department the
 2525 license fees pursuant to s. 790.06 for deposit in the Division
 2526 of Licensing Trust Fund.

2527 (a) Twenty-two dollars for each new application.

2528 (b) Twelve dollars for each renewal application.

2529 (c) Twelve dollars for each duplicate license issued to
 2530 replace a lost or destroyed license.

2531 (d) Six dollars for fingerprinting.

2532 (e) Six dollars for photographing services associated with
 2533 the completion of an application submitted online.

2534 (8) Upon receipt of a completed renewal application, a new
 2535 color photograph, and ~~appropriate~~ payment of required fees, a

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2536 tax collector authorized to accept renewal applications for
 2537 concealed weapon or firearm licenses under this section may,
 2538 upon approval and confirmation of license issuance by the
 2539 department, print and deliver a concealed weapon or firearm
 2540 license to a licensee renewing his or her license at the tax
 2541 collector's office.

2542 (9) Upon receipt of a statement under oath to the
 2543 department, and the payment of required fees, a tax collector
 2544 authorized to accept applications for concealed weapon or
 2545 firearm licenses under this section may, upon approval and
 2546 confirmation from the department that a license is in good
 2547 standing, print and deliver a concealed weapon or firearm
 2548 license to a licensee whose license has been lost or destroyed.

2549 (10) Tax collectors authorized to accept applications for
 2550 concealed weapon or firearm licenses under this section may
 2551 provide fingerprinting and photographing services to aid
 2552 concealed weapon and firearm applicants and licensees with
 2553 online initial and renewal applications.

2554 Section 51. Section 817.417, Florida Statutes, is created
 2555 to read:

2556 817.417 Government Impostor and Deceptive Advertisement
 2557 Act.—

2558 (1) SHORT TITLE.—This act may be cited as the "Government
 2559 Impostor and Deceptive Advertisements Act."

2560 (2) DEFINITIONS.—As used in this section:

2561 (a) "Advertisement" means any representation disseminated
 2562 in any manner or by any means, other than by a label, for the
 2563 purpose of inducing, or which is reasonably likely to induce,
 2564 directly or indirectly, a purchase.

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2565 (b) "Department" means the Department of Agriculture and
 2566 Consumer Services.

2567 (c) "Governmental entity" means a political subdivision or
 2568 agency of any state, possession, or territory of the United
 2569 States, or the Federal Government, including, but not limited
 2570 to, a board, a department, an office, an agency, a military
 2571 veteran entity, or a military or veteran service organization by
 2572 whatever name known.

2573 (3) DUTIES AND RESPONSIBILITIES.—The department has the
 2574 duty and responsibility to:

2575 (a) Investigate potential violations of this section.

2576 (b) Request and obtain information regarding potential
 2577 violations of this section.

2578 (c) Seek compliance with this section.

2579 (d) Enforce this section.

2580 (e) Adopt rules necessary to administer this section.

2581 (4) VIOLATIONS.—Each occurrence of the following acts or
 2582 practices constitute a violation of this section:

2583 (a) Disseminating an advertisement that:

2584 1. Simulates a summons, complaint, jury notice, or other
 2585 court, judicial, or administrative process of any kind.

2586 2. Represents, implies, or otherwise engages in an action
 2587 that may reasonably cause confusion that the person using or
 2588 employing the advertisement is a part of or associated with a
 2589 governmental entity, when such is not true.

2590 (b) Representing, implying, or otherwise reasonably causing
 2591 confusion that goods, services, an advertisement, or an offer
 2592 was disseminated by or has been approved, authorized, or
 2593 endorsed, in whole or in part, by a governmental entity, when

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2594 such is not true.

2595 (c) Using or employing language, symbols, logos,
 2596 representations, statements, titles, names, seals, emblems,
 2597 insignia, trade or brand names, business or control tracking
 2598 numbers, website or e-mail addresses, or any other term, symbol,
 2599 or other content that represents or implies or otherwise
 2600 reasonably causes confusion that goods, services, an
 2601 advertisement, or an offer is from a governmental entity, when
 2602 such is not true.

2603 (d) Failing to provide the disclosures as required in
 2604 subsections (5) or (6).

2605 (e) Failing to timely submit to the department written
 2606 responses and answers to its inquiries concerning alleged
 2607 practices inconsistent with, or in violation of, this section.
 2608 Responses or answers may include, but are not limited to, copies
 2609 of customer lists, invoices, receipts, or other business
 2610 records.

2611 (5) NOTICE REGARDING DOCUMENT AVAILABILITY.—

2612 (a) Any person offering documents that are available free
 2613 of charge or at a lesser price from a governmental entity must
 2614 provide the notice specified in paragraph (b) on advertisements
 2615 as follows:

2616 1. For printed or written advertisements, notice must be in
 2617 the same font size, color, style, and visibility as primarily
 2618 used elsewhere on the page or envelope and displayed as follows:

2619 a. On the outside front of any mailing envelope used in
 2620 disseminating the advertisement.

2621 b. At the top of each printed or written page used in the
 2622 advertisement.

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2623 2. For electronic advertisements, notice must be in the
 2624 same font size, color, style, and visibility as the body text
 2625 primarily used in the e-mail or web page and displayed as
 2626 follows:

2627 a. At the beginning of each e-mail message, before any
 2628 offer or other substantive information.

2629 b. In a prominent location on each web page, such as the
 2630 top of each page or immediately following the offer or other
 2631 substantive information on the page.

2632 (b) Advertisements specified in paragraph (a) must include
 2633 the following disclosure:

2634 "IMPORTANT NOTICE:
 2635 The documents offered by this advertisement are available to
 2636 Florida consumers free of charge or for a lesser price from
 2637 ...(insert name, telephone number, and mailing address of the
 2638 applicable governmental entity).... You are NOT required to
 2639 purchase anything from this company and the company is NOT
 2640 affiliated, endorsed, or approved by any governmental entity.
 2641 The item offered in this advertisement has NOT been approved or
 2642 endorsed by any governmental agency, and this offer is NOT being
 2643 made by an agency of the government."

2644 (6) NOTICE REGARDING CLAIM OF LEGAL COMPLIANCE.-
 2645 (a) Any person disseminating an advertisement that includes
 2646 a form or template to be completed by the consumer with the
 2647 claim that such form or template will assist the consumer in
 2648 complying with a legal filing or record retention requirement
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2652 must provide the notice specified in paragraph (b) on
 2653 advertisements as follows:

2654 1. For printed or written advertisements, the notice must
 2655 be in the same font size, color, style, and visibility as
 2656 primarily used elsewhere on the page or envelope and displayed
 2657 as follows:

2658 a. On the outside front of any mailing envelope used in
 2659 disseminating the advertisement.

2660 b. At the top of each printed or written page used in the
 2661 advertisement.

2662 2. For electronic advertisements, the notice must be in the
 2663 same font size, color, style, and visibility as the body text
 2664 primarily used in the e-mail or web page and displayed as
 2665 follows:

2666 a. At the beginning of each e-mail message, before any
 2667 offer or other substantive information.

2668 b. In a prominent location on each web page, such as the
 2669 top of each page or immediately following the offer or other
 2670 substantive information on the page.

2671 (b) Advertisements specified in paragraph (a) must include
 2672 the following disclosure:

2673 "IMPORTANT NOTICE:
 2674 You are NOT required to purchase anything from this company and
 2675 the company is NOT affiliated, endorsed, or approved by any
 2676 governmental entity. The item offered in this advertisement has
 2677 NOT been approved or endorsed by any governmental agency, and
 2678 this offer is NOT being made by an agency of the government."
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2709(7) PENALTIES.—

(a) Any person substantially affected by a violation of this section may bring an action in a court of proper jurisdiction to enforce the provisions of this section. A person prevailing in a civil action for a violation of this section shall be awarded costs, including reasonable attorney fees, and may be awarded punitive damages in addition to actual damages proven. This provision is in addition to any other remedies prescribed by law.

(b) The department may bring one or more of the following for a violation of this section:

1. A civil action in circuit court for:

a. Temporary or permanent injunctive relief to enforce this section.

b. For printed advertisements and e-mail, a fine of up to \$1,000 for each separately addressed advertisement or message containing content in violation of paragraphs (4) (a)-(d) received by or addressed to a state resident.

c. For websites, a fine of up to \$5,000 for each day a website, with content in violation of paragraphs (4) (a)-(d), is published and made available to the general public.

d. For violations of paragraph (4) (e), a fine of up to \$5,000 for each violation.

e. Recovery of restitution and damages on behalf of persons substantially affected by a violation of this section.

f. The recovery of court costs and reasonable attorney fees.

2. An action for an administrative fine in the Class III

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category pursuant to s. 570.971 for each act or omission which constitutes a violation under this section.

(c) The department may terminate any investigation or action upon agreement by the alleged offender to pay a stipulated fine, make restitution, pay damages to customers, or satisfy any other relief authorized by this section.

(d) Any person who violates paragraphs (4) (a)-(d) also commits an unfair and deceptive trade practice in violation of part II of chapter 501 and is subject to the penalties and remedies imposed for such violation.

Section 52. Paragraph (m) of subsection (3) of section 489.105, Florida Statutes, is amended to read:

489.105 Definitions.—As used in this part:

(3) "Contractor" means the person who is qualified for, and is only responsible for, the project contracted for and means, except as exempted in this part, the person who, for compensation, undertakes to, submits a bid to, or does himself or herself or by others construct, repair, alter, remodel, add to, demolish, subtract from, or improve any building or structure, including related improvements to real estate, for others or for resale to others; and whose job scope is substantially similar to the job scope described in one of the paragraphs of this subsection. For the purposes of regulation under this part, the term "demolish" applies only to demolition of steel tanks more than 50 feet in height; towers more than 50 feet in height; other structures more than 50 feet in height; and all buildings or residences. Contractors are subdivided into two divisions, Division I, consisting of those contractors defined in paragraphs (a)-(c), and Division II, consisting of

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2739 those contractors defined in paragraphs (d)-(q):
 2740 (m) "Plumbing contractor" means a contractor whose services
 2741 are unlimited in the plumbing trade and includes contracting
 2742 business consisting of the execution of contracts requiring the
 2743 experience, financial means, knowledge, and skill to install,
 2744 maintain, repair, alter, extend, or, if not prohibited by law,
 2745 design plumbing. A plumbing contractor may install, maintain,
 2746 repair, alter, extend, or, if not prohibited by law, design the
 2747 following without obtaining an additional local regulatory
 2748 license, certificate, or registration: sanitary drainage or
 2749 storm drainage facilities, water and sewer plants and
 2750 substations, venting systems, public or private water supply
 2751 systems, septic tanks, drainage and supply wells, swimming pool
 2752 piping, irrigation systems, and solar heating water systems and
 2753 all appurtenances, apparatus, or equipment used in connection
 2754 therewith, including boilers and pressure process piping and
 2755 including the installation of water, natural gas, liquefied
 2756 petroleum gas and related venting, and storm and sanitary sewer
 2757 lines. The scope of work of the plumbing contractor also
 2758 includes the design, if not prohibited by law, and installation,
 2759 maintenance, repair, alteration, or extension of air-piping,
 2760 vacuum line piping, oxygen line piping, nitrous oxide piping,
 2761 and all related medical gas systems; fire line standpipes and
 2762 fire sprinklers if authorized by law; ink and chemical lines;
 2763 fuel oil and gasoline piping and tank and pump installation,
 2764 except bulk storage plants; and pneumatic control piping
 2765 systems, all in a manner that complies with all plans,
 2766 specifications, codes, laws, and regulations applicable. The
 2767 scope of work of the plumbing contractor applies to private

Page 97 of 98

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

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2768 property and public property, including any excavation work
 2769 incidental thereto, and includes the work of the specialty
 2770 plumbing contractor. Such contractor shall subcontract, with a
 2771 qualified contractor in the field concerned, all other work
 2772 incidental to the work but which is specified as being the work
 2773 of a trade other than that of a plumbing contractor. This
 2774 definition does not limit the scope of work of any specialty
 2775 contractor certified pursuant to s. 489.113(6) and does not
 2776 require certification or registration under this part as a
 2777 category I liquefied petroleum gas dealer, or category V LP gas
 2778 installer, as defined in s. 527.01, ~~or specialty installer~~ who
 2779 is licensed under chapter 527 or an authorized employee of a
 2780 public natural gas utility or of a private natural gas utility
 2781 regulated by the Public Service Commission when disconnecting
 2782 and reconnecting water lines in the servicing or replacement of
 2783 an existing water heater. A plumbing contractor may perform
 2784 drain cleaning and clearing and install or repair rainwater
 2785 catchment systems; however, a mandatory licensing requirement is
 2786 not established for the performance of these specific services.
 2787 Section 53. Subsection (3) of section 527.06, Florida
 2788 Statutes, is reenacted to read:
 2789 527.06 Rules.—
 2790 (3) Rules in substantial conformity with the published
 2791 standards of the National Fire Protection Association (NFPA) are
 2792 deemed to be in substantial conformity with the generally
 2793 accepted standards of safety concerning the same subject matter.
 2794 Section 54. This act shall take effect July 1, 2018.

Page 98 of 98

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



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Appropriations Subcommittee on Finance and Tax, *Chair*
Appropriations Subcommittee on Health and Human Services, *Vice Chair*
Appropriations
Appropriations Subcommittee on Transportation, Tourism, and Economic Development
Children, Families, and Elder Affairs
Communications, Energy, and Public Utilities
Governmental Oversight and Accountability
Military and Veterans Affairs, Space, and Domestic Security

SENATOR KELLI STARGEL

Deputy Majority Leader
22nd District

January 26, 2018

The Honorable Rob Bradley
Senate Committee on Appropriations, Chair
201 The Capitol
404 S. Monroe Street
Tallahassee, FL 32399

Dear Chair Bradley:

I respectfully request that SB 740, related to *Department of Agriculture and Consumer Services*, be placed on the Appropriations Committee meeting agenda at your earliest convenience.

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

Sincerely,

A handwritten signature in black ink that reads "Kelli Stargel".

Kelli Stargel
State Senator, District 22

Cc: Mike Hansen/ Staff Director
Alicia Weiss/ AA

REPLY TO:

- 2033 East Edgewood Drive, Suite 1, Lakeland, Florida 33803 (863) 668-3028
- 322 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5022

Senate's Website: www.flsenate.gov

JOE NEGRON
President of the Senate

ANITERE FLORES
President Pro Tempore



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Appropriations Subcommittee on Finance and Tax, *Chair*
Appropriations Subcommittee on Health and Human Services, *Vice Chair*
Appropriations
Appropriations Subcommittee on Transportation, Tourism, and Economic Development
Children, Families, and Elder Affairs
Communications, Energy, and Public Utilities
Governmental Oversight and Accountability
Military and Veterans Affairs, Space, and Domestic Security

SENATOR KELLI STARGEL

Deputy Majority Leader
22nd District

February 2, 2018

The Honorable Rob Bradley
Senate Committee on Appropriations, Chair
201 The Capitol
404 S. Monroe Street
Tallahassee, FL 32399

Dear Chair Bradley:

I respectfully request that SB 740, related to *Department of Agriculture and Consumer Services*, be placed on the Appropriations Committee meeting agenda at your earliest convenience.

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

Sincerely,

A handwritten signature in black ink that reads "Kelli Stargel".

Kelli Stargel
State Senator, District 22

Cc: Mike Hansen/ Staff Director
Alicia Weiss/ AA

REPLY TO:

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JOE NEGRON
President of the Senate

ANITERE FLORES
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/15/2018

Meeting Date

740

Bill Number (if applicable)

Topic Concealed Carry Permit Background Checks

Amendment Barcode (if applicable)

Name Jamie Ito

Job Title volunteer

Address 411 Wilson Ave

Phone

Street

Tallahassee FL 32303

Email

City

State

Zip

Speaking: For Against Information

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

Representing Moms Demand Action For Gun Sense in 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)

2/15/18

Meeting Date

CS/SB 740

Bill Number (if applicable)

Topic Concealed Firearms provision

Amendment Barcode (if applicable)

Name Corinne Porcher

Job Title Attorney

Address 3489 Cedar Lane Dr.

Phone 850 459-1234

Tallahassee FL

Email Corinne@SmithLawTh.org

City

State

Zip

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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THE FLORIDA SENATE

APPEARANCE RECORD

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

2/15/18

Meeting Date

SB 740

Bill Number (if applicable)

Topic Concealed Carry

Amendment Barcode (if applicable)

Name Armol Sethwani

Job Title Student

Address 1500 NW 4th Ave apt 312

Phone 352 895 2400

Street

Gainesville FL 32603

Email

City

State

Zip

Speaking: For Against Information

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

Representing UF College Democrats

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

02-15-2018
Meeting Date

SB 740
Bill Number (if applicable)

Topic concealed carry

Amendment Barcode (if applicable)

Name Nicholas Moore-Lefauve

Job Title University of Florida Student

Address 920 SW 6th Street
Street

Phone _____

Gainesville
City

FL
State

32612
Zip

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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APPEARANCE RECORD

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2-15-18

Meeting Date

SB 740

Bill Number (if applicable)

Topic Waive Speaking

Amendment Barcode (if applicable)

Name Nicholas Rardin

Job Title Koller For Congress Social Media Manager

Address 1248 SE 18th PL
Street

Phone _____

Ocala FL 34471
City State Zip

Email nich@gmail.com

Speaking: For Against Information

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

Representing UF College Demo

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)

2/15/18

Meeting Date

SB 740

Bill Number (if applicable)

Topic Proposed Amd. to 790.06

Amendment Barcode (if applicable)

Name Hetal McGuire

Job Title _____

Address protected & exempt from ch 19

Phone 850-459-3986

Street

Tallahassee, FL 32312

Email indianchic@gmail.com

City

State

Zip

Speaking: For Against Information

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

Representing Mom's Demand Action

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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2/15/18

Meeting Date

SB 740

Bill Number (if applicable)

Topic Proposed Amendment to 790.06

Amendment Barcode (if applicable)

Name Shannon Noveck

Job Title Attorney

Address 1103 Mimosa Dr

Phone 850 597 1597

Tallahassee 32312
City State Zip

Email Shannon.Noveck@novecklaw.com

Speaking: For Against Information

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

Representing Moms demand action

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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2/15/18

Meeting Date

SB 740

Bill Number (if applicable)

Topic Proposed Amendment to 790.06

Amendment Barcode (if applicable)

Name Cristin Gonzalez

Job Title Attorney

Address 2516 Noble Drive

Phone _____

Street

Tallahassee

FL

32308

Email cristin.fostera@gmail.com

City

State

Zip

Speaking: For Against Information

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

Representing Mother's Demanding Moms Demand Action

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)

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APPEARANCE RECORD

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2/15/18
Meeting Date

SB 740
Bill Number (if applicable)

Topic Proposed amendment to 790.06

Amendment Barcode (if applicable)

Name Jana McConnaughay

Job Title Attorney

Address 2806 Walter Scott St.

Phone 850-577-3566

Tallahassee FL 32312
City State Zip

Email chanal0898@gmail.com

Speaking: For Against Information

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

Representing Moms Demand Action

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

2/15/18

Meeting Date

SB 740

Bill Number (if applicable)

Topic Concealed Carry

Amendment Barcode (if applicable)

Name Jamie Lee

Job Title Student

Address 3500 SW 19th Ave Apt 232

Phone 850-491-6362

Street

Gainesville FL 32607

City

State

Zip

Email jal229@comcast.net

Speaking: For Against Information

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

Representing University of Florida College Democrats

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)

02/15/18

Meeting Date

SB 740

Bill Number (if applicable)

Topic concealed carriers

Amendment Barcode (if applicable)

Name Brian Martinez

Job Title UFCD Student

Address 31023801 Thomas Hall

Phone 7862901820

Street

Gainesville

FL

32612

Email bdymart98@yahoo.com

City

State

Zip

Speaking: For Against Information

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

Representing UFCD

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)

2/15/18

Meeting Date

SB 740

Bill Number (if applicable)

Topic Concealed Carry

Amendment Barcode (if applicable)

Name Bailey L. Triggs

Job Title Student

Address 528 Gale Lemerand Drive

Phone 561-249-9365

Street

Gainesville

FL

32612

City

State

Zip

Email baileytriggs@ufl.edu

Speaking: For Against Information

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

Representing UF college Democrats

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)

2/15/18
Meeting Date

SB 740
Bill Number (if applicable)

Topic Concealed Carry

Amendment Barcode (if applicable)

Name Richard Matthew Barocas

Job Title Student

Address 7565 SW 135th street
Street

Phone 305-878-8201

Miami
City

FL
State

33156
Zip

Email _____

Speaking: For Against Information

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

Representing UF College Democrats

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: SB 752

INTRODUCER: Senator Mayfield

SUBJECT: Specialty License Plates/Childhood Cancer Awareness

DATE: February 14, 2018

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Jones</u>	<u>Miller</u>	<u>TR</u>	<u>Favorable</u>
2.	<u>Wells</u>	<u>Hrdlicka</u>	<u>ATD</u>	<u>Recommend: Favorable</u>
3.	<u>Wells</u>	<u>Hansen</u>	<u>AP</u>	<u>Favorable</u>

I. Summary:

SB 752 directs the Department of Highway Safety and Motor Vehicles (DHSMV) to develop a Childhood Cancer Awareness specialty license plate, establishes a \$25 annual use fee for the plate, and provides for the distribution and use of fees collected from the sale of the plate.

The DHSMV estimates programming and implementation for a standard specialty license plate costs \$7,680. The DHSMV is authorized to retain revenues from the first proceeds of sales to defray departmental costs.

The bill takes effect October 1, 2018.

II. Present Situation:

Specialty License Plates

Presently, there are over 120 specialty license plates available for purchase in Florida.¹ Specialty license plates are available to an owner or lessee of a motor vehicle who is willing to pay an annual use fee, ranging from \$15 to \$25, paid in addition to required license taxes and service fees.² The annual use fees are distributed to an organization or organizations in support of a particular cause or charity signified in the plate's design and designated in statute.³

In order to establish a specialty license plate and after the plate is approved by law, s. 320.08053, F.S., requires the following actions within certain timelines:

- Within 60 days, the organization must submit an art design for the plate, in a medium prescribed by the DHSMV;

¹ A list of Florida's specialty license plates is available on the DHSMV website at <http://www.flhsmv.gov/dmv/specialtytags/> (last visited Nov. 3, 2017).

² Section 320.08056, F.S.

³ Section 320.08058, F.S.

- Within 120 days, the DHSMV must establish a method to issue pre-sale vouchers for the specialty license plate; and
- Within 24 months after the pre-sale vouchers are established, the organization must obtain a minimum of 1,000 voucher sales before manufacturing of the plate may begin.

If the minimum sales requirement has not been met by the end of the 24-month pre-sale period, the DHSMV will discontinue the plate and issuance of pre-sale vouchers. Upon discontinuation, a purchaser of a presale voucher may use the annual use fee as a credit towards any other specialty license plate or apply for a refund with the DHSMV.⁴

The annual use fees collected by an organization and any interest earned from the fees may be expended only for use in this state unless the annual use fee is derived from the sale of specified United States Armed Forces and veterans-related specialty plates.⁵ Additionally, organizations must adhere to certain accountability requirements, including an annual audit or attestation document affirming that funds received have been spent in accordance with applicable statutes.⁶

DHSMV Costs Defrayed

The DHSMV may retain a sufficient portion of annual use fees collected from the sale of specialty license plates to defray its costs for inventory, distribution, and other direct costs associated with the specialty license plate program. The remainder of the proceeds are distributed as provided by law.⁷

Discontinuance of Specialty Plates

The DHSMV must discontinue the issuance of an approved specialty license plate if the number of valid registrations falls below 1,000 plates for at least 12 consecutive months. A warning letter is mailed to the sponsoring organization following the first month in which the total number of valid specialty license plate registrations is below 1,000 plates. Collegiate plates for Florida universities are exempt from the minimum specialty license plate requirement.⁸ In addition, the DHSMV is authorized to discontinue any specialty license plate if the organization no longer exists, stops providing services that are authorized to be funded from the annual use fee proceeds, or pursuant to an organizational recipient's request.⁹

No Kid Should Know Cancer, Inc.¹⁰

According to corporate filings with the Department of State, No Kid Should Know Cancer, Inc., is a not-for-profit organization in Melbourne, Florida, which is organized to bring awareness to childhood cancer and help families who have been affected by childhood cancer financially and

⁴ Section 320.08053(2)(b), F.S.

⁵ Section 320.08056(10)(a), F.S.

⁶ Section 320.08062, F.S.

⁷ Section 320.08056(7), F.S.

⁸ Section 320.08056(8)(a), F.S.

⁹ Section 320.08056(8)(b), F.S.

¹⁰ See Florida Department of State – Division of Corporations, *No Kid Should Know Cancer Inc., Articles of Incorporation* (Mar. 10, 2017), available at <http://search.sunbiz.org/Inquiry/CorporationSearch/ConvertTiffToPDF?storagePath=COR%5C2017%5C0310%5C10507351.tif&documentNumber=N17000002637> (last visited Dec. 15, 2017).

spiritually. Additionally, the organization sponsors, hosts, and participates in events that benefit clinical trials and improved treatment plans.

III. Effect of Proposed Changes:

The bill directs the DHSMV to create a Childhood Cancer Awareness specialty license plate, with an annual fee of \$25 to be distributed to No Kid Should Know Cancer, Inc. The organization may use up to 10 percent of the fees for administrative costs and marketing of the plate, and the remainder of the fees must be used by the organization to:

- Provide gift cards to families who have a child recently diagnosed with cancer to help with food, tolls, and gas;
- Hold events that raise awareness about childhood cancer; and
- Support clinical trials to provide better treatment plans for children diagnosed with cancer.

The plate must bear the colors and design approved by the DHSMV, with the word “Florida” at the top of the plate and the words “Cure Childhood Cancer” at the bottom of the plate.

The bill takes effect October 1, 2018.

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:

Individuals who choose to purchase a Childhood Cancer Awareness specialty license plate will pay a \$25 annual use fee in addition to appropriate license taxes and fees. No Kid Should Know Cancer, Inc., will receive revenue from each plate purchased.

C. Government Sector Impact:

The DHSMV estimates programming and implementation of a standard specialty license plate costs \$7,680.¹¹ The DHSMV is authorized to retain revenues from the first proceeds of specialty license plate sales to defray departmental expenditures related to the specialty license plate program.¹²

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 320.08056 and 320.08058.

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.

¹¹ See DHSMV, *2018 Agency Legislative Bill Analysis: SB 468* (Nov. 9, 2017) (on file with the Senate Committee on Transportation).

¹² Section 320.08056(7), F.S.

By Senator Mayfield

17-00418A-18

2018752__

A bill to be entitled

An act relating to specialty license plates; amending s. 320.08056, F.S.; establishing an annual use fee for the Childhood Cancer Awareness license plate; amending s. 320.08058, F.S.; requiring the Department of Highway Safety and Motor Vehicles to develop a Childhood Cancer Awareness license plate; providing for distribution and use of fees collected from the sale of the plates; providing an effective date.

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

Section 1. Paragraph (ffff) is added to subsection (4) of section 320.08056, Florida Statutes, to read:

320.08056 Specialty license plates.—

(4) The following license plate annual use fees shall be collected for the appropriate specialty license plates:

(ffff) Childhood Cancer Awareness license plate, \$25.

Section 2. Subsection (84) is added to section 320.08058, Florida Statutes, to read:

320.08058 Specialty license plates.—

(84) CHILDHOOD CANCER AWARENESS LICENSE PLATES.—

(a) The department shall develop a Childhood Cancer Awareness license plate as provided in this section and s. 320.08053. The Childhood Cancer Awareness license plates must bear the colors and design approved by the department. The word "Florida" must appear at the top of the plate, and the words "Cure Childhood Cancer" must appear at the bottom of the plate.

(b) The annual use fees shall be distributed to No Kid

Page 1 of 2

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

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Should Know Cancer, Inc., a nonprofit corporation under s. 501(c)(3) of the Internal Revenue Code which may use up to 10 percent of the proceeds for administrative costs and for the marketing of the plate. The balance of the fees shall be used by No Kid Should Know Cancer, Inc., to:

1. Support families who have a child recently diagnosed with cancer, in the form of gift cards to help with food, tolls, and gas;

2. Hold events that raise awareness about childhood cancer;

and

3. Support clinical trials that work to provide better treatment plans for children diagnosed with cancer and, ultimately, a better prognosis.

Section 3. This act shall take effect October 1, 2018.

Page 2 of 2

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



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR DEBBIE MAYFIELD
17th District

February 9, 2018

The Honorable Rob Bradley
Chair, Appropriations
414 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Re: SB 752

Dear Chair Bradley,

I am respectfully requesting Senate Bill 752, a bill relating to Child Hood Cancer Awareness, be placed on the agenda for your committee on Appropriations.

I appreciate your consideration of this bill and I look forward to working with you and the Appropriations committee. If there are any questions or concerns, please do not hesitate to call my office at 850-487-5017

Thank you,

A handwritten signature in blue ink that reads "Debbie Mayfield".

Senator Debbie Mayfield
District 17

Cc: Mike Hansen, Alicia Weiss, Steven Richardson, Lance Clemons

COMMITTEES:

Education, Vice Chair
Appropriations Subcommittee on the
Environment and Natural Resources
Appropriations subcommittee on General
Government
Banking and Insurance
Judiciary

JOINT COMMITTEES:

Joint Legislative Auditing Committee,
Alternating Chair

REPLY TO:

- 900 E. Strawbridge Avenue, Melbourne, Florida 32901 (321) 409-2025
- 1801 27th Street, Vero Beach, Florida 32960 (772) 226-1970
- 324 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5017

Senate's Website: www.flsenate.gov

JOE NEGRON
President of the Senate

ANITERE FLORES
President Pro Tempore

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: SB 780

INTRODUCER: Senators Brandes and Campbell

SUBJECT: Prohibition Against Contracting with Scrutinized Companies

DATE: February 14, 2018

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Peacock</u>	<u>Caldwell</u>	<u>GO</u>	Favorable
2.	<u>Davis</u>	<u>Betta</u>	<u>AGG</u>	Recommend: Favorable
3.	<u>Davis</u>	<u>Hansen</u>	<u>AP</u>	Favorable

I. Summary:

SB 780 prohibits a company that is on the Scrutinized Companies that Boycott Israel List or that is engaged in a boycott of Israel from bidding on, submitting a proposal for, or entering into or renewing a contract with an agency or local government entity for goods or services of any amount.

The bill also requires a contract with an agency or local governmental entity for goods or services of any amount entered into or renewed on or after July 1, 2018, to contain a provision that allows for the termination of the contract at the option of the awarding body if the company has been placed on the Scrutinized Companies that Boycott Israel List or is engaged in a boycott of Israel.

An agency or local governmental entity is authorized to make a case-by-case exception to the prohibition of contracting with companies that are on the Scrutinized Companies that Boycott Israel List or that is engaged in a boycott of Israel if certain conditions are met.

Additionally, the bill requires a company to provide certification that it is not engaging in a boycott of Israel before submitting a bid or entering into or renewing a contract with an agency or local governmental entity.

The fiscal impact on state and local governments is indeterminate.

The bill takes effect July 1, 2018.

II. Present Situation:

Procurement of Personal Property and Services

Procurement of Personal Property and Services by State Agencies

Chapter 287, F.S., regulates state agency¹ procurement of personal property and services.² The Department of Management Services (DMS) is responsible for overseeing state purchasing activity including professional and contractual services³ as well as commodities needed to support agency activities.⁴ The DMS assists state agencies and eligible users by providing uniform commodity and contractual service procurement policies, rules, procedures, and forms.⁵

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 methods include the following:

- Single source contracts,⁶ 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,⁷ which are used when an agency determines that standard services or goods will meet its needs, wide competition is available, and the vendor's experience will not greatly influence the agency's results;
- Requests for proposals (RFP),⁸ 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),⁹ 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.

¹ 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.

² Personal property” is not independently defined for purposes of ch. 287, F.S., but the chapter title for Chapter 287, F.S., is “Procurement of Personal Property and Services.” Additionally, the definition of “commodity” in s. 287.012(5), F.S., is “any of the various supplies, materials, goods, merchandise, food, equipment, information technology, and other personal property, including a mobile home, trailer, or other portable structure that has less than 5,000 square feet of floor space, purchased, leased, or otherwise contracted for by the state and its agencies.” This definition is used in Part I of Ch. 287, F.S., “Commodities, Insurance, and Contractual Services.”

³ As defined in s. 287.012(8), F.S. “contractual service” means the rendering by a contractor of its time and effort rather than the furnishing of specific commodities. The term applies only to those services rendered by individuals and firms who are independent contractors, and such services may include, but are not limited to, evaluations; consultations; maintenance; accounting; security; management systems; management consulting; educational training programs; research and development studies or reports on the findings of consultants engaged thereunder; and professional, technical, and social services. The term does not include a contract for the furnishing of labor or materials for the construction, renovation, repair, modification, or demolition of a facility, building, portion of building, utility, park, parking lot, or structure or other improvement to real property entered into pursuant to chapter 255 and rules adopted thereunder.

⁴ See ss. 287.032 and 287.042, F.S.

⁵ Section 287.032(2), F.S.

⁶ Section 287.057(3)(c), F.S.

⁷ Section 287.057(1)(a), F.S.

⁸ Section 287.057(1)(b), F.S.

⁹ Section 287.057(1)(c), F.S.

Criteria used to evaluate proposals received pursuant to a RFP must include, but are not limited to:

- Price;
- Renewal price, if renewal is contemplated;
- Consideration of the total cost for each year of the contract, including renewal years, as submitted by the vendor; and
- Consideration of prior relevant experience of the vendor.¹⁰

In ITNs, the criteria to be used in determining the acceptability of the reply and guiding the selection of the vendors with which the agency will negotiate must be specified in the ITN. The evaluation criteria must also include consideration of prior relevant experience of the vendor.¹¹

Contracts for commodities or contractual services in excess of \$35,000 must be procured utilizing a competitive solicitation process.¹² However, specified contractual services and commodities, such as artistic services and legal services, are not subject to competitive solicitation requirements.¹³

State Term Contracts

Current law authorizes the DMS to establish purchasing agreements and procure state term contracts for commodities and contractual services using the procurement methods described above.¹⁴ These contracts are generally developed for purchases of commodities and services that are ongoing and common to multiple state agencies. State agencies are required to use state term contracts when they are available.¹⁵ Other eligible users,¹⁶ such as counties, cities, and school districts, may also utilize state term contracts.¹⁷

Procurement of Personal Property and Services by Local Governments

Local governments are not subject to the provisions of ch. 287.057, F.S., which prescribe methods for agencies' procurement of commodities or contractual services.¹⁸ 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.¹⁹

¹⁰ Section 287.057(1)(b)3., F.S.

¹¹ Section 287.057(1)(c)3., F.S.

¹² 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.

¹³ See s. 287.057(3)(e), F.S.

¹⁴ Section 287.042(2)(a), F.S.

¹⁵ Section 287.056(1), F.S.

¹⁶ See s. 287.012(11), F.S., and Rule 60A-1.001(2), F.A.C.

¹⁷ Section 287.056(1), F.S.

¹⁸ See ss. 287.012(1), F.S.

¹⁹ In the absence of specific constitutional or statutory requirements, a public agency has no obligation to establish a bidding procedure and may contract in any manner not arbitrary or capricious. *Volume Servs. Div. of Interstate United Corp. v. Canteen Corp.*, 369 So. 2d 391 (Fla. 2d DCA 1979).

State and Local Government Procurement of Certain Professional Services

In 1972, Congress passed the Brooks Act (Public Law 92-582), which codified Qualifications-Based Selection (QBS) as the federal procurement method for architect and engineering services. The QBS process entails first soliciting statements of qualifications from licensed architectural and engineering providers, selecting the most qualified respondent, and then negotiating a fair and reasonable price. The vast majority of states currently require a QBS process when selecting the services of architectural and engineering professionals.²⁰

In 1973, the Florida Legislature enacted the Consultants' Competitive Negotiation Act (CCNA),²¹ which specifies the necessary procedures when procuring professional services²² by an agency.²³

Currently, the CCNA, codified in s. 287.055, F.S., specifies the process that state and local government agencies must follow when procuring the professional services of an architect, professional engineer, landscape architect, or registered surveyor and mapper. The CCNA requires that state agencies publicly announce, in a consistent and uniform manner, each occasion when professional services must be purchased for one of the following:²⁴

- A project, when the agency estimates the basic construction cost to exceed \$325,000.
- A planning or study activity, when the fee for professional services exceeds \$35,000.

The public notice must provide a general description of the project and describe how the interested consultants may apply for consideration.

The CCNA provides a two-phase selection process.²⁵ In the first phase, the “competitive selection,” the agency evaluates the qualifications and past performance of no fewer than three bidders. The agency selects the bidders, ranked in order of preference, and considers the most highly qualified to perform the required services. The CCNA requires consideration of several factors in determining the most highly qualified bidders.²⁶

²⁰ Forty-six states use this process. American Council of Engineering Companies, Qualifications-Based Selection Resource Center, available at <http://www.acec.org/advocacy/qbs/> (last visited Jan. 11, 2018).

²¹ Chapter 73-19, L.O.F.

²² Section 287.055(2)(a), F.S., defines “professional services” as those within the scope of the practice of architecture, professional engineering, landscape architecture, or registered surveying and mapping, as defined by the laws of the state, or those performed by any architect, professional engineer, landscape architect, or registered surveyor and mapper in connection with his or her professional employment or practice.

²³ Section 287.055(2)(b), F.S., defines “agency” as the state, a state agency, a municipality, a political subdivision, a school district, or a school board. The term “agency” does not extend to a nongovernmental developer that contributes public facilities to a political subdivision under s. 380.06, F.S., or ss. 163.3220-163.3243, F.S.

²⁴ Section 287.055(3)(a)1., F.S.

²⁵ Sections 287.055(4) and (5), F.S.

²⁶ Section 287.055(4)(b), F.S., requires agencies to consider the following factors: the ability of professional personnel; whether a firm is a certified minority business enterprise; past performance; willingness to meet time and budget requirements; location; recent, current, and projected workloads of the firms; and, the volume of work previously awarded to each firm by the agency, with the object of effecting an equitable distribution of contracts among qualified firms, provided such distribution does not violate the principle of selection of the most highly qualified firms.

The CCNA prohibits the agency from requesting, accepting, and considering, during the competitive selection process, proposals for the compensation to be paid.²⁷

Section 287.055(2)(d), F.S., defines the term “compensation” to mean the amount paid by the agency for professional services regardless of whether stated as compensation or as other types of rates.

In the second phase, the “competitive negotiation,” the agency negotiates compensation with the most qualified of the minimum three selected firms for professional services at compensation, which the agency determines, is “fair, competitive, and reasonable.”²⁸ If the agency cannot negotiate a satisfactory contract, the agency must formally terminate negotiations with that firm and must then negotiate with the second most qualified firm.²⁹ The agency must negotiate with the third most qualified firm if the negotiation with the second most qualified firm fails to produce a satisfactory contract.³⁰ If the agency cannot negotiate a satisfactory contract with any of the three selected, the agency must select additional firms in order of their competence and qualifications and continue negotiations until it reaches a contract.³¹ Once negotiations with a firm are terminated, the agency cannot resume negotiations with that firm for the project.

In October 2011, the Attorney General opined that local governments could not create a hybrid procurement process for awarding projects and are limited to utilizing statutorily defined procedures.³²

Procurement of Construction Services for Public Property and Publicly Owned Buildings

Chapter 255, F.S., specifies the procedures to be followed in the procurement of construction services for public property and publicly owned buildings. Section 255.29, F.S., requires the DMS to establish, by rule,³³ the following construction contract procedures for:

- Determining the qualifications and responsibility of potential bidders prior to advertisement for and receipt of bids for building construction contracts, including procedures for the rejection of bidders who are reasonably determined from prior experience to be unqualified or irresponsible to perform the work required by a proposed contract.
- Awarding each state agency construction project to the lowest qualified bidder. Additionally, the DMS must provide procedures for cases in which the DMS declares a valid emergency to exist, which would necessitate the waiver of the rules governing the award of state construction contracts to the lowest qualified bidder.
- Governing negotiations for construction contracts and modifications to contract documents when the DMS Secretary determines that such negotiations are in the best interest of the state.

²⁷ *Id.*

²⁸ Section 287.055(5)(a), F.S.

²⁹ Section 287.055(5)(b), F.S.

³⁰ *Id.*

³¹ Section 287.055(5)(c), F.S.

³² Op. Att’y Gen. Fla. 2011-21 (2011).

³³ See Chapter 60D-5, F.A.C., that establishes the procedures for s. 255.29, F.S. Rule 60D-5.001, F.A.C., requires procedures be followed in advertising for bids for construction contracts; in determining the eligibility of potential bidders to submit proposals for construction contracts; in awarding construction contracts; for waiver of non-material bid deviations; for rejection of bids; for disqualification of contractors; in requesting authority to negotiate contracts, and in negotiating contracts.

- Entering into performance-based contracts for the development of public facilities when the DMS determines the use of such contracts to be in the best interest of the state.

These procedures must include, but are not limited to:³⁴

- Prequalification of bidders;
- Criteria to be used in developing requests for proposals which may provide for singular responsibility for design and construction, developer flexibility in material selection, construction techniques, and application of state-of-the-art improvements;
- Accelerated scheduling, including the development of plans, designs, and construction simultaneously; and
- Evaluation of proposals and award of contracts considering such factors as price, quality, and concept of the proposal.

The state must competitively bid contracts for construction projects that it projects to cost in excess of \$200,000.³⁵ County, municipal, or other political subdivision contracts for construction projects that are projected to cost in excess of \$200,000 also must be bid competitively.³⁶ Counties, municipalities, special districts, or other political subdivisions seeking to construct or improve a public building must bid the project competitively if the projected cost is in excess of \$300,000.³⁷

The solicitation of competitive bids or proposals for any state construction project with anticipated costs of more than \$200,000 must be advertised publicly in the Florida Administrative Register (FAR) at least 21 days prior to the established bid opening.³⁸ If the state construction project is projected to exceed \$500,000, the advertisement must be published in the FAR at least 30 days prior to the bid opening and at least once in a newspaper of general circulation in the county where the project is located 30 days prior to the bid opening, and at least five days prior to any scheduled prebid conference.³⁹

Scrutinized Companies

Current law limits state and local governments from contracting for goods or services with scrutinized companies⁴⁰ and companies that are engaged in a boycott of Israel.⁴¹ Specifically, companies on the Scrutinized Companies that Boycott Israel List⁴² or engaged in a boycott of Israel⁴³ or on the Scrutinized Companies with Activities in Sudan List or on the Scrutinized

³⁴ Section 255.29(4)(a)-(d), F.S.

³⁵ Section 255.0525(1), F.S. Also, see Rules 60D-5.002(2) and 60D-5.0073, F.A.C.

³⁶ Section 255.0525(2), F.S.

³⁷ Section 255.20(1), F.S. (Special district as defined in ch. 189, F.S.). For electrical work, local governments must competitively award projects estimated to cost more than \$75,000 to an appropriately licensed contractor.

³⁸ Section 255.0525(1), F.S.

³⁹ *Id.* Similar publishing provisions apply to construction projects projected to cost more than \$200,000 for counties, municipalities, and other political subdivisions. See Section 255.0525(2), F.S.

⁴⁰ Sections 215.473(1)(v) and 215.4725(1)(f), F.S.

⁴¹ See s. 287.135, F.S.

⁴² The Israel List is a list of companies that boycott Israel that is compiled by the State Board of Administration. Section 215.4725(2), F.S.

⁴³ The term “boycott of Israel” means refusing to deal, terminating business activities, or taking other actions to limit commercial relations with Israel, or persons or entities doing business in Israel or in Israeli-controlled territories, in a

Companies with Activities in the Iran Petroleum Energy Sector List or engaged in business operations in Cuba or Syria are prohibited from bidding on, submitting a proposal for, or entering into or renewing a contract with an agency or local governmental entity⁴⁴ for goods or services of \$1 million or more.⁴⁵ In addition, any contract with an agency or local governmental entity for goods or services of \$1 million or more, entered into or renewed on or after specified dates, must contain a provision that allows for the termination of the contract, at the option of the awarding body, if the company is found to have submitted a false certification or is engaged in a boycott of Israel or has been placed on the Scrutinized Companies that Boycott Israel List or the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List or engaged in business operations in Cuba or Syria.⁴⁶

A company that submits a bid or proposal for, or that otherwise proposes to enter into or renew a contract with an agency or local governmental entity for goods or services of \$1 million or more must certify that it is not participating in a boycott of Israel, on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or that it does not have business operations in Cuba or Syria.⁴⁷ The certification must be submitted at the time a bid or proposal is submitted or before a contract is executed or renewed.⁴⁸

If an agency or local governmental entity determines that a company has submitted a false certification, it must provide the company with written notice, and the company has 90 days to respond in writing to such determination.⁴⁹ If the company fails to demonstrate that the determination of false certification was made in error, the awarding body must bring a civil action against the company.⁵⁰ If a civil action is brought and the court determines that the company submitted a false certification, the company must pay all reasonable attorney fees and costs (including costs for investigations that led to the finding of false certification).⁵¹ In addition, a civil penalty equal to the greater of \$2 million or twice the amount of the contract for which the false certification was submitted must be imposed.⁵² The company is ineligible to bid on any contract with an agency or local governmental entity for three years after the date the agency or local governmental entity determined that the company submitted a false

discriminatory manner. A statement by a company that it is participating in a boycott of Israel or in Israeli-controlled territories, or that it has initiated a boycott in response to a request for a boycott of Israel or in compliance with, or in furtherance of, calls for a boycott of Israel, may be considered by the State Board of Administration to be evidence that a company is participating in a boycott of Israel. The term does not include restrictive trade practices or boycotts fostered or imposed by foreign countries against Israel. Sections 287.135(1)(b) and 215.4725(1)(a), F.S.

⁴⁴ The term "local governmental entity" means a county, municipality, special district, or other political subdivision of the state. Section 287.135(1)(d), F.S.

⁴⁵ Section 287.135(2), F.S.

⁴⁶ Section 287.135(3), F.S.

⁴⁷ Section 287.135(5), F.S.

⁴⁸ *Id.*

⁴⁹ Section 287.135(5)(a), F.S.

⁵⁰ *Id.*

⁵¹ *Id.*

⁵² Section 287.135(5)(a)1., F.S.

certification.⁵³ A civil action to collect the penalties must commence within three years after the date the false certification is submitted.⁵⁴

An agency or local governmental entity is authorized to make a case-by-case exception to the contracting prohibition for a company on the Israel List if all of the following occur:

- The boycott of Israel was initiated before October 1, 2016.
- The company certifies in writing that it has ceased its boycott of Israel.
- The agency or local governmental entity determines that it is in the best interest of the state or local community to contract with the company.
- The company has adopted, has publicized, and is implementing a formal plan to cease scrutinized business operations⁵⁵ and to refrain from engaging in any new scrutinized business operations.⁵⁶

An agency or local governmental entity is also authorized to make an exception to the contracting prohibition for a company on the Israel List if one of the following occurs:

- The local governmental entity makes a public finding that, absent such an exemption, the local governmental entity would be unable to obtain the goods or services for which the contract is offered.
- For a contract with an executive agency, the Governor makes a public finding that, absent such an exemption, the agency would be unable to obtain the goods or services for which the contract is offered.
- For a contract with an office of a state constitutional officer other than the Governor, the state constitutional officer makes a public finding that, absent such an exemption, the office would be unable to obtain the goods or services for which the contract is offered.⁵⁷

III. Effect of Proposed Changes:

Section 1 amends section 287.135, F.S., to prohibit a company that is on the Scrutinized Companies that Boycott Israel List or that is engaged in a boycott of Israel from bidding on, submitting a proposal for, or entering into or renewing a contract with an agency or local government entity for goods or services of any amount, rather than only contracts of \$1 million or more.

The bill updates the time frames for contracts with an agency or local governmental entity for goods or services of \$1 million or more entered into or renewed after October 1, 2016, through June 30, 2016, and after July 1, 2018, that must contain a provision that allows for the termination of the contract, at the option of the awarding body, if the company is found to have submitted a false certification or has been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List or engaged in business operations in Cuba or Syria.

⁵³ Section 287.135(5)(a)2., F.S.

⁵⁴ Section 287.135(5)(b), F.S.

⁵⁵ Section 215.473(1)(u), F.S., defines “scrutinized business operations” to mean business operations that result in a company becoming a scrutinized company.

⁵⁶ Section 287.135(4), F.S.

⁵⁷ *Id.*

The bill requires a contract with an agency or local governmental entity for goods or services of any amount entered into or renewed on or after July 1, 2018, to contain a provision that allows for the termination of the contract at the option of the awarding body if the company has been placed on the Scrutinized Companies that Boycott Israel List or is engaged in a boycott of Israel.

The bill authorizes an agency or local governmental entity to make a case-by-case exception to the contracting prohibition for a company on the Scrutinized Companies that Boycott Israel List for contracts for goods or services of any amount based on the same conditions currently applicable to contracts of \$1 million or more.

The bill requires a company that submits a bid or proposal, or that otherwise proposes to enter into or renew a contract with an agency or local governmental entity, for goods or services of any amount to certify that it is not participating in a boycott of Israel.

The bill preempts any ordinance or rule of any agency or local governmental entity involving public contracts for goods or services for any amount with a company that has been placed on the Scrutinized Companies that Boycott Israel List or is engaged in a boycott of Israel.

Section 2 provides that the bill is effective July 1, 2018.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce counties' or municipalities' ability to raise revenue, or reduce the percentage of state tax shared with counties and municipalities.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

The U.S. Constitution grants the federal government various powers related to foreign affairs, such as the power to declare war,⁵⁸ maintain a military,⁵⁹ enter into treaties and other international agreements,⁶⁰ regulate foreign commerce,⁶¹ and to hear cases involving foreign states and citizens.⁶² These grants of power have been interpreted to

⁵⁸ Section 8, Art. I, U.S. Constitution.

⁵⁹ *Id.*

⁶⁰ Section 2, Art. II, U.S. Constitution.

⁶¹ Section 8, Art. I, U.S. Constitution.

⁶² Section 2, Art. III, U.S. Constitution.

grant the federal government the exclusive power to act in the area of foreign affairs.⁶³ When a state law operates in the field of foreign affairs without federal authorization, a reviewing court might find the state law to be invalid.⁶⁴

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Companies that choose to boycott Israel may not be eligible to contract with state and local governmental entities in Florida.

C. Government Sector Impact:

State agencies and local governments will not be permitted to contract with certain companies that boycott Israel in certain instances. This may eliminate contractors that may otherwise have been a less expensive source for certain goods and services.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 287.135 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.

⁶³ *Hines v. Davidowitz*, 312 U.S. 52, 63 (1941) (Stating that the “Federal Government, representing as it does the collective interests of the forty-eight states, is entrusted with full and exclusive responsibility for the conduct of affairs with foreign sovereignties.”).

⁶⁴ *Zschernig v. Miller*, 389 U.S. 429 (1968); *American Ins. Ass’n v. Garamendi*, 539 U.S. 396 (2003).

By Senator Brandes

24-00797-18

2018780__

1 A bill to be entitled
 2 An act relating to the prohibition against contracting
 3 with scrutinized companies; amending s. 287.135, F.S.;
 4 prohibiting a company that is on the Scrutinized
 5 Companies that Boycott Israel List or that is engaged
 6 in a boycott of Israel from bidding on, submitting a
 7 proposal for, or entering into or renewing a contract
 8 with an agency or local governmental entity for goods
 9 or services of any amount; providing exceptions;
 10 requiring such contracts entered into or renewed on or
 11 after July 1, 2018, to include a provision authorizing
 12 termination of the contract under specified
 13 circumstances; requiring a company to provide a
 14 specified certification before submitting a bid or
 15 proposal for or entering into or renewing such
 16 contracts; providing for preemption of agency or local
 17 governmental entity ordinances and rules involving
 18 such contracts; conforming provisions to changes made
 19 by the act; providing an effective date.

20
 21 Be It Enacted by the Legislature of the State of Florida:

22
 23 Section 1. Section 287.135, Florida Statutes, is amended to
 24 read:

25 287.135 Prohibition against contracting with scrutinized
 26 companies.—

27 (1) In addition to the terms defined in ss. 287.012 and
 28 215.473, as used in this section, the term:

29 (a) "Awarding body" means, for purposes of state contracts,

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30 an agency or the department, and for purposes of local
 31 contracts, the governing body of the local governmental entity.

32 (b) "Boycott of Israel" has the same meaning as defined in
 33 s. 215.4725.

34 (c) "Business operations" means, for purposes specifically
 35 related to Cuba or Syria, engaging in commerce in any form in
 36 Cuba or Syria, including, but not limited to, acquiring,
 37 developing, maintaining, owning, selling, possessing, leasing,
 38 or operating equipment, facilities, personnel, products,
 39 services, personal property, real property, military equipment,
 40 or any other apparatus of business or commerce.

41 (d) "Local governmental entity" means a county,
 42 municipality, special district, or other political subdivision
 43 of the state.

44 (2) A company is ineligible to, and may not, bid on, submit
 45 a proposal for, or enter into or renew a contract with an agency
 46 or local governmental entity for goods or services of ~~\$1 million~~
 47 ~~or more if at the time of bidding or submitting a proposal for a~~
 48 ~~new contract or renewal of an existing contract, the company:~~

49 (a) Any amount if, at the time of bidding on, submitting a
 50 proposal for, or entering into or renewing such contract, the
 51 company is on the Scrutinized Companies that Boycott Israel
 52 List, created pursuant to s. 215.4725, or is engaged in a
 53 boycott of Israel; or

54 (b) One million dollars or more if, at the time of bidding
 55 on, submitting a proposal for, or entering into or renewing such
 56 contract, the company:

57 1. Is on the Scrutinized Companies with Activities in Sudan
 58 List or the Scrutinized Companies with Activities in the Iran

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59 Petroleum Energy Sector List, created pursuant to s. 215.473; or

60 ~~2.(e)~~ Is engaged in business operations in Cuba or Syria.

61 (3)(a) Any contract with an agency or local governmental
62 entity for goods or services of \$1 million or more entered into
63 or renewed on or after:

64 ~~1.(a)~~ July 1, 2011, through June 30, 2012, must contain a
65 provision that allows for the termination of such contract at
66 the option of the awarding body if the company is found to have
67 submitted a false certification as provided under subsection (5)
68 or been placed on the Scrutinized Companies with Activities in
69 Sudan List or the Scrutinized Companies with Activities in the
70 Iran Petroleum Energy Sector List.

71 ~~2.(b)~~ July 1, 2012, through September 30, 2016, must
72 contain a provision that allows for the termination of such
73 contract at the option of the awarding body if the company is
74 found to have submitted a false certification as provided under
75 subsection (5), been placed on the Scrutinized Companies with
76 Activities in Sudan List or the Scrutinized Companies with
77 Activities in the Iran Petroleum Energy Sector List, or been
78 engaged in business operations in Cuba or Syria.

79 ~~3.(e)~~ October 1, 2016, through June 30, 2018, must contain
80 a provision that allows for the termination of such contract at
81 the option of the awarding body if the company:

82 ~~a.1-~~ Is found to have submitted a false certification as
83 provided under subsection (5);

84 ~~b.2-~~ Has been placed on the Scrutinized Companies that
85 Boycott Israel List, or is engaged in a boycott of Israel;

86 ~~c.3-~~ Has been placed on the Scrutinized Companies with
87 Activities in Sudan List or the Scrutinized Companies with

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88 Activities in the Iran Petroleum Energy Sector List; or

89 ~~d.4-~~ Has been engaged in business operations in Cuba or
90 Syria.

91 4. July 1, 2018, must contain a provision that allows for
92 the termination of such contract at the option of the awarding
93 body if the company is found to have submitted a false
94 certification as provided under subsection (5), been placed on
95 the Scrutinized Companies with Activities in Sudan List or the
96 Scrutinized Companies with Activities in the Iran Petroleum
97 Energy Sector List, or been engaged in business operations in
98 Cuba or Syria.

99 (b) Any contract with an agency or local governmental
100 entity for goods or services of any amount entered into or
101 renewed on or after July 1, 2018, must contain a provision that
102 allows for the termination of such contract at the option of the
103 awarding body if the company is found to have been placed on the
104 Scrutinized Companies that Boycott Israel List or is engaged in
105 a boycott of Israel.

106 (4) Notwithstanding subsection (2) or subsection (3), an
107 agency or local governmental entity, on a case-by-case basis,
108 may permit a company on ~~the Scrutinized Companies that Boycott~~
109 ~~Israel List~~, the Scrutinized Companies with Activities in Sudan
110 List or the Scrutinized Companies with Activities in the Iran
111 Petroleum Energy Sector List, or a company engaged in with
112 business operations in Cuba or Syria, to be eligible for, bid
113 on, submit a proposal for, or enter into or renew a contract for
114 goods or services of \$1 million or more, or may permit a company
115 on the Scrutinized Companies that Boycott Israel List to be
116 eligible for, bid on, submit a proposal for, or enter into or

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117 renew a contract for goods or services of any amount, under the
 118 conditions set forth in paragraph (a) or the conditions set
 119 forth in paragraph (b):

120 (a)1. With respect to a company on the Scrutinized
 121 Companies with Activities in Sudan List or the Scrutinized
 122 Companies with Activities in the Iran Petroleum Energy Sector
 123 List, all of the following occur:

124 a. The scrutinized business operations were made before
 125 July 1, 2011.

126 b. The scrutinized business operations have not been
 127 expanded or renewed after July 1, 2011.

128 c. The agency or local governmental entity determines that
 129 it is in the best interest of the state or local community to
 130 contract with the company.

131 d. The company has adopted, has publicized, and is
 132 implementing a formal plan to cease scrutinized business
 133 operations and to refrain from engaging in any new scrutinized
 134 business operations.

135 2. With respect to a company engaged in business operations
 136 in Cuba or Syria, all of the following occur:

137 a. The business operations were made before July 1, 2012.
 138 b. The business operations have not been expanded or
 139 renewed after July 1, 2012.

140 c. The agency or local governmental entity determines that
 141 it is in the best interest of the state or local community to
 142 contract with the company.

143 d. The company has adopted, has publicized, and is
 144 implementing a formal plan to cease business operations and to
 145 refrain from engaging in any new business operations.

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146 3. With respect to a company on the Scrutinized Companies
 147 that Boycott Israel List, all of the following occur:

148 a. The boycott of Israel was initiated before October 1,
 149 2016.

150 b. The company certifies in writing that it has ceased its
 151 boycott of Israel.

152 c. The agency or local governmental entity determines that
 153 it is in the best interest of the state or local community to
 154 contract with the company.

155 d. The company has adopted, has publicized, and is
 156 implementing a formal plan to cease scrutinized business
 157 operations and to refrain from engaging in any new scrutinized
 158 business operations.

159 (b) One of the following occurs:

160 1. The local governmental entity makes a public finding
 161 that, absent such an exemption, the local governmental entity
 162 would be unable to obtain the goods or services for which the
 163 contract is offered.

164 2. For a contract with an executive agency, the Governor
 165 makes a public finding that, absent such an exemption, the
 166 agency would be unable to obtain the goods or services for which
 167 the contract is offered.

168 3. For a contract with an office of a state constitutional
 169 officer other than the Governor, the state constitutional
 170 officer makes a public finding that, absent such an exemption,
 171 the office would be unable to obtain the goods or services for
 172 which the contract is offered.

173 (5) At the time a company submits a bid or proposal for a
 174 contract or before the company enters into or renews a contract

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175 with an agency or local governmental entity for goods or
 176 services of \$1 million or more, the company must certify that
 177 the company is not ~~participating in a boycott of Israel~~, on the
 178 Scrutinized Companies with Activities in Sudan List or the
 179 Scrutinized Companies with Activities in the Iran Petroleum
 180 Energy Sector List ~~and, or~~ that it does not have business
 181 operations in Cuba or Syria. At the time a company submits a bid
 182 or proposal for a contract or before the company enters into or
 183 renews a contract with an agency or local governmental entity
 184 for goods or services of any amount, the company must certify
 185 that the company is not participating in a boycott of Israel.

186 (a) If, after the agency or the local governmental entity
 187 determines, using credible information available to the public,
 188 that the company has submitted a false certification, the agency
 189 or local governmental entity shall provide the company with
 190 written notice of its determination. The company shall have 90
 191 days following receipt of the notice to respond in writing and
 192 to demonstrate that the determination of false certification was
 193 made in error. If the company does not make such demonstration
 194 within 90 days after receipt of the notice, the agency or the
 195 local governmental entity shall bring a civil action against the
 196 company. If a civil action is brought and the court determines
 197 that the company submitted a false certification, the company
 198 shall pay the penalty described in subparagraph 1. and all
 199 reasonable attorney fees and costs, including any costs for
 200 investigations that led to the finding of false certification.

201 1. A civil penalty equal to the greater of \$2 million or
 202 twice the amount of the contract for which the false
 203 certification was submitted shall be imposed.

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204 2. The company is ineligible to bid on any contract with an
 205 agency or local governmental entity for 3 years after the date
 206 the agency or local governmental entity determined that the
 207 company submitted a false certification.

208 (b) A civil action to collect the penalties described in
 209 paragraph (a) must commence within 3 years after the date the
 210 false certification is submitted.

211 (6) Only the agency or local governmental entity that is a
 212 party to the contract may cause a civil action to be brought
 213 under this section. This section does not create or authorize a
 214 private right of action or enforcement of the penalties provided
 215 in this section. An unsuccessful bidder, or any other person
 216 other than the agency or local governmental entity, may not
 217 protest the award of a contract or contract renewal on the basis
 218 of a false certification.

219 (7) This section preempts any ordinance or rule of any
 220 agency or local governmental entity involving public contracts
 221 for goods or services of:

222 (a) One million dollars ~~Of \$1 million~~ or more with a
 223 company engaged in scrutinized business operations.

224 (b) Any amount with a company that has been placed on the
 225 Scrutinized Companies that Boycott Israel List or is engaged in
 226 a boycott of Israel.

227 (8) The contracting prohibitions in this section applicable
 228 to companies on the Scrutinized Companies with Activities in
 229 Sudan List or the Scrutinized Companies with Activities in the
 230 Iran Petroleum Energy Sector List or to companies engaged in
 231 business operations in Cuba or Syria become inoperative on the
 232 date that federal law ceases to authorize the states to adopt

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233 and enforce such contracting prohibitions.

234 Section 2. This act shall take effect July 1, 2018.



The Florida Senate

Committee Agenda Request

To: Senator Rob Bradley
Appropriations

Subject: Committee Agenda Request

Date: January 18, 2018

I respectfully request that **Senate Bill #780**, relating to **Prohibition Against Contacting with Scrutinized Companies**, be placed on the:

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

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

Senator Jeff Brandes
Florida Senate, District 24



The Florida Senate

Committee Agenda Request

To: Senator Rob Bradley
Committee on Appropriations

Subject: Committee Agenda Request

Date: February 8, 2018

I respectfully request that **Senate Bill #780**, relating to **Prohibition Against Contracting with Scrutinized Companies**, be placed on the:

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

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

Senator Jeff Brandes
Florida Senate, District 24

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/15

Meeting Date

SB780

Bill Number (if applicable)

Topic SB780:

Amendment Barcode (if applicable)

Name Tyler Crown

Job Title

Address 600 Dixie Dr Apt 1284

Phone 561-602-4115

Street

Tallahassee

FL

City

State

Zip

Email

Speaking: For Against Information

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

Representing FSU Students for Justice in Palestine and FSU NAACP

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

12/15/19
Meeting Date

SB 780
Bill Number (if applicable)

Topic SB 780

Amendment Barcode (if applicable)

Name Sara Mahmood

Job Title Rehab Technician

Address 1704 Wild Dunes Circle

Phone 904-651-9120

Jacksonville FL 32065
City State Zip

Email Sara.d.mahmoud@jmed.com

Speaking: For Against Information

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

Representing Jacksonville Palestine Solidarity Network

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/15/17

Meeting Date

SB780

Bill Number (if applicable)

Topic

SB780

Amendment Barcode (if applicable)

Name

Albert Kishkek

Job Title

Address

8232 Bay Tree Ln

Phone

904 314 6000

Street

Sacksonville

State

FL

Zip

32256

Email

agk13b@gmail.com

City

Speaking:

For

Against

Information

Waive Speaking:

In Support

Against

(The Chair will read this information into the record.)

Representing

Sacksonville Palestine Solidarity Network

Appearing at request of Chair:

Yes

No

Lobbyist registered with Legislature:

Yes

No

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

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

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)

15 FEB 18

Meeting Date

780

Bill Number (if applicable)

Topic BDS

Amendment Barcode (if applicable)

Name Christopher Holton

Job Title Vice President for Outreach

Address 2020 Pennsylvania Ave.

Phone 504 234 8857

Street

Washington DC 20006

City

State

Zip

Email holton@centerforsecuritypolicy.org

Speaking: For Against Information

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

Representing Center for Security Policy

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/15

Meeting Date

SB 780

Bill Number (if applicable)

Topic BDS

Amendment Barcode (if applicable)

Name Jade McGivach

Job Title ~~Notepad~~

Address 534 West Park Ave
Street

Phone 813-352-9019

Tallahassee FL 32301
City State Zip

Email jsm15j@my.tyler.edu

Speaking: For Against Information

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

Representing Notepad

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)

2-15

Meeting Date

SB 780

Bill Number (if applicable)

Topic SB 780

Amendment Barcode (if applicable)

Name Reem Zaiton

Job Title ~~24~~

Address 2421 Jackson Bluff Rd.

Phone 201-314-6767

Tallahassee FL

32304

Email r215e@my.fsu.edu

City State

Zip

Speaking: For Against Information

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

Representing FSU SJP

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/SJR 792

INTRODUCER: Ethics and Elections Committee and Senator Lee

SUBJECT: Chief Financial Officer

DATE: February 14, 2018

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Carlton</u>	<u>Ulrich</u>	<u>EE</u>	Fav/CS
2.	<u>Cibula</u>	<u>Cibula</u>	<u>JU</u>	Favorable
3.	<u>McVaney</u>	<u>Hansen</u>	<u>AP</u>	Favorable
4.	_____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SJR 792 is a joint resolution to amend the State Constitution by establishing additional responsibilities for the state's Chief Financial Officer (CFO). Specifically, the resolution provides that the CFO shall participate as a principal in consensus economic, demographic, and revenue estimating conferences. The resolution further provides the CFO with the authority to review and certify, prior to execution, that state contracts in excess of \$10 million comply with state law, include all provisions required by statute, and do not require payment exceeding amounts appropriated or authorized by law.

The Department of Financial Services (DFS) indicates the joint resolution could require a significant impact for the staffing required to perform such tasks within DFS' Division of Accounting and Auditing. In addition, there are two technology options available to implement this change in the review and certification of state contracts: modification of either the Department of Management Services' (DMS) Purchasing Web Site system or modification of the DFS' Florida Accountability Contract Tracking System (FACTS).

The cost of updating the DMS' Purchasing Web Site systems is indeterminate. The DFS estimates the cost of updating FACTS to be in excess of \$1.5 million with licensing and maintenance costs of approximately \$300,000 annually thereafter.¹

Each house of the Legislature must pass the joint resolution by a three-fifths vote in order for it to be placed on the ballot for approval by the electors. Thereafter, it must be approved by 60 percent of the electors voting. The amendment, if approved, becomes effective after the next general election or at an earlier special election specifically authorized by law for that purpose.

II. Present Situation:

Chief Financial Officer

The Chief Financial Officer (CFO) is an elected constitutional officer and member of the Cabinet. The CFO's duties, as described by the Florida Constitution, are to serve as the chief fiscal officer of the state, settle and approve accounts against the state, and keep all state funds and securities. The CFO, the Governor, and the Attorney General serve as State Board of Administration. The CFO, the Governor, the Attorney General, and the Commissioner of Agriculture serve as the trustees of the Internal Improvement Trust Fund and as the agency head of the Department of Law Enforcement.² The elected CFO, not a designee, serves in these capacities.

Among the CFO's many statutory responsibilities is the responsibility to "examine, audit, and settle all accounts, claims, and demands, whatsoever, against the state, arising under any law or resolution of the Legislature, and issue a warrant directing the payment out of the State Treasury of such amount as he or she allows thereon."³ The CFO must also train agency contract managers, and the CFO may audit executed agency contracts.⁴

Requirement for State Contracts

Chapter 287, F.S., Procurement of Personal Property and Services, contains most of the statutes governing contracting by state agencies. These requirements become more detailed as the value of the contracts increase. Contract documents must also contain provisions required by statute based on the value of goods and services involved or the type of contract.

In some cases, for example, an agency contract must:

- State that agency contractors and subcontractors must comply with the public records laws.⁵
- Include specifications that clearly establish all the tasks that a contractor is required to perform.⁶

¹ Department of Financial Services, *Analysis of SB 792* (November 29, 2017) (on file with Senate Appropriations Subcommittee on General Government).

² FLA. CONST. art. IV, s. 4(a), (c), (e), (f), and (g).

³ Section 17.03(1), F.S.

⁴ Sections 287.057(14) and 287.136, F.S.

⁵ Section 287.0571(5)(j), F.S.

⁶ Section 287.056(1)(a), F.S.

- State that bills for fees or other compensation for services or expenses must be submitted in detail sufficient to allow for a proper preaudit and postaudit of the bills or fees.⁷
- Identify the financial consequences that the agency will apply if the contractor fails to perform the contract.⁸
- Address the property rights in intellectual property related to the contract and the state's rights regarding the intellectual property if the contractor fails to provide the services or is no longer providing services.⁹

If a contract binds the state for longer than one fiscal year, the contract must state that the government's obligation to pay under the contract is contingent upon an annual appropriation by the Legislature.¹⁰

Generally, an executive or judicial branch entity is prohibited from executing a contract which binds the state for the purchase of services or tangible personal property in excess of \$5 million unless the contract identifies the specific appropriation of state funds from which the state will make payment under the contract in the first year of the contract.¹¹ This statutory provision recognizes that state agencies are authorized to enter into multi-year contracts.

State Planning and Budgeting Processes

In 1992, the voters approved article III, section 19(a)(1) of the Florida Constitution. This provision requires the Legislature to prescribe by general law "the adoption of annual state budgetary and planning processes." These constitutionally required planning and budgetary processes are set forth in detail in chapter 216, F.S.

In 1985, the Legislature formalized the consensus estimating conference process used to develop the official information for purposes of the state planning and budgeting system.¹² Official information includes data, forecasts, estimates, analyses and studies on a particular matter, and the consensus process requires the unanimous consent of all of the principals of an estimating conference.¹³ Once official information is developed by a conference, state agencies and the judicial branch must use the information in carrying out their duties under the state planning and budgetary system.¹⁴

The principals of a consensus conference include:

- Professional staff of the Executive Office of the Governor who are designated by the Governor;
- The coordinator of the Office of Economic and Demographic Research and other professional staff of EDR which are designated by the coordinator to serve as a principal;
- Professional staff of the Senate designated by the President of the Senate; and

⁷ Section 287.058(1)(a), F.S.

⁸ Section 287.058(1)(h), F.S.

⁹ Section 287.058(1)(i), F.S.

¹⁰ Section 287.0582, F.S.

¹¹ Section 216.313, F.S.

¹² Section 216.134(1), F.S.

¹³ Section 216.133, F.S.

¹⁴ Section 216.135, F.S.

- Professional staff of the House of Representatives designated by the Speaker of the House of Representatives.¹⁵

The ten consensus estimating conferences and a general description of their areas of responsibility are set forth below:

- **Economic Estimating Conference**—develops official information with respect to the national and state economies, as the conference determines is needed for the state planning and budgeting system. This information includes long-term trend forecasts.¹⁶
- **Demographic Estimating Conference**—develops official information with respect to the population of the nation and state by age, race, and sex, as the conference determines is needed for the state planning and budgeting system.¹⁷
- **Revenue Estimating Conference**—develops official information with respect to anticipated state and local government revenues, as the conference determines is needed for the state planning and budgeting system. This information may include estimates of trust fund revenues.¹⁸
- **Education Estimating Conference**—develops official information relating to the state public and private educational system, including forecasts of student enrollments, the national average of tuition and fees at public postsecondary educational institutions, the number of students qualified for state financial aid programs and for the William L. Boyd, IV, Florida Resident Access Grant Program and the appropriation required to fund the full award amounts for each program, fixed capital outlay needs, and Florida Education Finance Program formula needs, as the conference determines is needed for the state planning and budgeting system.¹⁹
- **Criminal Justice Estimating Conference**—develops official information relating to the criminal justice system, including forecasts of prison admissions and population and of supervised felony offender admissions and population, as the conference determines is needed for the state planning and budgeting system.²⁰
- **Social Services Estimating Conference**—develops official information relating to the social services system of the state, including forecasts of social services caseloads, utilization, and expenditures, as the conference determines is needed for the state planning and budgeting system. The conference also develops information relating to the Florida KidCare program that the conference determines is needed to plan for and project future budgets and the drawdown of federal matching funds.²¹
- **Workforce Estimating Conference**—develops official information on the workforce development system planning process, as it relates to the personnel needs of current, new, and emerging industries as the conference determines is needed by the state planning and budgeting system. This information must include at least: short-term and long-term forecasts of employment demand for jobs by occupation and industry; entry and average wage forecasts among those occupations; and estimates of the supply of trained and qualified individuals available or potentially available for employment in those occupations, with

¹⁵ Section 216.134(4)(c), F.S.

¹⁶ Section 216.136(1), F.S.

¹⁷ Section 216.136(2), F.S.

¹⁸ Section 216.136(3), F.S.

¹⁹ Section 216.136(4), F.S.

²⁰ Section 216.136(5), F.S.

²¹ Section 216.136(6), F.S.

special focus upon those occupations and industries which require high skills and have high entry wages and experienced wage levels.²²

- **Early Learning Programs Estimating Conference**—develops estimates and forecasts of the unduplicated count of children eligible for the school readiness program and of children eligible for the Voluntary Prekindergarten Education Program, as the conference determines are needed to support the state planning, budgeting, and appropriations processes.²³
- **Self-Insurance Estimating Conference**—develops official information on self-insurance related issues, as the conference determines is needed by the state planning and budgeting system.²⁴
- **Florida Retirement System Actuarial Assumption Conference**—develops official information with respect to the economic and noneconomic assumptions and funding methods of the Florida Retirement System necessary to perform the system actuarial study.²⁵

Department of Financial Services

The CFO serves as the head of the Department of Financial Services (DFS), which executes the duties of the CFO. The DFS consists of the following divisions:

- The Division of Accounting and Auditing;
- The Division of State Fire Marshal;
- The Division of Risk Management;
- The Division of Treasury;
- The Division of Insurance Fraud;
- The Division of Rehabilitation and Liquidation;
- The Division of Insurance Agents and Agency Services;
- The Division of Consumer Services;
- The Division of Workers' Compensation;
- The Division of Administration;
- The Division of Legal Services;
- The Division of Information Systems;
- The Division of Insurance Consumer Advocate;
- The Division of Funeral, Cemetery, and Consumer Services; and
- The Division of Public Assistance Fraud²⁶

Also established within DFS are:

- The Financial Services Commission;²⁷
- The Board of Funeral, Cemetery, and Consumer Services;²⁸ and

²² Section 216.136(7), F.S.

²³ Section 216.136(8), F.S.

²⁴ Section 216.136(9), F.S.

²⁵ Section 216.136(10), F.S.

²⁶ s. 20.121(2), F.S.

²⁷ The Financial Services Commission is composed of the Governor and the Cabinet members and includes the Office of Insurance Regulation and the Office of Financial Regulation. The offices are responsible for activities of the commission relating to regulation and investigation of violations of law relating to insurance and financial institutions. Section 20.121(3)(a), F.S.

²⁸ The Board of Funeral, Cemetery, and Consumer Services is created within the Division of Funeral, Cemetery, and Consumer Services and regulates licenses issued under ch. 497, F.S. Sections 20.121(4) and 497.103, F.S.

- The Strategic Markets Research and Assessment Unit.²⁹

Florida Accountability Contract Tracking System (FACTS)

In 2009, the Florida Legislature enacted the Transparency Florida Act.³⁰ The CFO is required to establish and maintain a secure online contract working system known as the Florida Accountability Contract Tracking System (FACTS).³¹ Within 30 calendar days after executing a contract, each state entity³² is required to post the following information relating to contracts on FACTS:

- The names of the contracting entities;
- The procurement method;
- The contract beginning and ending dates;
- The nature or type of the commodities or services purchased;
- Applicable contract unit prices and deliverables;
- Total compensation to be paid or received under the contract;
- All payments made to the contractor to date;
- Applicable contract performance measures;
- If a competitive solicitation was not used to procure the goods or services, the justification of such action, including citation to a statutory exemption or exception from competitive solicitation, if any; and
- Electronic copies of the contract and procurement documents that have been redacted to exclude confidential or exempt information.³³

Within 30 days of an amendment³⁴ to an existing contract, state entities must update the information on FACTS.³⁵

Current law also requires each state agency³⁶ to report to DFS, within three working days of executing a contract, the following information relating to certain contracted activities that are not awarded by competitive solicitation:³⁷

- The nature of the commodities or services purchased;

²⁹ The Strategic Markets Research and Assessment Unit creates reports on issues, trends, and threats that broadly affect the condition of the financial services industries. Section 20.121(6), F.S.

³⁰ Section 215.985, F.S.

³¹ Section 215.985(4), F.S. See FACTS website, <https://www.myfloridacfo.com/division/AA/FACTSReporting/default.htm> (last visited February 9, 2018).

³² The term “state entity” means an official, officer, commission, board, authority, council, committee, or department of the executive branch of state government; a state attorney, public defender, criminal conflict and civil regional counsel, capital collateral regional counsel, and the Justice Administrative Commission; the Public Service Commission; and any part of the judicial branch of state government. Section 215.985(14)(h)2., F.S.

³³ Section 215.985(14)(a), F.S.

³⁴ An amendment to a contract includes, but is not limited to, a renewal, termination, or extension of the contract or a modification of the terms of the contract. See s. 215.985(14)(b), F.S.

³⁵ Section 215.985(14)(b), F.S.

³⁶ The term “state agency” means any official, officer, commission, board, authority, council, committee, or department of the executive branch of state government. The term includes, but is not limited to, state attorneys, public defenders, criminal conflict and civil regional counsel, capital collateral regional counsel, the Justice Administrative Commission, the Florida Housing Finance Corporation, and the Florida Public Service Commission. Section 216.011(1)(qq), F.S.

³⁷ Agencies must submit the information to DFS for contracts in excess of Category Two (\$35,000) if the goods and services were not purchased by competitive solicitation or from a state term contract. Section 216.011(2), F.S.

- The term of the contract;
- The final obligation made by the agency;
- A summary of any time constraints that apply to the procurement;
- The justification for not using the competitive solicitation, including any statutory exemption or exception; and
- Other information regarding the contract or the procurement that DFS requires.³⁸

Department of Management Services

The Department of Management Services (DMS) is the business branch of Florida government. The primary mission of DMS is to support sister agencies and former state employees with workforce and business-related functions. The DMS is divided into two major services areas: Business Operations and Workforce Operations.³⁹

Business Operations is responsible for managing general business operations of state government, including:

- State Purchasing;
- Real Estate Development and Management;
- Telecommunications;
- Fleet and Federal Surplus Property; and
- Private Prison Monitoring.⁴⁰

Workforce Operations is responsible for managing the state personnel system, which consists of:

- Human Resource Management;
- People First;
- State Group Insurance; and
- Florida Retirement System.

Division of State Purchasing

The Division of State Purchasing (division) within the DMS comprises the following areas: State Contracts and Agreements, MyFloridaMarketPlace(MFMP), Public Procurement Professional Development and Office of Supplier Diversity (OSD).

The division procures state contracts and agreements for commodities and services that are frequently used by multiple state agencies.

MyFloridaMarketPlace (MFMP)

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 CFO 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

³⁸ Section 216.0111(1), F.S.

³⁹ https://www.dms.myflorida.com/about_us (last visited February 9, 2018).

⁴⁰ https://www.dms.myflorida.com/about_us (last visited February 9, 2018).

compliance with standards of AST.⁴¹ The DMS is required to adopt rules for the administration of the program for online procurement.⁴² The DMS may also impose and collect fees for use of the online procurement system.⁴³

The DMS's online procurement program is MyFloridaMarketPlace (MFMP). MFMP is used by the division for formal solicitations (ITB, RFP, and ITN) and by state agencies for informal quotes and electronic invoicing. MFMP allows for the registration of vendors, creation of solicitations by customers, management and display of catalogs for contracted commodities and services, order placement, purchase approvals, invoice reconciliations, and payment approvals. MFMP has been in operation for more than ten years.⁴⁴

The DMS' Purchasing Web Site system holds all the state term contracts. Those contracts are cited by contract ID in MFMP where purchase orders are created, approved, and finalized through a "workflow" engine. Orders are created and then pushed automatically to approvers for review and approval. Purchase order data is sent to the DFS' Florida Accounting Information System (FLAIR)⁴⁵ where payments to contractors are made upon confirmation of delivery of the goods or services.⁴⁶

III. Effect of Proposed Changes:

The joint resolution amends the State Constitution to require the state Chief Financial Officer to:

- Participate as a principal in consensus economic, demographic, and revenue estimating conferences.
- Review and certify that certain state contracts comply with general laws relating to procurement, include all provisions required by general law for such contracts, and do not require payments in any fiscal year in excess of the amount authorized by general law.

Principal of estimating conferences

As the joint resolution is drafted, it appears the elected CFO, not a designee, is required to be a principal in the estimating conferences. As a principal, the CFO will be required to attend the various conferences and reach consensus with the other principals on any official information adopted by these estimating conferences.

The Demographic and Economic Estimating conferences each generally meet three times per year. The Revenue Estimating Conference meets at least three times annually in the following subconferences:

⁴¹ 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.)

⁴² Section 287.057(22)(b), F.S. See Rules 60A-1.030-1.033, F.A.C.

⁴³ Section 287.057(22)(c), F.S.

⁴⁴ See http://www.dms.myflorida.com/business_operations/state_purchasing (last visited February 9, 2018).

⁴⁵ The Florida Accounting Information Resource (FLAIR) is a double entry, computer-based general ledger accounting system, which is utilized to perform the State of Florida's accounting and financial management functions. <https://flair.dbf.state.fl.us/> (last visited February 9, 2018).

⁴⁶ Department of Financial Services, *Analysis of SB 792* (November 29, 2017) (on file with Senate Appropriations Subcommittee on General Government).

- Ad valorem taxes;
- Article V fees and transfers;
- Documentary stamp taxes;
- General Revenue;
- Gross Receipts and Communication Services Taxes;
- Highway Safety Fees;
- Indian Gaming Revenues;
- Lottery Revenues;
- Public Education Capital Outlay;
- Slot Machine Revenue;
- Tobacco Settlement;
- Tobacco Taxes and Surcharges;
- Transportation Revenues; and
- Unclaimed Property.

In addition to these subconferences, the Revenue Estimating Conference holds “impact conferences” on legislation filed for consideration by the Legislature. The impact conferences generally occur weekly from mid-September through the end of the legislative Regular Session. After session, the conference meets to finalize the impacts on enacted legislation.

In each case, in order for “official information” to be adopted, all principals of the conference, including the CFO, must unanimously consent. Without unanimous consent, the conference cannot develop official information for the state agencies and judicial branch to use for planning and budgeting purposes.

Review and certification of state contracts

Under the joint resolution, the CFO is required to review and certify, before execution, certain state contracts proposed by or on behalf of any state agency, entity, or officer of the executive branch. This provision specifically applies only to state contracts that require a payment or aggregate payments in excess of \$10 million from appropriated funds. This \$10 million threshold will be adjusted for inflation every four years. The joint resolution expressly requires that the processes for review and certification of contracts be established by implementing legislation.

Compliance with state procurement and contracting law

The purpose of the contract review is to ensure that contracts comply with state procurement law and contain the provisions required by statute. Under current law, state agencies are required to comply with the laws and are subject to bid protests if a vendor claims the agency has failed to comply. It is unclear under the joint resolution whether the CFO can substitute his or her judgment for the judgment of a court who has upheld the agency’s actions during a procurement. If yes, it may raise due process issues for vendors that have sought redress in the courts but have been frustrated by the CFO’s decision regarding compliance.

Requirement for appropriations

The CFO must also review contracts to ensure that any payments required to be made by the state agency, entity, or officer under the contract in any fiscal year do not exceed the amount appropriated for that fiscal year or the amount authorized by law for the purpose of the contract.

As a practical matter, the Legislature does not typically provide specific appropriations beyond the current fiscal year and next fiscal year. The Legislature does note that some appropriations are intended to be “recurring” in nature. This means that the affected agency can expect to receive a similar appropriation in the next fiscal year; however, it is not the lawful appropriation until the Legislature takes another action (passes the bill actually making that appropriation for the next fiscal year). A strict reading of the joint resolution may not allow the CFO to certify that an appropriation exists in the future years of a multi-year contract unless the Legislature changes its behavior and actually appropriates funds for more than one or two fiscal years. As a result, the application of the joint resolution may reduce the ability of executive branch agencies to enter into multi-year contracts.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

Article XI, s. 1 of the Florida Constitution authorizes the Legislature to propose amendments to the Florida Constitution by joint resolution approved by a three-fifths vote of the membership of each house. The amendment must be placed before the electorate at the next general election held more than 90 days after the proposal has been filed with the Secretary of State or at a special election held for that purpose.

Article XI, s. 5(a) of the Florida Constitution and s. 101.161(1), F.S., require constitutional amendments submitted to the electors to be printed in clear and unambiguous language on the ballot. In determining whether a ballot title and summary are in compliance with the accuracy requirement, Florida courts use a two-prong test, asking “first, whether the ballot title and summary ‘fairly inform the voter of the chief purpose of the amendment,’ and second, ‘whether the language of the title and summary, as written, misleads the public.’”⁴⁷

Article XI, s. 5(e) of the Florida Constitution requires approval by 60 percent of voters for a constitutional amendment to take effect. The amendment, if approved, becomes effective after the next general election or at an earlier special election specifically authorized by law for that purpose.

⁴⁷ *Roberts v. Doyle*, 43 So. 3d 654, 659 (Fla. 2010), citing *Florida Dep’t of State v. Slough*, 992 So. 2d 142, 147 (Fla. 2008).

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

None.

B. Private Sector Impact:

To the extent that the joint resolution, when implemented by law, ensures that expenditures of public funds comply with law, the public may receive more public goods and services at a lower cost.

C. Government Sector Impact:**Impact of Contract Reviews**

The pre-execution review of contracts exceeding \$10 million may slow the negotiations for the contracts in some instances. Additionally, the Chief Financial Officer (CFO) will likely need some additional staff to perform the reviews. However, the pre-execution contract reviews may lessen the staff time required for post-execution audits of the contracts.

Advertising Costs

The Division of Elections (DOE) is required to advertise the full text of proposed constitutional amendments in English and Spanish twice in a newspaper of general circulation in each county before the election in which the amendment is submitted to the electors. The DOE is also required to provide each Supervisor of Elections with either booklets or posters displaying the full text of proposed amendments.

According to the DOE, the projected cost to advertise constitutional amendments for the 2018 primary and general election cycle was \$120.31 per word. Using those rates, the cost to advertise this amendment in newspapers and produce booklets for the 2018 general election could be \$76,396.85, at a minimum. This cost estimate is contingent on multiple amendments needing advertising, as there is an inverse relationship between the price per word and the length of the advertisements. If no other amendments need to be advertised, the price per word may be significantly higher. Accurate cost estimates cannot be determined until the total number of amendments to be advertised is known.

Total expenses related to constitutional amendment advertising for the 2018 election cycle are likely to be significant, as the 2018 ballot will include amendments placed there by the Constitutional Revision Commission (when the Commission last met in 1998, 13 amendments were placed on the ballot). Amendments can also be placed on the ballot via the initiative petition process, or by a joint resolution of the Florida Legislature. So far, four amendments will appear on the 2018 ballot.

Information Technology Costs

The Department of Financial Services (DFS) indicates there are two information technology options available to implement the review and certification of agreements of ten million dollars or greater: modification of either the Department of Management Services' (DMS) Purchasing Web Site system or modification of the DFS' Florida Accountability Contract Tracking System (FACTS).

To accommodate the process, the DFS suggests the DMS Purchasing Web Site system could be expanded to include all contracts valued over ten million dollars or MyFloridaMarketPlace (MFMP) or similar site could be modified to include a workflow specifically for DFS' "review and certification" of these contracts before agencies are allowed to use them. The cost of updating the DMS' Purchasing Web Site system is indeterminate.⁴⁸ However, DFS states "from an information technology perspective, this approach may be more effective because much of the prerequisite data, similar workflow processes and the inception of many purchases already happen in these systems."⁴⁹ DMS may be able to modify workflow, which could be accommodated within existing resources.

In comparison, FACTS has limited functionality and its purpose is retrospective. The DFS indicates updating FACTS to accommodate the contract review process would require substantial modification and augmentation in order to ensure all contracts valued above ten million dollars are uploaded before they are finalized by the agencies and to include a workflow process for review and certification of each. The DFS estimates the cost of updating FACTS to be in excess of \$1.5 million with licensing and maintenance costs of approximately \$300,000 annually thereafter.⁵⁰

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This joint resolution substantially amends Article IV, section 4 of the Florida Constitution.

⁴⁸ Department of Financial Services, *Analysis of SB 792* (November 29, 2017) (on file with Senate Appropriations Subcommittee on General Government).

⁴⁹ *Id.*

⁵⁰ *Id.*

IX. Additional Information:

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

CS by Ethics and Elections on January 30, 2018:

The Committee Substitute differs from the original bill in that it makes technical structural changes and specifically requires the Legislature to implement the changes via implementing legislation.

- B. **Amendments:**

None.

By the Committee on Ethics and Elections; and Senator Lee

582-02642-18

2018792c1

Senate Joint Resolution

A joint resolution proposing an amendment to Section 4 of Article IV of the State Constitution to revise the duties and responsibilities of the Chief Financial Officer.

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

That the following amendment to Section 4 of Article IV of the State Constitution is agreed to and shall be submitted to the electors of this state for approval or rejection at the next general election or at an earlier special election specifically authorized by law for that purpose:

ARTICLE IV

EXECUTIVE

SECTION 4. Cabinet.—

(a) There shall be a cabinet composed of an attorney general, a chief financial officer, and a commissioner of agriculture. In addition to the powers and duties specified herein, they shall exercise such powers and perform such duties as may be prescribed by law. In the event of a tie vote of the governor and cabinet, the side on which the governor voted shall be deemed to prevail.

(b) The attorney general shall be the chief state legal officer. There is created in the office of the attorney general the position of statewide prosecutor. The statewide prosecutor shall have concurrent jurisdiction with the state attorneys to prosecute violations of criminal laws occurring or having occurred, in two or more judicial circuits as part of a related

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transaction, or when any such offense is affecting or has affected two or more judicial circuits as provided by general law. The statewide prosecutor shall be appointed by the attorney general from not less than three persons nominated by the judicial nominating commission for the supreme court, or as otherwise provided by general law.

(c) The chief financial officer shall serve as the chief fiscal officer of the state, and shall:

(1) Settle and approve accounts against the state;~~and shall~~

(2) Keep all state funds and securities;

(3) Participate as a principal in consensus economic, demographic, and revenue estimating conferences; and

(4) As prescribed by general law, review and certify, before execution, that each proposed contract of a state agency, entity, or officer of the executive branch requiring a payment or aggregate payments in excess of ten million dollars from funds appropriated to the state agency, entity, or officer:

a. Complies with general laws relating to procurement;

b. Includes all provisions required by general law for state agency contracts; and

c. Does not require payments by the state agency, entity, or officer in any fiscal year in excess of the amount appropriated for that fiscal year or the amount authorized by general law, for the purpose of the contract.

The legislature shall enact legislation to implement this paragraph, including the adjustment, to be adjusted at least every four years, of the contract amount threshold to reflect

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59 the rate of inflation or deflation as indicated in the Consumer
 60 Price Index for All Urban Consumers, U.S. City Average, All
 61 Items, or a successor index, as calculated by the United States
 62 Department of Labor Bureau of Labor Statistics, or its successor
 63 agency.

64 (d) The commissioner of agriculture shall have supervision
 65 of matters pertaining to agriculture except as otherwise
 66 provided by law.

67 (e) The governor as chair, the chief financial officer, and
 68 the attorney general shall constitute the state board of
 69 administration, which shall succeed to all the power, control,
 70 and authority of the state board of administration established
 71 pursuant to Article IX, Section 16 of the Constitution of 1885,
 72 and which shall continue as a body at least for the life of
 73 Article XII, Section 9(c).

74 (f) The governor as chair, the chief financial officer, the
 75 attorney general, and the commissioner of agriculture shall
 76 constitute the trustees of the internal improvement trust fund
 77 and the land acquisition trust fund as provided by law.

78 (g) The governor as chair, the chief financial officer, the
 79 attorney general, and the commissioner of agriculture shall
 80 constitute the agency head of the Department of Law Enforcement.

81

82 BE IT FURTHER RESOLVED that the following statement be
 83 placed on the ballot:

84

CONSTITUTIONAL AMENDMENT

85

ARTICLE IV, SECTION 4

86

87

DUTIES OF THE CHIEF FINANCIAL OFFICER.—Expands the Chief
 Financial Officer's duties to require that he or she participate

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88 as a principal in consensus economic, demographic, and revenue
 89 estimating conferences and review and certify certain state
 90 contracts above a threshold dollar amount to ensure compliance
 91 with certain laws and that such contracts do not require
 92 payments in any fiscal year which exceed the amount appropriated
 93 or the amount authorized by law. Requires the Legislature to
 94 enact legislation to implement the amendment.

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The Florida Senate

Committee Agenda Request

To: Senator Bradley, Chair
Senate Committee on Appropriations

Subject: Committee Agenda Request

Date: February 6, 2018

I respectfully request that **Senate Bill #792**, relating to **Chief Financial Officer**, be placed on the:

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

A handwritten signature in blue ink that reads "Tom Lee".

Senator Tom Lee
Florida Senate, District 20

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 854

INTRODUCER: Criminal Justice Committee and Senator Brandes

SUBJECT: Correctional Officers

DATE: February 14, 2018

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cox	Jones	CJ	Fav/CS
2.	Forbes	Sadberry	ACJ	Recommend: Favorable
3.	Forbes	Hansen	AP	Pre-meeting

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 854 lowers the minimum age for employment as a correctional officer from 19 years of age to 18 years of age. However, a correctional officer who is younger than 19 years of age may not supervise inmates but may perform all other duties performed by a full-time, part-time, or auxiliary correctional officer.

The bill does not affect state revenues or expenditures.

The bill is effective July 1, 2018.

II. Present Situation:

The Criminal Justice Standards and Training Commission (Commission), which is housed within the Florida Department of Law Enforcement (FDLE) is, in part, responsible for implementing

requirements related to the training, certification, and discipline of full-time, part-time,¹ and auxiliary² correctional officers.³

Section 943.10(2), F.S., defines “correctional officer” to mean any person who is appointed or employed full time by the state or any political subdivision thereof, or by any private entity which has contracted with the state or county, and whose primary responsibility is the supervision, protection, care, custody, and control, or investigation, of inmates within a correctional institution; however, the term “correctional officer” does not include any secretarial, clerical, or professionally trained personnel.⁴

Section 943.13, F.S., provides that, to be eligible to be employed as a correctional officer, the person must:

- Be at least 19 years of age;
- Be a citizen of the United States, notwithstanding any law of the state to the contrary;
- Be a high school graduate or its equivalent;⁵
- Not have been convicted of any felony or of a misdemeanor involving perjury or a false statement, or have received a dishonorable discharge from any of the Armed Forces of the United States;⁶
- Have documentation of his or her processed fingerprints on file with the employing agency or, if a private correctional officer, have documentation of his or her processed fingerprints on file with the Department of Corrections (DOC) or the Commission;⁷

¹ Section 943.10(7), F.S., defines “part-time correctional officer” to mean any person who is employed or appointed less than full time, as defined by the employing or appointing agency, with or without compensation, whose responsibilities include the supervision, protection, care, custody, and control of inmates within a correctional institution.

² Section 943.10(9), F.S., defines “auxiliary correctional officer” to mean any person employed or appointed, with or without compensation, who aids or assists a full-time or part-time correctional officer and who, while under the supervision of a full-time or part-time correctional officer, has the same authority as a full-time or part-time correctional officer for the purpose of providing supervision, protection, care, custody, and control of inmates within a correctional institution or a county or municipal detention facility.

³ Correctional officers are eligible for special risk class benefits in accordance with s. 121.0515, F.S. Special risk class membership awards more retirement credit per year of service than is awarded to other employees due to the increased risk that such employees undertake as a part of their duties. Membership of correctional officers in the special risk class is determined by whether the officer’s primary duties and responsibilities involve the custody of prisoners or inmates within a prison, jail, or other criminal detention facility, or while on work detail outside the facility, or while being transported; or whether the officer is the supervisor or command officer of a member or members who have such responsibilities. Section 121.0515(1) and (3)(c), F.S.

⁴ Section 943.10(2), F.S.

⁵ Section 943.13(3), F.S., provides that the Commission must define the term high school equivalency in rule.

⁶ Section 943.13(4), F.S., further specifies that: a. Any person who, after July 1, 1981, pleads guilty or nolo contendere to or is found guilty of any felony or of a misdemeanor involving perjury or a false statement is not eligible for employment or appointment as an officer, notwithstanding suspension of sentence or withholding of adjudication; and b. Any person who has pled nolo contendere to a misdemeanor involving a false statement, prior to December 1, 1985, and has had such record sealed or expunged shall not be deemed ineligible for employment or appointment as an officer.

⁷ Section 943.13(5), F.S., provides that the FDLE must retain and enter into the statewide automated biometric identification system all fingerprints submitted. Thereafter, the fingerprints must be available for all purposes and uses authorized for arrest fingerprints entered in the statewide automated biometric identification system pursuant to s. 943.051, F.S. The FDLE is also required to search all arrest fingerprints received pursuant to s. 943.051, F.S., against the fingerprints retained in the statewide automated biometric identification system in accordance with s. 943.13, F.S., and report to the employing agency any arrest records that are identified with the retained employee’s fingerprints. These fingerprints must be forwarded to the FDLE for processing and retention.

- Have passed a physical examination by a licensed physician, physician assistant, or certified advanced registered nurse practitioner, based on specifications established by the Commission;
- Have a good moral character as determined by a background investigation by the Commission;
- Execute and submit a sworn affidavit-of-applicant form attesting to his or her compliance with the above-listed requirements to the employing agency or, if a private correctional officer, submit to the appropriate governmental entity;
- Complete a Commission approved basic recruit training program for the applicable criminal justice discipline, unless exempt under law;⁸ and
- Achieve an acceptable score on the officer certification examination for the applicable criminal justice discipline.

If a critical need for officers exists, the employing agency may temporarily employ a person as a correctional officer, if he or she has met all the requirements listed above, even if he or she has not completed basic recruit school or received an acceptable score on the certification examination.⁹ Any person employed as a temporary correctional officer must be supervised by another correctional officer anytime he or she is performing any duties of a correctional officer and must attend the first basic recruit training program offered in the geographic area within 180 consecutive days of employment.¹⁰ A person temporarily employed as a correctional officer is prohibited from being employed in the position for more than 30 months. However, a person that is attending the first available basic recruit training program offered in his or her geographic area may continue to be employed as a temporary correctional officer until he or she:

- Fails or withdraws from the basic recruit training program; or
- Is separated from employment or appointment by the employing agency.¹¹

Any person employed as a correctional officer, regardless of age, must comply with all the above-described eligibility criteria and any other requirements imposed by the Commission, including such requirements as continuing education requirements proscribed in s. 943.135, F.S.

The DOC reports that 23 states permit 18 year olds to be employed as correctional officers.¹²

⁸ Section 943.13(9), F.S., provides an exemption for an applicant to be required to take the basic recruit training program, including that if the applicant has completed a comparable basic recruit training program for the applicable criminal justice discipline in another state or for the Federal Government and served as a full-time sworn officer in another state or for the Federal Government for at least 1 year. For the exemption to be available, the applicant cannot have more than an 8-year break in employment, as measured from the separation date of the most recent qualifying employment to the time a complete application is submitted for the exemption.

⁹ Section 943.131(1)(a), F.S.

¹⁰ Section 943.131(1)(a) and (c), F.S.

¹¹ Section 943.131(1)(b), F.S.

¹² These states include Arkansas, Georgia, Illinois, Indiana, Kansas, Louisiana, Michigan, Minnesota, Mississippi, Montana, Nebraska, New Jersey, New Mexico, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Virginia, Washington, West Virginia, Wisconsin, and Wyoming. Florida Department of Corrections, *Senate Bill 854 Analysis*, at p. 2, (September 19, 2017) (on file with the Senate Committee on Criminal Justice).

III. Effect of Proposed Changes:

The bill amends s. 943.13, F.S., to reduce the minimum age requirement for correctional officers from 19 years of age to 18 years of age.

The bill also creates s. 944.145, F.S., to prohibit a correctional officer younger than 19 years of age from supervising inmates. A correctional officer that is younger than 19 years of age may perform all other duties performed by a full-time, part-time, or auxiliary correctional officer.¹³

The bill takes effect July 1, 2018.

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:

The bill permits the DOC to hire persons who are between 18 and 19 years of age to perform limited correctional officer functions. To the extent that this bill increases the number of persons the DOC is able to hire, the bill could potentially reduce the current vacancy rate within correctional facilities.

VI. Technical Deficiencies:

None.

¹³ A person employed as a correctional officer who is younger than 19 years of age will not qualify for special risk class benefits because he or she will not be supervising inmates, which is required pursuant to s. 121.0515, F.S.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill amends section 943.13 of the Florida Statutes.

This bill creates section 944.145 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 Criminal Justice on January 9, 2018:

The committee substitute amends s. 943.13, F.S., expanding the eligibility requirements of a correctional officer to include a person who is 18 years of age, rather than 19 years of age or older. The committee substitute also creates s. 944.145, F.S., prohibiting a correctional officer younger than 19 years of age from supervising inmates.

- B. **Amendments:**

None.

By the Committee on Criminal Justice; and Senator Brandes

591-01944-18

2018854c1

1 A bill to be entitled
 2 An act relating to correctional officers; amending s.
 3 943.13, F.S.; authorizing a full-time, part-time, or
 4 auxiliary correctional officer to be employed at 18
 5 years of age; creating s. 944.145, F.S.; prohibiting a
 6 correctional officer who is under 19 years of age from
 7 supervising inmates; authorizing a correctional
 8 officer who is under 19 years of age to perform all
 9 other tasks performed by a full-time, part-time, or
 10 auxiliary correctional officer; providing an effective
 11 date.
 12

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

15 Section 1. Subsection (1) of section 943.13, Florida
 16 Statutes, is amended to read
 17 943.13 Officers' minimum qualifications for employment or
 18 appointment.—On or after October 1, 1984, any person employed or
 19 appointed as a full-time, part-time, or auxiliary law
 20 enforcement officer or correctional officer; on or after October
 21 1, 1986, any person employed as a full-time, part-time, or
 22 auxiliary correctional probation officer; and on or after
 23 October 1, 1986, any person employed as a full-time, part-time,
 24 or auxiliary correctional officer by a private entity under
 25 contract to the Department of Corrections, to a county
 26 commission, or to the Department of Management Services shall:
 27 (1) Be at least 19 years of age, except that any person
 28 employed as a full-time, part-time, or auxiliary correctional
 29 officer may be at least 18 years of age.

Page 1 of 2

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

591-01944-18

2018854c1

30 Section 2. Section 944.145, Florida Statutes, is created to
 31 read:
 32 944.145 Correctional officers under the age of 19.—A
 33 correctional officer who is under the age of 19 years may not
 34 supervise inmates, but may perform all of the other duties
 35 performed by a full-time, part-time, or auxiliary correctional
 36 officer.
 37 Section 3. This act shall take effect July 1, 2018.

Page 2 of 2

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



The Florida Senate

Committee Agenda Request

To: Senator Rob Bradley
Committee on Appropriations

Subject: Committee Agenda Request

Date: February 8, 2018

I respectfully request that **Senate Bill #854**, relating to **Corrections Specialists**, be placed on the:

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

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

Senator Jeff Brandes
Florida Senate, District 24

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/15/18.

Meeting Date

CS/SB 854.

Bill Number (if applicable)

Topic CS/SB 854 Correctional officers.

Amendment Barcode (if applicable)

Name Jared Torres.

Job Title Legislative Affairs Director.

Address 501 S. Calhoun Street.

Phone 850-717-3045.

Street

Tallahassee.

City

FL.

State

32379.

Zip

Email Jared.Torres@fdc.myflorida.com

Speaking: [] For [] Against [] Information

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

Representing Florida Department of Corrections.

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: CS/CS/SB 920

INTRODUCER: Appropriations Committee; Commerce and Tourism Committee; and Senators Bradley and Braynon

SUBJECT: Consumer Finance

DATE: February 19, 2018

REVISED: 2/20/18

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Knudson</u>	<u>Knudson</u>	<u>BI</u>	<u>Favorable</u>
2.	<u>Little</u>	<u>McKay</u>	<u>CM</u>	<u>Fav/CS</u>
3.	<u>Sanders</u>	<u>Hansen</u>	<u>AP</u>	<u>Fav/CS</u>
4.	<u></u>	<u></u>	<u>RC</u>	<u></u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 920 authorizes deferred presentment installment transactions under Florida law. A deferred presentment installment transaction must be fully amortizing (the balance due will be entirely paid after the last payment is made) and repayable in consecutive installments, which must be as equal as mathematically practicable. The term of a deferred presentment installment transaction may not be less than 60 days or more than 90 days and the time between installment payments must be at least 13 days but not greater than one calendar month.

The maximum face amount of a check taken for a deferred presentment installment transaction may not exceed \$1,000, exclusive of fees. The maximum fees that may be charged on a deferred presentment installment transaction are eight percent of the outstanding transaction balance on a biweekly basis. Fees for a deferred presentment installment transaction are calculated using simple interest. Prepayment penalties are prohibited. The bill retains current law in s. 560.404(19), F.S., prohibiting a provider from entering into a deferred presentment transaction with any person who has an outstanding deferred presentment transaction or whose previous transaction has been terminated for less than 24 hours.

If the drawer¹ timely informs the provider in writing or in person that the drawer cannot redeem or pay in full in cash the amount due and owing, the provider must provide a grace period for payment of a scheduled installment.

The bill amends the Florida Consumer Collection Practices Act to allow assignees of consumer debt to immediately begin collecting on a debt. Current law requires the assignee to provide to the debtor written notice of the assignment as soon as practical and prohibits an assignee from taking any action to collect a debt until at least 30 days after notice is given. The bill amends the 30-day waiting period to apply only to a legal action to collect on the debt.

The impact to state revenues and expenditures is indeterminate. The Office of Financial Regulation (OFR) indicates the bill may impact collected revenues that are assessed for deferred presentation transactions. Currently, \$1 is assessed for each deferred presentment transaction. The OFR indicates that there may need to be rule modification to require \$1 per month for each outstanding deferred presentment installment transaction, \$2 for each 60-day term, and \$3 for each 90-day term. According to the OFR, \$7,657,486 was collected in Fiscal Year 2016-2017 for the current \$1 transaction fee. It is unknown how many deferred presentment installment transactions will result from the bill's passage, what the length of their terms will be, and what the decline will be in the number of current deferred presentment transactions.²

The OFR currently contracts with a vendor to host and maintain the existing deferred presentment provider transaction database. The OFR paid the vendor \$2,656,269 in Fiscal Year 2016-2017 for the database. Based on modifications of the loan product proposed in the bill, the OFR indicates that it would likely need to procure a new contract. An increased appropriation may be required if current funding is insufficient to pay for a new contract. It is unknown how much a newly procured contract would cost.³

The bill takes effect July 1, 2019.

II. Present Situation:

Consumer Debt Collection

Consumer debt covers personal debt such as mortgages, credit cards, medical debts, and other debts mainly for personal, family, or household purposes. Depending on the terms of the loan, a grace period may be provided before a debt becomes delinquent. Generally, most credit issuers will attempt to collect on a delinquent debt between 120-180 days after delinquency, before it is deemed uncollectible and is "charged-off" corporate records.⁴ Typically, the charged-off debt is

¹ "Drawer" means a customer who writes a personal check and upon whose account the check is drawn. *See* s. 560.402(4), F.S.

² Office of Financial Regulation, *Senate Bill 920 Legislative Analysis* (Jan. 10, 2018) (on file with the Senate Appropriations Subcommittee on General Government).

³ *Id.*

⁴ The Uniform Retail Credit Classification and Account Management Policy, set forth by the Federal Financial Institutions Examination Council, established uniform guidelines for issuers of retail credit regarding the charge-off timeframes for open-end and closed-end credit. 65 Fed. Reg. 36903 (June 12, 2000). It should be noted that a "charge-off" does not mean the debtor is discharged from repaying the loan; in fact, a charge-off is reported as an adverse event to credit reporting agencies. <https://www.gpo.gov/fdsys/pkg/FR-2000-06-12/pdf/00-14704.pdf> (last visited February 15, 2018).

either assigned or sold as part of a portfolio to a third-party collection agency or collection law firm, which can in turn use a variety of collection methods and judgment remedies to recover the asset, subject to applicable statutes of limitations. These remedies enable creditors to minimize losses due to non-repayment by borrowers, and help ensure the availability and affordability of consumer credit.

State and Federal Debt Collection Regulations

State and federal debt collection laws provide consumer protections against certain abusive, harassing, and intrusive collection practices that may occur before the debtor is sued, as well as during the litigation process. Both federal and Florida law define “debt collector” as any person who uses any instrumentality of interstate commerce in any business the principal purpose of which is the collection of debts, or who regularly collects or attempts to collect, directly or indirectly, debts owed or due to asserted to be owed or due another.⁵ The definition of “debt collector” under both federal and Florida law excludes persons such as original creditors and their in-house collectors and persons serving legal process in connection with the judicial enforcement of any debt.⁶

Since September 2013, debt collection has been the top consumer complaint at the federal Consumer Financial Protection Bureau (CFPB), the primary federal agency that enforces the federal Fair Debt Collection Practices Act.⁷ Among the CFPB’s data on consumer complaints regarding debt collection, the most common type of debt collection complaint is about continued attempts to collect a debt that the consumer reports is not owed (40 percent), followed by communications tactics, particularly phone calls (18 percent). Consumers also complained of disclosure verification of debt (15 percent), taking or threatening an illegal action (11 percent) and false statements or representation (nine percent). One of the least common complaints received by the CFPB relates to consumers reporting that they are contacted directly, instead of the debt collector contacting their attorney (seven percent).⁸

Federal Regulation of Debt Collection

Fair Debt Collection Practices Act

In 1977, Congress enacted the Fair Debt Collection Practices Act (FDCPA)⁹ to “eliminate abusive debt collection practices...to insure that those debt collectors who refrain from using abusive debt collection practices are not competitively disadvantaged, and to promote consistent State action to protect consumers against debt collection abuses.”¹⁰ The FDCPA is primarily enforced by the CFPB, in coordination with the Federal Trade Commission. The FDCPA is also enforced by other federal agencies with respect to specific industries subject to other federal

⁵ Section 559.55(6), F.S., and 15 U.S.C. § 1692a(6).

⁶ 15 U.S.C. 1692a § 803(6). For exclusions to term “debt collector”. <https://www.ftc.gov/system/files/documents/plain-language/fair-debt-collection-practices-act.pdf> (last visited February 16, 2018).

⁷ See footnote 2, *supra*.

⁸ CONSUMER FINANCIAL PROTECTION BUREAU, *Fair Debt Collection Practices Act Annual Report* (2016) (pp. 17-18), at https://files.consumerfinance.gov/f/201603_cfpb-fair-debt-collection-practices-act.pdf (last visited February 15, 2018).

⁹ 15 U.S.C. 1692(e). The FDCPA is codified at 15 U.S.C. §§ 1692-1692p.

¹⁰ 15 U.S.C. 1692(e). The FDCPA is codified at 15 U.S.C. §§ 1692-1692p.

laws, such as financial institutions (e.g., banks, savings associations, and credit unions).¹¹ As a result of the federal Dodd-Frank Wall Street Reform Act of 2010¹², the CFPB was given rulemaking authority to define and supervise “larger participants” of certain nonbank consumer financial product and service markets, including debt collection. The CFPB test to define these “larger participants” means the covered person’s annual receipts resulting from consumer debt collection exceed \$10 million.

The FDCPA covers personal, family, credit card, automobile loans, medical bills and mortgages. The FDCPA does not include business debts. The FDCPA prohibits third-party debt collectors, which includes contingency agencies, collection law firms, and debt buyers, from engaging in certain types of abusive, harassing, unfair, or deceptive conduct in collecting or attempting to collect a debt. However, the FDCPA does not apply to original creditors.

Dodd-Frank Wall Street Reform and Consumer Protection Act

On July 21, 2010, the federal Dodd-Frank Wall Street Reform and Consumer Protection Act (Pub. L. 111-203, H.R. 4173, commonly referred to as “Dodd-Frank”) was signed into law. It has widely been described as the most expansive financial regulatory legislation since the 1930s, and was formed with the intent “to focus directly on consumers, rather than on bank safety and soundness or on monetary policy.”¹³ Title X of Dodd-Frank created the Consumer Financial Protection Bureau (CFPB) as an independent bureau housed within the Federal Reserve System.

Dodd-Frank also granted enforcement and rulemaking authority to the CFPB to protect consumers from unfair, deceptive, or abusive acts or practices (UDAAP) committed by “covered persons or service providers”¹⁴ which include both third-party debt collectors and original creditors collecting debt related to certain consumer financial products or services. In July 2013, the CFPB issued a bulletin regarding UDAAP in the collection of consumer debts to give guidance regarding the applicable UDAAP standards.¹⁵

Civil Remedies

Each violation of the FDCPA carries a penalty equal to the sum of the actual damage sustained as a result of the failure to comply with the terms of the FDCPA plus additional damages as the court may allow but not to exceeding \$1,000 per violation. Damages awarded in class action suits are also covered under the provisions of the FDCPA.¹⁶

¹¹ Pub. L. 111-201, 124 Stat. 1376.

¹² Pub. L. 111-203, H.R. 4173, <https://www.gpo.gov/fdsys/pkg/PLAW-111publ203/html/PLAW-111publ203.htm> (last visited February 16, 2018).

¹³ Consumer Financial Protection Bureau, *Creating the Consumer Bureau*, at <https://www.consumerfinance.gov/about-us/the-bureau/creatingthebureau/> (last visited February 15, 2018).

¹⁴ 12 U.S.C. §5531.

¹⁵ Consumer Financial Protection Bureau, *CFPB Bulletin 2013-07: Prohibition of Unfair, Deceptive, or Abusive Practices in the Collection of Consumer Debts* https://files.consumerfinance.gov/f/201307_cfpb_bulletin_unfair-deceptive-abusive-practices.pdf (last visited February 15, 2018).

¹⁶ U.S.C. 1692k § 813(a)

State Regulation of Debt Collection

Florida Consumer Collection Practices Act

In 1972, Florida enacted the Florida Consumer Collection Practices Act (FCCPA), codified in part VI of ch. 559, F.S.¹⁷ The FCCPA gives primary regulatory authority to the Florida Office of Financial Regulation (OFR), and some enforcement authority to the Office of the Attorney General over out-of-state consumer debt collectors.¹⁸ The FCCPA defines “*consumer collection agency*” (CCA) as any debt collector or business entity engaged in the business of soliciting consumer debts for collection or of collecting consumer debts. CCAs must register with the OFR, unless expressly exempted by the Act.¹⁹

The OFR may also examine and investigate potential violations of the Act, and may impose administrative fines of up to \$10,000 for each count or offense and up to \$1,000 per day of unregistered activity; may deny, suspend, or revoke CCA registration; may impose reprimand, cease and desist orders, and emergency suspension orders.²⁰

The FCCPA prohibits many of the same debt collection practices prohibited by the FCCPA, such as the use or threat to use force or violence, impersonating law enforcement or attorneys, communicating between 9:00 p.m. and 8:00 a.m. without the debtor’s consent, and the disclosure of the debtor’s debt except for legitimate purposes such as credit reporting agencies. However, Florida law does not specifically prohibit false, deceptive, or unfair practices the way the federal Act does.²¹

While the FDCPA only applies to third-party debt collectors, Florida law provides that “no person shall” engage in the prohibited acts.²² As such, while the Florida act may exempt original creditors from registration with the OFR, original creditors may still be held liable (civilly and administratively) under Florida law for engaging in certain prohibited acts.

In terms of the FDCPA’s relation to Florida law, both acts were designed to work harmoniously, except to the extent state law conflicts with the FDCPA.²³ The FCCPA also provides that, in the event of an inconsistency with the federal law, the provision that is more protective of the consumer or debtor shall prevail.²⁴ Finally, the FCCPA provides that in construing its provisions, “due consideration and great weight shall be given to the interpretations of the Federal Trade Commission and the federal courts relating to the federal Fair Debt Collection Practices Act.”²⁵ The FCCPA also does not preclude any person from pursuing remedies under the FDCPA for any violation.²⁶

¹⁷ Ch. 72-81, Laws of Fla.

¹⁸ Section 559.563, F.S.

¹⁹ Sections 559.55(3) and 559.553, F.S.

²⁰ Sections 559.5541, 559.727, and 559.730, F.S.

²¹ See 15 U.S.C. §§ 1692e and 1692f.

²² Section 559.72, F.S.

²³ 15 U.S.C. § 1692n

²⁴ Section 559.552, F.S.

²⁵ Section 559.77(5), F.S.

²⁶ Section 559.730(8), F.S.

Notification of Assignment of Consumer Debt

Assignees of consumer debt must provide notice to the debtor of the assignment of debt as soon as practical and are prohibited from taking any action to collect on the debt until a minimum of 30 days have passed since notice has been given. The assignee is considered a real party in interest and may bring an action to collect an assigned defaulted debt.²⁷

Civil Remedies

The FDCPA provides private civil remedies to debtors that are identical to those available under its federal counterpart.²⁸ Any person who violates the prohibited practices statute, s. 559.72, F.S., is liable to the consumer for actual and additional statutory damages up to \$1,000 and reasonable attorney's fees and costs. In determining whether any additional statutory damages should be awarded to the debtor, the court may consider the nature of the defendant's noncompliance with s. 559.72, F.S., the frequency and persistence of the noncompliance, and the extent to which the noncompliance was intentional. The FDCPA also permits class action suits and punitive damages in certain instances. An action must be brought within two years after the date of occurrence of the alleged violation.²⁹

However, if the court finds that the debtor-plaintiff's suit fails to raise a justiciable issue of law or fact, the debtor-plaintiff is liable for court costs and reasonable attorney's fees incurred by the defendant.³⁰

Also, both acts provide a safe harbor for "bona fide errors³¹," in that a person may not be held liable in any civil action under the acts if the person shows by a preponderance of the evidence that the violation was not intentional and resulted from a bona fide error, notwithstanding the maintenance of procedures reasonably adapted to avoid such error.

Florida Deceptive and Unfair Trade Practices Act

The Florida Deceptive and Unfair Trade Practices Act (pt. II, ch. 501, F.S.) is intended to protect consumers and legitimate business enterprises from those who engage in unfair methods of competition, or unconscionable, deceptive, or unfair acts or practices in the conduct of any trade or commerce, consistent with established policies of federal law relating to consumer protection.³² It is enforced by the Department of Legal Affairs of the Office of the Attorney General, which may seek an action for damages as well as declaratory and injunctive relief.³³ In addition, Florida Deceptive and Unfair Trade Practices Act allows any aggrieved persons to seek civil penalties of up to \$10,000 for each willful violation, and also provides for attorney's fees to be awarded to the prevailing party in any civil litigation under this part.³⁴

²⁷ Section 559.715, F.S.

²⁸ 15 U.S.C. § 1692k.

²⁹ Section 559.77, F.S.

³⁰ Section 559.77, F.S. and 15 U.S.C. § 1692k.

³¹ BLACK'S LAW DICTIONARY (Online Dictionary 2nd Ed.) Bona Fide Error is defined as "[a]n honest mistake that when rectified quickly requires no punishment. <https://thelawdictionary.org/bona-fide-error/> (last visited February 16, 2018).

³² Section 501.201, F.S.

³³ Section 501.207, F.S.

³⁴ Sections 501.2075 and 501.2105, F.S.

However, the Florida Deceptive and Unfair Trade Practices Act does not apply to certain entities, including state and federally chartered financial institutions and insurance companies and other entities regulated by the Office of Insurance Regulation.³⁵

Deferred Presentment

A deferred presentment transaction means providing currency or a payment instrument in exchange for a drawer's check and agreeing to hold the check for a number of days before depositing, presenting, or redeeming the payment instrument.³⁶ The transactions are commonly referred to as "payday loans." These transactions are governed by part IV of ch. 560, F.S. The only persons who may engage in deferred presentment transactions are financial institutions as defined in s. 655.005, F.S.,³⁷ and money services businesses licensed under part II³⁸ or part III³⁹ of ch. 560, F.S.

Florida law contains provisions designed to prevent consumers from being caught in a "debt trap" wherein the consumer has to continuously enter into lending transactions to pay off the principal and fees from previous transactions. The face amount of a check taken for deferred presentment may not exceed \$500, exclusive of fees.⁴⁰ Fees generally may not exceed 10 percent of payment provided to the drawer, except that an additional verification fee not to exceed \$5 may also be charged.⁴¹ The term of a deferred presentment agreement may not be less than seven days or greater than 31 days.⁴² A deferred presentment provider may not enter into a deferred presentment transaction with a drawer (customer) who has an outstanding deferred presentment transaction with any provider or within 24 hours of the termination of a previous transaction.⁴³ A deferred presentment provider also may not engage in the rollover of a deferred presentment agreement and may not redeem, extend, or otherwise consolidate a deferred presentment agreement with the proceeds of another deferred presentment transaction made by it or an affiliate.⁴⁴

³⁵ Section 501.212, F.S.

³⁶ See s. 560.402, F.S.

³⁷ Section 655.005(1)(i), F.S., defines a "financial institution" as a state or federal savings or thrift association, bank, savings bank, trust company, international bank agency, international banking corporation, international branch, international representative office, international administrative office, international trust entity, international trust company representative office, qualified limited service affiliate, credit union, or an agreement corporation operating pursuant to s. 25 of the Federal Reserve Act, 12 U.S.C. ss. 601 et seq. or Edge Act corporation organized pursuant to s. 25(a) of the Federal Reserve Act, 12 U.S.C. ss. 611 et Seq.

³⁸ A "money transmitter" is licensed under part II of ch. 560, F.S., and is defined as a corporation, limited liability company, limited liability partnership, or foreign entity qualified to do business in this state which receives currency, monetary value, or payment instruments for the purpose of transmitting the same by any means, including transmission by wire, facsimile, electronic transfer, courier, the Internet, or through bill payment services or other businesses that facilitate such transfer within this country, or to or from this country. Money transmitters may engage in check cashing under part III of ch. 560, F.S. See s. 560.103(23), F.S.,

³⁹ A "check casher" is licensed under part III of ch. 560, F.S. and is defined as a person who sells currency in exchange for payment instruments received, except travelers checks. Section 560.1030, F.S.

⁴⁰ Section 560.404(5), F.S.

⁴¹ Section 560.404(6), F.S.

⁴² Section 560.404(8), F.S.

⁴³ Section 560.404(19), F.S.

⁴⁴ Section 560.404(18), F.S.

If the drawer, at the end of the deferment period, informs the deferred presentment provider in person that the drawer cannot redeem or pay in full in cash the amount due, the drawer must be given a grace period that extends the term of the agreement for 60 additional days. As a condition of receiving the grace period, the drawer must make an appointment with a consumer credit counseling agency within seven days after the end of the deferment period and complete counseling by the end of the grace period.⁴⁵

The deferred presentment agreement may not include a hold harmless clause, a confession of judgment clause, an assignment of or order for payment of wages or other compensation for services, or a provision in which the drawer waives any claim or defense arising out of the agreement or any provision of part IV, ch. 560, F.S.⁴⁶ The deferred presentment provider must comply with state and federal disclosure requirements.⁴⁷

As of June 30, 2017, there were 923 licensed locations in Florida that engage in deferred presentment transactions.⁴⁸ Between July 2016 and June 2017, approximately 7.7 million deferred presentment transactions were conducted in Florida, representing a total advance amount of \$3.09 billion with total advance fees of \$306 million. The average transaction from July 2016 to June 2017 was \$400.77 and the average transaction fee was 9.9 percent of the advance plus an average verification fee of \$3.09. Of all consumers who entered into a deferred presentment transaction from July 2016 to June 2017, 31.8 percent engaged in one to three transactions, 30.7 percent engaged in 4 to 9 transactions, and 37.6 percent engaged in 10 or more transactions. The loan loss rate is 1.8 percent of total transactions representing an advance amount of approximately \$50.4 million. Grace periods were used for approximately 0.71 percent of transactions from July 2016 to June 2017.

Bureau of Consumer Financial Protection Rule Governing Payday, Vehicle Title, and Certain High-Cost Installment Loans

On October 5, 2017, the Bureau of Consumer Financial Protection (CFPB) finalized a rule governing certain consumer credit products.⁴⁹ The CFPB has stated that the rule is aimed at stopping payday debt traps by requiring lenders to determine upfront whether consumers have the ability to repay their loans.⁵⁰ The key provisions of the rule are as follows:⁵¹

The Lender Must Determine the Consumer's Ability to Repay

It is an unfair and abusive practice for a lender to make covered short-term or longer-term balloon-payment loans,⁵² including payday and vehicle title loans, without reasonably

⁴⁵ Section 560.404(22), F.S.

⁴⁶ Section 560.404(10), F.S.

⁴⁷ Section 560.404(13) and (20), F.S.

⁴⁸ Office of Financial Regulation, Florida Trends in Deferred Presentment – State of Florida Deferred Presentment Program Through June 2017 (June 2017) (On file with the Senate Committee on Banking and Insurance).

⁴⁹ 82 FR 54472.

⁵⁰ Bureau of Consumer Financial Protection, *CFPB Finalizes Rule to Stop Payday Debt Traps* (October 5, 2017) <https://www.consumerfinance.gov/about-us/newsroom/cfpb-finalizes-rule-stop-payday-debt-traps> (last accessed February 7, 2018).

⁵¹ The summary of key provisions of the CFPB rule is taken from 82 FR 54472 at pgs. 1-9, unless otherwise indicated.

⁵² A balloon payment loan is a larger than usual one-time payment at the end of the loan term.

determining that consumers have the ability to repay the loans according to their terms. The ability-to-repay standard requires a reasonable determination by the lender that the consumer would be able to make loan payments and also meet the consumer's basic living expenses and other major financial obligations without needing to re-borrow over the ensuing 30 days. The lender must:

- Verify the consumer's net monthly income using a reliable record of income payment, unless a reliable record is not reasonably available;
- Verify the consumer's monthly debt obligations using a national consumer report and a consumer report from a registered information system as defined by the rule;
- Verify the consumer's monthly housing costs using a national consumer report if possible, or otherwise rely on the consumer's written statement of monthly housing expenses;
- Forecast a reasonable amount for basic living expenses, other than debt obligations and housing costs; and
- Determine the consumer's ability to repay the loan based on the lender's projections of the consumer's residual income or debt-to-income ratio.

The rule also prohibits lenders from making a covered loan to a consumer who has already taken out three covered short-term or longer-term balloon-payment loans within 30 days of each other, for 30 days after the third loan is no longer outstanding.

The rule exempts certain loans from the underwriting criteria prescribed in the rule if they have specific consumer protections. Under the exemption, a lender may make up to three covered short-term loans in short succession, provided that the first loan has a principal amount no larger than \$500, the second loan has a principal amount at least one-third smaller than the principal amount on the first loan, and the third loan has a principal amount at least two-thirds smaller than the principal amount on the first loan. A lender may not make a covered short-term loan under the exemption if it would result in the consumer having more than six covered short-term loans during a consecutive 12-month period, or being in debt for more than 90 days on covered short-term loans during a consecutive 12-month period.

Payment Practices

The rule makes it an unfair and abusive practice for a lender to attempt to withdraw payment from consumers' accounts after two consecutive failed payments, unless the consumer provides a new, specific authorization to do so. This applies to the same loans as the ability-to-repay requirement, and also applies to specified high-cost longer-term loans. Lenders must provide notices to consumers when the prohibition has been triggered and follow certain procedures in obtaining new authorizations.

Lenders must also provide written notice, depending on means of delivery, a certain number of days before its first attempt to withdraw payment for a covered loan from a consumer's checking, savings, or prepaid account. Notice is also required before the lender attempts to withdraw a payment in a different amount than the regularly scheduled payment amount, on a date other than the regularly scheduled payment date, by a different payment channel than the prior payment, or to re-initiate a returned prior transfer. The notice must contain specified information about the upcoming payment attempt and, if applicable, alert the consumer to

unusual payment attempts. The notice may be provided electronically with the consumer's consent.

Lender Reporting and Compliance Requirements

Lenders are required to furnish registered information systems with certain information concerning loans covered by the rule. Information must be submitted at loan consummation, during the period that the loan is outstanding, and when the loan ceases to be outstanding. The registered information systems will provide consumer reports that include a reasonably comprehensive record of a consumer's recent and current use of loans addressed by the rule. Before making such loans, a lender must obtain and consider a consumer report from a registered information system.

Lenders must also develop and follow written policies and procedures that are reasonably designed to ensure compliance with the rule. Lenders must retain the loan agreement, documentation obtained for any covered loan, and electronic records regarding origination calculations and determinations, the type of loan, and the loan terms.

Implementation of the Rule

The CFPB rule provides minimum consumer protections and allows state and local jurisdictions to adopt further regulatory measures to protect consumers. Lender compliance with the rule is required on August 19, 2019. Many Florida deferred presentment transactions are affected by the rule because they are for 45 days or less and do not qualify for one of the rule's exceptions. Thus deferred presentment transaction providers are required to comply with the underwriting requirements of the rule or conform their business practices to meet the exception to underwriting.

Reconsideration of the Rule

On January 16, 2018, the Consumer Financial Protection Bureau (CFPB) declared its intent to engage in a rulemaking process to reconsider the rule.⁵³

III. Effect of Proposed Changes:

The bill authorizes deferred presentment installment transactions under Florida law. Deferred presentment transactions will be exempt from the underwriting requirement of the Bureau of Consumer Financial Protection (CFPB) rule because such loans will be for a term longer than 30 days, and will not be a longer-term balloon payment loan because the bill requires installment payment to be as equal as mathematically practicable. Provisions of the CFPB rule relating to payment practices, lender reporting, and compliance will apply to deferred presentment installment transaction lenders that provide loans with a term longer than 45 days, with a cost of credit exceeding 36 percent per annum, and that have a leveraged payment mechanism.

⁵³ Bureau of Consumer Financial Protection, *CFPB Statement on Payday Rule*, (Jan 16, 2018). <https://www.consumerfinance.gov/about-us/newsroom/cfpb-statement-payday-rule/> (last accessed Feb. 16, 2018).

Section 1 amends s. 559, 715, F.S., to allow assignees of a consumer debt to immediately begin the process of collecting on a debt. Under current law, an assignee may not take action to collect a consumer debt until 30 days after giving the notice to the debtor of the assignment. The bill revises the waiting period to instead prohibit any *legal* action until 30 days after providing notice of the assignment, which will allow assignees to immediately use other methods of collecting the debt if notice is provided as soon as practical after the assignment is made.

Section 2 amends s. 560.402, F.S., to define a “deferred presentment installment transaction” to mean “a deferred presentment transaction that is repayable in installments” and an “outstanding transaction balance” to mean “the amount received by the drawer from the deferred presentment provider that is due and owing, exclusive of the fees allowed under this party, in a deferred presentment transaction.”

Section 3 amends s. 560.404, F.S., to authorize deferred presentment installment transactions under Florida law.

The maximum face amount of a check taken for a deferred presentment installment transaction may not exceed \$1,000, exclusive of fees. The term of a deferred presentment installment transaction may not be less than 60 days or more than 90 days. The bill retains current law in s. 560.404(19), F.S., which prohibits a provider from entering into a deferred presentment transaction with any person who has an outstanding deferred presentment transaction or whose previous transaction has been terminated for less than 24 hours.

The maximum fees that may be charged by a provider or its affiliate on a deferred presentment installment transaction are eight percent of the outstanding transaction balance on a biweekly basis. Fees for a deferred presentment installment transaction are calculated using simple interest. Prepayment penalties are prohibited.

A deferred presentment installment transaction must be fully amortizing (the balance due will be entirely paid after the last payment is made) and repayable in consecutive and as equal as mathematically practicable installments. The time between installment payments must be at least 13 days but not greater than one calendar month. The provider of a deferred presentment installment transaction may accept additional checks bearing the date that the check is given to the provider if the deferred presentment agreement includes the deferment period applicable to each check.⁵⁴

The provider must provide a grace period for payment of a scheduled installment if the drawer informs the deferred presentment installment transaction provider in writing or in person by noon of the business day before a scheduled payment. The bill clarifies that “by noon” means 12:00 p.m. of the same time zone in which the deferred presentment agreement was entered into. The grace period postpones the due date of an installment until after the last scheduled installment payment, at an interval that is no less than the intervals between the originally scheduled payments. Thus, for a deferred presentment installment transaction in which payments

⁵⁴ The bill subjects these checks to the limitations in subsection 560.404(5), F.S., of the bill, which provides that neither the face value of a check nor the outstanding transaction balance may exceed \$1,000, exclusive of the fees.

are due once every two weeks, the grace period must be at least two weeks after the final installment payment is due.

The bill amends the notice that must be prominently posted by the provider and included in the deferred presentment agreement. The bill requires the notice to detail the availability of the single grace period for a deferred presentment installment transaction.

The bill authorizes the Financial Services Commission to impose a fee of up to \$1 for each full or partial 30-day period that a balance is scheduled to be outstanding for a deferred presentment installment transaction.

Section 4 amends s. 560.405, F.S., to allow a deferred presentment provider to present a check before the end of a deferment transaction if the check is for a missed scheduled payment for a deferred presentment installment transaction. The bill also makes a technical change to clarify that the drawer may redeem the check used in the deferred presentment transaction by paying the outstanding transaction balance and earned fees.

Section 5 reenacts s. 560.111, F.S., for the purpose of incorporating the amendments made by the bill to ss. 560.404 and 560.405, F.S. Section 560.111, F.S., makes willful violations of those sections a third degree felony.

Section 6 provides an effective date of July 1, 2019.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The bill allows the Office of Financial Regulation (OFR) to increase the deferred presentment transaction database fee to vary with the term of the loan, thus increasing the total possible database fee from \$1 to \$3.

B. Private Sector Impact:

The impact to the private sector is indeterminate.

Many payday lenders assert that the Bureau of Consumer Financial Protection (CFPB) rule imposes additional costs and administrative burdens that will result in reducing the availability of deferred presentment transactions. Some consumer advocates assert that the CFPB rule provides necessary safeguards to prevent consumers from being caught in debt traps.

There are many circumstances where a new loan under this bill would result in lower fees than a current payday loan. For instance, below is an example using the standard payoff average of 14 days⁵⁵ under current law for a \$500 loan and a \$500 deferred presentment installment loan under CS/CS/SB 920 that an individual pays off early (the same standard payoff average of 14 days).

Loan Comparison	Current Loan	CS/CS/SB 920 Loan
Loan Amount	\$500.00	\$500.00
Fees (interest and \$5 Verification fee)	\$55.00	\$45.00
Payoff Period (days)	14	14
Payments	1	1
Payment Amount	\$555.00	\$545.00
Fees per day	\$3.93	\$3.21
APR	286.79% ⁵⁶	234.64% ⁵⁷

Below is a comparison between how a payday loan works under CS/CS/SB 920 for \$500 with 60-day and 90-day terms with a current maximum \$500 payday loan transaction with the maximum payoff period of 31 days. The examples below assume a payday lender collects the maximum allowable verification fee of \$5.

Loan Comparison	Current Law Loans	60-day Loan under CS/CS/SB 920	90-day Loan under CS/CS/SB 920
Loan Amount	\$500.00	\$500.00	\$500.00
Fees (interest and \$5 Verification fee)	\$55.00	\$122.21	\$175.56
Term (days)	31	60	90
Payments	1	4	6
Payment Amount	\$555.00	\$155.55	\$112.59
Total Payment	555.00	\$622.21	\$675.56
Fees per day	\$1.77	\$2.04	\$1.95
APR	129.52% ⁵⁸	148.69% ⁵⁹	142.40% ⁶⁰

⁵⁵ Office of Financial Regulation, *2018 Agency Legislative Bill Analysis for Senate Bill 920* (December 28, 2018) (On file with the Senate Committee on Banking and Insurance).

⁵⁶ $\$55 / \$500 \times 365 \text{ days} / 14 \text{ days} \times 100 = 286.79\%$

⁵⁷ $\$45 / \$500 \times 365 \text{ days} / 14 \text{ days} \times 100 = 234.64\%$

⁵⁸ $\$55 / \$500 \times 365 \text{ days} / 31 \text{ days} \times 100 = 129.52\%$

⁵⁹ $\$122.21 / \$500 \times 365 \text{ days} / 60 \text{ days} \times 100 = 148.69\%$

⁶⁰ $\$175.56 / \$500 \times 365 \text{ days} / 90 \text{ days} \times 100 = 142.40\%$

C. Government Sector Impact:**Office of Financial Regulation⁶¹**

The Office of Financial Regulation (OFR) assesses each deferred presentment provider a \$1 transaction fee for each deferred presentment transaction to maintain an Internet database that records all deferred presentment transactions in the state. Deferred presentment providers and the OFR use the database to verify whether any deferred presentment transactions are outstanding for a particular person. The database is required by s. 560.404(23), F.S. The impact of the bill on the number of transactions is unknown and the impact of the bill on these revenues is indeterminate. The OFR received \$7,657,486 in revenue related to the \$1 transaction fee during Fiscal Year 2016-2017, which could be reduced with the longer transaction terms. If the OFR imposes a \$2 fee for deferred presentment installment transactions with a 60-day term and a \$3 fee for transactions with a 90-day term as permitted in this bill, the reduction in revenue may be offset.

The OFR contracts with a third-party vendor that maintains a database that records all deferred presentment transactions in the state, the cost of which is directly related to the number of deferred presentment transactions and database fees collected. For Fiscal Year 2016-2017, the OFR paid its third-party vendor \$2,656,269 for hosting, maintaining, and operating the database. The bill may increase or decrease this cost if the statutory authorization of deferred presentment installment transactions increases or decreases the number of deferred presentment transactions.

The bill would require modifications to the database, which the OFR would obtain through a procurement requiring a legislative budget appropriation and between 18 to 24 months to implement. The actual cost would not be known until bids are received from vendors pursuant to the procurement process.

The OFR believes that the provisions of the bill would require the OFR, through the Financial Services Commission, to amend a number of administrative rules. The cost incurred by the OFR for the rulemaking filings can be absorbed within the current budget of the Division of Consumer Finance.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

⁶¹ Office of Financial Regulation, *2018 Agency Legislative Bill Analysis for Senate Bill 920* (December 28, 2017) (On file with the Senate Committee on Banking and Insurance).

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 559.715, 560.402, 560.404, 560.405, and 560.111.

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 February 15, 2018:

The committee substitute:

- Allows the assignees of a consumer debt to immediately begin the process of collecting on a debt; and
- Retains the 30 day waiting period after notice of the assignment is given before any legal actions can be taken to collect on the debt.

CS by Commerce and Tourism on January 29, 2018:

The bill is amended to:

- Define “outstanding transaction balance” as the amount received by the drawer from the deferred presentment provider that is due and owing in a deferred presentment transaction, exclusive of allowable fees;
- Provide that the deferred presentment provider for a deferred presentment installment transaction may accept additional checks bearing the date that the check was given to the provider if the deferred presentment agreement includes the deferment period applicable to each check;
- Require the deferred presentment provider to access the current database until the OFR is able to implement a database that includes deferred presentment installment contracts;
- Allow the drawer to inform the deferred presentment provider in writing or in person if the drawer cannot redeem or pay in full in cash;
- Clarify that the term “by noon” means 12:00 p.m. of the same time zone in which the deferred presentment installment transaction agreement was entered into;
- Provide that the Financial Services Commission may impose a fee of up to \$1 per full or partial 30-day period that a balance is scheduled to be outstanding for a deferred presentment installment transaction, rather than \$1 per transaction;
- Provide that the bill takes effect on July 1, 2019; and
- Make additional technical and conforming changes throughout the bill.

B. Amendments:

None.



729302

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/15/2018	.	
	.	
	.	
	.	

The Committee on Appropriations (Bradley) recommended the following:

Senate Amendment (with title amendment)

Before line 64

insert:

Section 1. Section 559.715, Florida Statutes, is amended to read:

559.715 Assignment of consumer debts.—This part does not prohibit the assignment, by a creditor, of the right to bill and collect a consumer debt. However, the assignee must give the debtor written notice of such assignment as soon as practical



729302

11 after the assignment is made, but at least 30 days before
12 bringing any legal action to collect the debt. The assignee is a
13 real party in interest and may bring an action to collect a debt
14 that has been assigned to the assignee and is in default.

15

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

17 And the title is amended as follows:

18 Delete line 2

19 and insert:

20 An act relating to consumer finance; amending s.
21 559.715, F.S.; revising a requirement for an assignee
22 of the right to bill and collect a consumer debt to
23 give the debtor written notice of the assignment;

By the Committee on Commerce and Tourism; and Senators Bradley
and Braynon

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1 A bill to be entitled
2 An act relating to deferred presentment transactions;
3 amending s. 560.402, F.S.; providing and revising
4 definitions; amending s. 560.404, F.S.; specifying the
5 maximum face amount of checks that may be taken for
6 deferred presentment installment transactions,
7 exclusive of fees; specifying the maximum rate and
8 frequency of fees that deferred presentment providers
9 or their affiliates may charge on deferred presentment
10 installment transactions; specifying when fees are
11 earned for certain deferred presentment transactions;
12 specifying the calculation of fees earned for deferred
13 presentment installment transactions; prohibiting
14 prepayment penalties; specifying the minimum and
15 maximum terms of a deferred presentment installment
16 transaction; specifying dates that checks must bear;
17 authorizing providers of deferred presentment
18 installment transactions to accept additional checks
19 subject to certain limitations; requiring the deferred
20 presentment agreement to include the deferment period
21 applicable to each check; correcting a reference to
22 federal law; providing an exception to a prohibition
23 against the acceptance or holding of undated checks or
24 checks with certain dates by a deferred presentment
25 provider or its affiliate; conforming a cross-
26 reference; providing a verification process that may
27 be relied upon under certain conditions; revising a
28 notice in deferred presentment agreements; authorizing
29 a drawer to inform a provider in writing that the

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30 drawer cannot redeem or pay in full the amount due and
31 owing to the provider; providing an exception to a
32 prohibition, under certain circumstances, against a
33 deferred presentment provider's deposit or presentment
34 of a drawer's check; requiring a provider of a
35 deferred presentment installment transaction to allow
36 a drawer to defer one scheduled payment under certain
37 circumstances; providing requirements for the deferred
38 payment; specifying the frequency a certain fee may be
39 imposed by Financial Services Commission rule for data
40 on certain transactions submitted by deferred
41 presentment providers to a certain database; providing
42 an exception to a limitation on a deferred presentment
43 provider's acceptance of a certain check or
44 authorization; specifying requirements for
45 amortization, installment repayments, and the
46 calculation of charges for deferred presentment
47 installment transactions; conforming provisions to
48 changes made by the act; amending s. 560.405, F.S.;
49 providing an exception to a prohibition against a
50 deferred presentment provider's or its affiliate's
51 presentment of a drawer's check before the end of the
52 deferment period; revising a condition under which a
53 deferred presentment provider may allow the check to
54 be redeemed in lieu of presentment; revising a
55 prohibition against requiring a drawer to redeem his
56 or her check before the agreed-upon date; reenacting
57 s. 560.111(5), F.S., relating to prohibited acts, to
58 incorporate the amendments made to ss. 560.404 and

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59 560.405, F.S., in references thereto; providing an
60 effective date.

61
62 Be It Enacted by the Legislature of the State of Florida:

63
64 Section 1. Present subsections (3) through (5) and (6) of
65 section 560.402, Florida Statutes, are renumbered as subsections
66 (4) through (6) and (8), respectively, present subsection (7) is
67 amended, and new subsections (3) and (7) are added to that
68 section, to read:

69 560.402 Definitions.—For the purposes of this part, the
70 term:

71 (3) "Deferred presentment installment transaction" means a
72 deferred presentment transaction that is repayable in
73 installments.

74 (7) "Outstanding transaction balance" means the amount
75 received by the drawer from the deferred presentment provider
76 that is due and owing, exclusive of the fees allowed under this
77 part, in a deferred presentment transaction.

78 (9)(7) "Termination of a deferred presentment agreement"
79 means that ~~all checks~~ ~~the check~~ that are ~~is~~ the basis for the
80 agreement ~~are~~ ~~is~~ redeemed by the drawer by payment in full in
81 cash, or ~~are~~ ~~is~~ deposited and the deferred presentment provider
82 has evidence that such ~~checks have~~ ~~check has~~ cleared.
83 Verification of sufficient funds in the drawer's account by the
84 deferred presentment provider is not sufficient evidence to deem
85 that the deferred ~~presentment deposit~~ transaction is terminated.

86 Section 2. Subsections (5), (6), (8), (12), (13), (14),
87 (19), (20), (21), and (22) and present subsections (23) and (24)

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88 of section 560.404, Florida Statutes, are amended, and new
89 subsection (23) and subsection (26) are added to that section,
90 to read:

91 560.404 Requirements for deferred presentment
92 transactions.—

93 (5) The face amount of a check taken for deferred
94 presentment transactions not repayable in installments may not
95 exceed \$500, exclusive of the fees allowed under this part. For
96 a deferred presentment installment transaction, neither the face
97 amount of a check nor the outstanding transaction balance may
98 exceed \$1,000, exclusive of the fees allowed under this part.

99 (6) (a) A deferred presentment provider or its affiliate may
100 not charge fees that exceed 10 percent of the currency or
101 payment instrument provided for a deferred presentment
102 transaction not repayable in installments. A deferred
103 presentment provider or its affiliate may not charge fees on any
104 deferred presentment installment transaction which exceed 8
105 percent of the outstanding transaction balance on a biweekly
106 basis.

107 (b) Notwithstanding paragraph (a) ~~however~~, a verification
108 fee may be charged as provided in s. 560.309(8). The fees in
109 paragraph (a) The 10-percent fee may not be applied to the
110 verification fee.

111 (c) Fees are earned at the time of origination for a
112 deferred presentment transaction scheduled to be paid off in 31
113 days or less; however, fees for a deferred presentment
114 installment transaction are earned using a simple interest
115 calculation. A deferred presentment provider may charge only
116 those fees specifically authorized in this section. Prepayment

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117 penalties are prohibited.

118 (8) A deferred presentment agreement may not be for a term
119 longer than 31 days or fewer ~~less~~ than 7 days, except for a
120 deferred presentment installment transaction, which may not be
121 for a term longer than 90 days or fewer than 60 days.

122 (12) The deferred presentment agreement and the drawer's
123 initial check must bear the same date, and the number of days of
124 the deferment period must ~~shall~~ be calculated from that date.
125 For deferred presentment installment transactions, the deferred
126 presentment provider may accept additional checks, subject to
127 the limitations in subsection (5), each bearing the date that
128 the check was given to the provider, and the deferred
129 presentment agreement must include the deferment period
130 applicable to each check. The deferred presentment provider and
131 the drawer may not alter or delete the date on any written
132 agreement or check held by the deferred presentment provider.

133 (13) For each deferred presentment transaction, the
134 deferred presentment provider must comply with the disclosure
135 requirements of 12 C.F.R. part 226, relating to the federal
136 Truth-in-Lending Act, and Regulation Z of the Bureau of Consumer
137 Financial Protection Board of Governors of the Federal Reserve
138 Board. A copy of the disclosure must be provided to the drawer
139 at the time the deferred presentment transaction is initiated.

140 (14) A deferred presentment provider or its affiliate may
141 not accept or hold an undated check or a check dated on a date
142 other than the date on which the deferred presentment provider
143 agreed to hold the check and signed the deferred presentment
144 transaction agreement, except when a customer provides a new
145 payment instrument reflecting the new outstanding transaction

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146 balance and anticipated fees upon making a payment on a deferred
147 presentment installment transaction.

148 (19) A deferred presentment provider may not enter into a
149 deferred presentment transaction with a drawer who has an
150 outstanding deferred presentment transaction with that provider
151 or with any other deferred presentment provider, or with a
152 person whose previous deferred presentment transaction with that
153 provider or with any other provider has been terminated for less
154 than 24 hours. The deferred presentment provider must verify
155 such information as follows:

156 (a) The deferred presentment provider must ~~shall~~ maintain a
157 common database and ~~shall~~ verify whether the provider or an
158 affiliate has an outstanding deferred presentment transaction
159 with a particular person or has terminated a transaction with
160 that person within the previous 24 hours. If a provider has not
161 established a database, the provider may rely upon the written
162 verification of the drawer as provided in subsection (20).

163 (b) The deferred presentment provider must ~~shall~~ access the
164 office's database established pursuant to subsection (24) ~~(23)~~
165 and ~~shall~~ verify whether any other deferred presentment provider
166 has an outstanding deferred presentment transaction with a
167 particular person or has terminated a transaction with that
168 person within the previous 24 hours. Before the office has
169 implemented a database to include deferred presentment
170 installment transactions ~~If a provider has not established a~~
171 ~~database,~~ the deferred presentment provider must access the
172 office's current database pursuant to this paragraph and may
173 rely upon the written verification of the drawer as provided in
174 subsection (20).

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175 (20) A deferred presentment provider must ~~shall~~ provide the
 176 following notice in a prominent place on each deferred
 177 presentment agreement in at least 14-point type in substantially
 178 the following form and ~~must~~ obtain the signature of the drawer
 179 where indicated:

181 NOTICE

182
 183 1. STATE LAW PROHIBITS YOU FROM HAVING MORE THAN ONE
 184 DEFERRED PRESENTMENT AGREEMENT AT ANY ONE TIME. STATE
 185 LAW ALSO PROHIBITS YOU FROM ENTERING INTO A DEFERRED
 186 PRESENTMENT AGREEMENT WITHIN 24 HOURS AFTER
 187 TERMINATING ANY PREVIOUS DEFERRED PRESENTMENT
 188 AGREEMENT. FAILURE TO OBEY THIS LAW COULD CREATE
 189 SEVERE FINANCIAL HARDSHIP FOR YOU AND YOUR FAMILY.

190 YOU MUST SIGN THE FOLLOWING STATEMENT:

191
 192 I DO NOT HAVE AN OUTSTANDING DEFERRED PRESENTMENT
 193 AGREEMENT WITH ANY DEFERRED PRESENTMENT PROVIDER AT
 194 THIS TIME. I HAVE NOT TERMINATED A DEFERRED
 195 PRESENTMENT AGREEMENT WITHIN THE PAST 24 HOURS.

196 (Signature of Drawer)

197
 198 2. YOU CANNOT BE PROSECUTED IN CRIMINAL COURT FOR A
 199 CHECK WRITTEN UNDER THIS AGREEMENT, BUT ALL LEGALLY
 200 AVAILABLE CIVIL MEANS TO ENFORCE THE DEBT MAY BE
 201 PURSUED AGAINST YOU.
 202
 203

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204 3. STATE LAW PROHIBITS A DEFERRED PRESENTMENT PROVIDER
 205 (THIS BUSINESS) FROM ALLOWING YOU TO "ROLL OVER" YOUR
 206 DEFERRED PRESENTMENT TRANSACTION. THIS MEANS THAT YOU
 207 CANNOT BE ASKED OR REQUIRED TO PAY AN ADDITIONAL FEE
 208 IN ORDER TO FURTHER DELAY THE DEPOSIT OR PRESENTMENT
 209 OF YOUR CHECK FOR PAYMENT.

210
 211 4. FOR DEFERRED PRESENTMENT TRANSACTIONS NOT REPAYABLE
 212 IN INSTALLMENTS: IF YOU INFORM THE PROVIDER IN PERSON
 213 THAT YOU CANNOT COVER THE CHECK OR PAY IN FULL THE
 214 AMOUNT OWING AT THE END OF THE TERM OF THIS AGREEMENT,
 215 YOU WILL RECEIVE A GRACE PERIOD EXTENDING THE TERM OF
 216 THE AGREEMENT FOR AN ADDITIONAL 60 DAYS AFTER THE
 217 ORIGINAL TERMINATION DATE, WITHOUT ANY ADDITIONAL
 218 CHARGE. THE DEFERRED PRESENTMENT PROVIDER MUST ~~SHALL~~
 219 REQUIRE THAT YOU, AS A CONDITION OF OBTAINING THE
 220 GRACE PERIOD, COMPLETE CONSUMER CREDIT COUNSELING
 221 PROVIDED BY AN AGENCY INCLUDED ON THE LIST THAT WILL
 222 BE PROVIDED TO YOU BY THIS PROVIDER. YOU MAY ALSO
 223 AGREE TO COMPLY WITH AND ADHERE TO A REPAYMENT PLAN
 224 APPROVED BY THAT AGENCY. IF YOU DO NOT COMPLY WITH AND
 225 ADHERE TO A REPAYMENT PLAN APPROVED BY THAT AGENCY, WE
 226 MAY DEPOSIT OR PRESENT YOUR CHECK FOR PAYMENT AND
 227 PURSUE ALL LEGALLY AVAILABLE CIVIL MEANS TO ENFORCE
 228 THE DEBT AT THE END OF THE 60-DAY GRACE PERIOD.

229
 230 5. FOR DEFERRED PRESENTMENT INSTALLMENT TRANSACTIONS:
 231 IF YOU INFORM THE PROVIDER IN WRITING OR IN PERSON BY
 232 NOON [TIME ZONE] OF THE BUSINESS DAY BEFORE A

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233 SCHEDULED PAYMENT THAT YOU CANNOT PAY IN FULL THE
 234 SCHEDULED AMOUNT DUE AND OWING, YOU MAY DEFER THE
 235 SCHEDULED PAYMENT, WITHOUT ANY ADDITIONAL FEES OR
 236 CHARGES, AND THE PROVIDER MAY NOT DEFAULT THE ACCOUNT
 237 AND ACCELERATE THE FULL BALANCE. YOU MAY REQUEST ONLY
 238 ONE DEFERRED PAYMENT PER LOAN. THE DEFERRED PAYMENT
 239 WILL BE ADDED AFTER THE LAST SCHEDULED PAYMENT AND IS
 240 DUE AT AN INTERVAL NO SHORTER THAN THE INTERVALS
 241 BETWEEN THE ORIGINALLY SCHEDULED PAYMENTS.

242
 243 (21) The deferred presentment provider may not deposit or
 244 present the drawer's check if the drawer informs the provider in
 245 writing or in person that the drawer cannot redeem or pay in
 246 full in cash the amount due and owing the deferred presentment
 247 provider, unless the drawer fails to comply with subsection (22)
 248 or subsection (23), as applicable. No additional fees or
 249 penalties may be imposed on the drawer by virtue of any
 250 misrepresentation made by the drawer as to the sufficiency of
 251 funds in the drawer's account. Additional fees may not be added
 252 to the amounts due and owing to the deferred presentment
 253 provider.

254 (22) For deferred presentment transactions not repayable in
 255 installments, if, by the end of the deferment period, the drawer
 256 informs the deferred presentment provider in writing or in
 257 person that the drawer cannot redeem or pay in full in cash the
 258 amount due and owing the deferred presentment provider, the
 259 deferred presentment provider ~~must shall~~ provide a grace period
 260 extending the term of the agreement for an additional 60 days
 261 after the original termination date, without any additional

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262 charge.

263 (a) The provider ~~must shall~~ require, ~~that~~ as a condition of
 264 providing a grace period, that the drawer make an appointment
 265 with a consumer credit counseling agency within 7 days after the
 266 end of the deferment period and complete the counseling by the
 267 end of the grace period. The drawer may agree to, comply with,
 268 and adhere to a repayment plan approved by the counseling
 269 agency. If the drawer agrees to comply with and adhere to a
 270 repayment plan approved by the counseling agency, the provider
 271 must also comply with and adhere to that repayment plan. The
 272 deferred presentment provider may not deposit or present the
 273 drawer's check for payment before the end of the 60-day grace
 274 period unless the drawer fails to comply with such conditions or
 275 the drawer fails to notify the provider of such compliance.
 276 Before each deferred presentment transaction, the provider may
 277 verbally advise the drawer of the availability of the grace
 278 period consistent with the written notice in subsection (20),
 279 and may not discourage the drawer from using the grace period.

280 (b) At the commencement of the grace period, the deferred
 281 presentment provider ~~must shall~~ provide the drawer:

282 1. Verbal notice of the availability of the grace period
 283 consistent with the written notice in subsection (20).

284 2. A list of approved consumer credit counseling agencies
 285 prepared by the office. The office list ~~must shall~~ include
 286 nonprofit consumer credit counseling agencies affiliated with
 287 the National Foundation for Credit Counseling which provide
 288 credit counseling services to state residents in person, by
 289 telephone, or through the Internet. The office list must include
 290 phone numbers for the agencies, the counties served by the

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291 agencies, and indicate the agencies that provide telephone
 292 counseling and those that provide Internet counseling. The
 293 office ~~must shall~~ update the list at least once each year.

294 3. The following notice in at least 14-point type in
 295 substantially the following form:

296
 297 AS A CONDITION OF OBTAINING A GRACE PERIOD EXTENDING
 298 THE TERM OF YOUR DEFERRED PRESENTMENT AGREEMENT FOR AN
 299 ADDITIONAL 60 DAYS, UNTIL [DATE], WITHOUT ANY
 300 ADDITIONAL FEES, YOU MUST COMPLETE CONSUMER CREDIT
 301 COUNSELING PROVIDED BY AN AGENCY INCLUDED ON THE LIST
 302 THAT WILL BE PROVIDED TO YOU BY THIS PROVIDER. YOU MAY
 303 ALSO AGREE TO COMPLY WITH AND ADHERE TO A REPAYMENT
 304 PLAN APPROVED BY THE AGENCY. THE COUNSELING MAY BE IN
 305 PERSON, BY TELEPHONE, OR THROUGH THE INTERNET. YOU
 306 MUST NOTIFY US WITHIN 7 DAYS, BY [DATE], THAT YOU HAVE
 307 MADE AN APPOINTMENT WITH A CONSUMER CREDIT COUNSELING
 308 AGENCY. YOU MUST ALSO NOTIFY US WITHIN 60 DAYS, BY
 309 [DATE], THAT YOU HAVE COMPLETED THE CONSUMER CREDIT
 310 COUNSELING. WE MAY VERIFY THIS INFORMATION WITH THE
 311 AGENCY. IF YOU FAIL TO PROVIDE THE 7-DAY OR 60-DAY
 312 NOTICE, OR IF YOU HAVE NOT MADE THE APPOINTMENT OR
 313 COMPLETED THE COUNSELING WITHIN THE TIME REQUIRED, WE
 314 MAY DEPOSIT OR PRESENT YOUR CHECK FOR PAYMENT AND
 315 PURSUE ALL LEGALLY AVAILABLE CIVIL MEANS TO ENFORCE
 316 THE DEBT.

317
 318 (c) If a drawer completes an approved payment plan, the
 319 deferred presentment provider must shall pay one-half of the

Page 11 of 15

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

577-02599-18

2018920c1

320 drawer's fee for the deferred presentment agreement to the
 321 consumer credit counseling agency.

322 (23) For deferred presentment installment transactions, if
 323 a drawer informs the deferred presentment provider in writing or
 324 in person by noon of the business day before a scheduled payment
 325 that the drawer cannot pay in full the scheduled payment amount
 326 due and owing the provider, the deferred presentment provider
 327 must provide the drawer the opportunity to defer the scheduled
 328 payment, at no additional fee or charge, until after the last
 329 scheduled payment. The phrase "by noon" means 12:00 p.m. of the
 330 same time zone in which the deferred presentment agreement was
 331 entered into. Only one deferred payment is permitted for each
 332 deferred presentment installment transaction. The deferred
 333 payment must be due at an interval after the last scheduled
 334 payment which is no shorter than the intervals between the
 335 originally scheduled payments.

336 (24) (a)-(23) The office must shall implement a common
 337 database with real-time access through an Internet connection
 338 for deferred presentment providers, as provided in this
 339 subsection. The database must be accessible to the office and
 340 the deferred presentment providers in order to verify whether
 341 any deferred presentment transactions are outstanding for a
 342 particular person. Deferred presentment providers must shall
 343 submit such data before entering into each deferred presentment
 344 transaction in such format as required by rule, including the
 345 drawer's name, social security number or employment
 346 authorization alien number, address, driver license number,
 347 amount of the transaction, date of transaction, the date that
 348 the transaction is closed, and such additional information as is

Page 12 of 15

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577-02599-18

2018920c1

349 required by rule.

350 (b) For data that must be submitted by a deferred
 351 presentment provider, the commission may by rule impose a fee of
 352 up to \$1 per transaction for deferred presentment transactions
 353 not repayable in installments, and the commission may impose a
 354 fee of up to \$1 for each full or partial 30-day period that a
 355 balance is scheduled to be outstanding for a deferred
 356 presentment installment transaction for data that must be
 357 submitted by a deferred presentment provider.

358 (c) A deferred presentment provider may rely on the
 359 information contained in the database as accurate and is not
 360 subject to any administrative penalty or civil liability due to
 361 relying on inaccurate information contained in the database.

362 (d) A deferred presentment provider must notify the office,
 363 in a manner as prescribed by rule, within 15 business days after
 364 ceasing operations or no longer holding a license under part II
 365 or part III of this chapter. Such notification must include a
 366 reconciliation of all open transactions. If the provider fails
 367 to provide notice, the office must ~~shall~~ take action to
 368 administratively release all open and pending transactions in
 369 the database after the office becomes aware of the closure.

370 (e) This section does not affect the rights of the provider
 371 to enforce the contractual provisions of the deferred
 372 presentment agreements through any civil action allowed by law.

373 (f) The commission may adopt rules to administer this
 374 subsection and to ensure that the database is used by deferred
 375 presentment providers in accordance with this section.

376 ~~(25)(24)~~ A deferred presentment provider may not accept
 377 more than one check or authorization to initiate more than one

Page 13 of 15

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

577-02599-18

2018920c1

378 automated clearinghouse transaction to collect on a deferred
 379 presentment transaction for a single deferred presentment
 380 transaction, except for deferred presentment installment
 381 transactions in which such checks or authorizations represent
 382 multiple scheduled payments.

383 (26) A deferred presentment installment transaction must be
 384 fully amortizing and repayable in consecutive installments as
 385 nearly equal as mathematically practicable according to a
 386 payment schedule agreed upon by the parties with no fewer than
 387 13 days and not more than 1 calendar month between payments,
 388 except that the first installment may be longer than the
 389 remaining installments by not more than 15 days, and the first
 390 installment payment may be larger than the remaining installment
 391 payments by the amount of charges applicable to the extra days.
 392 In calculating charges under this subsection, when the first
 393 installment is longer than the remaining installments, the
 394 amount of the charges applicable to the extra days may not
 395 exceed those that would accrue under a simple interest
 396 calculation based on the rate allowed under subsection (6).

397 Section 3. Subsections (1), (3), and (4) of section
 398 560.405, Florida Statutes, are amended to read:

399 560.405 Deposit; redemption.—

400 (1) The deferred presentment provider or its affiliate may
 401 not present the drawer's check before the end of the deferment
 402 period, except for a missed scheduled payment for a deferred
 403 presentment installment transaction that has not been otherwise
 404 deferred pursuant to s. 560.404(23), as reflected and described
 405 in the deferred presentment transaction agreement.

406 (3) Notwithstanding subsection (1), in lieu of presentment,

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

577-02599-18

2018920c1

407 a deferred presentment provider may allow the check to be
408 redeemed at any time upon payment of the outstanding transaction
409 balance and earned fees ~~face amount of the drawer's check~~.
410 However, payment may not be made in the form of a personal
411 check. Upon redemption, the deferred presentment provider must
412 ~~shall~~ return the drawer's check and provide a signed, dated
413 receipt showing that the drawer's check has been redeemed.

414 (4) A drawer may not be required to redeem his or her check
415 in full before the agreed-upon date; however, the drawer may
416 choose to redeem the check before the agreed-upon presentment
417 date.

418 Section 4. For the purpose of incorporating the amendments
419 made by this act to sections 560.404 and 560.405, Florida
420 Statutes, in references thereto, subsection (5) of section
421 560.111, Florida Statutes, is reenacted to read:

422 560.111 Prohibited acts.—

423 (5) Any person who willfully violates any provision of s.
424 560.403, s. 560.404, or s. 560.405 commits a felony of the third
425 degree, punishable as provided in s. 775.082, s. 775.083, or s.
426 775.084.

427 Section 5. This act shall take effect July 1, 2019.

THE FLORIDA SENATE
APPEARANCE RECORD

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

2-16-18
Meeting Date

CS/SB 920
Bill Number (if applicable)

Topic Deferred Presentment Transactions

Amendment Barcode (if applicable)

Name Dorene Barker

Job Title Associate State Director

Address 200 W. College Ave, Suite 304

Phone 850-228-6387

Jall FL 32301
City State Zip

Email dobarker@aarfp.org

Speaking: For Against Information

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

Representing AARP 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)

APPEARANCE RECORD

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

2/15/18

Meeting Date

920

Bill Number (if applicable)

Topic Deferred Presentment Transactions

Amendment Barcode (if applicable)

Name Lisa Brown

Job Title President/CEO of Tallahassee Leon Federal Credit Union

Address 1827 Capital Circle NE

Phone 850-576-8134

Street

TLH
City

FL
State

32308
Zip

Email lisabrown@tlfcu.org

Speaking: For Against Information

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

Representing Tallahassee Leon Federal Credit Union

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date _____

SB 920
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name RODERICK C. CUNNINGHAM

Job Title VICE PRESIDENT, PINELLAS COUNTY URBAN LEAGUE

Address 150 COMMONWEALTH COURT N.
Street

Phone 813-380-8045

ST. PETERSBURG FL 33716
City State Zip

Email _____

Speaking: For Against Information

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

Representing URBAN LEAGUES 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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THE FLORIDA SENATE
APPEARANCE RECORD

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

2/15/18
Meeting Date

SB 920
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Rev. Troy A. Adams Sr.

Job Title Pastor

Address 1715 18th Ave. South

Phone 727-318-9663

Street
St. Petersburg FL 33712

Email njmbc@live.com

City State Zip

Speaking: For Against Information

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

Representing New Jerusalem M.B. Church

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE

APPEARANCE RECORD

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

2/15/18

Meeting Date

SB 920

Bill Number (if applicable)

Topic

Amendment Barcode (if applicable)

Name ANTHONY SANDERS

Job Title PASTOR

Address 1005 NW 7th Av.

Phone 954 540 5100

Street HALLANDALE BEACH FL. 33009

Email sandersaj@gmail.com

City State Zip

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

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

Representing Florida Minority Consumer Alliance

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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THE FLORIDA SENATE
APPEARANCE RECORD

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

2-14-2018
Meeting Date

SB 920
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Dr. Evelyn BETHUNE

Job Title CEO - Mary McLeod BETHUNE Legacy Foundation

Address 732 Orange Ave

Phone 386-265-3733

Daytona Beach FL 32114
City State Zip

Email doebethune@gmail.com

Speaking: For Against Information

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

Representing The BETHUNE Group MMB, Inc (Community Advocacy)

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

2/15/18

Meeting Date

920

Bill Number (if applicable)

Topic Deferred Presentment

Amendment Barcode (if applicable)

Name Alice Vickers

Job Title Attorney

Address 623 Beard St.

Phone 850 556 3124

Tallahassee FL 32303
City State Zip

Email alice.vickers@flacp.org

Speaking: For Against Information

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

Representing FL Alliance For Consumer Protection

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)

2/15/18
Meeting Date

920
Bill Number (if applicable)

Topic Deferred Presentation

Amendment Barcode (if applicable)

Name Rev. James T. Golden

Job Title Social Action Director - AME Church

Address P.O. B. 299

Phone 941-773-4031

Bradenton, FL 34206
Street City State Zip

Email ~~941-773-4031~~ james.thegold@aol.com

Speaking: For Against Information

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

Representing 11th District AME Churches

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

2/15/18

Meeting Date

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

920

Bill Number (if applicable)

Topic

DEFERRED PRESENTMENT

Amendment Barcode (if applicable)

Name

Ian Mackechnie

Job Title

Exec. Vice Chair.

Address

600 N. WESTSHORE BLVD, STE 1200

Phone 813-637-6205

Street

TAMPA

FL 33609

Email iamackechnie@amscot.com

City

State

Zip

Speaking:

For

Against

Information

Waive Speaking:

In Support

Against

(The Chair will read this information into the record.)

Representing

Amscot Financial

Appearing at request of Chair:

Yes

No

Lobbyist registered with Legislature:

Yes

No

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

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THE FLORIDA SENATE

APPEARANCE RECORD

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

2/15/18
Meeting Date

920
Bill Number (if applicable)

Topic Deferred Presentment Transactions

Amendment Barcode (if applicable)

Name Brewster Revis

Job Title Senior VP

Address 516 W Adams
Street

Phone 224-7175

City _____ State _____ Zip _____

Email brevr@aifw

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.

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THE FLORIDA SENATE

APPEARANCE RECORD

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

2/15/18 Meeting Date

920 Bill Number (if applicable)

Topic Deferred Presentment Transactions

Amendment Barcode (if applicable)

Name Ingrid Delgado

Job Title Associate for Social Concerns & Respect Life

Address 201 W Park Av. Phone

Street

Tallahassee FL 32301 Email

City

State

Zip

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.

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APPEARANCE RECORD

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

2/15/18
Meeting Date

920
Bill Number (if applicable)

Topic Deferred Presentment Transactions

Amendment Barcode (if applicable)

Name Pamela Burch Fort

Job Title _____

Address 104 S. Monroe Street

Phone 850-425-1344

Tallahassee FL 32301
City State Zip

Email TcgLobby@aol.com

Speaking: For Against Information

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

Representing Florida Conference of NAACP Branches

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE

APPEARANCE RECORD

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

2/15/18

Meeting Date

920

Bill Number (if applicable)

Topic

Amendment Barcode (if applicable)

Name Patrick Stevin

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 Florida State Hispanic Chamber of Commerce

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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APPEARANCE RECORD

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

2/15/18

Meeting Date

920

Bill Number (if applicable)

Topic Deferred Presentment Transactions

Amendment Barcode (if applicable)

Name Jared Ross

Job Title SVP, Governmental Affairs

Address 3692 Coolidge Ct.

Phone (850) 322-6956

Street

Tallahassee

FL

32311

City

State

Zip

Email jared.ross@lscu.coop

Speaking: For Against Information

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

Representing Florida Credit Union 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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2/15/18

THE FLORIDA SENATE

APPEARANCE RECORD

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

SB 920

Bill Number (if applicable)

~~2/15/18~~

Meeting Date

Topic _____

Amendment Barcode (if applicable)

Name CLETHEN U. SUTTON

Job Title PASTOR

Address 2001 N ALBANY AVENUE

Phone 813-299-9285

Street

TAMPA

City

FL

State

33607

Zip

Email CU SUTTON67@GMAIL.COM

Speaking: For Against Information

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

Representing MIRACLE TEMPLE CHURCH OF GOD FN CHRIST, INC

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

2/15/18
Meeting Date

920
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name MANUEL L SYKES

Job Title PASTOR

Address 4905 34th ST South #145
Street

Phone 727 902 5599

St Petersburg, FL 33711
City State Zip

Email clm/sykes@gmail.com

Speaking: For Against Information

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

Representing Bethel Community Baptist Church

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE

APPEARANCE RECORD

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

2/15/18
Meeting Date

SB
920
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Rev. Gary Johnson

Job Title President S & Lc South Florida

Address PO Box 481691

Phone 786. 222-7411

Street Miami
City State Zip

Email gjohnson@scsfl.edu

Speaking: For Against Information

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

Representing Scl

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE

APPEARANCE RECORD

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

2/15

Meeting Date

820

Bill Number (if applicable)

Topic DEFERRED PRESENTMENT

Amendment Barcode (if applicable)

Name JOHN RICE

Job Title MINISTER

Address Street

Phone

City

State

Zip

Email

Speaking: [] For [] Against [] Information

Waive Speaking: [] In Support [x] 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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THE FLORIDA SENATE

APPEARANCE RECORD

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

2/15/18

Meeting Date

920

Bill Number (if applicable)

Topic Deferred Presentment

Amendment Barcode (if applicable)

Name Carol Stewart

Job Title SR V.P.

Address 135 N Church St.

Phone 803-920-0620

Spantenburg SC 29306

Email cstewart@advanceamerica.net

Speaking: For Against Information

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

Representing Advance 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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THE FLORIDA SENATE
APPEARANCE RECORD

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

2-15-18

Meeting Date

920

Bill Number (if applicable)

Topic Deferred Presentment

Amendment Barcode (if applicable)

Name Andrew Hasek

Job Title Analyst

Address 200 W College

Phone _____

Street

Tallahassee FL

City

State

Zip

Email _____

Speaking: For Against Information

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

Representing Americans for Prosperity

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)

920

Meeting Date

Bill Number (if applicable)

Topic

Amendment Barcode (if applicable)

Name Kendrick Meek

Job Title Former Member

Address Street

Phone

City

State

Zip

Email

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

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

2/15

Meeting Date

950

Bill Number (if applicable)

Topic Deferred Presentation

Amendment Barcode (if applicable)

Name Jim Daughton

Job Title _____

Address 119 S. Monroe Street

Phone 850-205-9800

Street

Tallahassee

FL

32308

City

State

Zip

Email JIM.DAUGHTON@MHD.FL.GOV

Speaking: For Against Information

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

Representing Amscot Financial

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)

2/15/2018

Meeting Date

920

Bill Number (if applicable)

Topic Deferred Presentment Loan Interest

Amendment Barcode (if applicable)

Name Geoffrey Adams, CPA

Job Title Owner

Address 2906 Iianhoe Road
Street

Phone 850-322-1054

Tallahassee FL 32312
City State Zip

Email geoffrey@verveconsulting.net

Speaking: For Against Information

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

Representing Verve Consulting, LLC

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

2/15/2018
Meeting Date

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

920

Bill Number (if applicable)

729302

Amendment Barcode (if applicable)

Topic Assignment of ^{consumer} Debt

Name Jorge Chamizo

Job Title Attorney

Address 108 South Monroe Street

Phone (850) 681-0024

Street Tallahassee, FL 32301
City State Zip

Email jorge@flapartners.com

Speaking: For Against Information

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

Representing Encore Capital

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

2/15/18

Meeting Date

920

Bill Number (if applicable)

729302

Amendment Barcode (if applicable)

Topic Deferred Presentment

Name Alie Vickers

Job Title Attorney

Address 623 Beard St.

Phone 850 556 3121

Tallahassee, FL 32303
City State Zip

Email alie.vickers@flacp.org

Speaking: For Against Information

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

Representing FL Alliance for Consumer Protection

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)

2/15/18

Meeting Date

920

Bill Number (if applicable)

72902

Amendment Barcode (if applicable)

Topic Deferred Presentment Transactions

Name Jennifer Wilson

Job Title Attorney / Lobbyist

Address 101 E. Kennedy Blvd., Suite 4000

Phone 813-407-0703

Street

Tampa FL 33602

City

State

Zip

Email Jennifer.wilson@arlaw.com

Speaking: For Against Information

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

Representing Florida Collectors Association

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

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 938

INTRODUCER: Senator Bracy

SUBJECT: Department of Corrections' Direct-support Organization

DATE: February 14, 2018

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cox	Jones	CJ	Favorable
2.	Forbes	Sadberry	ACJ	Recommend: Favorable
3.	Forbes	Hansen	AP	Favorable

I. Summary:

SB 938 removes the scheduled repeal date of the law authorizing the Florida Department of Corrections (DOC) to establish a direct-support organization to provide assistance, funding, and promotional support for the DOC or staff within the correctional system in carrying out the core mission. The Corrections Foundation, Inc., is the direct-support organization designated by the DOC to provide assistance, funding, and support for the DOC and its staff.

Staff of the Senate Committee on Criminal Justice finds that the Florida Department of Corrections and the Corrections Foundation, Inc., are in compliance with all statutory requirements relevant to direct-support organizations.

The bill does not affect state revenues or expenditures.

The bill takes effect July 1, 2018.

II. Present Situation:

Florida Department of Corrections

The DOC is the third largest state prison system in the country with a budget of \$2.4 billion,¹ almost 97,000 inmates incarcerated, and another almost 137,000 offenders on active community supervision.² The mission of the DOC is to “provide a continuum of services to meet the needs of those entrusted to our care, creating a safe and professional environment with the outcome of reduced victimization, safer communities and an emphasis on the premium of life.”³

¹ The DOC, *About the Florida DOC*, available at <http://www.dc.state.fl.us/about.html> (last visited January 5, 2018).

² Email from Jared Torres, Director of Legislative Affairs, The DOC, RE: Number of inmates and offenders (January 5, 2018).

³ The DOC, *Our Vision*, available at <http://www.dc.state.fl.us/vision.html> (last visited January 13, 2018).

The DOC has 148 facilities statewide: 50 prisons, seven private partner prisons, 17 prison annexes, 35 work camps, three re-entry centers, 13 state-run community release centers, 19 privately operated community release centers, two road prisons, one forestry camps, and one basic training camp.⁴ Approximately two thirds of its staff of more than 24,000 employees are either certified correctional officers or probation officers.⁵

To successfully achieve its mission, the DOC provides academic, vocational, and substance abuse programs to inmates and offenders, including in such areas as general education development, also known as the GED; adult basic education and mandatory literacy; printing and graphics, carpentry and digital design; and Alcoholics Anonymous and Narcotics Anonymous.⁶

The Corrections Foundation, Inc.

Direct-support organizations (DSOs) are statutorily created private entities that are generally required to be non-profit corporations and are authorized to carry out specific tasks in support of public entities or public causes. The functions and purpose of a DSO are prescribed by its enacting statute and also, for most, by a written contract with the agency the DSO was created to support.⁷

In 1996, the Florida Legislature created s. 944.802, F.S., establishing a DSO for the exclusive benefit of the DOC.⁸ The Corrections Foundation, Inc. (Foundation) initially filed for incorporation as a not-for-profit organization on December 6, 1996.⁹ The Foundation consists of an executive staff and a volunteer board of directors.¹⁰ Membership in the Foundation consists of current and retired employees of the DOC, contractors, and individuals from other state and private agencies.¹¹

The Foundation reports that it supports the DOC and its staff through two main functions, including:

- Accepting donations and grant money from private entities that must be donated through a non-profit entity and cannot be accepted directly by the DOC; and

⁴ The DOC, *About the Florida DOC*, available at <http://www.dc.state.fl.us/about.html> (last visited January 5, 2018).

⁵ During FY 2015-16 there were 17,836 certified employees in institutions or probation/parole offices consisting of: 15,769 certified employees in institutions (10,667 Correctional Officers, 4,092 Sergeants, 440 Lieutenants, 311 Captains, 81 Majors, 43 Colonels, and 135 Correctional Inspectors in the Office of the Inspector General) and 2,067 certified Correctional Probation Officers. Department of Corrections, *Annual Report Fiscal Year 2015-2016*, p. 5, available at http://www.dc.state.fl.us/pub/annual/1516/FDC_AR2015-16.pdf (last visited January 18, 2018).

⁶ *Supra*, n. 1.

⁷ Section 944.802, F.S., is the enacting statute for the DOC's DSO, which requires a written letter of agreement between the DOC and the Foundation, rather than a contract.

⁸ Chapter 96-312, L.O.F.

⁹ Department of State, Division of Corporations, *Corrections Foundation, Inc., Detail by Entity Name*, available at <http://search.sunbiz.org/Inquiry/CorporationSearch/SearchResultDetail?inquirytype=EntityName&directionType=Initial&searchNameOrder=CORRECTIONSFOUNDATION%20N960000062141&aggregateId=domnp-n96000006214-bebf4ba6-69dc-49c7-85e6-5f773e468d97&searchTerm=corrections%20foundation&listNameOrder=CORRECTIONSFOUNDATION%20N960000062141> (last visited January 5, 2018).

¹⁰ Corrections Foundation, *About*, available at <https://www.correctionsfoundation.org/about/> (last visited January 5, 2018).

¹¹ *Id.*

- Providing direct financial support to employees of the DOC in times of death, fire, critical illness, or other tragic circumstances through the Employee Assistance Program (EAP).¹²

Repeal of s. 944.802, F.S., and DSO Compliance Review

Section 20.058(5), F.S., provides that laws creating or authorizing a DSO repeal on October 1 of the fifth year after enactment, unless reviewed and saved from repeal by the Legislature. This subsection further provides that DSOs in existence prior to July 1, 2014, must be reviewed by the Legislature by July 1, 2019. Section 944.802(4), F.S., provides that the section is repealed October 1, 2018, unless reviewed and saved from repeal by the Legislature.

Staff of the Senate Committee on Criminal Justice reviewed relevant materials to determine if the DOC and the Foundation comply with the requirements of s. 944.802, F.S., and with other statutory requirements for DSOs: s. 20.058, F.S. (CSO/DSO Transparency and Reporting Requirements); s. 215.981, F.S. (CSO/DSO Audit Requirements); and s. 112.3251, F.S. (CSO/DSO Ethics Code Requirement).

Staff Review of Compliance with s. 944.802, F.S. (DSO to Support the DOC)

Establishment of the DSO

Section 944.802(1), F.S., authorizes the DOC to establish a DSO to provide assistance, funding, and promotional support for activities authorized for the DOC. For purposes of s. 944.802, F.S., “direct support organization” means an organization that is:

- A corporation not for profit that is incorporated under ch. 617, F.S., exempted from filing fees, and approved by the Department of State;
- Organized and operated to conduct programs and activities; initiate developmental projects; raise funds; request and receive grants, gifts, and bequests of money; acquire, receive, hold, invest, and administer, in its own name, securities, funds, objects of value, or other property, either real or personal; and make expenditures to or for the direct or indirect benefit of the DOC or individual units of the state correctional system;
- Determined by the DOC to be consistent with the priority issues and objectives of the DOC and in the best interest of the state; and
- Approved in writing, through a letter of agreement, by the Secretary of the DOC to operate for the direct or indirect benefit of the DOC or individual units of the state correctional institution.¹³

The letter of agreement between the DOC and the Foundation provides the following:

- The Foundation is specifically re-authorized to act as the DSO “for the direct and indirect benefit of the Department of Corrections or individual units of the state correctional system”;
- The Foundation’s mission is expressly consistent with the statutory mission of the DOC to support the programs, personnel, and services of the DOC as is required in s. 944.802, F.S.; and

¹² Email from Jared Torres, Director of Legislative Affairs, RE: The Corrections Foundation – FDC’s DSO, *The Corrections Foundation – Background Information* (September 7, 2017) (on file with the Senate Committee on Criminal Justice).

¹³ Section 944.802(1), F.S.

- The DOC will provide support to the Foundation in the form of staffing, office space, access to OIT support, and inclusion of the Foundation’s information in all employee orientation materials.¹⁴

Staff Finding: Compliance. The Foundation meets the definition of “direct support organization.” In 1996, the Foundation was established as a Florida non-profit corporation under ch. 617, F.S., and is approved by the Department of State.¹⁵ “[T]he Corrections Foundation has been able to undertake numerous initiatives that directly benefit the Department.”¹⁶ The Foundation is also in compliance with the “use of property” requirements of s. 944.802, F.S.¹⁷

Activities of the DSO

Section 944.802(1), F.S., provides that the activities of the DSO must be determined by the DOC to be consistent with the goals and mission of the DOC and in the best interests of the state. The approval must be given in a letter of agreement from the DOC.

Some of the projects operated by the Foundation include, but are not limited to:

- Employee Assistance Program, which has provided direct financial support to over 5,700 employees of the DOC in times of need;
- Fallen Officers Fund,¹⁸ which has provided funding to the families of officers that have been killed in the line of duty;
- Florida State Prison Officer Safety Project, which provided funds to install openings within cell doors of higher risk inmates to allow food trays to be passed through the cell door, thereby reducing contact and the risk of injury to officers;
- Flags for Freedom,¹⁹ which has sent care packages to employees of the DOC that are deployed in the military on active duty; and
- Disaster Relief Fund,²⁰ which has raised funds to benefit almost 1,500 employees of the DOC who have been impacted by catastrophic storms or flooding over the last 13 years.²¹

The community donations and grants accepted by the Foundation for the benefit of the DOC have been utilized to enhance operational programs within the DOC, such as the:

¹⁴ Letter of Agreement between the DOC and the Foundation (effective June 15, 2017) (on file with the Senate Committee on Criminal Justice). The letter further states that use of the state e-mail system to notify agency employees must be approved by the Secretary or Chief of Staff on a case-by-case basis.

¹⁵ *Supra*, n. 9.

¹⁶ Letter from the DOC Secretary, Julie L. Jones, to Senate President, Joe Negron, dated August 8, 2017, Corrections Foundation, *2017 Corrections Foundation Report*, p. 1, available at <https://www.correctionsfoundation.org/wp-content/uploads/2011/06/2017-Corrections-Foundation-Report.pdf> (last visited on January 12, 2018) (hereinafter cited as “Foundation Annual Report”).

¹⁷ *Id.*

¹⁸ This project has raised funds for two officers that were killed in the line of duty, Officer Greg Malloy and Sergeant Ruben Thomas. Funds are raised for a period of time and then disbursed to the family in one lump sum. Email from Scotti Vaughan, Deputy Director of Legislative Affairs, RE: FW: The Corrections Foundation – FDC’s DSO (January 16, 2018).

¹⁹ The Corrections Foundation, Inc., reports that more than 400 employees of the DOC have served in the nation’s military since 2001. The deployed employees have received care packages that include items such as gift cards and prepaid phone cards from the Foundation. Foundation Annual Report, p. 4.

²⁰ Email from Scotti Vaughan, Deputy Director of Legislative Affairs, DOC, RE: FW: The Corrections Foundation – FDC’s DSO (January 16, 2018).

²¹ Foundation Annual Report, p. 4.

- Inspector General’s Office K-9 unit;²²
- K-9 tracking units;²³
- Dog obedience prison programs;²⁴
- Farm Worker Housing Initiative; and
- Chaplaincy programs.²⁵

Staff findings: Compliance. The letter of agreement states that the DOC has determined that the provision of services provided by the Foundation is consistent with DOC’s goals and in the best interest of the state.²⁶

Requirements Relating to Use of Services, Property, and Facilities

Section 944.802(2)(a), F.S., authorizes the DOC to allow the Foundation to use fixed property and facilities of the state correctional system, provided the use is for the approved purpose of the DSO and does not interfere with the opportunities for inmates and staff to use the areas for established purposes. The DOC is prohibited from allowing the DSO to use fixed properties or facilities if such DSO does not provide equal membership and employment opportunities to all persons regardless of race, color, religion, gender, age, or national origin as required and specified by appropriate federal and state laws.²⁷

Staff findings: Compliance. The DOC reports that it has not rented any facilities or properties to the Foundation.²⁸ The letter of agreement requires the inclusion of the Foundation’s information in all employees’ orientation materials, thereby ensuring equal membership and employment opportunities to all persons regardless of race, color, religion, gender, age, or national origin as required and specified by appropriate federal and state laws.²⁹ Additionally, the DOC reports that the Foundation provides equal membership and employment opportunities to all persons as required by law.³⁰

Independent Annual Financial Audit

Section 944.802(3), F.S., requires the DSO to provide for an independent annual financial audit in accordance with s. 215.981, F.S.

Section 215.981(1), F.S., generally requires a DSO created or authorized pursuant to law with annual expenditures in excess of \$100,000 to provide for an annual financial audit of its accounts

²² The Foundation has purchased needed supplies such as vehicles, K-9 cell phone and drug detection dogs, and equipment for the K-9 officers. Foundation Annual Report, p. 4.

²³ The Foundation has utilized funds for GPS tracking collars and other equipment for K-9 teams that are used statewide by local law enforcement to locate missing children or elders and inmates that have escaped. Foundation Annual Report at p. 4-5.

²⁴ There are 21 dog obedience training programs operated at various facilities throughout the state. The Foundation has utilized funds to support these programs. Foundation Annual Report, p. 5.

²⁵ Foundation Annual Report, p. 5.

²⁶ *Supra*, n. 14 and 16.

²⁷ Section 944.802(2)(c), F.S.

²⁸ Email from Scotti Vaughan, Deputy Director of Legislative Affairs, DOC, RE: Question (January 16, 2018).

²⁹ *Supra*, n. 14.

³⁰ *Supra*, n. 28.

and records.³¹ The audit must be conducted by an independent certified public accountant in accordance with rules adopted by the Auditor General and the state agency that created, approved, or administers the DSO. The audit report must be submitted within nine months after the end of the fiscal year to the Auditor General and to the state agency the DSO supports. Additionally, the Auditor General may, pursuant to his or her own authority, or at the direction of the Legislative Auditing Committee, conduct audits or other engagements of a DSO's accounts and records.³²

Staff findings: Compliance. The Foundation has annual expenditures in excess of \$100,000 and is therefore subject to the auditing requirements of s. 215.981, F.S. Records of the independent financial audits from 2007 through 2016 are posted on the Foundation's website and submitted with the annual report.³³

Staff Review of Compliance with s. 20.058, F.S. (CSO/DSO Transparency and Reporting Requirements)

In 2014, the Legislature created s. 20.058, F.S., establishing a comprehensive set of transparency and reporting requirements for DSOs.³⁴

Reporting Requirements

Specifically, the law requires each DSO to annually submit, by August 1, the following information to the agency it supports:³⁵

- The DSO's name, mailing address, telephone number, and website address;
- The statutory authority or executive order that created the DSO;
- A brief description of the mission and results obtained by the DSO;
- A brief description of the DSO's plans for the next three fiscal years;
- A copy of the DSO's code of ethics; and
- A copy of the DSO's most recent Internal Revenue Service (IRS) Form 990.³⁶

Staff findings: Compliance. In 2017, the DOC reported all of the information required by s. 20.058(1), F.S. The copy of the IRS Form 990 provided in the 2017 Corrections Foundation Annual Report is for Fiscal Year 2015-16. The Foundation provided in email the IRS 990 form for Fiscal year 2016-17, which ended on June 30, 2017.³⁷

³¹ The independent audit requirement does not apply to a CSO or DSO for a university, district board of trustees of a community college, or district school board. Section 215.981(1), F.S. Additionally, the expenditure threshold for an independent audit is \$300,000 for a CSO or DSO for the Department of Environmental Protection and the Department of Agriculture and Consumer Services. Section 215.981(2), F.S.

³² Section 11.45(3)(d), F.S.

³³ Foundation Annual Report, p. 9-52. *See also* Corrections Foundation, Forms and Publications, Audits, available at <https://www.correctionsfoundation.org/about/forms-and-publications/> (last visited January 16, 2018).

³⁴ Chapter 2014-96, L.O.F.

³⁵ Section 20.058(1), F.S.

³⁶ The IRS Form 990 is an annual information return required to be filed with the IRS by most organizations exempt from federal income tax under 26 U.S.C. 501.

³⁷ Email from Scotti Vaughan, Deputy Director of Legislative Affairs, DOC, RE: FW: DSO Review (January 16, 2018), including attachment Corrections Foundation, *IRS 990 Form, Fiscal Year 2016-17* (on file with the Senate Committee on Criminal Justice).

Transparency of Reported CSO or DSO Information

Additionally, the information submitted annually by a DSO must be available on the respective agency's website along with a link to the DSO's website, if one exists.³⁸

Staff findings: Compliance. The DOC website provides a link to the Foundation's website³⁹ and the information described in s. 20.58(1) F.S., is available on the Foundation's website.⁴⁰

Section 20.058(3), F.S., provides that, by August 15 of each year, the agency must report the above required information 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 along with the agency's recommendation to continue, terminate, or modify the agency's association with the DSO.⁴¹

Staff findings: Compliance. The DOC submitted its report by August 15, 2017, and the DOC Secretary, Julie L. Jones, expressed support for the continuation of the Corrections Foundation, Inc.⁴²

Contract Requirements

Section 20.05(4), F.S., provides that any contract between an agency and a DSO must be contingent upon the DSO submitting and posting information pursuant to s. 20.058(1) and (2), F.S. The contract must also include a provision for the orderly cessation of operations and reversion to the state of state funds held in trust by the organization within 30 days after its authorizing statute is repealed, the contract is terminated, or the organization is dissolved. If an organization fails to submit the required information for two consecutive years, the agency head shall terminate any contract between the agency and the organization.

Staff findings: Substantial compliance. The letter of agreement provides that the agreement is written pursuant to the requirements of s. 944.802(1), F.S.⁴³

Staff Review of Compliance with s. 215.981, F.S. (DSO Audit Requirements)

As previously noted, s. 215.981(1), F.S., requires each DSO created or authorized pursuant to law with annual expenditures in excess of \$100,000 to provide for an annual financial audit of its accounts and records. [For a full description of the statute, *see* discussion, *supra*, of s. 944.802(3), F.S. (Independent Annual Financial Audit)].

³⁸ Section 20.058(2), F.S. Further, s. 20.058(4), F.S., requires that any contract between an agency and a DSO must be contingent upon the DSO submitting the required information to the agency and posting the information on the agency's website. If a DSO fails to submit the required information to the agency for two consecutive years, the agency head must terminate its contract with the DSO.

³⁹ DOC, *About Us*, Corrections Foundation Tab, available at <http://www.dc.state.fl.us/index.html> (last visited January 16, 2018). *See also* Corrections Foundation, available at <https://www.correctionsfoundation.org/> (last visited January 18, 2018).

⁴⁰ Corrections Foundation, Forms and Publications, available at <https://www.correctionsfoundation.org/about/forms-and-publications/> (last visited January 16, 2018).

⁴¹ Section 20.058(3), F.S.

⁴² *Supra*, n. 16.

⁴³ *Supra*, n. 14.

Staff findings: Compliance. As previously noted, the Foundation is in full compliance of the auditing requirements of ss. 215.981 and 944.802, F.S.⁴⁴

Staff Review of Compliance with s. 112.3251, F.S. (CSO/DSO Ethics Code Requirement)

Section 112.3251, F.S., requires a DSO created or authorized pursuant to law to adopt its own ethics code. The ethics code must contain the specified standards of conduct and disclosures provided in ss. 112.313 and 112.3143(2), F.S.⁴⁵ A DSO may adopt additional or more stringent standards of conduct and disclosure requirements and must conspicuously post its code of ethics on its website.⁴⁶

Staff findings: Compliance. The Foundation has a code of ethics which is conspicuously posted on its website⁴⁷ and that contains the specified standards of conduct and disclosures.

III. Effect of Proposed Changes:

The bill removes the scheduled repeal date of the law authorizing the Florida Department of Corrections (DOC) to establish a direct-support organization to provide assistance, funding, and promotional support for the DOC or staff within the correctional system in carrying out the core mission. The Corrections Foundation, Inc., currently provides such assistance, funding, and support.

The bill takes effect July 1, 2018.

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.

⁴⁴ *Supra*, n. 33.

⁴⁵ Some of the standards of conduct and disclosures in ss. 112.313 and 112.3143(2), F.S., include misuse of public position, solicitation or acceptance of gifts, unauthorized compensation, and voting conflicts.

⁴⁶ Section 112.3251, F.S.

⁴⁷ See Corrections Foundation, Forms and Publications, Operational and Governing Documents, (“Code of Ethics” tab) available at <https://www.correctionsfoundation.org/about/forms-and-publications/> (last visited on January 16, 2018).

B. Private Sector Impact:

By saving s. 944.802, F.S., from repeal, the DSO may continue to provide assistance, financial support, and other direct and indirect assistance for employees of the state correctional system in addition to the families of such staff.

C. Government Sector Impact:

The bill does not affect state revenues or expenditures. By saving the DSO from repeal, the bill enables the DSO to continue to fund and administer projects and activities such as those described above.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 944.802 of the Florida Statutes.

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

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

None.

B. Amendments:

None.

By Senator Bracy

11-00637-18

2018938__

1 A bill to be entitled
 2 An act relating to the Department of Corrections'
 3 direct-support organization; amending s. 944.802,
 4 F.S.; abrogating the scheduled repeal of provisions
 5 governing a direct-support organization that is
 6 permitted use of fixed properties and facilities of
 7 the state correctional system by the Department of
 8 Corrections; providing an effective date.
 9
 10 Be It Enacted by the Legislature of the State of Florida:
 11
 12 Section 1. Section 944.802, Florida Statutes, is amended to
 13 read:
 14 944.802 Direct-support organization; definition; use of
 15 property; board of directors; audit.—
 16 (1) DEFINITION.—For the purpose of this section, the term
 17 “direct-support organization” means an organization:
 18 (a) That ~~which~~ is a corporation not for profit that is
 19 incorporated under ~~the provisions of~~ chapter 617, exempted from
 20 filing fees, and approved by the Department of State;
 21 (b) Organized and operated to conduct programs and
 22 activities; initiate developmental projects; raise funds;
 23 request and receive grants, gifts, and bequests of moneys;
 24 acquire, receive, hold, invest, and administer, in its own name,
 25 securities, funds, objects of value, or other property, real or
 26 personal; and make expenditures to or for the direct or indirect
 27 benefit of the Department of Corrections or individual units of
 28 the state correctional system;
 29 (c) Determined by the Department of Corrections to be

Page 1 of 3

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

11-00637-18

2018938__

30 consistent with the priority issues and objectives of the
 31 Department of Corrections and in the best interest of the state;
 32 and
 33 (d) Approved in writing by the Secretary of Corrections to
 34 operate for the direct or indirect benefit of the Department of
 35 Corrections or individual units of the state correctional
 36 system. Such approval shall be in a letter of agreement from the
 37 Department of Corrections.
 38 (2) USE OF PROPERTY.—
 39 (a) The Department of Corrections may permit, without
 40 charge, appropriate use of fixed property and facilities of the
 41 state correctional system by a direct-support organization
 42 subject to ~~the provisions in~~ this section. Such use must be
 43 directly in keeping with the approved purpose of the direct-
 44 support organization, and may not be made at times or places
 45 that would unreasonably interfere with opportunities for inmates
 46 and staff to use the areas for established purposes.
 47 (b) The Department of Corrections may prescribe by rule any
 48 condition with which a direct-support organization shall comply
 49 in order to use fixed property or facilities of the state
 50 correctional system.
 51 (c) The Department of Corrections may ~~shall~~ not permit the
 52 use of any fixed property or facilities of the Department of
 53 Corrections by a direct-support organization that does not
 54 provide equal membership and employment opportunities to all
 55 persons regardless of race, color, religion, sex, age, or
 56 national origin.
 57 (3) ANNUAL AUDIT.—The direct-support organization shall
 58 provide for an annual financial audit in accordance with s.

Page 2 of 3

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

11-00637-18

2018938__

59 215.981.

60 ~~(4) REPEAL. This section is repealed October 1, 2018,~~
61 ~~unless reviewed and saved from repeal by the Legislature.~~

62 Section 2. This act shall take effect July 1, 2018.

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/15/18 -

Meeting Date

SB 938 -

Bill Number (if applicable)

Topic SB 938 Department of Corrections' Direct-support Organization Amendment Barcode (if applicable)

Name Jared Torres -

Job Title Legislative Affairs Director -

Address 501 South Calhoun Street -

Phone 850-712-3045 -

Tallahassee FL 32399 -

Email Jared.Torres@flc.myflorida.com

Speaking: [] For [] Against [] Information

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

Representing Florida Department of Corrections -

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.

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 942

INTRODUCER: Criminal Justice Committee and Senator Bracy

SUBJECT: Department of Juvenile Justice’s Direct-support Organization

DATE: February 14, 2018 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Storch</u>	<u>Jones</u>	<u>CJ</u>	Fav/CS
2.	<u>Sadberry</u>	<u>Sadberry</u>	<u>ACJ</u>	Recommend: Favorable
3.	<u>Sadberry</u>	<u>Hansen</u>	<u>AP</u>	Favorable

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 942 removes the scheduled repeal date of the law authorizing the Florida Department of Juvenile Justice (DJJ) to establish a direct-support organization (DSO) to provide assistance, funding, and support to assist the DJJ in furthering its goals. The Florida Juvenile Justice Foundation, Inc., is the DSO designated by the DJJ to provide assistance, funding, and support for the DJJ.

Staff of the Senate Committee on Criminal Justice finds that the DJJ and the Florida Juvenile Justice Foundation, Inc., are in compliance with most statutory requirements relevant to DSOs.

The bill requires the DJJ to appoint members to the DSO’s board of directors according to the DSO’s established bylaws.

The bill does not affect state revenues or expenditures.

The bill takes effect July 1, 2018.

II. Present Situation:

Florida Department of Juvenile Justice

The DJJ was established in 1994 in an effort to shift the state's juvenile justice system away from a social services model. The Legislature created the DJJ to provide for the transfer of powers, duties, property, records, personnel, and unexpended balances of related appropriations and other funds from the Juvenile Justice Program Office within the Department of Health and Rehabilitative Services. This transition assigned responsibility to the DJJ for cases involving juvenile delinquency and children and families in need of services.¹ The DJJ is tasked with developing and coordinating comprehensive services and programs statewide for the prevention, early intervention, control, and rehabilitative treatment of delinquent behavior.²

Florida Juvenile Justice Foundation, Inc.

Citizen support organizations (CSOs) and direct-support organizations (DSOs) are statutorily-created private entities that are generally required to be non-profit corporations and are authorized to carry out specific tasks in support of public entities or public causes. The purpose and functions of a CSO or DSO are prescribed by its enacting statute and, for most, by a written contract with the agency the CSO or DSO was created to support.

From 1994-1999, the DJJ had an ongoing partnership with the Florida Business Partners for Prevention (FBPP). At the time, the DJJ lacked statutory authority to have a DSO. In 1999, the Legislature created s. 985.672, F.S., authorizing the DJJ to establish a DSO to provide assistance, funding, and support for the DJJ in carrying out its mission.³ In 2000, the FBPP incorporated by the name of Florida Business Partners for Juvenile Justice, Inc., to provide such assistance, funding, and support to the DJJ.⁴ The name was changed to the Florida Juvenile Justice Foundation, Inc. (Foundation) in 2006.⁵

Repeal of s. 985.672, F.S., and DSO Compliance Review

Section 20.058(5), F.S., provides that laws creating or authorizing a CSO or DSO repeal on October 1 of the fifth year after enactment, unless reviewed and saved from repeal by the Legislature. This subsection further provides that CSOs or DSOs in existence prior to July 1, 2014, must be reviewed by the Legislature by July 1, 2019. Section 985.672, F.S., provides that the section is repealed October 1, 2018, unless reviewed and saved from repeal by the Legislature.

Staff of the Senate Committee on Criminal Justice reviewed relevant materials to determine if the DJJ and the Foundation comply with the requirements of s. 985.672, F.S., and with other

¹ Florida Department of Juvenile Justice, *History*, available at <http://www.djj.state.fl.us/about-us/history> (last visited January 3, 2018).

² Section 985.02(3), F.S.

³ Section 985.672, F.S., was created in 1999 by ch. 1999-284, L.O.F.

⁴ Articles of Incorporation of Florida Business Partners for Juvenile Justice, Inc. (Approved and filed January 28, 2000) (on file with the Senate Committee on Criminal Justice).

⁵ Articles of Amendment to Articles of Incorporation of Florida Business Partners for Juvenile Justice, Inc. (Filed February 8, 2006) (on file with the Senate Committee on Criminal Justice).

statutory requirements for DSOs: s. 20.058, F.S. (CSO/DSO Transparency and Reporting Requirements); s. 215.981, F.S. (CSO/DSO Audit Requirements); and s. 112.3251, F.S. (CSO/DSO Ethics Code Requirements). Staff finds that the DJJ and the Foundation are in compliance with most of the relevant DSO statutory requirements.

Staff Review of Compliance with s. 985.672, F.S. (DSO to Florida Department of Juvenile Justice)

Establishment of DSO

Section 985.672, F.S., authorizes the DJJ to establish a DSO whose sole purpose is to support the juvenile justice system. For purposes of s. 985.672, F.S., “direct-support organization” means an organization that is:

- A corporation not-for-profit incorporated under ch. 617, F.S., and approved by the Department of State;
- Organized and operated to conduct programs and activities; raise funds; request and receive grants, gifts, and bequests of moneys; acquire, receive, hold, invest, and administer, in its own name, securities, funds, objects of value, or other property, real or personal; and make expenditures to or for the direct or indirect benefit of the DJJ or the juvenile justice system operated by a county commission or a circuit board; and
- Determined by the DJJ to be consistent with the goals of the juvenile justice system, in the best interest of the state, and in accordance with the adopted goals and mission of the DJJ.⁶

Staff Finding: Compliance. The Foundation meets the definition of “direct-support organization.” In 2000, the Foundation was established.⁷ The Foundation is a Florida non-profit corporation under ch. 617, F.S., and is approved by the Department of State.⁸ The DJJ’s mission is, “to increase public safety by reducing juvenile delinquency through effective prevention, intervention and treatment services that strengthen families and turn around the lives of troubled youth.”⁹ The Foundation works toward advancing the DJJ’s mission by funding programs such as the Youth Investment Award program, which provides financial assistance designed to further the education and employability of juvenile justice-involved youth. Additionally, the Foundation funds back-to-school drives, Youth Success Week, the Human Trafficking Summit, in addition to running a national grant to support the Juvenile Detention Alternatives initiative.¹⁰

Expenditures of the Foundation

Section 985.672(1), F.S., provides that expenditures of the DSO shall be used for the prevention and amelioration of juvenile delinquency and may not be used for the purpose of lobbying as defined in s. 11.045, F.S.

⁶ Section 985.672(1)(a)-(c), F.S.

⁷ *Supra*, n. 4.

⁸ The Foundation’s information is available at <http://search.sunbiz.org/Inquiry/CorporationSearch/ByName> by searching Florida Juvenile Justice Foundation, Inc. (last visited January 16, 2018).

⁹ Florida Department of Juvenile Justice, *Mission*, available at <http://www.djj.state.fl.us/about-us/mission> (last visited January 18, 2018).

¹⁰ Transmittal letter dated August 15, 2017, from the DJJ Secretary Christina K. Daly to Senate President Joe Negron, available at <http://floridafiscalportal.state.fl.us/Document.aspx?ID=16596&DocType=PDF> (last visited on January 16, 2018).

Staff findings: Compliance. The Foundation's IRS Form 990 for 2015-16 shows that the majority of expenditures were for conferences, conventions, meetings, and youth programs. Additionally, the form shows that there were no expenditures made for the purposes of lobbying.¹¹

Contractual Agreement Between the DJJ and the Foundation

Section 985.672(2), F.S., provides that the DSO must operate under a written contract with the DJJ and the contract must include certain provisions.

Approval of the Articles of Incorporation and Bylaws

The contract must provide for approval of the articles of incorporation and bylaws of the DSO by the DJJ.¹²

Staff findings: Compliance. The contract between the DJJ and the Foundation provides for the approval of the Foundation's articles of incorporation and bylaws by the DJJ prior to adoption by the Foundation.¹³

Submission of an Annual Budget

The contract must provide for the DSO to submit an annual budget for the approval of the DJJ.¹⁴

Staff findings: Compliance. The contract between the DJJ and the Foundation provides for the review and approval of the Foundation's annual budget prior to adoption by the Foundation.¹⁵

Certification by the DJJ that the DSO is in Compliance

The contract must provide for certification by the DJJ that the DSO is complying with the terms of the contract and in a manner consistent with the goals and purposes of the DJJ and in the best interest of the state. Such certification must be made annually and reported in the official minutes of a meeting of the DSO.¹⁶

Staff findings: Not in compliance. The contract between the DJJ and the Foundation provides for such annual certification of the Foundation by the DJJ. However, the contract does not provide for the annual certification to be reported in the official minutes of a meeting of the Foundation and such certification has not been made in the minutes of a meeting as prescribed.¹⁷

¹¹ The IRS Form 990 for 2015-16 is the most recent tax form provided by the DJJ and the Foundation. According to DJJ staff, this is because the deadline for the submission of the tax form is in September, while the deadline to report information pursuant to DSO requirements found in s. 20.058, F.S. (described *infra*) is August. E-mail from DJJ staff to staff of the Senate Committee on Criminal Justice, dated August 17, 2017 (on file with the Senate Committee on Criminal Justice). See also IRS Form 990 for the Florida Juvenile Justice Foundation, Inc. (on file with the Senate Committee on Criminal Justice).

¹² Section 985.672(2)(a), F.S.

¹³ Contract between the Florida Department of Juvenile Justice and the Florida Juvenile Justice Foundation, Inc. (executed June 4, 2009) (on file with the Senate Committee on Criminal Justice).

¹⁴ Section 985.672(2)(b), F.S.

¹⁵ *Supra*, n. 13.

¹⁶ Section 985.672(2)(c), F.S.

¹⁷ *Supra*, n. 13. Board meeting minutes of the Florida Juvenile Justice Foundation, Inc. (on file with the Senate Committee on Criminal Justice).

Staff recommendation: The contract between the DJJ and the Foundation should be amended to provide for such annual certification to be reported in the official minutes of a meeting of the Foundation. Subsequently, the board of directors must report such annual certification in the official minutes of a meeting of the Foundation.

Reversion of Moneys and Property

The contract must provide for the reversion of moneys and property held in trust by the DSO for the benefit of the juvenile justice system to the state if the DJJ ceases to exist or to the DJJ if the DSO is no longer approved to operate for the DJJ, a county commission, or a circuit board or if the DSO ceases to exist.¹⁸

Staff findings: Compliance. The contract between the DJJ and the Foundation provides for such reversion of moneys and property.¹⁹

Fiscal Year of the DSO

The contract must provide for the fiscal year of the DSO to begin July 1 of each year and end June 30 of the following year.²⁰

Staff findings: Compliance. The contract between the DJJ and the Foundation provides for such information.²¹

Disclosure Made to Donors

The contract must provide for the disclosure of material provisions of the contract, and the distinction between the DJJ and the DSO, to donors of gifts, contributions, or bequests, including such disclosure on all promotional and fundraising publications.²²

Staff findings: Compliance. The contract provides that the Foundation must distinguish itself as “the 501(c)(3) direct-support organization for the Florida Department of Juvenile Justice” to all donors of gifts, contributions, or bequests, including such disclosure on all promotional and fundraising publications. The contract further provides for the disclosure of material provisions of the contract to donors of gifts, contributions, or bequests.²³

Board of Directors

Section 985.672(3), F.S., requires the Secretary of the DJJ to appoint a board of directors for the DSO. The board’s membership must comprise representatives from businesses, representatives from each of the juvenile justice service districts, and one representative appointed at large.²⁴

¹⁸ Section 985.672(2)(d), F.S.

¹⁹ *Supra*, n. 13.

²⁰ Section 985.672(2)(e), F.S.

²¹ *Supra*, n. 13.

²² Section 985.672(2)(f), F.S.

²³ *Supra*, n. 13.

²⁴ Section 985.672(3), F.S.

Staff findings: Not in compliance. The board's membership is not in compliance with the statute's requirements because the juvenile justice system no longer utilizes service districts. Thus, the membership is not made up of representatives from each district.

Staff recommendation: Section 985.672(3), F.S., should be amended to reflect the current organization of the DJJ in order for the board membership to comply. Alternatively, the statute could be amended to provide the DJJ with broad discretion to appoint members to the board, without regard to specific representation as the statute currently prescribes.

Use of Property

Section 985.672(4), F.S., provides that the DJJ may permit, without charge, appropriate use by the DSO of fixed property, facilities, and personnel services of the juvenile justice system. The DJJ may prescribe any condition with which the DSO must comply in order to use such fixed property or facilities of the juvenile justice system. The DJJ may not permit the use of any fixed property or facilities of the juvenile justice system by the DSO if it does not provide equal membership and employment opportunities to all persons regardless of race, color, religion, sex, age, or national origin. The DJJ must adopt rules prescribing the procedures by which the DSO is governed and any conditions with which a DSO must comply to use property or facilities of the DJJ.²⁵

Staff findings: Compliance. The contract between the DJJ and the Foundation provides permission for the Foundation's use of the DJJ's property, facilities, and personnel services. However, the contract is silent on prohibiting the Foundation's use of the DJJ's property and facilities if the Foundation does not provide equal membership and employment opportunities to all persons regardless of race, color, religion, sex, age, or national origin.²⁶ Further, the DJJ adopted rules prescribing the conditions in which the Foundation may use the DJJ's property, facilities, and personnel services.²⁷

Staff recommendation: The contract between the DJJ and the Foundation should be amended to include language that prohibits the Foundation's use of the DJJ's fixed property or facilities if the Foundation does not provide equal membership and employment opportunities to all persons regardless of race, color, religion, sex, age, or national origin. This language is not required to be in the contract, but its inclusion would enable the DJJ and the Foundation to be in compliance with s. 985.672(4)(b), F.S., because it would apply broadly to the required practices of the Foundation.

Deposit of Funds

Section 985.672(5), F.S., provides that money may be held in a separate depository account in the name of the DSO and subject to the provisions of the contract with the DJJ.²⁸

²⁵ Section 985.672(4)(a)-(c), F.S.

²⁶ *Supra*, n. 13.

²⁷ Fla. Admin. Code R. 63J-1.002 (2007).

²⁸ Section 985.672(5), F.S.

Staff findings: Not in compliance. The Foundation has a separate depository account in their name.²⁹ However, the contract between the DJJ and the Foundation does not include any provisions regarding the separate depository account.³⁰

Staff recommendation: The contract between the DJJ and the Foundation should be amended to include provisions addressing the separate depository account.

Annual Financial Audit

Section 985.672(6), F.S., requires the DSO to provide for an annual financial audit in accordance with s. 215.981, F.S.

Staff findings: Not currently applicable. Section 215.981, F.S., requires each CSO and DSO created or authorized pursuant to law with annual expenditures in excess of \$100,000 to provide for an annual financial audit of its accounts and records.³¹ The audit must be conducted by an independent certified public accountant in accordance with rules adopted by the Auditor General and the state agency that created, approved, or administers the CSO or DSO. The audit report must be submitted within nine months after the end of the fiscal year to the Auditor General and to the state agency the CSO or DSO supports. Additionally, the Auditor General may, pursuant to his or her own authority, or at the direction of the Legislative Auditing Committee, conduct audits or other engagements of a CSO's or DSO's accounts and records.³²

The Foundation does not have annual expenditures in excess of \$100,000.³³ Therefore, the Foundation is not currently subject to the auditing requirements of s. 215.981, F.S.³⁴

Staff Review of Compliance with s. 20.058, F.S. (CSO/DSO Transparency and Reporting Requirements)

Section 20.058, F.S., establishes a comprehensive set of transparency and reporting requirements for CSOs and DSOs.

Reporting Requirements

Section 20.058(1), F.S., requires each CSO and DSO to annually submit, by August 1, the following information to the agency it supports:

- The CSO or DSO's name, mailing address, telephone number, and website address;

²⁹ E-mail from DJJ staff to staff of the Senate Committee on Criminal Justice, dated January 16, 2017 (on file with the Senate Committee on Criminal Justice).

³⁰ *Supra*, n. 13.

³¹ The independent audit requirement does not apply to a CSO or DSO for a university, district board of trustees of a community college, or district school board. Section 215.981(1), F.S. Additionally, the expenditure threshold for an independent audit is \$300,000 for a CSO or DSO for the Department of Environmental Protection and the Department of Agriculture and Consumer Services. Section 215.981(2), F.S.

³² Section 11.45(3)(d), F.S.

³³ Total expenditures for 2015-16 were \$97,254. IRS Form 990 for Florida Juvenile Justice Foundation, Inc. (on file with the Senate Committee on Criminal Justice).

³⁴ While the Foundation's expenditures do not currently exceed \$100,000 and thus, the Foundation is not currently subjected to an annual financial audit pursuant to s. 215.981, F.S., the contract between the DJJ and the Foundation provides that the Foundation must provide a copy of its annual financial audit to the DJJ. *Supra*, n. 13.

- The statutory authority or executive order that created the CSO or DSO;
- A brief description of the mission and results obtained by the CSO or DSO;
- A brief description of the CSO or DSO's plans for the next three fiscal years;
- A copy of the CSO or DSO's code of ethics; and
- A copy of the CSO or DSO's most recent Internal Revenue Service (IRS) Form 990.³⁵

Staff findings: Compliance. In 2017, the Foundation reported all of the information required by s. 20.058(1), F.S.³⁶

Transparency of Reported CSO or DSO Information

Section 20.058(2), F.S., provides that each agency receiving information from a CSO or DSO pursuant to s. 20.058(1), F.S., shall make such information available to the public through the agency's website. If the organization maintains a website, the agency's website must provide a link to the organization's website.

Staff findings: Compliance. The information required in s. 20.058(1), F.S., is available to the public through the DJJ's website.³⁷ Additionally, the DJJ provides a link to the Foundation's website.³⁸

Section 20.058(3), F.S., provides that, by August 15 of each year, each agency shall report 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 information provided by each CSO and DSO. The report must also include a recommendation by the agency, with supporting rationale, to continue, terminate or modify the agency's association with each organization.

Staff findings: Compliance. The DJJ submitted its report by August 15, 2017, and the DJJ Secretary Daly expressed her strong recommendation for the continued collaboration and association between the DJJ and the Foundation. The letter explained that the DJJ and the Foundation share a long history of working together to improve the lives of at-risk children and their families. The Foundation promotes delinquency prevention, intervention, and educational opportunities for youth, in addition to stewarding all funds raised to enhance the activities of the DJJ. "The Foundation is an integral part of the Department of Juvenile Justice and shares a long and collaborative relationship that is rare amongst direct-support organizations."³⁹

³⁵ The IRS Form 990 is the an annual information return required to be filed with the IRS by most organizations exempt from federal income tax under 26 U.S.C. s. 501. The most recent Form 990 provided by the Foundation is from 2015-16 because the deadline for the form is September, while the deadline for the submission of the required information is August.

³⁶ Transmittal letter dated August 1, 2017, from Foundation Executive Director Caroline Ray to the DJJ Secretary Christina K. Daly, available at <http://floridafiscalportal.state.fl.us/Document.aspx?ID=16596&DocType=PDF> (last visited January 16, 2018).

³⁷ *Supra*, n. 10.

³⁸ Florida Department of Juvenile Justice, "Get Involved" available at <http://www.djj.state.fl.us/fjif/foundation> (last visited January 16, 2018).

³⁹ *Supra*, n. 10.

Contract Requirements

Section 20.058(4), F.S., provides that any contract between an agency and a CSO or DSO must be contingent upon the CSO or DSO submitting and posting information pursuant to s. 20.058(1) and (2), F.S. The contract must also include a provision for the orderly cessation of operations and reversion to the state of state funds held in trust by the organization within 30 days after its authorizing statute is repealed, the contract is terminated, or the organization is dissolved. If an organization fails to submit the required information for two consecutive years, the agency head shall terminate any contract between the agency and the organization.

Staff findings: Not in compliance. The contract between the DJJ and the Foundation is not contingent upon the Foundation's submission and posting of the information pursuant to s. 20.058(1) and (2), F.S. The contract also does not provide for the orderly cessation of operations and reversion to the state of state funds held in trust by the Foundation *within 30 days* after its authorizing statute is repealed, the contract is terminated, or the organization is dissolved. The contract also does not provide for the DJJ Secretary to terminate the contract between the DJJ and the Foundation in the event that the Foundation fails to submit the required information for two consecutive years.⁴⁰

Staff recommendation: The DJJ and the Foundation should execute a revised contract that includes the requirements prescribed by s. 20.058(4), F.S. The contract between the DJJ and the Foundation was executed in 2009, while s. 20.058, F.S., was enacted by the Legislature in 2014.⁴¹ Additionally, the contract provides that, "The parties agree to renegotiate this agreement and any affected agreements if revisions of any applicable laws or regulations make changes in this agreement necessary."⁴²

Staff Review of Compliance with s. 215.981, F.S. (CSO/DSO Audit Requirements)

As previously noted, s. 215.981(1), F.S., requires each CSO and DSO created or authorized pursuant to law with annual expenditures in excess of \$100,000 to provide for an annual financial audit of its accounts and records. (For a full description of the statute, see discussion, *supra*, of s. 985.672(6), F.S. (annual financial audit)).

Staff findings: Not currently applicable. As previously noted, the Foundation does not have annual expenditures in excess of \$100,000. Therefore, the Foundation is not currently subject to the auditing requirements of s. 215.981, F.S.⁴³

Staff Review of Compliance with s. 112.3251, F.S. (CSO/DSO Ethics Code Requirement)

Section 112.3251, F.S., requires a CSO or DSO created or authorized pursuant to law to adopt its own ethics code. The ethics code must contain the specified standards of conduct and disclosures provided in ss. 112.313 and 112.3143(2), F.S.⁴⁴ A CSO or DSO may adopt additional or more

⁴⁰ *Supra*, n. 13.

⁴¹ Section 20.058, F.S., was created in 2014 by ch. 2014-96, L.O.F.

⁴² *Supra*, n. 13.

⁴³ *Supra*, n. 33.

⁴⁴ Some of the standards of conduct and disclosures in ss. 112.313 and 112.3143(2), F.S., include misuse of public position, solicitation or acceptance of gifts, unauthorized compensation, and voting conflicts.

stringent standards of conduct and disclosure requirements and must conspicuously post its code of ethics on its website.⁴⁵

Staff findings: Not in compliance. The Foundation has a code of ethics which is conspicuously posted on its website.⁴⁶ However, the Foundation's code of ethics is not in compliance with s. 112.313(2), (4), (5), and (8), F.S.

Staff recommendation: The Foundation should adopt a revised code of ethics to include requirements prescribed by s. 112.3251, F.S.

III. Effect of Proposed Changes:

The bill removes the scheduled repeal date of the law authorizing the Florida Department of Juvenile Justice (DJJ) to establish a direct-support organization (DSO) to provide assistance, funding, and support to assist the DJJ in furthering its goals.

Current law requires the DSO's board of directors to consist of representatives from businesses, each juvenile justice service district, and one representative appointed at large. The bill amends the requirements relating to the DSO's board representation to permit the DJJ to appoint members to the DSO's board of directors pursuant to the DSO's bylaws.

The bill takes effect July 1, 2018.

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.

⁴⁵ Section 112.3251, F.S.

⁴⁶ Florida Juvenile Justice Foundation, *2017 Annual Report*, available at <http://www.djj.state.fl.us/fjff/resources> (last visited January 16, 2018).

B. Private Sector Impact:

By saving the Foundation from repeal, the bill sustains a source of financial and other direct assistance for advancing the DJJ's mission to increase public safety by reducing juvenile delinquency.

C. Government Sector Impact:

The bill does not affect state revenues or expenditures. By saving s. 985.672, F.S., from repeal, the DSO may continue to provide assistance, funding, and support for activities authorized by the DJJ. If s. 985.672, F.S., is not saved from repeal, the DJJ may need to assume the responsibilities of the DSO or find another entity to assume those responsibilities.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 985.672 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 Criminal Justice on January 22, 2018:

The committee substitute requires the DJJ to appoint members to the DSO's board of directors according to the bylaws of the DSO.

B. Amendments:

None.

By the Committee on Criminal Justice; and Senator Bracy

591-02331-18

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1 A bill to be entitled
 2 An act relating to the Department of Juvenile
 3 Justice's direct-support organization; amending s.
 4 985.672, F.S.; requiring the secretary of the
 5 department to appoint board of directors to the
 6 department's direct-support organization according to
 7 the organization's established bylaws; abrogating the
 8 scheduled repeal of provisions governing a direct-
 9 support organization established by the department;
 10 providing an effective date.
 11
 12 Be It Enacted by the Legislature of the State of Florida:
 13
 14 Section 1. Section 985.672, Florida Statutes, is amended to
 15 read:
 16 985.672 Direct-support organization; definition; use of
 17 property; board of directors; audit.—
 18 (1) DEFINITION.—As used in this section, the term "direct-
 19 support organization" means an organization whose sole purpose
 20 is to support the juvenile justice system and which is:
 21 (a) A corporation not-for-profit incorporated under chapter
 22 617 and which is approved by the Department of State;
 23 (b) Organized and operated to conduct programs and
 24 activities; to raise funds; to request and receive grants,
 25 gifts, and bequests of moneys; to acquire, receive, hold,
 26 invest, and administer, in its own name, securities, funds,
 27 objects of value, or other property, real or personal; and to
 28 make expenditures to or for the direct or indirect benefit of
 29 the Department of Juvenile Justice or the juvenile justice

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30 system operated by a county commission or a circuit board; and
 31 (c) Determined by the Department of Juvenile Justice to be
 32 consistent with the goals of the juvenile justice system, in the
 33 best interest of the state, and in accordance with the adopted
 34 goals and mission of the Department of Juvenile Justice.
 35
 36 Expenditures of the organization shall be used for the
 37 prevention and amelioration of juvenile delinquency. The
 38 expenditures of the direct-support organization may not be used
 39 for the purpose of lobbying as defined in s. 11.045.
 40 (2) CONTRACT.—The direct-support organization shall operate
 41 under written contract with the department. The contract must
 42 provide for:
 43 (a) Approval of the articles of incorporation and bylaws of
 44 the direct-support organization by the department.
 45 (b) Submission of an annual budget for the approval of the
 46 department.
 47 (c) Certification by the department that the direct-support
 48 organization is complying with the terms of the contract and in
 49 a manner consistent with the goals and purposes of the
 50 department and in the best interest of the state. Such
 51 certification must be made annually and reported in the official
 52 minutes of a meeting of the direct-support organization.
 53 (d) The reversion of moneys and property held in trust by
 54 the direct-support organization for the benefit of the juvenile
 55 justice system to the state if the department ceases to exist or
 56 to the department if the direct-support organization is no
 57 longer approved to operate for the department, a county
 58 commission, or a circuit board or if the direct-support

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59 organization ceases to exist.~~†~~

60 (e) The fiscal year of the direct-support organization,
61 which must begin July 1 of each year and end June 30 of the
62 following year.~~†~~

63 (f) The disclosure of material provisions of the contract,
64 and the distinction between the department and the direct-
65 support organization, to donors of gifts, contributions, or
66 bequests, including such disclosure on all promotional and
67 fundraising publications.

68 (3) BOARD OF DIRECTORS.—The Secretary of Juvenile Justice
69 shall appoint a board of directors of the direct-support
70 organization according to the direct-support organization's
71 established bylaws. ~~Members of the organization must include~~
72 ~~representatives from businesses, representatives from each of~~
73 ~~the juvenile justice service districts, and one representative~~
74 ~~appointed at large.~~

75 (4) USE OF PROPERTY.—The department may permit, without
76 charge, appropriate use of fixed property, facilities, and
77 personnel services of the juvenile justice system by the direct-
78 support organization, subject to this section. For the purposes
79 of this subsection, the term "personnel services" includes full-
80 time or part-time personnel, as well as payroll processing
81 services.

82 (a) The department may prescribe any condition with which
83 the direct-support organization must comply in order to use
84 fixed property or facilities of the juvenile justice system.

85 (b) The department may not permit the use of any fixed
86 property or facilities of the juvenile justice system by the
87 direct-support organization if it does not provide equal

591-02331-18

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88 membership and employment opportunities to all persons
89 regardless of race, color, religion, sex, age, or national
90 origin.

91 (c) The department shall adopt rules prescribing the
92 procedures by which the direct-support organization is governed
93 and any conditions with which a direct-support organization must
94 comply to use property or facilities of the department.

95 (5) DEPOSIT OF FUNDS.—Any moneys may be held in a separate
96 depository account in the name of the direct-support
97 organization and subject to the provisions of the contract with
98 the department.

99 (6) AUDIT.—The direct-support organization shall provide
100 for an annual financial audit in accordance with s. 215.981.

101 ~~(7) REPEAL.—This section is repealed October 1, 2018,~~
102 ~~unless reviewed and saved from repeal by the Legislature.~~

103 Section 2. This act shall take effect July 1, 2018.

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/15/18
Meeting Date

CS/SB 942
Bill Number (if applicable)

Topic CS/SB 942-DJJ DSO

Amendment Barcode (if applicable)

Name Rachel Moscoso

Job Title Legislative Affairs Director

Address 2737 Centerview Dr.

Phone 850-717-2716

Street

Tallahassee FL 32399

rachel.moscoso@djj.state.fl

Email ~~rachel@mosc~~

City

State

Zip

Speaking: For Against Information

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

Representing Dept. of Juvenile Justice

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 960

INTRODUCER: Appropriations Committee; Children, Families, and Elder Affairs Committee; and Senator Baxley

SUBJECT: Mental Health and Substance Abuse

DATE: February 19, 2018

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Delia</u>	<u>Hendon</u>	<u>CF</u>	<u>Fav/CS</u>
2.	<u>Sneed</u>	<u>Williams</u>	<u>AHS</u>	<u>Recommend: Favorable</u>
3.	<u>Sneed</u>	<u>Hansen</u>	<u>AP</u>	<u>Fav/CS</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 960 requires jails to continue to administer psychiatric medications as prescribed at state mental health treatment facilities upon a facility client's return to jail, unless the jail physician determines a change in medication will not adversely affect the defendant's mental health status or ability to continue with court proceedings.

The bill also requires the Department of Children and Families (DCF or department) to request an individual's medical information from jails when an individual is committed to a state mental health treatment facility within a certain timeframe. The bill also requires jails to respond to the request within a specific timeframe.

The bill repeals the requirement for the DCF to develop a certification process for community substance abuse prevention coalitions.

The bill also removes the requirement for DCF accreditation of substance abuse treatment programs operated by or are under contract with the Department of Corrections or county jails.

The bill is anticipated to have no fiscal impact on state government and an indeterminate fiscal impact on local government.

The bill is effective July 1, 2018.

II. Present Situation:

Mental Illness and Substance Abuse of Offenders in the Criminal Justice System

As many as 125,000 adults with a mental illness or substance use disorder requiring immediate treatment are arrested and booked into Florida jails each year.¹ Between 2002 and 2010, the population of inmates with mental illness or substance use disorder in Florida increased from 8,000 to 17,000 inmates.² By 2020, the number of inmates with these types of disorders is expected to reach at least 35,000.³

State Forensic System -- Mental Health Treatment for Criminal Defendants

Chapter 916, F.S., governs the state forensic system, a network of state facilities and community services for persons with mental health issues involved with the criminal justice system. The forensic system serves defendants deemed incompetent to proceed or not guilty by reason of insanity. A defendant is deemed incompetent to proceed if he or she does not have sufficient present ability to consult with his or her lawyer with a reasonable degree of rational understanding or if the defendant lacks both a rational and factual understanding of the proceedings against him or her.⁴

If a defendant is suspected of being incompetent, the court, defense counsel, or the State may file a motion to have the defendant's cognitive state assessed.⁵ If the motion is granted, court-appointed experts will evaluate the defendant's cognitive state. The defendant's competency is then determined by the judge in a subsequent hearing.⁶ If the defendant is found to be competent, the criminal proceeding resumes.⁷ If the defendant is found to be incompetent to proceed, the proceeding may not resume unless competency is restored.⁸ Competency restoration services teach defendants about the legal process, their charges, potential legal outcomes they might face, and their legal rights so as to prepare them to participate meaningfully in their own defense.⁹

Defendants may be adjudicated not guilty by reason of insanity pursuant to s. 916.15, F.S. The DCF must admit a defendant adjudicated not guilty by reason of insanity who is committed to the department¹⁰ to an appropriate facility or program for treatment and must retain and treat the defendant.¹¹

¹ The Florida Senate, *Forensic Hospital Diversion Pilot Program, Interim Report 2011-106*, (Oct. 2010), p. 1, available at <https://www.flsenate.gov/UserContent/Session/2011/Publications/InterimReports/pdf/2011-106cf.pdf> (last visited January 4, 2018).

² *Id.*

³ *Id.*

⁴ Section 916.12(1), F.S.

⁵ Rule 3.210, Fla.R.Crim.P.

⁶ *Id.*

⁷ Rule 3.212, Fla.R.Crim.P.

⁸ *Id.*

⁹ OPPAGA, *Juvenile and Adult Incompetent to Proceed Cases and Costs*, Report. No. 13-04, Feb. 2013, p. 1, available at <http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/1304rpt.pdf> (last visited January 4, 2018).

¹⁰ The court may also order outpatient treatment at any other appropriate facility or service or discharge the defendant. Rule 3.217, Fla.R.Crim.P.

¹¹ Section 916.15(3), F.S.

Offenders who are charged with a felony and deemed incompetent to proceed and offenders adjudicated not guilty by reason of insanity may be involuntarily committed to state civil¹² and forensic¹³ treatment facilities by the circuit court,^{14, 15} or in lieu of such commitment, may be released on conditional release by the circuit court if the person is not serving a prison sentence.¹⁶

Sharing Medical Information between County Jails and the DCF

Forensic clients committed to the Department of Children and Families (DCF) state mental health treatment facilities are transferred to the facilities directly from the county jails, and often need immediate or continuous medical treatment.¹⁷ Jail physicians must provide a current psychotropic medication¹⁸ order at the time a forensic client is transferred to the state mental health treatment facility or upon request of the admitting physician following an evaluation.¹⁹ However, there is no timeframe within which a jail physician must respond to a request by the DCF for such information, nor is there any requirement for jail physicians to provide other medical information about individuals being transferred to the department. While the DCF currently requests medical information from the county jails when a commitment packet is received from the courts, there is no time requirement within which the department must make the request.²⁰

Continuation of Psychiatric Medications

When forensic clients are released from state mental health treatment facilities, most are returned to the county jail to await resolution of their court cases. Some individuals are maintained by county jails on the same psychiatric medication regimen prescribed and administered at the state mental health treatment facility, while others are not. One possible outcome of discontinuing the previous medication regimen is the individual again losing competency, in which case the jail

¹² A “civil facility” is a mental health facility established within the DCF or by contract with the DCF to serve individuals committed pursuant to chapter 394, F.S., and defendants pursuant to chapter 916, F.S., who do not require the security provided in a forensic facility; or an intermediate care facility for the developmentally disabled, a foster care facility, a group home facility, or a supported living setting designated by the Agency for Persons with Disabilities (APD) to serve defendants who do not require the security provided in a forensic facility. S. 916.106(4), F.S.

¹³ A “forensic facility” is a separate and secure facility established within the DCF or the APD to service forensic clients. A separate and secure facility means a security-grade building for the purpose of separately housing persons who have mental illness from persons who have intellectual disabilities or autism and separately housing persons who have been involuntarily committed pursuant to chapter 916, F.S., from non-forensic residents. S. 916.106(10), F.S.

¹⁴ “Court” is defined to mean the circuit court. s. 916.106(5), F.S.

¹⁵ Sections 916.13, 916.15, and 916.302, F.S.

¹⁶ Section 916.17(1), F.S.

¹⁷ Department of Children and Families, Agency Bill Analysis for 2018 House Bill 0721, *available at* <http://abar.laspbs.state.fl.us/ABAR/Document.aspx?id=21751&yr=2018> (last visited January 4, 2018).

¹⁸ Psychotropic medication is a broad term referring to medications that affect mental function, behavior, and experience; these medications include anxiolytic/hypnotic medications, such as benzodiazepines, antidepressant medications, such as selective serotonin reuptake inhibitors (SSRIs), and antipsychotic medications. Pamela L. Lindsey, *Psychotropic Medication Use among Older Adults: What All Nurses Need to Know*, J. GERONTOL NURS., (Sept. 2009), *available at*, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3128509/> (last visited January 4, 2018).

¹⁹ Section 916.107(3)(a)2.a., F.S.

²⁰ *Supra*, note 17.

must return him or her to a secure forensic facility due to an inability to stand trial or proceed with resolution of his or her court case.²¹

Certification of Community Substance Abuse Prevention Coalitions

Section 397.321, F.S., requires the DCF to license and regulate all substance abuse providers in the state. It also requires the department to develop a certification process by rule for community substance abuse prevention coalitions (prevention coalitions). The department is currently promulgating the rule.²²

Prevention coalitions are local partnerships between multiple sectors of the community that respond to community conditions by developing and implementing comprehensive plans that lead to measurable, population-level reductions in drug use and related problems.²³ They do not provide substance abuse treatment services, and certification is not a requirement for eligibility to receive federal or state substance abuse prevention funding. However, to receive funding from the DCF, a coalition must follow a comprehensive process that includes a detailed needs assessment and plan for capacity building, development, implementation, and sustainability to ensure that data-driven, evidence-based practices are employed for addressing substance misuse for state-funded coalitions.²⁴

Some prevention coalitions have chosen to apply for certification from nationally-recognized credentialing entities. The Florida Certification Board, a non-profit professional credentialing entity, offers certifications for Certified Prevention Specialists and Certified Prevention Professionals for individuals who want professional credentialing.²⁵ However, Florida is the only state that requires prevention coalitions to be certified. Only one other state, Ohio, has established a certification program for prevention coalitions, and it is voluntary.²⁶

Licensure and Regulation of Government-Operated Substance Abuse Programs

Pursuant to S. 397.403, F.S., service providers applying for a license under chapter 397, F.S., must apply to the department on forms provided by the department and in accordance with rules adopted by the department, and meet several criteria, including information regarding the physical location of the service provider, names of directors, officers, and shareholders if any, proof of insurance liability coverage, proof of satisfactory fire, health and safety inspections, and several other requirements. Applications for licensure renewal under this section must include proof of application for accreditation for each licensed service component providing clinical treatment by an accrediting organization that is acceptable to the department for the first renewal, and proof of accreditation for any subsequent renewals.²⁷

²¹ *Id.*

²² *Id.*

²³ *Id.*

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.*

²⁷ *Id.*

Substance abuse programs operated directly or under contract by the DCF, the Department of Corrections, the Department of Juvenile Justice, any other state agency, or local correctional agency or authority, are subject to licensure and regulation in accordance with rules jointly developed by the department and the state or local agency operating the program.²⁸ The department has authority to exempt these programs from specific licensure provisions including, but not limited to, licensure fees and personnel background checks, and to enforce the regulatory requirements governing such programs.²⁹

III. Effect of Proposed Changes:

Section 1 repeals s. 397.321(16), F.S., requiring the DCF to develop by rule a certification process for community substance abuse prevention coalitions. As a result, such prevention coalitions will no longer be subject to a state certification process.

Section 2 amends s. 397.403(3), F.S., relating to substance abuse treatment providers, removing the accreditation requirements for inmate substance abuse programs run by or under contract with county jails or the Department of Corrections.

Section 3 amends s. 916.13, F.S., relating to involuntary commitment of defendants adjudicated incompetent to proceed, to require jails to administer the same psychiatric medications as prescribed by the treating physician upon discharge by the mental health treatment facility, unless the jail physician documents the need to change or discontinue such medications. The section requires the jail physician to collaborate with the DCF treating physician to ensure any changes to the medication regimen do not adversely impact the ability of the defendant to proceed with court proceedings. Final authority for determining which medication to administer is granted to the jail physician, and the jail physician must document any modifications made to psychiatric medications at the jail.

The section also requires a jail to send medical information for individuals in its custody that will be admitted to state mental health treatment facilities. The DCF will be required to notify the jail within two days of receipt of a commitment order and other required documents, and the jail will be required to send the medical information within three working days of the DCF notification.

Section 4 amends s. 916.15, F.S., to apply the new requirements of the bill, regarding sharing of information between jails and the DCF and continuation of psychiatric medications upon return to the jail, to instances involving involuntary commitment of defendants adjudicated not guilty by reason of insanity.

Section 5 provides the bill takes effect July 1, 2018.

²⁸ S. 397.4014, F.S.

²⁹ *Id.*

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, s. 18(a) of the State Constitution may apply because this bill will require county jails to spend funds to continue psychiatric medications for certain inmates housed in county jails.

Article VII, s. 18(a) of the State Constitution provides 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 law requiring such expenditure is approved by two-thirds of the membership in each house of the legislature....”

However, Art. VII, s. 18(d) of the State Constitution exempts laws having an insignificant³⁰ fiscal impact from the mandates requirements. For Fiscal Year 2017-2018, the threshold for “insignificant fiscal impact” is \$2.1 million or less.³¹ No estimate has been developed at this time to suggest the magnitude of the costs to the county jails.

If the fiscal impact on counties does not exceed \$2.1 million, the bill appears to be exempt from the mandates requirements. If the fiscal impact exceeds \$2.1 million, the legislature may consider including a specific finding that the bill fulfills an important state interest and approve the bill by a two-thirds vote of the membership of each house.

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 accreditation requirements that were added in law in 2017 would add unnecessary administrative costs for substance abuse treatment provider organizations. The

³⁰ An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year times \$0.10. See Florida Senate Committee on Community Affairs, *Interim Report 2012-115: Insignificant Impact*, (September 2011), available at <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last visited Jan. 20, 2018).

³¹ Based on the Demographic Estimating Conference’s population adopted on December 5, 2017. The conference packet is available at <http://edr.state.fl.us/Content/conferences/population/ConferenceResults.pdf> (last visited Jan. 20, 2018).

Department of Corrections and county sheriff's offices that oversee the provider contracts make the need for outside accreditation unnecessary.

C. **Government Sector Impact:**

County jails may incur an indeterminate increase in costs associated with the requirement to provide specific psychotropic medications to certain inmates that the jails have not previously provided.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 916.13 and 916.15.

This bill repeals section 397.321(16) 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/CS by Appropriations on February 15, 2018:

- Removes the requirement for DCF accreditation of substance abuse treatment programs operated by or are under contract with the Department of Corrections or county jails.

CS by Children, Families, and Elder Affairs on January 9, 2018:

- Replaces the requirement that the DCF notify a jail within two days of receiving a completed commitment packet for a defendant with a requirement that the DCF instead notify the jail within two days of receiving a commitment order and other required documents for a defendant.
- Requires a DCF facility physician and a jail physician to collaborate in deciding whether to change or stop any psychiatric medications prescribed to a defendant who has regained his or her competency and is being sent back to a jail.
- Requires this collaboration in order to ensure that changing any of the defendant's current medications will not adversely impact his or her mental status or ability to continue with court proceedings.
- Requires the jail physician in such cases to document the need to change or discontinue any psychiatric medication provided at the forensic facility.
- Requires that final authority for any change in psychiatric medication in such cases be given to the jail physician.

- Imposes all of these same requirements in cases involving defendants adjudicated not guilty by reason of insanity who are sent back to a jail.

B. Amendments:

None.

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



281582

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/15/2018	.	
	.	
	.	
	.	

The Committee on Appropriations (Baxley) recommended the following:

Senate Amendment (with title amendment)

Between lines 30 and 31

insert:

Section 2. Subsection (3) of section 397.403, Florida Statutes, is amended to read:

397.403 License application.—

(3) Applications for licensure renewal must include proof of application for accreditation for each licensed service component providing clinical treatment by an accrediting



281582

11 organization that is acceptable to the department for the first
12 renewal, and proof of accreditation for any subsequent renewals.
13 This subsection does not apply to inmate substance abuse
14 programs operated by or under exclusive contract with the
15 Department of Corrections or jails.

16
17 ===== T I T L E A M E N D M E N T =====

18 And the title is amended as follows:

19 Delete line 6

20 and insert:

21 substance abuse prevention coalitions; amending s.
22 397.403, F.S.; excluding certain substance abuse
23 programs from specified licensure requirements;
24 amending ss.

By the Committee on Children, Families, and Elder Affairs; and
Senator Baxley

586-01948-18

2018960c1

1 A bill to be entitled
2 An act relating to mental health and substance abuse;
3 amending s. 397.321, F.S.; deleting a provision
4 requiring the Department of Children and Families to
5 develop a certification process by rule for community
6 substance abuse prevention coalitions; amending ss.
7 916.13 and 916.15, F.S.; requiring the department to
8 request a defendant's medical information from a jail
9 within a certain timeframe after receiving a
10 commitment order and other required documentation;
11 requiring the jail to provide such information within
12 a certain timeframe; requiring the continued
13 administration of psychotropic medication to a
14 defendant if he or she is receiving such medication at
15 a mental health facility at the time that he or she is
16 discharged and transferred to the jail; providing an
17 exception; requiring the jail and department
18 physicians to collaborate on a defendant's medication
19 changes for certain purposes; specifying that the jail
20 physician has the final authority regarding the
21 administering of medication to an inmate; providing an
22 effective date.
23
24 Be It Enacted by the Legislature of the State of Florida:
25
26 Section 1. Subsection (16) of section 397.321, Florida
27 Statutes, is amended to read:
28 397.321 Duties of the department.—The department shall:
29 ~~(16) Develop a certification process by rule for community~~

Page 1 of 4

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

586-01948-18

2018960c1

30 ~~substance abuse prevention coalitions.~~
31 Section 2. Subsection (2) of section 916.13, Florida
32 Statutes, is amended to read:
33 916.13 Involuntary commitment of defendant adjudicated
34 incompetent.—
35 (2) A defendant who has been charged with a felony, ~~and who~~
36 has been adjudicated incompetent to proceed due to mental
37 illness, and ~~who~~ meets the criteria for involuntary commitment
38 under this chapter, may be committed to the department, and the
39 department shall retain and treat the defendant. Within 2
40 business days after receipt of a commitment order and other
41 required documents as stipulated in rule, the department must
42 request from the jail any and all medical information pertaining
43 to the defendant. Within 3 business days after receipt of such a
44 request, the jail shall provide such information to the
45 department.
46 (a) Within 6 months after the date of admission and at the
47 end of any period of extended commitment, or at any time the
48 administrator or his or her designee determines that the
49 defendant has regained competency to proceed or no longer meets
50 the criteria for continued commitment, the administrator or
51 designee shall file a report with the court pursuant to the
52 applicable Florida Rules of Criminal Procedure.
53 (b) A competency hearing must ~~shall~~ be held within 30 days
54 after the court receives notification that the defendant is
55 competent to proceed or no longer meets the criteria for
56 continued commitment. The defendant must be transported to the
57 committing court's jurisdiction for the hearing. If the
58 defendant is receiving psychotropic medication at a mental

Page 2 of 4

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

586-01948-18

2018960c1

59 health facility at the time he or she is discharged and
 60 transferred to the jail, the administering of such medication
 61 must continue unless the jail physician documents the need to
 62 change or discontinue it. The jail and department physicians
 63 shall collaborate to ensure that medication changes do not
 64 adversely affect the defendant's mental health status or his or
 65 her ability to continue with court proceedings; however, the
 66 final authority regarding the administering of medication to an
 67 inmate in jail rests with the jail physician.

68 Section 3. Subsections (3) and (5) of section 916.15,
 69 Florida Statutes, are amended to read:

70 916.15 Involuntary commitment of defendant adjudicated not
 71 guilty by reason of insanity.-

72 (3) Every defendant acquitted of criminal charges by reason
 73 of insanity and found to meet the criteria for involuntary
 74 commitment may be committed and treated in accordance with ~~the~~
 75 ~~provisions of~~ this section and the applicable Florida Rules of
 76 Criminal Procedure. The department shall admit a defendant so
 77 adjudicated to an appropriate facility or program for treatment
 78 and shall retain and treat such defendant. No later than 6
 79 months after the date of admission, prior to the end of any
 80 period of extended commitment, or at any time that the
 81 administrator or his or her designee determines ~~shall have~~
 82 ~~determined~~ that the defendant no longer meets the criteria for
 83 continued commitment placement, the administrator or designee
 84 shall file a report with the court pursuant to the applicable
 85 Florida Rules of Criminal Procedure. Within 2 business days
 86 after receipt of a commitment order and other required documents
 87 as stipulated in rule, the department must request from the jail

Page 3 of 4

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

586-01948-18

2018960c1

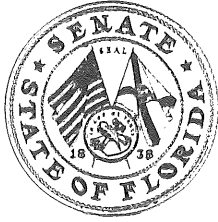
88 any and all medical information pertaining to the defendant.
 89 Within 3 business days after receipt of such a request, the jail
 90 shall provide such information to the department.

91 (5) The commitment hearing shall be held within 30 days
 92 after the court receives notification that the defendant no
 93 longer meets the criteria for continued commitment. The
 94 defendant must be transported to the committing court's
 95 jurisdiction for the hearing. If the defendant is receiving
 96 psychotropic medication at a mental health facility at the time
 97 he or she is discharged and transferred to the jail, the
 98 administering of such medication must continue unless the jail
 99 physician documents the need to change or discontinue it. The
 100 jail and department physicians shall collaborate to ensure that
 101 medication changes do not adversely affect the defendant's
 102 mental health status or his or her ability to continue with
 103 court proceedings; however, the final authority regarding the
 104 administering of medication to an inmate in jail rests with the
 105 jail physician.

106 Section 4. This act shall take effect July 1, 2018.

Page 4 of 4

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



THE FLORIDA SENATE

SENATOR DENNIS BAXLEY
12th District

COMMITTEES:
Governmental Oversight and Accountability, *Chair*
Criminal Justice, *Vice Chair*
Appropriations
Appropriations Subcommittee on Criminal and
Civil Justice
Appropriations Subcommittee on Health and
Human Services
Agriculture
Transportation

SELECT COMMITTEE:
Joint Select Committee on Collective Bargaining

JOINT COMMITTEE:
Joint Legislative Auditing Committee

January 24, 2018

The Honorable Senator Rob Bradley
414 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399

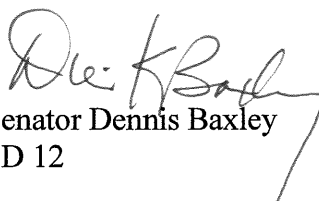
Dear Senator Bradley,

I respectfully request that you place CS/SB 960 Mental Health and Substance Abuse on your next available agenda.

This bill relates to a defendant who has been charged with a felony, has been adjudicated incompetent to proceed due to mental illness, and meets the criteria for involuntary commitment under this chapter, may be committed to the department, and the department shall retain and treat the defendant. Within 2 business days after receipt of a completed commitment packet order and other required documents as stipulated in rule, the department must request from the county jail any and all medical information pertaining to the defendant. Within 3 business days after receipt of such a request, the county jail shall provide such information to the department. Each defendant who is ordered returned to the county jail must be continued on the same psychotropic medication that he or she was prescribed upon discharge by the mental health facility, unless the jail's physician determines that there is a compelling medical reason to change or discontinue the medication for the health and safety of the defendant.

I appreciate your favorable consideration.

Onward & Upward,


Senator Dennis Baxley
SD 12

DKB/dd

cc: Mike Hansen, Staff Director

320 Senate Office Building, 404 South Monroe St, Tallahassee, Florida 32399-1100 • (850) 487-5012
Email: baxley.dennis@flsenate.gov

JOE NEGRON
President of the Senate

ANITERE FLORES
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/15/18
Meeting Date

960
Bill Number (if applicable)
281582
Amendment Barcode (if applicable)

Topic _____

Name Hayden Dempsey

Job Title _____

Address 101 E Colby Ave
Street
Tallahassee FL 32311
City State Zip

Phone 222-6891

Email dempseyhayden@unlimitedbeth.com

Speaking: For Against Information

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

Representing Unlimited Beth

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

2-15-18

Meeting Date

960

Bill Number (if applicable)

Topic Mental Health + Substance Abuse

Amendment Barcode (if applicable)

Name Jill Gran

Job Title Senior Policy Director

Address 2868 Mahan Dr

Phone 878 2196

Street

Tallahassee FL 32308

Email jill@myAdna.org

City

State

Zip

Speaking: For Against Information

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

Representing Florida Behavioral Health Assoc

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

7/15/18

Meeting Date

960

Bill Number (if applicable)

Topic Mental Health / Substance Abuse

Amendment Barcode (if applicable)

Name Alisa Lapolt

Job Title Executive Director

Address

Phone 671-4445

Street

Tallahassee FL

Email alisa@nami-florida.org

City

State

Zip

Speaking: For Against Information

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

Representing National Alliance on Mental Illness - 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.

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 982

INTRODUCER: Senator Powell

SUBJECT: Care for Retired Law Enforcement Dogs

DATE: February 14, 2018

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Cellon</u>	<u>Jones</u>	<u>CJ</u>	Favorable
2.	<u>Sadberry</u>	<u>Sadberry</u>	<u>ACJ</u>	Recommend: Favorable
3.	<u>Sadberry</u>	<u>Hansen</u>	<u>AP</u>	Favorable

I. Summary:

SB 982 creates the Care for Retired Law Enforcement Dogs Program. The program will provide reimbursement for up to \$1,500 of annual veterinary costs associated with caring for a retired law enforcement dog by the former handler or adopter who incurs the costs.

The bill provides legislative findings and definitions. The bill requires valid documentation of the dog's retirement from the law enforcement agency the dog served and a valid paid invoice from the veterinarian for veterinary care for reimbursement of costs to occur.

The program will be administered and managed by a not-for-profit corporation in a contractual arrangement with the Florida Department of Law Enforcement (FDLE) after a competitive grant award process.

The bill includes an appropriation of \$300,000 in recurring General Revenue Funds for the purpose of implementing and administering the program.

The bill takes effect July 1, 2018.

II. Present Situation:

Law enforcement dogs have become an integral part of many law enforcement efforts statewide, including suspect apprehension through tracking and searching, evidence location, drug and bomb detection, and search and rescue operations.¹ Law enforcement dogs cannot work forever

¹ Panama City Beach Police Department, *K-9 Patrol*, available at <http://www.pcbgov.com/departments-services/police-department/specialized-units/k-9-patrol> (last visited January 18, 2018); Coral Springs Police Department, *K-9 Unit*, available at <https://www.coral Springs.org/government/other-departments-and-services/police/divisions/k-9> (last visited January 18, 2018); Hillsborough County Sheriff's Office, *K-9 Unit*, available at <http://www.hcso.tampa.fl.us/A-Z-Directory/K/K9-Unit.aspx> (last visited January 18, 2018); Jacksonville Sheriff's Office, *Canine Unit*, available at

and are faced with natural aging conditions and may have sustained injuries in the line of duty. When it is time for a law enforcement dog to retire the dog typically lives with their law enforcement officer partner. However, retired law enforcement dogs can experience costly medical expenses that the owner is unable to handle.²

Just one example of a law enforcement dog's invaluable service is Koda, who worked with the Leon County Sheriff's Office. K-9 Koda was shot and killed in January 2013 as he attempted to immobilize a subject following a vehicle pursuit. Deputies pursued a vehicle several blocks until the vehicle crashed into a ditch. The subject continued to flee on foot and then opened fire on K-9 Koda and the deputies. Two deputies returned fire and wounded the subject before taking him into custody. It was later determined that the subject was wanted on warrants for attempted first degree murder, aggravated battery with a deadly weapon, and discharging a firearm from a vehicle.³

III. Effect of Proposed Changes:

The bill creates the Care for Retired Law Enforcement Dogs Program (program) within the Florida Department of Law Enforcement (FDLE). The program will provide up to \$1,500 annually to any former handler or adopter of a retired law enforcement dog for reimbursement of veterinary care for the dog if the agency from which the dog retired provides verification of the dog's service. The former handler or adopter must submit a valid invoice from a veterinarian for care provided in Florida and proof of payment for reimbursement to occur. When the annual funding for the program is depleted, reimbursements must be discontinued for the remainder of the year.

The program is created within the FDLE to provide a stable funding source for veterinary care for retired law enforcement dogs.

"Retired law enforcement dog" is defined by the bill as a dog who has been in the service of or employed by a law enforcement agency in this state for the purpose of aiding in the detection of criminal activity, enforcement of laws, or apprehension of offenders. The retired law enforcement dog must have received certification in obedience and apprehension work from a certifying organization, such as the National Police Canine Association, Inc.⁴

The bill defines "law enforcement agency" as a state or local public agency that has primary responsibility for the prevention and detection of crime or the enforcement of the penal, traffic, highway, regulatory, game, immigration, postal, customs, or controlled substance laws.

<http://www.coj.net/departments/sheriffs-office/department-of-patrol-and-enforcement/patrol-support-division/canine-unit>

(last visited January 18, 2018); Brevard County Sheriff's Office, *K-9 Unit*, available at

<http://www.brevardsheriff.com/home/commands-services/operational-services/k-9-unit/> (last visited January 17, 2018).

² South Florida Fund for Retired Law Enforcement K-9's, *Who We Help*, *The Fund*, available at

<https://soflretiredk9fund.com/about/who-we-help/> (last visited January 18, 2018).

³ Officer Down Memorial Page, United States, Florida, Leon County Sheriff's Office, *K-9 Koda*, available at

<http://www.odmp.org/k9/1497-k9-koda#ixzz2vrveuHYu> (last visited January 17, 2018).

⁴ National Police Canine Association, available at <http://www.npca.net/> (last visited January 18, 2018). The National Police Canine Association is one of many such organizations in the country, including The Florida Law Enforcement Canine Association (FLECA) dedicated to the training and certification of Florida's Law Enforcement Canine Teams. Florida Law Enforcement Canine Association, FLECA, available at <http://www.flecak9.com/> (last visited January 17, 2018).

The bill adopts the term “veterinarian” from s. 474.202, F.S. Section 474.202(11), F.S., defines “veterinarian” as a health care practitioner who is licensed to engage in the practice of veterinary medicine in Florida under the authority of ch. 474, F.S.⁵ The bill defines “veterinary care” as the practice of veterinary medicine as defined in s. 474.202, F.S. Section 474.202(13), F.S., defines “veterinary medicine” to include, with respect to animals, surgery, acupuncture, obstetrics, dentistry, physical therapy, radiology, theriogenology, and other branches or specialties of veterinary medicine. The bill specifies that the term also includes:

- Annual wellness examinations;
- Vaccines;
- Internal and external parasite prevention treatments;
- Testing and treatment of illnesses and diseases;
- Medications;
- Emergency care and surgeries; and
- Care provided in specialties of veterinary medicine such as veterinary oncology, euthanasia, and cremation services.

The FDLE is directed to contract with a not-for-profit corporation, organized under ch. 617, F.S., to administer and manage the program.⁶ The corporation will be selected through a competitive grant award process. The corporation must:

- Be dedicated to the protection or care of retired law enforcement dogs.
- Hold tax-exempt status under the Internal Revenue code as an s. 501(c)(3) organization.⁷
- Have held tax-exempt status for at least five years.
- Agree to be subject to review and audit at the discretion of the Auditor General to ensure accurate accounting and disbursement of state funds.
- Demonstrate the ability to effectively and efficiently disseminate information and assist former handlers and adopters of retired law enforcement dogs in complying with the bill.

The bill provides that, notwithstanding ch. 287, F.S., the FDLE must select a not-for-profit corporation through a competitive grant award process.⁸ The corporation is the disbursing authority for the funds appropriated by the Legislature to the FDLE for the program. The corporation may use up to ten percent of appropriated funds for administrative expenses, including salaries and benefits.

The bill contains legislative findings related to the value of law enforcement dogs to the residents of Florida.

⁵ Section 474.202(9), F.S., defines “practice of veterinary medicine” to mean “diagnosing the medical condition of animals and prescribing, dispensing, or administering drugs, medicine, appliances, applications, or treatment of whatever nature for the prevention, cure, or relief of a wound, fracture, bodily injury, or disease thereof; performing any manual procedure for the diagnosis of or treatment for pregnancy or fertility or infertility of animals; or representing oneself by the use of titles or words, or undertaking, offering, or holding oneself out, as performing any of these functions. The term includes the determination of the health, fitness, or soundness of an animal.

⁶ Section 617.01401(5), F.S., defines “corporation not for profit” as a corporation no part of the income or profit of which is distributable to its members, directors, or officers, except as otherwise provided under ch. 617, F.S.

⁷ See 26 U.S.C. s. 501(c)(3).

⁸ Chapter 287, F.S., governs public procurement of personal property and services.

The bill includes an appropriation of \$300,000 in recurring funds from the General Revenue Fund for the purpose of implementing the program. The program will be administered and managed by a not-for-profit corporation in a contractual arrangement with the FDLE.

The FDLE is given rulemaking authority to implement the provisions in the bill.

The bill is effective July 1, 2018.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

To the extent that the retired K-9's former handler or adopter is reimbursed for the dog's on-going veterinary care, the bill will have a positive fiscal impact for those persons.

C. Government Sector Impact:

The bill includes an appropriation of \$300,000 in recurring funds from the General Revenue Fund for the purpose of implementing the program. The program will be administered and managed by a not-for-profit corporation in a contractual arrangement with the FDLE.

The FDLE does not anticipate incurring any costs associated with implementation of the bill.⁹

VI. Technical Deficiencies:

None.

⁹ Florida Department of Law Enforcement, *2018 Legislative Bill Analysis SB 982*, November 27, 2017 (on file with the Senate Committee on Criminal Justice).

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 943.69 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

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

By Senator Powell

30-00831-18

2018982__

1 A bill to be entitled
 2 An act relating to care for retired law enforcement
 3 dogs; creating s. 943.69, F.S.; providing a short
 4 title; providing legislative findings; defining terms;
 5 creating the Care for Retired Law Enforcement Dogs
 6 Program within the Department of Law Enforcement;
 7 requiring the department to contract with a
 8 corporation not for profit to administer and manage
 9 the program; providing requirements for the
 10 corporation not for profit; providing requirements for
 11 the disbursement of funds for the veterinary care of
 12 eligible retired law enforcement dogs; placing an
 13 annual cap on the amount of funds available for the
 14 care of an eligible retired law enforcement dog;
 15 prohibiting a former handler or adopter from receiving
 16 reimbursement if funds are depleted for the year for
 17 which such reimbursement is sought; requiring the
 18 department to pay to the corporation not for profit,
 19 and authorizing the corporation not for profit to use,
 20 up to a certain percentage of appropriated funds for
 21 administrative purposes; requiring the department to
 22 adopt rules; providing an appropriation; providing an
 23 effective date.

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

26
 27 Section 1. Section 943.69, Florida Statutes, is created to
 28 read:
 29 943.69 Care for Retired Law Enforcement Dogs Program.—

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

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30 (1) SHORT TITLE.—This section may be cited as the “Care for
 31 Retired Law Enforcement Dogs Program Act.”
 32 (2) LEGISLATIVE FINDINGS.—The Legislature finds that:
 33 (a) Law enforcement dogs have become an integral part of
 34 many law enforcement efforts statewide, including the
 35 apprehension of suspects through tracking and searching,
 36 evidence location, drug and bomb detection, and search and
 37 rescue operations;
 38 (b) Law enforcement agencies agree that the use of law
 39 enforcement dogs is an extremely cost-effective means of crime
 40 control and that these dogs possess skills and abilities that
 41 frequently exceed those of existing technology;
 42 (c) The service of law enforcement dogs is often dangerous
 43 and can expose them to injury at a rate higher than that of
 44 nonservice dogs; and
 45 (d) Law enforcement dogs provide significant contributions
 46 to the residents of this state.
 47 (3) DEFINITIONS.—As used in this section, the term:
 48 (a) “Law enforcement agency” means a lawfully established
 49 state or local public agency having primary responsibility for
 50 the prevention and detection of crime or the enforcement of the
 51 penal, traffic, highway, regulatory, game, immigration, postal,
 52 customs, or controlled substance laws.
 53 (b) “Retired law enforcement dog” means a dog that was
 54 previously in the service of or employed by a law enforcement
 55 agency in this state for the principal purpose of aiding in the
 56 detection of criminal activity, enforcement of laws, or
 57 apprehension of offenders and that received certification in
 58 obedience and apprehension work from a certifying organization

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59 such as the National Police Canine Association, Inc., or other
60 certifying organization.

61 (c) "Veterinarian" has the same meaning as provided in s.
62 474.202.

63 (d) "Veterinary care" means the practice of veterinary
64 medicine as defined in s. 474.202 by a veterinarian. The term
65 includes annual wellness examinations, vaccinations, internal
66 and external parasite prevention treatments, testing and
67 treatment of illnesses and diseases, medications, emergency care
68 and surgeries, specialty care such as veterinary oncology,
69 euthanasia, and cremation.

70 (4) ESTABLISHMENT OF PROGRAM.—The Care for Retired Law
71 Enforcement Dogs Program is created within the department to
72 provide a stable funding source for veterinary care that is
73 provided to these dogs.

74 (5) ADMINISTRATION.—The department shall contract with a
75 corporation not for profit organized under chapter 617 to
76 administer and manage the Care for Retired Law Enforcement Dogs
77 Program. Notwithstanding chapter 287, the department shall
78 select the corporation not for profit through a competitive
79 grant award process. The corporation not for profit must meet
80 all of the following criteria:

81 (a) Be dedicated to the protection or care of retired law
82 enforcement dogs.

83 (b) Be exempt from taxation under s. 501(a) of the Internal
84 Revenue Code as an organization described in s. 501(c)(3) of
85 that code.

86 (c) Have maintained such tax-exempt status for at least 5
87 years.

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88 (d) Agree to be subject to review and audit at the
89 discretion of the Auditor General in order to ensure accurate
90 accounting and disbursement of state funds.

91 (e) Demonstrate the ability to effectively and efficiently
92 disseminate information and to assist former handlers and
93 adopters of retired law enforcement dogs in complying with this
94 section.

95 (6) FUNDING.—

96 (a) The corporation not for profit shall be the disbursing
97 authority for funds appropriated by the Legislature to the
98 department for the Care for Retired Law Enforcement Dogs
99 Program. These funds shall be disbursed to the former handler or
100 adopter of a retired law enforcement dog upon receipt of:

101 1. Valid documentation from the law enforcement agency from
102 which the dog retired which verifies that the dog was in the
103 service of or employed by such agency; and

104 2. A valid invoice from a veterinarian for veterinary care
105 provided in this state to a retired law enforcement dog and
106 documentation establishing payment of the invoice by the former
107 handler or adopter of a retired law enforcement dog.

108 (b) Annual disbursements to a former handler or adopter to
109 reimburse him or her for the cost of veterinary care provided to
110 a retired law enforcement dog may not exceed \$1,500 per dog. A
111 former handler or adopter of a retired law enforcement dog may
112 not accumulate unused funds from a current year for use in a
113 future year.

114 (c) A former handler or adopter of a retired law
115 enforcement dog who seeks reimbursement for veterinary care may
116 not receive reimbursement if funds appropriated for the Care for

30-00831-18

2018982__

117 Retired Law Enforcement Dogs Program are depleted in the year
118 for which the reimbursement is sought.

119 (7) ADMINISTRATIVE FEES.—The department shall pay to the
120 corporation not for profit, and the corporation not for profit
121 may use, up to 10 percent of appropriated funds for its
122 administrative expenses, including salaries and benefits.

123 (8) RULEMAKING AUTHORITY.—The department shall adopt rules
124 pursuant to ss. 120.536(1) and 120.54 to implement this section.

125 Section 2. For the 2018-2019 fiscal year, and each fiscal
126 year thereafter, the sum of \$300,000 in recurring funds is
127 appropriated from the General Revenue Fund to the Department of
128 Law Enforcement for the purpose of implementing and
129 administering the Care for Retired Law Enforcement Dogs Program.

130 Section 3. This act shall take effect July 1, 2018.



The Florida Senate

Committee Agenda Request

To: Senator Rob Bradley, Chair
Committee on Appropriations

Subject: Committee Agenda Request

Date: February 9, 2018

I respectfully request that **Senate Bill #982**, relating to Care for Retired Law Enforcement Dogs, be placed on the:

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

A handwritten signature in black ink, appearing to read "Bobby Powell".

Senator Bobby Powell
Florida Senate, District 30

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 1248

INTRODUCER: Senator Gainer

SUBJECT: Specialty License Plates/Coastal Conservation Association

DATE: February 15, 2018

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Jones</u>	<u>Miller</u>	<u>TR</u>	<u>Favorable</u>
2.	<u>Wells</u>	<u>Hrdlicka</u>	<u>ATD</u>	<u>Recommend: Favorable</u>
3.	<u>Wells</u>	<u>Hansen</u>	<u>AP</u>	<u>Favorable</u>

I. Summary:

SB 1248 directs the Department of Highway Safety and Motor Vehicles (DHSMV) to develop a Coastal Conservation Association specialty license plate, establishes a \$25 annual use fee for the plate, and provides for the distribution and use of fees collected from the sale of the plate.

The DHSMV estimates programming and implementation costs for creation of the plate is \$7,680. The DHSMV may retain revenues from the first proceeds of sales to defray departmental costs.

The bill takes effect October 1, 2018.

II. Present Situation:

Specialty License Plates

Presently, there are over 120 specialty license plates available for purchase in Florida.¹ Specialty license plates are available to an owner or lessee of a motor vehicle who is willing to pay an annual use fee, ranging from \$15 to \$25, paid in addition to required license taxes and service fees.² The annual use fees are distributed to an organization or organizations in support of a particular cause or charity signified in the plate's design and designated in statute.³

In order to establish a specialty license plate and after the plate is approved by law, s. 20.08053, F.S., requires the following actions within certain timelines:

- Within 60 days, the organization must submit an art design for the plate, in a medium prescribed by the DHSMV;

¹ A list of Florida's specialty license plates is available on the DHSMV website at <http://www.flhsmv.gov/dmv/specialtytags/> (last visited Dec. 13, 2017).

² Section 320.08056, F.S.

³ Section 320.08058, F.S.

- Within 120 days, the DHSMV must establish a method to issue pre-sale vouchers for the specialty license plate; and
- Within 24 months after the pre-sale vouchers are established, the organization must obtain a minimum of 1,000 voucher sales before manufacturing of the plate may begin.

If the minimum sales requirement has not been met by the end of the 24-month pre-sale period, then the DHSMV will discontinue the plate and issuance of pre-sale vouchers. Upon discontinuation, a purchaser of a presale voucher may use the annual use fee as a credit towards any other specialty license plate or apply for a refund with the DHSMV.⁴

The annual use fees collected by an organization and any interest earned from the fees may be expended only for use in this state unless the annual use fee is derived from the sale of specified United States Armed Forces and veterans-related specialty plates.⁵ Additionally, organizations must adhere to certain accountability requirements, including an annual audit or attestation document affirming that funds received have been spent in accordance with applicable statutes.⁶

DHSMV Costs Defrayed

The DHSMV is authorized to retain a sufficient portion of annual use fees collected from the sale of specialty plates to defray its costs for inventory, distribution, and other direct costs associated with the specialty license plate program. The remainder of the proceeds collected are distributed as provided by law.⁷

Discontinuance of Specialty Plates

The DHSMV must discontinue the issuance of an approved specialty license plate if the number of valid registrations falls below 1,000 plates for at least 12 consecutive months. A warning letter is mailed to the sponsoring organization following the first month in which the total number of valid specialty license plate registrations is below 1,000 plates. Collegiate plates for Florida universities are exempt from the minimum specialty license plate requirement.⁸ In addition, the DHSMV is authorized to discontinue any specialty license plate if the organization no longer exists, stops providing services that are authorized to be funded from the annual use fee proceeds, or pursuant to an organizational recipient's request.⁹

Coastal Conservation Association Florida

The Coastal Conservation Association (CCA) is a non-profit organization whose objective is to conserve, promote, and enhance the present and future availability of coastal resources for the benefit and enjoyment of the public by advising and educating the public on conservation of marine resources.¹⁰ The CCA was founded in 1977, in order to combat commercial overfishing

⁴ Section 320.08053(2)(b), F.S.

⁵ Section 320.08056(10)(a), F.S.

⁶ Section 320.08062, F.S.

⁷ Section 320.08056(7), F.S.

⁸ Section 320.08056(8)(a), F.S.

⁹ Section 320.08056(8)(b), F.S.

¹⁰ CCA, *About CCA*, available at <http://www.joincca.org/about> (last visited Jan. 30, 2018).

along the Texas coast.¹¹ The CCA Florida is one of 17 state chapters of the CCA and is comprised of 30 local chapters spanning from Pensacola to Key West.¹² The CCA Florida supports resource-based law enforcement, access to recreational fishing, and fishery regulations to protect state and federal fish stocks.¹³

III. Effect of Proposed Changes:

The bill directs the DHSMV to create a Coastal Conservation Association specialty license plate, with an annual use fee of \$25 to be distributed to the CCA Florida. Proceeds from the plate are to be used as follows:

- Up to 10 percent for administrative costs;
- Up to 10 percent to promote and market the plate; and
- The remainder to support the mission and efforts of the CCA Florida:
 - For habitat enhancement and restoration, saltwater fisheries conservation, and education;
 - To advise the public on the conservation of marine resources; and
 - To promote and enhance the availability of coastal resources for the public.

The plate must bear the colors and design approved by the DHSMV, with the word “Florida” at the top of the plate, and the words “Conserve Florida’s Fisheries” at the bottom of the plate.

The bill takes effect October 1, 2018.

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.

¹¹ *Id.*

¹² See CCA Florida, available at <https://ccaflorida.org/> (last visited Jan. 30, 2018).

¹³ *Id.*

B. Private Sector Impact:

Individuals who choose to purchase a Coastal Conservation Association specialty license plate will pay a \$25 annual use fee in addition to appropriate license taxes and fees. The Coastal Conservation Association will receive revenue from each plate purchased.

C. Government Sector Impact:

The DHSMV estimates programming and implementation costs for creation of the plate is \$7,680.¹⁴ The DHSMV may retain revenues from the first proceeds of specialty license plate sales to defray departmental expenditures related to the specialty license plate program.¹⁵

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 320.08056 and 320.08058.

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.

¹⁴ See DHSMV, *2018 Agency Legislative Bill Analysis: SB 1248* (Jan. 12, 2018) (on file with the Senate Committee on Transportation).

¹⁵ Section 320.08056(7), F.S.

By Senator Gainer

16-00725-18

20181248__

1 A bill to be entitled
 2 An act relating to specialty license plates; amending
 3 ss. 320.08056 and 320.08058, F.S.; directing the
 4 Department of Highway Safety and Motor Vehicles to
 5 develop a Coastal Conservation Association license
 6 plate; establishing an annual use fee for the plate;
 7 providing for distribution and use of fees collected
 8 from the sale of the plates; providing an effective
 9 date.

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

12
 13 Section 1. Paragraph (ffff) is added to subsection (4) of
 14 section 320.08056, Florida Statutes, to read:
 15 320.08056 Specialty license plates.—
 16 (4) The following license plate annual use fees shall be
 17 collected for the appropriate specialty license plates:
 18 (ffff) Coastal Conservation Association license plate, \$25.

19 Section 2. Subsection (84) is added to section 320.08058,
 20 Florida Statutes, to read:
 21 320.08058 Specialty license plates.—
 22 (84) COASTAL CONSERVATION ASSOCIATION LICENSE PLATES.—
 23 (a) The department shall develop a Coastal Conservation
 24 Association license plate as provided in this section and s.
 25 320.08053. The plate must bear the colors and design approved by
 26 the department. The word "Florida" must appear at the top of the
 27 plate, and the words "Conserve Florida's Fisheries" must appear
 28 at the bottom of the plate.
 29 (b) The annual use fees from the sale of the plate shall be

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

16-00725-18

20181248__

30 distributed to Coastal Conservation Association Florida, a
 31 nonprofit corporation under s. 501(c)(3) of the Internal Revenue
 32 Code, to be used as follows:
 33 1. Up to 10 percent of the proceeds may be used for
 34 administrative costs.
 35 2. Up to 10 percent of the proceeds may be used to promote
 36 and market the plate.
 37 3. The remainder of the proceeds shall be used to support
 38 the mission and efforts of Coastal Conservation Association
 39 Florida for habitat enhancement and restoration, saltwater
 40 fisheries conservation, and education; to advise the public on
 41 the conservation of marine resources; and to promote and enhance
 42 the present and future availability of those coastal resources
 43 for the benefit and enjoyment of the general public.
 44 Section 3. This act shall take effect October 1, 2018.

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



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Transportation, *Chair*
Commerce and Tourism, *Vice Chair*
Appropriations
Appropriations Subcommittee on General Government
Appropriations Subcommittee on Transportation,
Tourism, and Economic Development
Banking and Insurance
Military and Veterans Affairs, Space, and
Domestic Security

JOINT COMMITTEE:

Joint Administrative Procedures Committee

SENATOR GEORGE B. GAINER

2nd District

February 8, 2018

Re: SB 1248

Dear Chair Bradley,

I am respectfully requesting Senate Bill 1248, Coastal Conservation Specialty Plate, be placed on the agenda for the next Appropriations Meeting.

I appreciate your consideration of this bill. If there are any questions or concerns, please do not hesitate to call my office at (850) 487-5002.

Thank you,

A handwritten signature in blue ink that reads "George B. Gainer".

Senator George Gainer

District 2

Cc. Mike Hansen, Tim Sadberry, John Shettle, Joe McVaney, Alicia Weiss, Mary Lee, Steven Richardson, Lance Clemons

REPLY TO:

- 840 West 11th Street, Panama City, Florida 32401 (850) 747-5454
- Northwest Florida State College, 100 East College Boulevard, Building 330, Room 105 and 112, Niceville, Florida 32578 (850) 803-8395
- 302 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5002

Senate's Website: www.flsenate.gov

JOE NEGRON
President of the Senate

ANITERE FLORES
President Pro Tempore

THE FLORIDA SENATE APPEARANCE RECORD

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

2-15-18

Meeting Date

1248

Bill Number (if applicable)

Topic SB 1248

Amendment Barcode (if applicable)

Name Trip Aukeman

Job Title Director of Advocacy CCA

Address _____
Street

Phone 850-559-0060

City

State

Zip

Email taukeman@ccaflorida.com

Speaking: For Against Information

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

Representing Coastal Conservation 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.

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 1292

INTRODUCER: Appropriations Committee; Children, Families, and Elder Affairs Committee; Banking and Insurance Committee; and Senator Stargel

SUBJECT: Department of Financial Services

DATE: February 19, 2018 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Billmeier</u>	<u>Knudson</u>	<u>BI</u>	<u>Fav/CS</u>
2.	<u>Preston</u>	<u>Hendon</u>	<u>CF</u>	<u>Fav/CS</u>
3.	<u>Sanders</u>	<u>Hansen</u>	<u>AP</u>	<u>Fav/CS</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/CS/SB 1292 makes various changes to statutes relating to the Department of Financial Services (DFS). The bill addresses issues relating to the Divisions of Treasury, Accounting and Auditing, Risk Management, Public Assistance Fraud, Funeral, Cemetery, and Consumer Services, Insurance Agent and Agency Services, Investigative and Forensic Services, and State Fire Marshal. The bill:

- Allows the Division of Treasury to use “electronic images” as a means of producing copies of warrants, vouchers, or checks;
- Requires transition plans of youth aging out of foster care to provide information on the financial literacy curriculum which is offered by the DFS;
- Requires young adults who have aged out of foster care and who are requesting aftercare services to receive information about the financial literacy course offered by the DFS;
- Begins the process of creating the Florida Open Financial Statement System to allow better access to financial reports filed by local governments and appropriates \$500,000 from the Insurance Regulatory Trust Fund;
- Directs agencies to provide risk training; report return-to-work data to the DFS; and submit information regarding internal risk assessments if requested by the DFS;
- Allows DFS to disclose the personal identifying information of injured employees to its contracted vendors for the purposes of carrying out its statutory responsibilities in administering workers’ compensation claims;

- Eliminates the licensure requirement for managing general agents and replaces with a process where managing general agents are appointed by insurance companies;
- Extends the validity of fingerprints from 12 to 48 months for currently licensed individuals seeking other licenses within the Division of Insurance Agent and Agency Services;
- Adds arson to the list of offenses for which the DFS may provide rewards for individuals who provide information leading to the arrest and conviction of certain offenses;
- Clarifies the terms of appointment for members of the Florida Fire Safety Board;
- Clarifies the inactive status requirements for a fire equipment dealer license;
- Removes the requirements that proof of insurance for a fire equipment dealer or fire protection system contractor's license must be on a form provided by the Florida State Fire Marshal;
- Specifies roles, responsibilities, and retention requirements of individuals holding a "Special Certificate of Compliance";
- Repeals outdated language requiring the Florida State Fire College to develop and implement a staffing formula for the Fire College;
- Limits the number of risks that an exchange of business appointment can write; and
- Allows a life agent with a certified public accountant (CPA) and specified registrations in the financial services business to serve as trustee in situations where the life agent has placed the life insurance coverage.

The bill has an indeterminate fiscal impact on DFS trust fund expenditures. There may be an increase relating to allowing the DFS to provide awards up to \$25,000 to persons providing information leading to the arrest and conviction of crimes relating to arson. The DFS can handle this within existing appropriations.

The bill appropriates \$500,000 from the Insurance Regulatory Trust Fund to the DFS for the development of the Florida Open Financial Statement System. There will be additional costs in future years to create the software tool needed to implement the system. The additional future needs are indeterminate.

The bill takes effect July 1, 2018.

II. Present Situation:

The Department of Financial Services

The Department of Financial Services (DFS or department) is created by s. 20.121, F.S. The agency head for the DFS is the Chief Financial Officer (CFO).¹ The DFS has the following divisions and offices:

- Division of Accounting and Auditing;
- Division of Consumer Services;
- Division of Funeral, Cemetery, and Consumer Services;
- Division of Insurance Agent and Agency Services;
- Division of Investigative and Forensic Services;

¹ Section 20.121(1), F.S.

- Division of Public Assistance Fraud;
- Division of Rehabilitation and Liquidation;
- Division of Risk Management;
- Division of State Fire Marshal;
- Division of Treasury;
- Division of Unclaimed Property;
- Division of Workers' Compensation;
- Division of Administration; and
- Office of Insurance Consumer Advocate.²

The bill deals with various divisions and programs within the DFS. The divisions and programs changed by the bill are briefly discussed as follows.

Division of the Treasury

The CFO may also be known as the Treasurer.³ The Division of the Treasury within the DFS has three bureaus:

- Bureau of Funds Management;
- Bureau of Collateral Management; and
- Bureau of Deferred Compensation.⁴

The Division of the Treasury makes photographs, microphotographs, or reproductions on film of warrants, vouchers, or checks and can destroy the warrants, vouchers, or checks after they have been photographed and filed and an audit has been completed.⁵ The copies of original documents made by the DFS are admissible in court with the same force and effect of original documents.⁶

Current law does not provide for the use of electronic images instead of or along with photographs, microphotographs, or film reproductions.

Financial Literacy

The DFS website contains a financial literacy program named "Finance Your Future." The website may be found at <http://financeyourfuture.myfloridacfo.com/>. The program contains online lessons on "Budgeting and Saving," "Credit Cards," "Banking," "Your Credit Reports and Your Credit Score," "Debt," "Frauds and Scams," "Insurance and Benefits," and "Life Events." Each lesson contains an online quiz at the end of the lesson and requires a certain passing score. Teachers are able to use the educator platform to assign and assess lessons for use in their classrooms.

² Section 20.121(2), F.S.

³ Section 20.121(1), F.S.

⁴ Department of Financial Services, Division of Treasury, *Annual Report 2017*, available at <https://www.myfloridacfo.com/Division/Treasury/Reports/AnnualReports/docs/2017TreasuryAnnualReport.pdf> (last visited January 18, 2018).

⁵ Section 17.64(1) and (2), F.S.

⁶ Section 17.64(1) and (3), F.S.

Division of Accounting and Auditing

Chapter 218, F.S., prescribes financial management and reporting requirements for local governments, which include counties, municipalities, and special districts. Local governments submit required reports to the department's Division of Accounting and Auditing. Local governments and special districts report their annual financial reports through the Local Government Electronic Reporting (LOGGER) system. The DFS maintains LOGGER as a repository of local government financial statement information and offers several report templates for users to access the information reported in LOGGER. The DFS is working to improve the collection and reporting of information to the public by addressing the limitations of LOGGER.⁷

Division of Risk Management

The Division of Risk Management is responsible for the management of claims reported by or against state agencies and universities for coverage under the self-insurance fund known as the "State Risk Management Trust Fund." The division deals with claims involving:

- Workers' Compensation;
- Property;
- Fleet Automobile Liability;
- General Liability;
- Federal Civil Rights/Employment Discrimination; and
- Court Awarded Attorney Fees.

The division also provides loss prevention services and technical assistance to state agencies and universities for managing risk.⁸

Section 440.1851, F.S., provides that the personal identifying information of an injured or deceased employee that is contained in reports, notices, records, or supporting documentation held by the DFS is confidential and exempt from disclosure pursuant to Florida's Open Government laws. The DFS can disclose the information only:

- To the injured employee, to the spouse or a dependent of the deceased employee, to the spouse or a dependent of the injured employee if authorized by the injured employee, or to the legal representative of the deceased employee's estate;
- To a party litigant, or his or her authorized representative, in matters pending before the Office of the Judges of Compensation Claims;
- To a carrier or an employer for the purpose of investigating the compensability of a claim or for the purpose of administering its anti-fraud investigative unit;
- In an aggregate reporting format that does not reveal the personal identifying information of any employee;
- Pursuant to a court order or subpoena;
- To an agency for administering its anti-fraud investigative function or in the furtherance of the agency's official duties and responsibilities; or

⁷ Email from DFS staff to committee staff (January 19, 2018) (on file with the Senate Committee on Banking and Insurance).

⁸ Division of Risk Management <https://www.myfloridacfo.com/division/risk/> (last visited January 19, 2018).

- To a federal governmental entity in the furtherance of the entity's official duties and responsibilities.⁹

The division uses outside vendors to help perform its duties relating to the administration of state employee workers' compensation claims. Section 440.1851, F.S., does not contain a provision allowing the division to disclose personal identifying information to its vendors. This has interfered with the division's ability to perform its functions.¹⁰

Division of Public Assistance Fraud

The Division of Public Assistance Fraud aids in enforcing state laws regarding program eligibility and proper use of public assistance benefits. The division works with the Department of Children and Families, the Agency for Health Care Administration, the Department of Health, and the Department of Education's Office of Early Learning to investigate fraud in programs administered by those departments. The division is responsible for investigating allegations of:

- Fraud against the Cash Assistance/Temporary Assistance for Needy Families (TANF) program;
- Fraud and trafficking involving Supplemental Nutritional Assistance Program (SNAP) formerly known as food stamps;
- Medicaid recipient fraud;
- Fraud resulting from Disaster Assistance/Emergency benefits;
- Fraud against the School Readiness and Voluntary Pre-Kindergarten programs; and
- Schemes to defraud Social Security Disability benefits.¹¹

Division of Insurance Agent and Agency Services

The DFS licenses and regulates insurance agents and insurance agencies. There are over 50 different types of licenses. Typically, obtaining a license involves completing education requirements, submitting to a criminal and professional background check, passing an examination, and paying a license fee. Some licensees must act as apprentices supervised by others when performing duties.

One of the licenses changed by this bill is the "managing general agent" (MGA) license. A "managing general agent" is any person managing all or part of the insurance business of an insurer, including the management of a separate division, department, or underwriting office, and acting as an agent for that insurer, whether known as a managing general agent, manager, or other similar term, who, with or without authority, separately or together with affiliates, produces directly or indirectly, or underwrites an amount of gross direct written premium equal to or more than five percent of the policyholder surplus as reported in the last annual statement of the insurer in any single quarter or year."¹² The MGA also does one or more of the following:

- Adjusts or pays claims.

⁹ Section 440.1851(1)(b), F.S.

¹⁰ Department of Financial Services, *Senate Bill 1292 Analysis* (December 29, 2017), p. 3. (on file with the Committee on Banking and Insurance).

¹¹ Division of Public Assistance Fraud <https://www.myfloridacfo.com/Division/PAF/> (last visited January 19, 2018).

¹² Section 626.015(16)(a), F.S.

- Negotiates reinsurance on behalf of the insurer.¹³

Currently, managing general agents are licensed by the DFS and appointed by insurance companies to perform MGA services.

Section 626.798, F.S., restricts a life insurance agent from being named as a beneficiary or from acting as a trustee when the life insurance agent has handled the placement of life insurance coverage. The life insurance agent cannot be a named beneficiary when he or she has placed the coverage unless the agent is placing coverage for a family member or has an insurable interest in the life of the insured. The life agent cannot be named as a trustee unless he or she is a family member of the insured.

Division of Investigative and Forensic Services

The Division of Investigative and Forensic Services encompasses all law enforcement and forensic components residing within the DFS. The division investigates a wide range of fraudulent and criminal acts including:

- Insurance Fraud Investigations;
- Workers' Compensation Fraud Investigations;
- Fire, Arson and Explosives Investigations;
- Theft/Misuse of State Funds; and
- Fire and Explosives Sample Analysis.¹⁴

Division of State Fire Marshal

The CFO serves as the state fire marshal.¹⁵ The Division of State Fire Marshal:

- Conducts fire/life safety inspections and construction plans review on all state-owned buildings;
- Regulates the fireworks and the fire sprinkler industries, inspects and licenses boilers;
- Certifies fire suppression industry workers;
- Approves firefighter training curricula;
- Offers fire service training at the Florida State Fire College; and
- Certifies that fire service members meet industry-based standards.¹⁶

III. Effect of Proposed Changes:

Division of the Treasury (Section 1)

Section 1 amends s. 17.64, F.S., to allow the Division of Treasury to make electronic images of warrants, vouchers, and checks and provides those electronic images may be used to the same extent original documents can be used in court proceedings.

¹³ *Id.*

¹⁴ Division of Investigative and Forensic Services <https://www.myfloridacfo.com/Division/DIFS/> (last visited January 19, 2018).

¹⁵ Section 633.104, F.S.

¹⁶ Division of State Fire Marshal <https://www.myfloridacfo.com/division/sfm/> (last visited January 19, 2018).

Organization of the Department of Financial Services (DFS) (Section 2)

Section 2 amends s. 20.121, F.S., to create the “Bureau of Insurance Fraud” and the “Bureau of Workers’ Compensation Fraud” within the Division of Investigative and Forensic Services. It also renames the “Bureau of Fire and Arson Investigations” as the “Bureau of Fire, Arson, and Explosives Investigations.”

Financial Literacy for Foster Youth (Sections 3 and 8)

Sections 3 and 8 relate to children and young adults in or aging out of foster care and the DFS financial literacy program.

Section 3 amends s. 39.6035, F.S., relating to transition plans, to require the transition plan to address financial literacy. The section also requires the Department of Children and Families (DCF) and the community-based provider to provide information for the financial literacy curriculum offered by the DFS.

Section 8 amends s. 409.1451, F.S., relating to the Road-to-Independence Program, to require young adults¹⁷ to complete the financial literacy curriculum for foster youth offered by the DFS as a condition for eligibility to receive postsecondary education services and support or aftercare services under the Road-to-Independence Program.

Division of Accounting and Auditing (Sections 4 and 5)

Section 4 amends s. 218.32, F.S., to provide that the legislature intends to create the Florida Open Financial Statement System. The system will be an interactive repository for governmental financial statements. The Chief Financial Officer (CFO) may consult with stakeholders, including the department, the Auditor General, a representative of a municipality or county, a representative of a special district, a municipal bond investor, and an information technology professional employed in the private sector for input on the design and implementation of the system.

The section allows the CFO to choose contractors to build one or more eXtensible Business Reporting Language (XBRL) taxonomies suitable for state, county, municipal, and special district financial filings and to create a software tool that enables financial statement filers to create XBRL documents consistent with the taxonomy or taxonomies. XBRL is a global standard for exchanging business information. The CFO must recruit and select contractors through an open request for proposals process pursuant to ch. 287, F.S., and all work must be completed by December 31, 2021. If the CFO deems the work products adequate, all local governmental financial statements pertaining to fiscal years ending on or after September 1, 2022, must be filed in XBRL format and must meet the validation requirements of the relevant taxonomy.

Section 5 appropriates \$500,000 from the Insurance Regulatory Trust Fund to the DFS for Fiscal Year 2018-2019 for the development of the XBRL taxonomies.

¹⁷ Adults who have reached 18 years of age but are not yet 23 years old.

Division of Risk Management (Sections 6 and 7)

Section 6 amends s. 284.40, F.S., to allow the DFS to disclose personal identifying information of an injured or deceased employee to a department-contracted vendor for ascertaining a claimant's claims history to investigate the compensability of a claim or to identify and prevent fraud.

Section 7 amends s. 284.50, F.S., to require each safety coordinator to complete safety coordinator training offered by the DFS within one year of appointment. The DFS offers this training to state agencies upon request.

Currently, section 284.50, F.S., requires the DFS and all agencies that are provided workers' compensation insurance coverage by the State Risk Management Trust Fund and employ more than 3,000 full-time employees to establish and maintain return-to-work programs for employees who are receiving workers' compensation benefits. The goal of the programs is to enable injured workers to remain at work or return to work to perform job duties within the physical or mental functional limitations and restrictions established by the workers' treating physicians.¹⁸ Under the bill, agencies with more than 3,000 full-time employees must report return-to-work information to the DFS. Under current law, the DFS is required by s. 284.42, F.S., to report on agencies' return-to-work efforts. Obtaining information from agencies will aid the DFS in completing the report each year.

Section 7 also requires each agency to provide risk management program information to the Division of Risk Management to support the division's mandatory evaluation and reporting requirements. Each agency is required to:

- Review information provided by the Division of Risk Management on claims and losses;
- Identify any discrepancies between the Division of Risk Management's records and the agency's records and report such discrepancies to the Division of Risk Management in writing; and
- Review and respond to communications from the Division of Risk Management identifying unsafe or inappropriate conditions, policies, procedures, trends, equipment, or actions or incidents that have led or may lead to accidents or claims involving the state.

Investigation of Public Assistance Fraud (Section 9)

Section 9 amends s. 414.411, F.S., to provide that all public assistance recipients must give to the Department of Education, rather than the Department of Economic Opportunity, written consent to make inquiry of past or present employers and records. In 2011, the Office of Early Learning housed within the Department of Education took over the school readiness functions of the Department of Economic Opportunity¹⁹ so it is appropriate for recipients to give consent to the Department of Education. In 2016-2017, the Office of Early Learning referred 344 cases to the DFS for public assistance fraud investigation.²⁰

¹⁸ Section 284.50(3), F.S.

¹⁹ Chapter 2011-142, Laws of Florida.

²⁰ Office of Early Learning, *Annual Report 2016-2017*

http://www.floridaearlylearning.com/sites/www/Uploads/files/Oel%20Resources/Publications/2016-17%20OEL%20Annual%20Report_ADA.pdf (last visited on January 18, 2018).

Division of Insurance Agent and Agency Services (Sections 10-39, 48 and 49)

Section 10 amends s. 624.317, F.S., to remove references to specific types of insurance agents and uses the term “agent” to designate the types of insurance agents the department can investigate. This clarifies that the DFS investigates all agents of whom licensure is required.

The bill eliminates the managing general agent (MGA) license. Instead, **Section 17** amends s. 626.112, F.S., to provide that no one may act as a MGA without a producer license²¹ and a MGA appointment. Currently, there are no prelicensing requirements for the MGA license. There is no formal examination to determine eligibility. The qualification requirements are to complete the application, be eligible to work in the United States, and submit fingerprints for a background evaluation. In contrast, other agent licenses require coursework and an examination.²² Requiring an MGA to have a producer license will align Florida more closely with the National Association of Insurance Commissioners’ Managing General Agents Act, which requires MGAs to have a producer license.²³ **Sections 13, 15, 17, 18, 20, 22, 27, 28, 29, 30, 31, 38, and 47** remove references to the MGA license from law, where appropriate, add references to an “appointed” MGA, and make conforming changes.

Section 12 amends s. 624.4073, F.S., to prohibit an officer or director of an insurer who served in that capacity within a two year period before prior to the date the insurer became insolvent from having direct or indirect control over the selection or appointment of an officer or director, unless the officer or director demonstrates that his or her personal actions or omissions were not a significant contributing cause to the insolvency.

Section 19 amends s. 626.202, F.S., to provide that fingerprints are valid for a four-year period for persons currently licensed by the DFS and who are seeking additional licensure.

Section 21 amends s. 626.221, F.S., to provide that, if an applicant for licensure as an all-lines adjuster has certain educational designations, he or she is not required to take the examination. **Section 23** provides that an applicant certified as a Claims Adjuster Certified Professional from WebCE, Inc.²⁴ does not have to take the examination.

Section 22 amends s. 626.451, F.S., to repeal a requirement on law enforcement agencies and state attorney’s offices to report to the DFS when insurance licensees are convicted or enter pleas in felony cases. This reporting requirement is no longer necessary because the DFS works closely with clerks of the court to obtain this information.

Section 23 amends s. 626.521, F.S., relating to character and credit reports, to require an “employer” to maintain credit and character reports rather than to require specific licensees to maintain the reports. The bill also repeals other statutory provisions that are obsolete.

²¹ A producer is a licensed agent who sells insurance products.

²² Department of Financial Services, *Senate Bill 1292 Analysis* (December 29, 2017), p. 5.

²³ <http://www.naic.org/store/free/MDL-225.pdf> (last visited January 21, 2018).

²⁴ https://www.webce.com/catalog/courses/?_5374c17qML4PsK3Tp1Jm2saSs9sZcL6U7J65rqN970s5ZTKHK4ag2s6Z7sKfMqZzZnVz (last visited January 20, 2018).

Section 24 amends s. 626.731, F.S., to remove references to “special agent” because the license type does not exist, remove references to “managing general agents,” and remove language relating to “service representatives” that could expand the scope of that license.

Sections 30 and 31 amend ss. 626.752 and 626.793, F.S., respectively, to require an insurer to report to the DFS when it receives more than four risks during a calendar year from a personal lines or life agent. Currently, the insurers must report when they receive more than 24 risks from an agent during the year. **Section 33** amends s. 626.837, F.S., to make a similar change, reducing reportable risks received from 24 to four, relating to health insurance agents. This will allow the DFS and public to track agent-insurer relationships more easily.

Section 32 amends s. 626.798, F.S., to allow a life agent with a certified public accountant (CPA) and specified registrations in the financial services business to serve as trustee in situations where the life agent has placed the life insurance coverage.

Sections 34 and 35 amend ss. 626.8732 and 626.8734, F.S., respectively, to repeal requirements that public adjusters and nonresident all-lines adjusters submit annual affidavits certifying that they understand the insurance code. Current law provides for discipline against licensees if they violate the law so the annual affidavit is not necessary.

Section 37 amends s. 626.927, F.S., to remove licensure as a managing general agent or a service representative as a qualification for a surplus lines agent license. The MGA license is being removed by other sections of the bill, and a service representative does not require significant training. The section also removes obsolete language relating to an examination that is no longer offered. This section also makes technical changes to s. 626.927, F.S.

Section 38 amends s. 626.930(3), F.S., to allow a surplus lines agent to keep surplus lines business records in his or her general lines agency office or MGA office.

Section 47 amends s. 648.34, F.S., to provide that fingerprints for persons seeking licensure as a bail bond agent are valid for a four-year period.

Division of Investigative and Forensic Services (Section 39)

Section 626.9892, F.S., creates the Anti-Fraud Reward Program within the DFS. The program is funded from the Insurance Regulatory Trust Fund. The program allows the DFS to provide rewards of up to \$25,000 to persons providing information leading to the arrest and conviction of persons convicted of crimes investigated by the Division of Insurance Fraud. **Section 39** amends s. 626.9892(2), F.S., to add arson to the list of crimes for which the DFS can pay rewards to a person who provides appropriate information.

Division of State Fire Marshal (Sections 40-45)

Section 40 amends s. 633.302, F.S., to clarify that once the initial terms of members of the Florida Fire Safety Board are completed, subsequent appointments are for four-year terms.

Section 41 amends s. 633.304, F.S., to require an inactive status license of a fire equipment dealer must be reactivated before December 31 of each odd-numbered year. It also allows a fire equipment dealer to have franchisees that work under the dealer's license.

Section 43 amends s. 633.318(7), F.S., to allow fire protector system contractors to submit proof of insurance on forms provided by the insurer rather than requiring forms from the DFS.

Section 44 amends s. 633.408, F.S., relating to the firefighter Special Certificate of Compliance. The certificate authorizes the individual to serve as an administrative and command head of a fire service provider. The section provides:

- An individual employed as a fire chief, fire coordinator, fire director, or fire administrator must obtain a Special Certificate of Compliance within one year after beginning employment; and
- Before beginning employment as a command officer or in a position directing incident outcomes, an individual must obtain a Certificate of Compliance or a Special Certificate of Compliance.

Current law does not contain requirements to retain a Special Certificate of Compliance. The bill creates requirements similar to those required to retain certification as a firefighter. In order to retain a Special Certificate of Compliance, every four years an individual must:

- Be active as a firefighter;
- Maintain a current and valid Fire Service Instructor Certificate, instruct at least 40 hours during the four-year period, and provide proof of such instruction to the division, which proof must be registered in an electronic database designated by the division; or
- Within six months before the four-year period expires, successfully complete a Firefighter Retention Refresher Course consisting of a minimum of 40 hours of training as prescribed by rule.

Section 45 amends s. 633.444(1), F.S., to remove obsolete language relating to the Florida State Fire College.

Other Provisions (Sections 48, and 49)

Section 48 reenacts s. 626.8734, F.S., for purposes of incorporating the amendment made by the bill to s. 626.221, F.S.

Section 49 provides the bill takes effect July 1, 2018.

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:

The bill has an indeterminate fiscal impact on DFS trust fund expenditures. There may be an increase relating to allowing the DFS to provide awards up to \$25,000 to persons providing information leading to the arrest and conviction of crimes relating to arson. The DFS can handle this within existing appropriations.

The bill appropriates \$500,000 from the Insurance Regulatory Trust Fund to the DFS for the development of the Florida Open Financial Statement System. There will be additional costs in future years to create the software tool needed to implement the system. The additional future needs are indeterminate.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 17.64, 20.121, 39.6035, 218.32, 284.40, 284.50, 409.1451, 414.411, 624.317, 624.34, 624.4073, 624.4094, 624.501, 624.509, 625.071, 626.112, 626.171, 626.207, 626.221, 626.451, 626.521, 626.731, 626.7351, 626.744, 626.745, 626.7451, 626.7455, 626.752, 626.793, 626.798, 626.837, 626.8732, 626.8734, 626.88, 626.927, 626.930, 626.9892, 633.302, 633.304, 633.318, 633.408, 633.416, 633.444, 648.27, and 648.34.

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/CS by Appropriations on February 15, 2018:

The committee substitute:

- Removes provisions exempting veterans from certain licensure fees;
- Removes a provision exempting veterans from certain fingerprinting requirements;
- Allows a life agent with a CPA and specified registrations in the financial services business to serve as trustee in situations where the life agent has placed the life insurance coverage;
- Removes a provision allowing fire service providers to employ veterans in specified positions before training is completed;
- Removes a \$1,000,000 appropriation for the Division of Funeral, Cemetery, and Consumer Services;
- Changes the funding of the development of XBRL taxonomies from the General Revenue Fund to the Insurance Regulatory Trust Fund; and
- Makes technical and conforming changes.

CS/CS by Children, Families, and Elder Affairs on February 6, 2018:

The CS:

- Removes the requirement that transition plans for children in foster care complete and pass the financial literacy course offered by DFS;
- Removes the requirement that young adults complete and pass the financial literacy course offered by DFS in order to receive postsecondary educational benefits or aftercare services and instead requires that the state provide information on the DFS financial literacy course to foster children when they are leaving the state's care;
- Removes a \$2 million transfer of funds from the Preneed Funeral Contract Consumer Protection Trust Fund for information technology needs; and
- Provides a \$1 million appropriation from the Insurance Regulatory Trust Fund to the Division of Funeral, Cemetery, and Consumer Services for information technology needs.

CS by Banking and Insurance on January 23, 2018:

The CS:

- Expresses the intent of the Legislature to create the Florida Open Financial Statement System and allow the CFO to consult with stakeholders for input on the design and implementation of the system;
- Requires the CFO to recruit and select contractors to build suitable XBRL taxonomies for the state through an open process pursuant to ch. 287, F.S.;
- Provides a \$500,000 appropriation;
- Allows the DFS to transfer up to \$2 million from the Preneed Funeral Contract Consumer Protection Trust Fund to the Regulatory Trust Fund for the purpose of acquiring information technology infrastructure and payment of related expenses;

- Allows the department to transfer any interest accrued or earned from investment of the funds in the Preneed Funeral Contract Consumer Protection Trust Fund during the prior fiscal year to the Regulatory Trust Fund;
- Creates retention requirements in order for a firefighter to retain a Special Certificate of Compliance; and
- Makes technical changes.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/15/2018	.	
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The Committee on Appropriations (Stargel) recommended the following:

Senate Amendment

Delete line 391
and insert:
\$500,000 is appropriated from the Insurance Regulatory Trust
Fund to the



329888

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/15/2018	.	
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The Committee on Appropriations (Stargel) recommended the following:

Senate Amendment (with title amendment)

Delete lines 574 - 1544

and insert:

Section 10. Subsection (1) of section 624.317, Florida Statutes, is amended to read:

624.317 Investigation of agents, adjusters, administrators, service companies, and others.—If it has reason to believe that any person has violated or is violating any provision of this code, or upon the written complaint signed by any interested



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11 person indicating that any such violation may exist:

12 (1) The department shall conduct such investigation as it
13 deems necessary of the accounts, records, documents, and
14 transactions pertaining to or affecting the insurance affairs of
15 any ~~general agent, surplus lines agent,~~ adjuster, ~~managing~~
16 ~~general agent, insurance agent,~~ insurance agency, customer
17 representative, service representative, or other person subject
18 to its jurisdiction, subject to the requirements of s. 626.601.

19 Section 11. Subsection (2) of section 624.34, Florida
20 Statutes, is amended to read:

21 624.34 Authority of Department of Law Enforcement to accept
22 fingerprints of, and exchange criminal history records with
23 respect to, certain persons.—

24 (2) The Department of Law Enforcement may accept
25 fingerprints of individuals who apply for a license as an agent,
26 customer representative, adjuster, service representative, or
27 ~~navigator, or managing general agent~~ or the fingerprints of the
28 majority owner, sole proprietor, partners, officers, and
29 directors of a corporation or other legal entity that applies
30 for licensure with the department or office under the Florida
31 Insurance Code.

32 Section 12. Section 624.4073, Florida Statutes, is amended
33 to read:

34 624.4073 Officers and directors of insolvent insurers.—Any
35 person who was an officer or director of an insurer doing
36 business in this state and who served in that capacity within
37 the 2-year period before ~~prior to~~ the date the insurer became
38 insolvent, for any insolvency that occurs on or after July 1,
39 2002, may not thereafter serve as an officer or director of an



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40 insurer authorized in this state or have direct or indirect
41 control over the selection or appointment of an officer or
42 director through contract, trust, or by operation of law, unless
43 the officer or director demonstrates that his or her personal
44 actions or omissions were not a significant contributing cause
45 to the insolvency.

46 Section 13. Subsection (1) of section 624.4094, Florida
47 Statutes, is amended to read:

48 624.4094 Bail bond premiums.—

49 (1) The Legislature finds that a significant portion of
50 bail bond premiums is retained by the licensed bail bond agents
51 or appointed ~~licensed~~ managing general agents. For purposes of
52 reporting in financial statements required to be filed with the
53 office pursuant to s. 624.424, direct written premiums for bail
54 bonds by a domestic insurer in this state shall be reported net
55 of any amounts retained by licensed bail bond agents or
56 appointed ~~licensed~~ managing general agents. However, in no case
57 shall the direct written premiums for bail bonds be less than
58 6.5 percent of the total consideration received by the agent for
59 all bail bonds written by the agent. This subsection also
60 applies to any determination of compliance with s. 624.4095.

61 Section 14. Paragraph (e) of subsection (19) of section
62 624.501, Florida Statutes, is amended to read:

63 624.501 Filing, license, appointment, and miscellaneous
64 fees.—The department, commission, or office, as appropriate,
65 shall collect in advance, and persons so served shall pay to it
66 in advance, fees, licenses, and miscellaneous charges as
67 follows:

68 (19) Miscellaneous services:



69 (e) Insurer's registration fee for agent exchanging
70 business more than four ~~24~~ times in a calendar year under s.
71 626.752, s. 626.793, or s. 626.837, registration fee per agent
72 per year.....\$30.00

73 Section 15. Subsection (1) of section 624.509, Florida
74 Statutes, is amended to read:

75 624.509 Premium tax; rate and computation.-

76 (1) In addition to the license taxes provided for in this
77 chapter, each insurer shall also annually, and on or before
78 March 1 in each year, except as to wet marine and transportation
79 insurance taxed under s. 624.510, pay to the Department of
80 Revenue a tax on insurance premiums, premiums for title
81 insurance, or assessments, including membership fees and policy
82 fees and gross deposits received from subscribers to reciprocal
83 or interinsurance agreements, and on annuity premiums or
84 considerations, received during the preceding calendar year, the
85 amounts thereof to be determined as set forth in this section,
86 to wit:

87 (a) An amount equal to 1.75 percent of the gross amount of
88 such receipts on account of life and health insurance policies
89 covering persons resident in this state and on account of all
90 other types of policies and contracts, except annuity policies
91 or contracts taxable under paragraph (b) and bail bond policies
92 or contracts taxable under paragraph (c), covering property,
93 subjects, or risks located, resident, or to be performed in this
94 state, omitting premiums on reinsurance accepted, and less
95 return premiums or assessments, but without deductions:

- 96 1. For reinsurance ceded to other insurers;
97 2. For moneys paid upon surrender of policies or



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98 certificates for cash surrender value;

99 3. For discounts or refunds for direct or prompt payment of
100 premiums or assessments; and

101 4. On account of dividends of any nature or amount paid and
102 credited or allowed to holders of insurance policies;
103 certificates; or surety, indemnity, reciprocal, or
104 interinsurance contracts or agreements;

105 (b) An amount equal to 1 percent of the gross receipts on
106 annuity policies or contracts paid by holders thereof in this
107 state; and

108 (c) An amount equal to 1.75 percent of the direct written
109 premiums for bail bonds, excluding any amounts retained by
110 licensed bail bond agents or appointed ~~licensed~~ managing general
111 agents.

112 Section 16. Section 625.071, Florida Statutes, is amended
113 to read:

114 625.071 Special reserve for bail and judicial bonds.—In
115 lieu of the unearned premium reserve required on surety bonds
116 under s. 625.051, the office may require any surety insurer or
117 limited surety insurer to set up and maintain a reserve on all
118 bail bonds or other single-premium bonds without definite
119 expiration date, furnished in judicial proceedings, equal to the
120 lesser of 35 percent of the bail premiums in force or \$7 per
121 \$1,000 of bail liability. Such reserve shall be reported as a
122 liability in financial statements required to be filed with the
123 office. Each insurer shall file a supplementary schedule showing
124 bail premiums in force and bail liability and the associated
125 special reserve for bail and judicial bonds with financial
126 statements required by s. 624.424. Bail premiums in force do not



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127 include amounts retained by licensed bail bond agents or
128 appointed licensed managing general agents, but may not be less
129 than 6.5 percent of the total consideration received for all
130 bail bonds in force.

131 Section 17. Subsection (5) of section 626.112, Florida
132 Statutes, is amended to read:

133 626.112 License and appointment required; agents, customer
134 representatives, adjusters, insurance agencies, service
135 representatives, managing general agents.—

136 (5) A ~~No~~ person may not shall be, act as, or represent or
137 hold himself or herself out to be a managing general agent
138 unless he or she then holds a currently effective producer
139 license and a managing general agent ~~license and~~ appointment.

140 Section 18. Section 626.171, Florida Statutes, is amended
141 to read:

142 626.171 Application for license as an agent, customer
143 representative, adjuster, service representative, ~~managing~~
144 ~~general agent,~~ or reinsurance intermediary.—

145 (1) The department may not issue a license as agent,
146 customer representative, adjuster, service representative,
147 ~~managing general agent,~~ or reinsurance intermediary to any
148 person except upon written application filed with the
149 department, meeting the qualifications for the license applied
150 for as determined by the department, and payment in advance of
151 all applicable fees. The application must be made under the oath
152 of the applicant and be signed by the applicant. An applicant
153 may permit a third party to complete, submit, and sign an
154 application on the applicant's behalf, but is responsible for
155 ensuring that the information on the application is true and



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156 correct and is accountable for any misstatements or
157 misrepresentations. The department shall accept the uniform
158 application for nonresident agent licensing. The department may
159 adopt revised versions of the uniform application by rule.

160 (2) In the application, the applicant shall set forth:

161 (a) His or her full name, age, social security number,
162 residence address, business address, mailing address, contact
163 telephone numbers, including a business telephone number, and e-
164 mail address.

165 (b) A statement indicating the method the applicant used or
166 is using to meet any required prelicensing education, knowledge,
167 experience, or instructional requirements for the type of
168 license applied for.

169 (c) Whether he or she has been refused or has voluntarily
170 surrendered or has had suspended or revoked a license to solicit
171 insurance by the department or by the supervising officials of
172 any state.

173 (d) Whether any insurer or any managing general agent
174 claims the applicant is indebted under any agency contract or
175 otherwise and, if so, the name of the claimant, the nature of
176 the claim, and the applicant's defense thereto, if any.

177 (e) Proof that the applicant meets the requirements for the
178 type of license for which he or she is applying.

179 (f) The applicant's gender (male or female).

180 (g) The applicant's native language.

181 (h) The highest level of education achieved by the
182 applicant.

183 (i) The applicant's race or ethnicity (African American,
184 white, American Indian, Asian, Hispanic, or other).



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185 (j) Such other or additional information as the department
186 may deem proper to enable it to determine the character,
187 experience, ability, and other qualifications of the applicant
188 to hold himself or herself out to the public as an insurance
189 representative.

190
191 However, the application must contain a statement that an
192 applicant is not required to disclose his or her race or
193 ethnicity, gender, or native language, that he or she will not
194 be penalized for not doing so, and that the department will use
195 this information exclusively for research and statistical
196 purposes and to improve the quality and fairness of the
197 examinations.

198 (3) Each application must ~~shall~~ be accompanied by payment
199 of any applicable fee.

200 (4) An applicant for a license as an agent, customer
201 representative, adjuster, service representative, ~~managing~~
202 ~~general agent~~, or reinsurance intermediary must submit a set of
203 the individual applicant's fingerprints, or, if the applicant is
204 not an individual, a set of the fingerprints of the sole
205 proprietor, majority owner, partners, officers, and directors,
206 to the department and must pay the fingerprint processing fee
207 set forth in s. 624.501. Fingerprints must ~~shall~~ be used to
208 investigate the applicant's qualifications pursuant to s.
209 626.201. The fingerprints must ~~shall~~ be taken by a law
210 enforcement agency, designated examination center, or other
211 department-approved entity. The department shall require all
212 designated examination centers to have fingerprinting equipment
213 and to take fingerprints from any applicant or prospective



214 applicant who pays the applicable fee. The department may not
215 approve an application for licensure as an agent, customer
216 service representative, adjuster, service representative,
217 ~~managing general agent,~~ or reinsurance intermediary if
218 fingerprints have not been submitted.

219 (5) The application for license filing fee prescribed in s.
220 624.501 is not subject to refund.

221 (6) Members of the United States Armed Forces and their
222 spouses, and veterans of the United States Armed Forces who have
223 retired within 24 months before application for licensure, are
224 exempt from the application filing fee prescribed in s. 624.501.
225 Qualified individuals must provide a copy of a military
226 identification card, military dependent identification card,
227 military service record, military personnel file, veteran
228 record, discharge paper, ~~or separation document,~~ or a separation
229 document that indicates such members of the United States Armed
230 Forces are currently in good standing or were honorably
231 discharged.

232 (7) Pursuant to the federal Personal Responsibility and
233 Work Opportunity Reconciliation Act of 1996, each party is
234 required to provide his or her social security number in
235 accordance with this section. Disclosure of social security
236 numbers obtained through this requirement must ~~shall~~ be limited
237 to the purpose of administration of the Title IV-D program for
238 child support enforcement.

239 Section 19. Section 626.202, Florida Statutes, is amended
240 to read:

241 626.202 Fingerprinting requirements.—

242 (1) The requirements for completion and submission of



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243 fingerprints under this chapter are deemed to be met when an
244 individual currently licensed under this chapter seeks
245 additional licensure and has previously submitted fingerprints
246 to the department within the past 48 months. However, the
247 department may require the individual to file fingerprints if it
248 has reason to believe that an applicant or licensee has been
249 found guilty of, or pleaded guilty or nolo contendere to, a
250 felony or a crime related to the business of insurance in this
251 state or any other state or jurisdiction.

252 (2) If there is a change in ownership or control of any
253 entity licensed under this chapter, or if a new partner,
254 officer, or director is employed or appointed, a set of
255 fingerprints of the new owner, partner, officer, or director
256 must be filed with the department or office within 30 days after
257 the change. The acquisition of 10 percent or more of the voting
258 securities of a licensed entity is considered a change of
259 ownership or control. The fingerprints must be taken by a law
260 enforcement agency or other department-approved entity and be
261 accompanied by the fingerprint processing fee in s. 624.501.

262 Section 20. Subsection (9) of section 626.207, Florida
263 Statutes, is amended to read:

264 626.207 Disqualification of applicants and licensees;
265 penalties against licensees; rulemaking authority.—

266 (9) Section 112.011 does not apply to any applicants for
267 licensure under the Florida Insurance Code, including, but not
268 limited to, agents, agencies, adjusters, adjusting firms, or
269 ~~customer representatives, or managing general agents.~~

270 Section 21. Paragraph (j) of subsection (2) of section
271 626.221, Florida Statutes, is amended to read:



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272 626.221 Examination requirement; exemptions.—

273 (2) However, an examination is not necessary for any of the
274 following:

275 (j) An applicant for license as an all-lines adjuster who
276 has the designation of Accredited Claims Adjuster (ACA) from a
277 regionally accredited postsecondary institution in this state,
278 Associate in Claims (AIC) from the Insurance Institute of
279 America, Professional Claims Adjuster (PCA) from the
280 Professional Career Institute, Professional Property Insurance
281 Adjuster (PPIA) from the HurriClaim Training Academy, Certified
282 Adjuster (CA) from ALL LINES Training, Certified Claims Adjuster
283 (CCA) from AE21 Incorporated, Claims Adjuster Certified
284 Professional (CACP) from WebCE, Inc., or Universal Claims
285 Certification (UCC) from Claims and Litigation Management
286 Alliance (CLM) whose curriculum has been approved by the
287 department and which includes comprehensive analysis of basic
288 property and casualty lines of insurance and testing at least
289 equal to that of standard department testing for the all-lines
290 adjuster license. The department shall adopt rules establishing
291 standards for the approval of curriculum.

292 Section 22. Present subsections (6) and (7) of section
293 626.451, Florida Statutes, are redesignated as subsections (5)
294 and (6), respectively, and subsections (1) and (5) and present
295 subsection (6) of that section are amended, to read:

296 626.451 Appointment of agent or other representative.—

297 (1) Each appointing entity or person designated by the
298 department to administer the appointment process appointing an
299 agent, adjuster, service representative, customer
300 representative, or managing general agent in this state shall



301 file the appointment with the department or office and, at the
302 same time, pay the applicable appointment fee and taxes. Every
303 appointment is ~~shall be~~ subject to the prior issuance of the
304 appropriate agent's, adjuster's, service representative's, or
305 customer representative's, ~~or managing general agent's~~ license.

306 ~~(5) Any law enforcement agency or state attorney's office~~
307 ~~that is aware that an agent, adjuster, service representative,~~
308 ~~customer representative, or managing general agent has pleaded~~
309 ~~guilty or nolo contendere to or has been found guilty of a~~
310 ~~felony shall notify the department or office of such fact.~~

311 ~~(5)(6)~~ Upon the filing of an information or indictment
312 against an agent, adjuster, service representative, or customer
313 representative, ~~or managing general agent,~~ the state attorney
314 shall immediately furnish the department or office a certified
315 copy of the information or indictment.

316 Section 23. Section 626.521, Florida Statutes, is amended
317 to read:

318 626.521 ~~Character,~~ Credit and character reports.-

319 (1) Before appointing ~~As to each applicant who~~ for the
320 first time in this state an ~~is applying and qualifying for a~~
321 ~~license as agent, adjuster, service representative, customer~~
322 ~~representative, or managing general agent, the appointing~~
323 ~~insurer or employer shall its manager or general agent in this~~
324 ~~state, in the case of agents, or the appointing general lines~~
325 ~~agent, in the case of customer representatives, or the employer,~~
326 ~~in the case of service representatives and of adjusters who are~~
327 ~~not to be self-employed, shall coincidentally with such~~
328 ~~appointment or employment~~ secure and thereafter keep on file a
329 full detailed credit and character report ~~made by an established~~



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330 ~~and reputable independent reporting service,~~ relative to the
331 individual so appointed ~~or employed.~~ This subsection does not
332 apply to licensees who self-appoint pursuant to s. 624.501.

333 (2) If requested by the department, the insurer, ~~manager,~~
334 ~~general agent, general lines agent,~~ or employer, as the case may
335 be, must shall furnish to the department, ~~on a form adopted and~~
336 ~~furnished by the department,~~ such information as it reasonably
337 requires relative to such individual and investigation.

338 ~~(3) As to an applicant for an adjuster's or reinsurance~~
339 ~~intermediary's license who is to be self-employed, the~~
340 ~~department may secure, at the cost of the applicant, a full~~
341 ~~detailed credit and character report made by an established and~~
342 ~~reputable independent reporting service relative to the~~
343 ~~applicant.~~

344 ~~(4) Each person who for the first time in this state is~~
345 ~~applying and qualifying for a license as a reinsurance~~
346 ~~intermediary shall file with her or his application for license~~
347 ~~a full, detailed credit and character report for the 5-year~~
348 ~~period immediately prior to the date of application for license,~~
349 ~~made by an established and reputable independent reporting~~
350 ~~service, relative to the individual if a partnership or sole~~
351 ~~proprietorship, or the officers if a corporation or other legal~~
352 ~~entity.~~

353 ~~(3)(5)~~ Information contained in credit or character reports
354 furnished to or secured by the department under this section is
355 confidential and exempt from ~~the provisions of~~ s. 119.07(1).

356 Section 24. Paragraph (f) of subsection (1) of section
357 626.731, Florida Statutes, is amended to read:

358 626.731 Qualifications for general lines agent's license.-



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359 (1) The department shall not grant or issue a license as
360 general lines agent to any individual found by it to be
361 untrustworthy or incompetent or who does not meet each of the
362 following qualifications:

363 ~~(f) The applicant is not a service representative, a~~
364 ~~managing general agent in this state, or a special agent or~~
365 ~~similar service representative of a health insurer which also~~
366 ~~transacts property, casualty, or surety insurance; except that~~
367 ~~the president, vice president, secretary, or treasurer,~~
368 ~~including a member of the board of directors, of a corporate~~
369 ~~insurer, if otherwise qualified under and meeting the~~
370 ~~requirements of this part, may be licensed and appointed as a~~
371 ~~local resident agent.~~

372 Section 25. Subsection (6) of section 626.7351, Florida
373 Statutes, is amended to read:

374 626.7351 Qualifications for customer representative's
375 license.—The department shall not grant or issue a license as
376 customer representative to any individual found by it to be
377 untrustworthy or incompetent, or who does not meet each of the
378 following qualifications:

379 (6) Upon the issuance of the license applied for, the
380 applicant is not an agent or, ~~a service representative, or a~~
381 ~~managing general agent.~~

382 Section 26. Section 626.744, Florida Statutes, is amended
383 to read:

384 626.744 Service representatives, ~~managing general agents;~~
385 application for license.—The application for a license as
386 service representative must ~~or the application for a license as~~
387 ~~managing general agent shall~~ show the applicant's name,



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388 residence address, name of employer, position or title, type of
389 work to be performed by the applicant in this state, and any
390 additional information which the department may reasonably
391 require.

392 Section 27. Section 626.745, Florida Statutes, is amended
393 to read:

394 626.745 Service representatives, managing general agents;
395 managers; activities.—Individuals employed by insurers or their
396 managers, general agents, or representatives as service
397 representatives, and as managing general agents employed for the
398 purpose of or engaged in assisting agents in negotiating and
399 effecting contracts of insurance, shall engage in such
400 activities ~~when, and~~ only when licensed as or, accompanied by a
401 general lines ~~an~~ agent duly licensed and appointed ~~as a resident~~
402 ~~licensee and appointee~~ under this code.

403 Section 28. Subsection (11) of section 626.7451, Florida
404 Statutes, is amended to read:

405 626.7451 Managing general agents; required contract
406 provisions.—No person acting in the capacity of a managing
407 general agent shall place business with an insurer unless there
408 is in force a written contract between the parties which sets
409 forth the responsibility for a particular function, specifies
410 the division of responsibilities, and contains the following
411 minimum provisions:

412 (11) An appointed ~~A licensed~~ managing general agent, when
413 placing business with an insurer under this code, may charge a
414 per-policy fee not to exceed \$25. ~~In no instance shall~~ The
415 aggregate of per-policy fees for a placement of business
416 authorized under this section, when combined with any other per-



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417 policy fee charged by the insurer, may not result in per-policy
418 fees that ~~which~~ exceed the aggregate amount of \$25. The per-
419 policy fee must ~~shall~~ be a component of the insurer's rate
420 filing and must ~~shall~~ be fully earned.

421

422 For the purposes of this section and ss. 626.7453 and 626.7454,
423 the term "controlling person" or "controlling" has the meaning
424 set forth in s. 625.012(5)(b)1., and the term "controlled
425 person" or "controlled" has the meaning set forth in s.
426 625.012(5)(b)2.

427 Section 29. Subsection (1) of section 626.7455, Florida
428 Statutes, is amended to read:

429 626.7455 Managing general agent; responsibility of
430 insurer.—

431 (1) An insurer may not ~~No insurer shall~~ enter into an
432 agreement with any person to manage the business written in this
433 state by the general lines agents appointed by the insurer or
434 appointed by the managing general agent on behalf of the insurer
435 unless the person is properly licensed as an agent and appointed
436 as a managing general agent in this state. An insurer is ~~is shall~~
437 ~~be~~ responsible for the acts of its managing general agent when
438 the agent acts within the scope of his or her authority.

439 Section 30. Paragraph (e) of subsection (3) and subsection
440 (5) of section 626.752, Florida Statutes, are amended to read:

441 626.752 Exchange of business.—

442 (3)

443 (e) The brokering agent shall maintain an appropriate and
444 permanent Brokering Agent's Register, which must ~~shall~~ be a
445 permanent record of ~~bound journal in which~~ chronologically



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446 numbered transactions that are entered no later than the day in
447 which the brokering agent's application bearing the same number
448 is signed by the applicant. The numbers must ~~shall~~ reflect an
449 annual aggregate through numerical sequence and be preceded by
450 the last two digits of the current year. The initial entry must
451 ~~shall~~ contain the number of the transaction, date, time, date of
452 binder, date on which coverage commences, name and address of
453 applicant, type of coverage desired, name of insurer binding the
454 risk or to whom the application is to be submitted, and the
455 amount of any premium collected therefor. By no later than the
456 date following policy delivery, the policy number and coverage
457 expiration date must ~~shall~~ be added to the register.

458 (5) Within 15 days after the last day of each month, any
459 insurer accepting business under this section shall report to
460 the department the name, address, telephone number, and social
461 security number of each agent from which the insurer received
462 more than four ~~24~~ personal lines risks during the calendar year,
463 except for risks being removed from the Citizens Property
464 Insurance Corporation and placed with that insurer by a
465 brokering agent. Once the insurer has reported pursuant to this
466 subsection an agent's name to the department, additional reports
467 on the same agent shall not be required. However, the fee set
468 forth in s. 624.501 must ~~shall~~ be paid for the agent by the
469 insurer for each year until the insurer notifies the department
470 that the insurer is no longer accepting business from the agent
471 pursuant to this section. The insurer may require that the agent
472 reimburse the insurer for the fee.

473 Section 31. Subsection (4) of section 626.793, Florida
474 Statutes, is amended to read:



475 626.793 Excess or rejected business.-

476 (4) Within 15 days after the last day of each month, any
477 insurer accepting business under this section shall report to
478 the department the name, address, telephone number, and social
479 security number of each agent from which the insurer received
480 more than four ~~24~~ risks during the calendar year. Once the
481 insurer has reported an agent's name to the department pursuant
482 to this subsection, additional reports on the same agent shall
483 not be required. However, the fee set forth in s. 624.501 must
484 ~~shall~~ be paid for the agent by the insurer for each year until
485 the insurer notifies the department that the insurer is no
486 longer accepting business from the agent pursuant to this
487 section. The insurer may require that the agent reimburse the
488 insurer for the fee.

489 Section 32. Section 626.798, Florida Statutes, is amended
490 to read:

491 626.798 Life agent as beneficiary; prohibition; limitations
492 on certain legal authority.-

493 (1) A ~~No~~ life agent may not place or modify ~~shall, with~~
494 ~~respect to the placement of~~ life insurance coverage with a life
495 insurer covering the life of a person who is not a family member
496 of the life agent, ~~handle in his or her capacity as a life agent~~
497 ~~the placement of such coverage~~ when the life agent ~~placing the~~
498 ~~coverage~~ or a family member of the life ~~such~~ agent is the named
499 beneficiary under the life insurance policy or the modification
500 names the life agent or a family member of the life agent as the
501 named beneficiary, unless the life agent or family member of the
502 life agent has an insurable interest in the life of such person.

503 (2) A life ~~However,~~ the agent or a family member of the



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504 ~~life such~~ agent may not ~~serve be designated~~ as a trustee or
505 guardian or accept authority to act under a be granted power of
506 attorney for any person the life agent conducts insurance
507 business with unless he or she is:

508 (a) A family member of the person ~~policy owner~~ or insured;
509 or

510 (b)1. Acting as a fiduciary;

511 2. Licensed as a certified public accountant under s.
512 473.308; and

513 3.a. Registered under s. 203 of the Investment Advisers Act
514 of 1940 as an investment adviser or a representative thereof,
515 and is compliant with the notice filing requirements of s.
516 517.1201; or

517 b. Registered under s. 517.12 as a dealer, an investment
518 adviser, or an associated person, or is a bank or trust company
519 duly authorized to act as a fiduciary.

520 (3) As used in this section, the term: For the purposes of
521 this section, the phrase

522 (a) "Family member" "not a family member," with respect to
523 a life agent, means an individual who is not related to the life
524 agent as father, mother, son, daughter, brother, sister,
525 grandfather, grandmother, uncle, aunt, first cousin, nephew,
526 niece, husband, wife, father-in-law, mother-in-law, brother-in-
527 law, sister-in-law, stepfather, stepmother, stepson,
528 stepdaughter, stepbrother, stepsister, half brother, or half
529 sister.

530 (b) For the purposes of this section, the term "Insurable
531 interest" means that the life agent or family member of the life
532 agent has an actual, lawful, and substantial economic interest



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533 in the safety and preservation of the life of the insured or a
534 reasonable expectation of benefit or advantage from the
535 continued life of the insured.

536 Section 33. Subsection (5) of section 626.837, Florida
537 Statutes, is amended to read:

538 626.837 Excess or rejected business.—

539 (5) Within 15 days after the last day of each month, any
540 insurer accepting business under this section shall report to
541 the department the name, address, telephone number, and social
542 security number of each agent from which the insurer received
543 more than four 24 risks during the calendar year. Once the
544 insurer has reported pursuant to this subsection an agent's name
545 to the department, additional reports on the same agent shall
546 not be required. However, the fee set forth in s. 624.501 must
547 ~~shall~~ be paid for the agent by the insurer for each year until
548 the insurer notifies the department that the insurer is no
549 longer accepting business from the agent pursuant to this
550 section. The insurer may require that the agent reimburse the
551 insurer for the fee.

552 Section 34. Subsection (5) of section 626.8732, Florida
553 Statutes, is amended to read:

554 626.8732 Nonresident public adjuster's qualifications,
555 bond.—

556 ~~(5) After licensure as a nonresident public adjuster, as a~~
557 ~~condition of doing business in this state, the licensee must~~
558 ~~annually on or before January 1, on a form prescribed by the~~
559 ~~department, submit an affidavit certifying that the licensee is~~
560 ~~familiar with and understands the insurance code and rules~~
561 ~~adopted thereunder and the provisions of the contracts~~



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562 ~~negotiated or to be negotiated. Compliance with this filing~~
563 ~~requirement is a condition precedent to the issuance,~~
564 ~~continuation, reinstatement, or renewal of a nonresident public~~
565 ~~adjuster's appointment.~~

566 Section 35. Subsection (4) of section 626.8734, Florida
567 Statutes, is amended to read:

568 626.8734 Nonresident all-lines adjuster license
569 qualifications.—

570 ~~(4) As a condition of doing business in this state as a~~
571 ~~nonresident independent adjuster, the appointee must submit an~~
572 ~~affidavit to the department certifying that the licensee is~~
573 ~~familiar with and understands the insurance laws and~~
574 ~~administrative rules of this state and the provisions of the~~
575 ~~contracts negotiated or to be negotiated. Compliance with this~~
576 ~~filing requirement is a condition precedent to the issuance,~~
577 ~~continuation, reinstatement, or renewal of a nonresident~~
578 ~~independent adjuster's appointment.~~

579 Section 36. Paragraph (h) of subsection (1) of section
580 626.88, Florida Statutes, is amended to read:

581 626.88 Definitions.—For the purposes of this part, the
582 term:

583 (1) "Administrator" is any person who directly or
584 indirectly solicits or effects coverage of, collects charges or
585 premiums from, or adjusts or settles claims on residents of this
586 state in connection with authorized commercial self-insurance
587 funds or with insured or self-insured programs which provide
588 life or health insurance coverage or coverage of any other
589 expenses described in s. 624.33(1) or any person who, through a
590 health care risk contract as defined in s. 641.234 with an



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591 insurer or health maintenance organization, provides billing and
592 collection services to health insurers and health maintenance
593 organizations on behalf of health care providers, other than any
594 of the following persons:

595 (h) A person appointed ~~licensed~~ as a managing general agent
596 in this state, whose activities are limited exclusively to the
597 scope of activities conveyed under such appointment ~~license~~.

598

599 A person who provides billing and collection services to health
600 insurers and health maintenance organizations on behalf of
601 health care providers shall comply with the provisions of ss.
602 627.6131, 641.3155, and 641.51(4).

603 Section 37. Section 626.927, Florida Statutes, is amended
604 to read:

605 626.927 Licensing of surplus lines agent.—

606 (1) ~~Any individual while licensed and appointed as a~~
607 ~~resident general lines agent as to property, casualty, and~~
608 ~~surety insurances, and who is deemed by the department to have~~
609 ~~had sufficient experience in the insurance business to be~~
610 ~~competent for the purpose, and who, within the 4 years~~
611 ~~immediately preceding the date the application was submitted,~~
612 ~~has a minimum of 1 year's experience working for a licensed~~
613 ~~surplus lines agent or who has successfully completed 60 class~~
614 ~~hours in surplus and excess lines in a course approved by the~~
615 ~~department, may be licensed as a surplus lines agent, upon~~
616 ~~taking and successfully passing a written examination as to~~
617 ~~surplus lines, as given by the department.~~

618 (2) ~~Any individual, while licensed as and appointed as a~~
619 ~~managing general agent as defined in s. 626.015, or service~~



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620 ~~representative as defined in s. 626.015, and who otherwise~~
621 ~~possesses all of the other qualifications of a general lines~~
622 agent under this code, and who has a minimum of 1 year of year's
623 experience working for a licensed surplus lines agent or who has
624 successfully completed 60 class hours in surplus and excess
625 lines in a course approved by the department, may, upon taking
626 and successfully passing a written examination as to surplus
627 lines, as given by the department, be licensed as a surplus
628 lines agent solely for the purpose of placing with surplus lines
629 insurers property, marine, casualty, or surety coverages
630 originated by general lines agents; ~~except that no examination~~
631 ~~as for a general lines agent's license shall be required of any~~
632 ~~managing general agent or service representative who held a~~
633 ~~Florida surplus lines agent's license as of January 1, 1959.~~

634 (2)~~(3)~~ Application for the license must ~~shall~~ be made to
635 the department on forms as designated and furnished by it.

636 (3)~~(4)~~ License and appointment fees in the amount specified
637 in s. 624.501 must ~~shall~~ be paid to the department in advance.
638 The license and appointment of a surplus lines agent continue in
639 force until suspended, revoked, or otherwise terminated. The
640 appointment of a surplus lines agent continues in force until
641 suspended, revoked, or terminated, but is subject to biennial
642 renewal or continuation by the licensee in accordance with
643 procedures prescribed in s. 626.381 for agents in general.

644 (4)~~(5)~~ Examinations as to surplus lines, as required under
645 subsection (1) ~~subsections (1) and (2)~~, are subject to the
646 provisions of part I as applicable to applicants for licenses in
647 general.

648 (5)~~(6)~~ An individual who has been licensed by the



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649 department as a surplus lines agent as provided in this section
650 may be subsequently appointed without additional written
651 examination if his or her application for appointment is filed
652 with the department within 48 months after the date of
653 cancellation or expiration of the prior appointment. The
654 department may require an individual to take and successfully
655 pass an examination as for original issuance of license as a
656 condition precedent to the reinstatement or continuation of the
657 licensee's current license or reinstatement or continuation of
658 the licensee's appointment.

659 Section 38. Subsection (3) of section 626.930, Florida
660 Statutes, is amended to read:

661 626.930 Records of surplus lines agent.—

662 (3) Each surplus lines agent shall maintain all surplus
663 lines business records in his or her general lines agency
664 office, ~~if licensed as a general lines agent, or in his or her~~
665 ~~managing general agency office, if licensed as a managing~~
666 ~~general agent or the full-time salaried employee of such general~~
667 ~~agent.~~

668 Section 39. Subsection (2) of section 626.9892, Florida
669 Statutes, is amended to read:

670 626.9892 Anti-Fraud Reward Program; reporting of insurance
671 fraud.—

672 (2) The department may pay rewards of up to \$25,000 to
673 persons providing information leading to the arrest and
674 conviction of persons committing crimes investigated by the
675 department arising from violations of s. 440.105, s. 624.15, s.
676 626.9541, s. 626.989, s. 790.164, s. 790.165, s. 790.166, s.
677 806.01, s. 806.031, s. 806.10, s. 806.111, s. 817.233, or s.



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678 817.234.

679 Section 40. Subsection (3) of section 633.302, Florida
680 Statutes, is amended to read:

681 633.302 Florida Fire Safety Board; membership; duties;
682 meetings; officers; quorum; compensation; seal.-

683 (3) The State Fire Marshal's term on the board, or that of
684 her or his designee, must ~~shall~~ coincide with the State Fire
685 Marshal's term of office. ~~Of the other six members of the board,~~
686 ~~one member shall be appointed for a term of 1 year, one member~~
687 ~~for a term of 2 years, two members for terms of 3 years, and two~~
688 ~~members for terms of 4 years.~~ All other terms are 4 years and
689 expire on June 30 of the last year of the term. When the term of
690 a member expires, the State Fire Marshal shall appoint a member
691 to fill the vacancy for a term of 4 years. The State Fire
692 Marshal may remove any appointed member for cause. A vacancy in
693 the membership of the board for any cause must ~~shall~~ be filled
694 by appointment by the State Fire Marshal for the balance of the
695 unexpired term.

696 Section 41. Subsection (2), paragraph (a) of subsection
697 (3), and paragraphs (b), (c), and (d) of subsection (4) of
698 section 633.304, Florida Statutes, are amended to read:

699 633.304 Fire suppression equipment; license to install or
700 maintain.-

701 (2) A person who holds a valid fire equipment dealer
702 license may maintain such license in an inactive status during
703 which time he or she may not engage in any work under the
704 definition of the license held. An inactive status license is
705 ~~shall be void after 4 years or when the license is renewed,~~
706 ~~whichever comes first.~~ However, an inactive status license must



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707 be reactivated before December 31 of each odd-numbered year. An
708 inactive status license may not be reactivated unless the
709 continuing education requirements of this chapter have been
710 fulfilled.

711 (3) Each individual actually performing the work of
712 servicing, recharging, repairing, hydrotesting, installing,
713 testing, or inspecting fire extinguishers or preengineered
714 systems must possess a valid and subsisting permit issued by the
715 division. Permittees are limited as to specific type of work
716 performed to allow work no more extensive than the class of
717 license held by the licensee under whom the permittee is
718 working. Permits will be issued by the division as follows:

719 (a) Portable permit: "Portable permittee" means a person
720 who is limited to performing work no more extensive than the
721 employing or contractually related licensee in the servicing,
722 recharging, repairing, installing, or inspecting all types of
723 portable fire extinguishers.

724
725 Any fire equipment permittee licensed pursuant to this
726 subsection who does not want to engage in servicing, inspecting,
727 recharging, repairing, hydrotesting, or installing halon
728 equipment must file an affidavit on a form provided by the
729 division so stating. Permits will be issued by the division to
730 show the work authorized thereunder. It is unlawful, unlicensed
731 activity for a person or firm to falsely hold himself or herself
732 out to perform any service, inspection, recharge, repair,
733 hydrotest, or installation except as specifically described in
734 the permit.

735 (4)



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736 (b) After initial licensure, each licensee or permittee
737 must successfully complete a course or courses of continuing
738 education for fire equipment technicians of at least 16 hours. A
739 license or permit may not be renewed unless the licensee or
740 permittee produces documentation of the completion of at least
741 16 hours of continuing education for fire equipment technicians
742 during the biennial licensure period. A person who is both a
743 licensee and a permittee shall ~~be required to~~ complete 16 hours
744 of continuing education during each renewal period. Each
745 licensee shall ensure that all permittees in his or her
746 employment or through a contractual agreement meet their
747 continuing education requirements. The State Fire Marshal shall
748 adopt rules describing the continuing education requirements and
749 shall have the authority upon reasonable belief, to audit a fire
750 equipment dealer to determine compliance with continuing
751 education requirements.

752 (c) The forms of such licenses and permits and applications
753 therefor must ~~shall~~ be prescribed by the State Fire Marshal; in
754 addition to such other information and data as that officer
755 determines is appropriate and required for such forms, there
756 must ~~shall~~ be included in such forms the following matters. Each
757 such application must be in such form as to provide that the
758 data and other information set forth therein shall be sworn to
759 by the applicant or, if a corporation, by an officer thereof. An
760 application for a permit must include the name of the licensee
761 employing, or contractually related to, such permittee, and the
762 permit issued in pursuance of such application must also set
763 forth the name of such licensee. A permit is valid solely for
764 use by the holder thereof in his or her employment by, or



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765 contractual relationship with, the licensee named in the permit.

766 (d) A license of any class may not be issued or renewed by
767 the division and a license of any class does not remain
768 operative unless:

769 1. The applicant has submitted to the State Fire Marshal
770 evidence of registration as a Florida corporation or evidence of
771 compliance with s. 865.09.

772 2. The State Fire Marshal or his or her designee has by
773 inspection determined that the applicant possesses the equipment
774 required for the class of license sought. The State Fire Marshal
775 shall give an applicant a reasonable opportunity to correct any
776 deficiencies discovered by inspection. To obtain such
777 inspection, an applicant with facilities located outside this
778 state must:

779 a. Provide a notarized statement from a professional
780 engineer licensed by the applicant's state of domicile
781 certifying that the applicant possesses the equipment required
782 for the class of license sought and that all such equipment is
783 operable; or

784 b. Allow the State Fire Marshal or her or his designee to
785 inspect the facility. All costs associated with the State Fire
786 Marshal's inspection must ~~shall~~ be paid by the applicant. The
787 State Fire Marshal, in accordance with s. 120.54, may adopt
788 rules to establish standards for the calculation and
789 establishment of the amount of costs associated with any
790 inspection conducted by the State Fire Marshal under this
791 section. Such rules must ~~shall~~ include procedures for invoicing
792 and receiving funds in advance of the inspection.

793 3. The applicant has submitted to the State Fire Marshal



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794 proof of insurance providing coverage for comprehensive general
795 liability for bodily injury and property damage, products
796 liability, completed operations, and contractual liability. The
797 State Fire Marshal shall adopt rules providing for the amounts
798 of such coverage, but such amounts may not be less than \$300,000
799 for Class A or Class D licenses, \$200,000 for Class B licenses,
800 and \$100,000 for Class C licenses; and the total coverage for
801 any class of license held in conjunction with a Class D license
802 may not be less than \$300,000. The State Fire Marshal may, at
803 any time after the issuance of a license or its renewal, require
804 upon demand, and in no event more than 30 days after notice of
805 such demand, the licensee to provide proof of insurance, on the
806 insurer's a form ~~provided by the State Fire Marshal~~, containing
807 confirmation of insurance coverage as required by this chapter.
808 Failure, for any length of time, to provide proof of insurance
809 coverage as required must ~~shall~~ result in the immediate
810 suspension of the license until proof of proper insurance is
811 provided to the State Fire Marshal. An insurer that ~~which~~
812 provides such coverage shall notify the State Fire Marshal of
813 any change in coverage or of any termination, cancellation, or
814 nonrenewal of any coverage.

815 4. The applicant applies to the State Fire Marshal,
816 provides proof of experience, and successfully completes a
817 prescribed training course offered by the State Fire College or
818 an equivalent course approved by the State Fire Marshal. This
819 subparagraph does not apply to any holder of or applicant for a
820 permit under paragraph (g) or to a business organization or a
821 governmental entity seeking initial licensure or renewal of an
822 existing license solely for the purpose of inspecting,



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823 servicing, repairing, marking, recharging, and maintaining fire
824 extinguishers used and located on the premises of and owned by
825 such organization or entity.

826 5. The applicant has a current retestor identification
827 number that is appropriate for the license for which the
828 applicant is applying and that is listed with the United States
829 Department of Transportation.

830 6. The applicant has passed, with a grade of at least 70
831 percent, a written examination testing his or her knowledge of
832 the rules and statutes governing the activities authorized by
833 the license and demonstrating his or her knowledge and ability
834 to perform those tasks in a competent, lawful, and safe manner.
835 Such examination must ~~shall~~ be developed and administered by the
836 State Fire Marshal, or his or her designee in accordance with
837 policies and procedures of the State Fire Marshal. An applicant
838 shall pay a nonrefundable examination fee of \$50 for each
839 examination or reexamination scheduled. A reexamination may not
840 be scheduled sooner than 30 days after any administration of an
841 examination to an applicant. An applicant may not be permitted
842 to take an examination for any level of license more than a
843 total of four times during 1 year, regardless of the number of
844 applications submitted. As a prerequisite to licensure of the
845 applicant, he or she:

846 a. Must be at least 18 years of age.

847 b. Must have 4 years of proven experience as a fire
848 equipment permittee at a level equal to or greater than the
849 level of license applied for or have a combination of education
850 and experience determined to be equivalent thereto by the State
851 Fire Marshal. Having held a permit at the appropriate level for



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852 the required period constitutes the required experience.

853 c. Must not have been convicted of a felony or a crime
854 punishable by imprisonment of 1 year or more under the law of
855 the United States or of any state thereof or under the law of
856 any other country. "Convicted" means a finding of guilt or the
857 acceptance of a plea of guilty or nolo contendere in any federal
858 or state court or a court in any other country, without regard
859 to whether a judgment of conviction has been entered by the
860 court having jurisdiction of the case. If an applicant has been
861 convicted of any such felony, the applicant is ~~shall be~~ excluded
862 from licensure for a period of 4 years after expiration of
863 sentence or final release by the Florida Commission on Offender
864 Review unless the applicant, before the expiration of the 4-year
865 period, has received a full pardon or has had her or his civil
866 rights restored.

867
868 This subparagraph does not apply to any holder of or applicant
869 for a permit under paragraph (g) or to a business organization
870 or a governmental entity seeking initial licensure or renewal of
871 an existing license solely for the purpose of inspecting,
872 servicing, repairing, marking, recharging, hydrotesting, and
873 maintaining fire extinguishers used and located on the premises
874 of and owned by such organization or entity.

875 Section 42. Subsection (2) of section 633.314, Florida
876 Statutes, is amended to read:

877 633.314 Sale or use of certain types of fire extinguishers
878 prohibited; penalty.—

879 (2) It is unlawful for any person, directly or through an
880 agent, to sell, offer for sale, or give in this state any make,



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881 type, or model of fire extinguisher, either new or used, unless
882 such make, type, or model of extinguisher has first been tested
883 and is currently approved or listed by Underwriters
884 Laboratories, Inc., Factory Mutual Laboratories, Inc., or
885 another testing laboratory recognized by the State Fire Marshal
886 as nationally recognized in accordance with procedures adopted
887 by rule, taking into account the laboratory's facilities,
888 procedures, use of nationally recognized standards, and any
889 other criteria reasonably calculated to reach an informed
890 determination, and unless such extinguisher carries an
891 Underwriters Laboratories, Inc., or manufacturer's serial
892 number. Such serial number must ~~shall~~ be permanently affixed
893 ~~stamped~~ on the manufacturer's identification and instruction
894 plate.

895 Section 43. Subsection (7) of section 633.318, Florida
896 Statutes, is amended to read:

897 633.318 Certificate application and issuance; permit
898 issuance; examination and investigation of applicant.—

899 (7) The State Fire Marshal may, at any time subsequent to
900 the issuance of the certificate or its renewal, require, upon
901 demand and in no event more than 30 days after notice of the
902 demand, the certificateholder to provide proof of insurance
903 coverage on the insurer's a form ~~provided by the State Fire~~
904 ~~Marshal~~ containing confirmation of insurance coverage as
905 required by this chapter. Failure to provide proof of insurance
906 coverage as required, for any length of time, shall result in
907 the immediate suspension of the certificate until proof of
908 insurance is provided to the State Fire Marshal.

909 Section 44. Paragraph (b) of subsection (6) of section



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910 633.408, Florida Statutes, is amended, and paragraph (c) is
911 added to that subsection, to read:

912 633.408 Firefighter and volunteer firefighter training and
913 certification.—

914 (6)

915 (b) A Special Certificate of Compliance only authorizes an
916 individual to serve as an administrative and command head of a
917 fire service provider.

918 1. An individual employed as a fire chief, fire
919 coordinator, fire director, or fire administrator must obtain a
920 Special Certificate of Compliance within 1 year after beginning
921 employment.

922 2. Before beginning employment as a command officer or in a
923 position directing incident outcomes, an individual must obtain
924 a Certificate of Compliance or a Special Certificate of
925 Compliance.

926 (c) In order to retain a Special Certificate of Compliance,
927 every 4 years an individual must:

928 1. Be active as a firefighter;

929 2. Maintain a current and valid Fire Service Instructor
930 Certificate, instruct at least 40 hours during the 4-year
931 period, and provide proof of such instruction to the division,
932 which proof must be registered in an electronic database
933 designated by the division; or

934 3. Within 6 months before the 4-year period expires,
935 successfully complete a Firefighter Retention Refresher Course
936 consisting of a minimum of 40 hours of training as prescribed by
937 rule.

938 Section 45. Paragraph (e) of subsection (1) of section



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939 633.444, Florida Statutes, is amended to read:

940 633.444 Division powers and duties; Florida State Fire
941 College.—

942 (1) The division, in performing its duties related to the
943 Florida State Fire College, specified in this part, shall:

944 ~~(c) Develop a staffing and funding formula for the Florida~~
945 ~~State Fire College. The formula must include differential~~
946 ~~funding levels for various types of programs, must be based on~~
947 ~~the number of full-time equivalent students and information~~
948 ~~obtained from scheduled attendance counts taken the first day of~~
949 ~~each program, and must provide the basis for the legislative~~
950 ~~budget request. As used in this section, a full-time equivalent~~
951 ~~student is equal to a minimum of 900 hours in a technical~~
952 ~~certificate program and 400 hours in a degree-seeking program.~~
953 ~~The funding formula must be as prescribed pursuant to s.~~
954 ~~1011.62, must include procedures to document daily attendance,~~
955 ~~and must require that attendance records be retained for audit~~
956 ~~purposes.~~

957 Section 46. Subsection (8) of section 648.27, Florida
958 Statutes, is amended to read:

959 648.27 Licenses and appointments; general.—

960 (8) ~~An application for a managing general agent's license~~
961 ~~must be made by an insurer who proposes to employ or appoint an~~
962 ~~individual, partnership, association, or corporation as a~~
963 ~~managing general agent. Such application shall contain the~~
964 ~~information required by s. 626.744, and the applicant shall pay~~
965 ~~the same fee as a managing general agent licensed pursuant to~~
966 ~~that section. An individual who is appointed as a managing~~
967 ~~general agent to supervise or manage bail bond business written~~



968 in this state must also be licensed as a bail bond agent. In the
969 case of an entity, at least one owner, officer, or director at
970 each office location must be licensed as a bail bond agent.

971 Section 47. Present subsection (6) of section 648.34,
972 Florida Statutes, is redesignated as subsection (7), and a new
973 subsection (6) is added to that section, to read:

974 648.34 Bail bond agents; qualifications.—

975 (6) The requirements for completion and submission of
976 fingerprints under this chapter are deemed to be met when an
977 individual currently licensed under this chapter seeks
978 additional licensure and has previously submitted fingerprints
979 to the department in support of an application for licensure
980 under this chapter within the past 48 months. However, the
981 department may require the individual to file fingerprints if it
982 has reason to believe that an applicant or licensee has been
983 found guilty of, or pleaded guilty or nolo contendere to, a
984 felony or a crime related to the business of insurance in this
985 or any other state or jurisdiction.

986 Section 48. For the purpose of incorporating the amendment
987 made by this act to section 626.221, Florida Statutes, in a
988 reference thereto, paragraph (b) of subsection (1) of section
989 626.8734, Florida Statutes, is reenacted to read:

990 626.8734 Nonresident all-lines adjuster license
991 qualifications.—

992 (1) The department shall issue a license to an applicant
993 for a nonresident all-lines adjuster license upon determining
994 that the applicant has paid the applicable license fees required
995 under s. 624.501 and:

996 (b) Has passed to the satisfaction of the department a



997 written Florida all-lines adjuster examination of the scope
998 prescribed in s. 626.241(6); however, the requirement for the
999 examination does not apply to:

1000 1. An applicant who is licensed as an all-lines adjuster in
1001 his or her home state if that state has entered into a
1002 reciprocal agreement with the department;

1003 2. An applicant who is licensed as a nonresident all-lines
1004 adjuster in a state other than his or her home state and a
1005 reciprocal agreement with the appropriate official of the state
1006 of licensure has been entered into with the department; or

1007 3. An applicant who holds a certification set forth in s.
1008 626.221(2)(j).

1009
1010 ===== T I T L E A M E N D M E N T =====

1011 And the title is amended as follows:

1012 Delete lines 56 - 190

1013 and insert:

1014 624.317, F.S.; authorizing the department to conduct
1015 investigations of any, rather than specified, agents
1016 subject to its jurisdiction; amending s. 624.34, F.S.;
1017 conforming a provision to changes made by the act;
1018 amending s. 624.4073, F.S.; prohibiting certain
1019 officers or directors of insolvent insurers from
1020 having direct or indirect control over certain
1021 selection or appointment of officers or directors,
1022 except under certain circumstances; amending ss.
1023 624.4094, 624.501, 624.509, and 625.071, F.S.;
1024 conforming provisions to changes made by the act;
1025 amending s. 626.112, F.S.; requiring a managing



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1026 general agent to hold a currently effective producer
1027 license rather than a managing general agent license;
1028 amending s. 626.171, F.S.; deleting applicability of
1029 licensing provisions as to managing general agents;
1030 making a technical change; amending s. 626.202, F.S.;
1031 providing that certain applicants are not required to
1032 resubmit fingerprints to the department under certain
1033 circumstances; authorizing the department to require
1034 these applicants to file fingerprints under certain
1035 circumstances; amending s. 626.207, F.S.; conforming a
1036 provision to changes made by the act; amending s.
1037 626.221, F.S.; adding a designation that exempts
1038 applicants for licensure as an all-lines adjuster from
1039 an examination requirement; amending s. 626.451, F.S.;
1040 deleting a requirement for law enforcement agencies
1041 and state attorney's offices to notify the department
1042 or the Office of Insurance Regulation of certain
1043 felony dispositions; deleting a requirement for the
1044 state attorney to provide the department or office a
1045 certified copy of an information or indictment against
1046 a managing general agent; conforming a provision to
1047 changes made by the act; amending s. 626.521, F.S.;
1048 revising requirements for credit and character reports
1049 secured and kept by insurers or employers appointing
1050 certain insurance representatives; providing
1051 applicability; amending s. 626.731, F.S.; deleting a
1052 certain qualification for licensure as a general lines
1053 agent; amending s. 626.7351, F.S.; revising a
1054 qualification for licensure as a customer



1055 representative; amending s. 626.744, F.S.; conforming
1056 a provision to changes made by the act; amending s.
1057 626.745, F.S.; revising conditions under which service
1058 representatives and managing general agents may engage
1059 in certain activities; amending ss. 626.7451 and
1060 626.7455, F.S.; conforming provisions to changes made
1061 by the act; amending s. 626.752, F.S.; revising a
1062 requirement for the Brokering Agent's Register
1063 maintained by brokering agents; revising the limit on
1064 certain personal lines risks an insurer may receive
1065 from an agent within a specified timeframe before the
1066 insurer must comply with certain reporting
1067 requirements for that agent; amending s. 626.793,
1068 F.S.; revising the limit on certain risks that certain
1069 insurers may receive from a life agent within a
1070 specified timeframe before the insurer must comply
1071 with certain reporting requirements for that agent;
1072 amending s. 626.798, F.S.; revising a prohibition
1073 applicable under certain circumstances to life agents
1074 when the life agent or the life agent's family member
1075 is the named beneficiary under a certain life
1076 insurance policy; revising a prohibition, and
1077 exceptions from the prohibition, applicable to life
1078 agents or their family members relating to certain
1079 trustee, guardian, or power of attorney authority for
1080 any person the life agent conducts insurance business
1081 with; revising definitions; amending s. 626.837, F.S.;
1082 revising the limit on certain risks that certain
1083 insurers may receive from a health agent within a



1084 specified timeframe before the insurer must comply
1085 with certain reporting requirements for that agent;
1086 amending s. 626.8732, F.S.; deleting a requirement for
1087 a licensed nonresident public adjuster to submit a
1088 certain annual affidavit to the department; amending
1089 s. 626.8734, F.S.; deleting a requirement for a
1090 nonresident independent adjuster to submit a certain
1091 annual affidavit to the department; amending s.
1092 626.88, F.S.; conforming a provision to changes made
1093 by the act; amending s. 626.927, F.S.; revising
1094 qualifications for licensure as a surplus lines agent;
1095 amending s. 626.930, F.S.; revising a requirement
1096 relating to the location of a surplus lines agent's
1097 surplus lines business records; amending s. 626.9892,
1098 F.S.; authorizing the department to pay up a specified
1099 amount of rewards under the Anti-Fraud Reward Program
1100 for information leading to the arrest and conviction
1101 of persons guilty of arson; amending s. 633.302, F.S.;
1102 revising the term duration of certain members of the
1103 Florida Fire Safety Board; amending s. 633.304, F.S.;
1104 revising circumstances under which an inactive fire
1105 equipment dealer license is void; specifying the
1106 timeframe when an inactive license must be
1107 reactivated; specifying that permittees performing
1108 certain work on fire equipment may be contracted
1109 rather than employed; revising a requirement for a
1110 certain proof-of-insurance form to be provided by the
1111 insurer rather than the State Fire Marshal; amending
1112 s. 633.314, F.S.; requiring that serial numbers be



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1113 permanently affixed, rather than permanently stamped,
1114 on certain plates of fire extinguishers; amending s.
1115 633.318, F.S.; revising a requirement for a certain
1116 proof-of-insurance form to be provided by the insurer
1117 rather than the State Fire Marshal; amending s.
1118 633.408, F.S.; specifying firefighter certification
1119 requirements for certain individuals employed in
1120 administrative and command positions of a fire service
1121 provider; specifying conditions for an individual to
1122 retain a Special Certificate of Compliance; amending
1123 s. 633.444, F.S.; deleting a requirement for the
1124 Division of State Fire Marshal to develop a staffing
1125 and funding formula for the Florida State Fire
1126 College; amending s. 648.27, F.S.; revising conditions
1127 under which a managing general agent must also be
1128 licensed as a bail bond agent; conforming a provision
1129 to changes made by the act; amending s. 648.34, F.S.;
1130 providing that certain individuals applying for bail
1131 bond agent licensure are not required to resubmit
1132 fingerprints to the department under certain
1133 circumstances; authorizing the department to require
1134 such individuals to file fingerprints under certain
1135 circumstances; reenacting s. 626.8734(1)(b), F.S.,
1136 relating to nonresident all-lines adjuster license
1137 qualifications, to incorporate the amendment made to
1138 s. 626.221, F.S., in a reference thereto; providing an
1139 effective date.

By the Committees on Children, Families, and Elder Affairs; and
Banking and Insurance; and Senator Stargel

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1 A bill to be entitled
2 An act relating to the Department of Financial
3 Services; amending s. 17.64, F.S.; providing that
4 electronic images of warrants, vouchers, or checks in
5 the Division of Treasury are deemed to be original
6 records; revising the applicable medium, from film or
7 print to electronic, in provisions relating to copies
8 and reproductions of records and documents of the
9 division; amending s. 20.121, F.S.; renaming the
10 Bureau of Fire and Arson Investigations within the
11 Division of Investigative and Forensic Services as the
12 Bureau of Fire, Arson, and Explosives Investigations;
13 creating the Bureau of Insurance Fraud and the Bureau
14 of Workers' Compensation Fraud within the division;
15 amending s. 39.6035, F.S.; requiring child transition
16 plans to address financial literacy by providing
17 specified information; amending s. 218.32, F.S.;
18 providing legislative intent relating to the creation
19 of the Florida Open Financial Statement System;
20 authorizing the Chief Financial Officer to consult
21 with certain stakeholders for input on the design and
22 implementation of the system; specifying requirements
23 and procedures for the Chief Financial Officer in
24 selecting and recruiting contractors for certain
25 purposes; requiring the Chief Financial Officer to
26 require completion of all work by a specified date;
27 providing that if the Chief Financial Officer deems
28 work products adequate, all local governmental
29 financial statements pertaining to fiscal years ending

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30 on or after a specified date must meet certain
31 requirements; providing construction; providing an
32 appropriation; amending s. 284.40, F.S.; authorizing
33 the department to disclose certain personal
34 identifying information of injured or deceased
35 employees which is exempt from disclosure under the
36 Workers' Compensation Law to department-contracted
37 vendors for certain purposes; amending s. 284.50,
38 F.S.; requiring safety coordinators of state
39 governmental departments to complete, within a certain
40 timeframe, safety coordinator training offered by the
41 department; requiring certain agencies to report
42 certain return-to-work information to the department;
43 requiring agencies to provide certain risk management
44 program information to the Division of Risk Management
45 for certain purposes; specifying requirements for
46 agencies in reviewing and responding to certain
47 information and communications provided by the
48 division; amending s. 409.1451, F.S.; conforming a
49 provision to changes made by the act; amending s.
50 414.411, F.S.; replacing the Department of Economic
51 Opportunity with the Department of Education in a list
52 of entities to which a public assistance recipient may
53 be required to provide written consent for certain
54 investigative inquiries and to which the department
55 must report investigation results; amending s.
56 497.168, F.S.; providing an exemption from specified
57 application fees for members and certain veterans of
58 the United States Armed Forces; amending s. 624.317,

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59 F.S.; authorizing the department to conduct
 60 investigations of any, rather than specified, agents
 61 subject to its jurisdiction; amending s. 624.34, F.S.;
 62 conforming a provision to changes made by the act;
 63 amending s. 624.4073, F.S.; prohibiting certain
 64 officers or directors of insolvent insurers from
 65 having direct or indirect control over certain
 66 selection or appointment of officers or directors,
 67 except under certain circumstances; amending ss.
 68 624.4094, 624.501, 624.509, and 625.071, F.S.;
 69 conforming provisions to changes made by the act;
 70 amending s. 626.112, F.S.; requiring a managing
 71 general agent to hold a currently effective producer
 72 license rather than a managing general agent license;
 73 amending s. 626.171, F.S.; deleting applicability of
 74 licensing provisions as to managing general agents;
 75 making a technical change; amending s. 626.202, F.S.;
 76 providing that certain applicants are not required to
 77 resubmit fingerprints to the department under certain
 78 circumstances; authorizing the department to require
 79 these applicants to file fingerprints under certain
 80 circumstances; providing an exemption from
 81 fingerprinting requirements for members and certain
 82 veterans of the United States Armed Forces; requiring
 83 such members and veterans to provide certain
 84 documentation of good standing or honorable discharge;
 85 amending s. 626.207, F.S.; conforming a provision to
 86 changes made by the act; amending s. 626.221, F.S.;
 87 adding a designation that exempts applicants for

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88 licensure as an all-lines adjuster from an examination
 89 requirement; amending s. 626.451, F.S.; deleting a
 90 requirement for law enforcement agencies and state
 91 attorney's offices to notify the department or the
 92 Office of Insurance Regulation of certain felony
 93 dispositions; deleting a requirement for the state
 94 attorney to provide the department or office a
 95 certified copy of an information or indictment against
 96 a managing general agent; conforming a provision to
 97 changes made by the act; amending s. 626.521, F.S.;
 98 revising requirements for credit and character reports
 99 secured and kept by insurers or employers appointing
 100 certain insurance representatives; providing
 101 applicability; amending s. 626.731, F.S.; deleting a
 102 certain qualification for licensure as a general lines
 103 agent; amending s. 626.7351, F.S.; revising a
 104 qualification for licensure as a customer
 105 representative; amending s. 626.744, F.S.; conforming
 106 a provision to changes made by the act; amending s.
 107 626.745, F.S.; revising conditions under which service
 108 representatives and managing general agents may engage
 109 in certain activities; amending ss. 626.7451 and
 110 626.7455, F.S.; conforming provisions to changes made
 111 by the act; amending s. 626.752, F.S.; revising a
 112 requirement for the Brokering Agent's Register
 113 maintained by brokering agents; revising the limit on
 114 certain personal lines risks an insurer may receive
 115 from an agent within a specified timeframe before the
 116 insurer must comply with certain reporting

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117 requirements for that agent; amending s. 626.793,
 118 F.S.; revising the limit on certain risks that certain
 119 insurers may receive from a life agent within a
 120 specified timeframe before the insurer must comply
 121 with certain reporting requirements for that agent;
 122 amending s. 626.837, F.S.; revising the limit on
 123 certain risks that certain insurers may receive from a
 124 health agent within a specified timeframe before the
 125 insurer must comply with certain reporting
 126 requirements for that agent; amending s. 626.8732,
 127 F.S.; deleting a requirement for a licensed
 128 nonresident public adjuster to submit a certain annual
 129 affidavit to the department; amending s. 626.8734,
 130 F.S.; deleting a requirement for a nonresident
 131 independent adjuster to submit a certain annual
 132 affidavit to the department; amending s. 626.88, F.S.;
 133 conforming a provision to changes made by the act;
 134 amending s. 626.927, F.S.; revising conditions under
 135 which an individual may be licensed as a surplus lines
 136 agent solely for the purpose of placing certain
 137 coverages with surplus lines insurers; amending s.
 138 626.930, F.S.; revising a requirement relating to the
 139 location of a surplus lines agent's surplus lines
 140 business records; amending s. 626.9892, F.S.;
 141 authorizing the department to pay up a specified
 142 amount of rewards under the Anti-Fraud Reward Program
 143 for information leading to the arrest and conviction
 144 of persons guilty of arson; amending s. 633.302, F.S.;
 145 revising the term duration of certain members of the

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146 Florida Fire Safety Board; amending s. 633.304, F.S.;
 147 revising circumstances under which an inactive fire
 148 equipment dealer license is void; specifying the
 149 timeframe when an inactive license must be
 150 reactivated; specifying that permittees performing
 151 certain work on fire equipment may be contracted
 152 rather than employed; revising a requirement for a
 153 certain proof-of-insurance form to be provided by the
 154 insurer rather than the State Fire Marshal; amending
 155 s. 633.314, F.S.; requiring that serial numbers be
 156 permanently affixed, rather than permanently stamped,
 157 on certain plates of fire extinguishers; amending s.
 158 633.318, F.S.; revising a requirement for a certain
 159 proof-of-insurance form to be provided by the insurer
 160 rather than the State Fire Marshal; amending s.
 161 633.408, F.S.; specifying firefighter certification
 162 requirements for certain individuals employed in
 163 administrative and command positions of a fire service
 164 provider; specifying conditions for an individual to
 165 retain a Special Certificate of Compliance; amending
 166 s. 633.416, F.S.; authorizing fire service providers
 167 to employ honorably discharged veterans who received
 168 Florida-equivalent training; requiring the Division of
 169 State Fire Marshal to verify the equivalency of such
 170 training before the individual begins employment;
 171 requiring such individual to obtain a Firefighter
 172 Certificate of Compliance within a specified
 173 timeframe; making a technical change; amending s.
 174 633.444, F.S.; deleting a requirement for the Division

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175 of State Fire Marshal to develop a staffing and
 176 funding formula for the Florida State Fire College;
 177 amending s. 648.27, F.S.; revising conditions under
 178 which a managing general agent must also be licensed
 179 as a bail bond agent; conforming a provision to
 180 changes made by the act; amending s. 648.34, F.S.;

181 providing that certain individuals applying for bail
 182 bond agent licensure are not required to resubmit
 183 fingerprints to the department under certain
 184 circumstances; authorizing the department to require
 185 such individuals to file fingerprints under certain
 186 circumstances; reenacting s. 626.8734(1)(b), F.S.,
 187 relating to nonresident all-lines adjuster license
 188 qualifications, to incorporate the amendment made to
 189 s. 626.221, F.S., in a reference thereto; providing an
 190 appropriation; providing an effective date.

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

192 Section 1. Section 17.64, Florida Statutes, is amended to
 193 read:

194 17.64 Division of Treasury to make reproductions of certain
 195 warrants, records, and documents.—

196 (1) Electronic images, photographs, microphotographs, or
 197 reproductions on film of warrants, vouchers, or checks are shall
 198 ~~be~~ deemed to be original records for all purposes; and any copy
 199 or reproduction thereof ~~made from such original film~~, duly
 200 certified by the Division of Treasury as a true and correct copy
 201 or reproduction ~~made from such film~~, is shall be deemed to be a
 202
 203

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204 transcript, exemplification, or certified copy of the original
 205 warrant, voucher, or check such copy represents, and must shall
 206 in all cases and in all courts and places be admitted and
 207 received in evidence with the like force and effect as the
 208 original thereof might be.

209 (2) The Division of Treasury may electronically photograph,
 210 ~~microphotograph, or reproduce on film~~, all records and documents
 211 of the division, as the Chief Financial Officer, in his or her
 212 discretion, selects; and the division may destroy any such
 213 documents or records after they have been reproduced
 214 electronically photographed and filed and after audit of the
 215 division has been completed for the period embracing the dates
 216 of such documents and records.

217 (3) Electronic copies ~~Photographs or microphotographs in~~
 218 ~~the form of film or prints~~ of any records made in compliance
 219 with ~~the provisions of~~ this section ~~shall~~ have the same force
 220 and effect as the originals ~~thereof would~~ have, and must shall
 221 be treated as originals for the purpose of their admissibility
 222 in evidence. Duly certified or authenticated reproductions of
 223 such electronic images must ~~photographs or microphotographs~~
 224 ~~shall~~ be admitted in evidence equally with the original
 225 electronic images ~~photographs or microphotographs~~.

226 Section 2. Paragraph (e) of subsection (2) of section
 227 20.121, Florida Statutes, is amended to read:

228 20.121 Department of Financial Services.—There is created a
 229 Department of Financial Services.

230 (2) DIVISIONS.—The Department of Financial Services shall
 231 consist of the following divisions and office:

232 (e) The Division of Investigative and Forensic Services,

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233 which shall function as a criminal justice agency for purposes
 234 of ss. 943.045-943.08. The division may conduct investigations
 235 within or outside of this state as it deems necessary. If,
 236 during an investigation, the division has reason to believe that
 237 any criminal law of this state has or may have been violated, it
 238 shall refer any records tending to show such violation to state
 239 or federal law enforcement or prosecutorial agencies and shall
 240 provide investigative assistance to those agencies as required.
 241 The division shall include the following bureaus and office:
 242 1. The Bureau of Forensic Services;
 243 2. The Bureau of Fire, ~~and~~ Arson, and Explosives
 244 Investigations; and
 245 3. The Office of Fiscal Integrity, which shall have a
 246 separate budget;
 247 4. The Bureau of Insurance Fraud; and
 248 5. The Bureau of Workers' Compensation Fraud.
 249 Section 3. Subsection (1) of section 39.6035, Florida
 250 Statutes, is amended to read:
 251 39.6035 Transition plan.—
 252 (1) During the 180-day period after a child reaches 17
 253 years of age, the department and the community-based care
 254 provider, in collaboration with the caregiver and any other
 255 individual whom the child would like to include, shall assist
 256 the child in developing a transition plan. The required
 257 transition plan is in addition to standard case management
 258 requirements. The transition plan must address specific options
 259 for the child to use in obtaining services, including housing,
 260 health insurance, education, financial literacy, a driver
 261 license, and workforce support and employment services. The plan

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262 must also consider establishing and maintaining naturally
 263 occurring mentoring relationships and other personal support
 264 services. The transition plan may be as detailed as the child
 265 chooses. In developing the transition plan, the department and
 266 the community-based provider shall:
 267 (a) Provide the child with the documentation required
 268 pursuant to s. 39.701(3); ~~and~~
 269 (b) Coordinate the transition plan with the independent
 270 living provisions in the case plan and, for a child with
 271 disabilities, the Individuals with Disabilities Education Act
 272 transition plan; ~~and~~—
 273 (c) Provide information for the financial literacy
 274 curriculum for youth offered by the Department of Financial
 275 Services.
 276 Section 4. Section 218.32, Florida Statutes, is amended to
 277 read:
 278 218.32 Annual financial reports; local governmental
 279 entities; Florida Open Financial Statement System.—
 280 (1) (a) Each local governmental entity that is determined to
 281 be a reporting entity, as defined by generally accepted
 282 accounting principles, and each independent special district as
 283 defined in s. 189.012, shall submit to the department a copy of
 284 its annual financial report for the previous fiscal year in a
 285 format prescribed by the department. The annual financial report
 286 must include a list of each local governmental entity included
 287 in the report and each local governmental entity that failed to
 288 provide financial information as required by paragraph (b). The
 289 chair of the governing body and the chief financial officer of
 290 each local governmental entity shall sign the annual financial

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291 report submitted pursuant to this subsection attesting to the
 292 accuracy of the information included in the report. The county
 293 annual financial report must be a single document that covers
 294 each county agency.

295 (b) Each component unit, as defined by generally accepted
 296 accounting principles, of a local governmental entity shall
 297 provide the local governmental entity, within a reasonable time
 298 period as established by the local governmental entity, with
 299 financial information necessary to comply with the reporting
 300 requirements contained in this section.

301 (c) Each regional planning council created under s.
 302 186.504, each local government finance commission, board, or
 303 council, and each municipal power corporation created as a
 304 separate legal or administrative entity by interlocal agreement
 305 under s. 163.01(7) shall submit to the department a copy of its
 306 audit report and an annual financial report for the previous
 307 fiscal year in a format prescribed by the department.

308 (d) Each local governmental entity that is required to
 309 provide for an audit under s. 218.39(1) must submit a copy of
 310 the audit report and annual financial report to the department
 311 within 45 days after the completion of the audit report but no
 312 later than 9 months after the end of the fiscal year.

313 (e) Each local governmental entity that is not required to
 314 provide for an audit under s. 218.39 must submit the annual
 315 financial report to the department no later than 9 months after
 316 the end of the fiscal year. The department shall consult with
 317 the Auditor General in the development of the format of annual
 318 financial reports submitted pursuant to this paragraph. The
 319 format must include balance sheet information used by the

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320 Auditor General pursuant to s. 11.45(7)(f). The department must
 321 forward the financial information contained within the annual
 322 financial reports to the Auditor General in electronic form.
 323 This paragraph does not apply to housing authorities created
 324 under chapter 421.

325 (f) If the department does not receive a completed annual
 326 financial report from a local governmental entity within the
 327 required period, it shall notify the Legislative Auditing
 328 Committee and the Special District Accountability Program of the
 329 Department of Economic Opportunity of the entity's failure to
 330 comply with the reporting requirements.

331 (g) Each local governmental entity's website must provide a
 332 link to the department's website to view the entity's annual
 333 financial report submitted to the department pursuant to this
 334 section. If the local governmental entity does not have an
 335 official website, the county government's website must provide
 336 the required link for the local governmental entity.

337 (h) It is the intent of the Legislature to create the
 338 Florida Open Financial Statement System, an interactive
 339 repository for governmental financial statements.

340 1. The Chief Financial Officer may consult with
 341 stakeholders, including the department, the Auditor General, a
 342 representative of a municipality or county, a representative of
 343 a special district, a municipal bond investor, and an
 344 information technology professional employed in the private
 345 sector, for input on the design and implementation of the
 346 Florida Open Financial Statement System.

347 2. The Chief Financial Officer may choose contractors to
 348 build one or more eXtensible Business Reporting Language (XBRL)

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349 taxonomies suitable for state, county, municipal, and special
 350 district financial filings and to create a software tool that
 351 enables financial statement filers to easily create XBRL
 352 documents consistent with the taxonomy or taxonomies. The Chief
 353 Financial Officer shall recruit and select contractors through
 354 an open request for proposals process pursuant to chapter 287.

355 3. The Chief Financial Officer shall require all work to be
 356 completed no later than December 31, 2021.

357 4. If the Chief Financial Officer deems the work products
 358 adequate, all local governmental financial statements pertaining
 359 to fiscal years ending on or after September 1, 2022, must be
 360 filed in XBRL format and must meet the validation requirements
 361 of the relevant taxonomy.

362 5. A local government that commences filing in XBRL format
 363 may not be required to make filings in Portable Document Format.

364 (2) The department shall annually by December 1 file a
 365 verified report with the Governor, the Legislature, the Auditor
 366 General, and the Special District Accountability Program of the
 367 Department of Economic Opportunity showing the revenues, both
 368 locally derived and derived from intergovernmental transfers,
 369 and the expenditures of each local governmental entity, regional
 370 planning council, local government finance commission, and
 371 municipal power corporation that is required to submit an annual
 372 financial report. The report must include, but is not limited
 373 to:

374 (a) The total revenues and expenditures of each local
 375 governmental entity that is a component unit included in the
 376 annual financial report of the reporting entity.

377 (b) The amount of outstanding long-term debt by each local

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378 governmental entity. For purposes of this paragraph, the term
 379 "long-term debt" means any agreement or series of agreements to
 380 pay money, which, at inception, contemplate terms of payment
 381 exceeding 1 year in duration.

382 (3) The department shall notify the President of the Senate
 383 and the Speaker of the House of Representatives of any
 384 municipality that has not reported any financial activity for
 385 the last 4 fiscal years. Such notice must be sufficient to
 386 initiate dissolution procedures as described in s.
 387 165.051(1)(a). Any special law authorizing the incorporation or
 388 creation of the municipality must be included within the
 389 notification.

390 Section 5. For the 2018-2019 fiscal year, the sum of
 391 \$500,000 is appropriated from the General Revenue Fund to the
 392 Chief Financial Officer for the development of XBRL taxonomies
 393 for state, county, municipal, and special district financial
 394 filings.

395 Section 6. Section 284.40, Florida Statutes, is amended to
 396 read:

397 284.40 Division of Risk Management; disclosure of certain
 398 workers' compensation-related information by the Department of
 399 Financial Services.-

400 (1) It shall be the responsibility of the Division of Risk
 401 Management of the Department of Financial Services to administer
 402 this part and the provisions of s. 287.131.

403 (2) The claim files maintained by the Division of Risk
 404 Management shall be confidential, shall be only for the usage by
 405 the Department of Financial Services in fulfilling its duties
 406 and responsibilities under this part, and shall be exempt from

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407 the provisions of s. 119.07(1).

408 (3) Upon certification by the division director or his or
 409 her designee to the custodian of any records maintained by the
 410 Department of Children and Families, Department of Health,
 411 Agency for Health Care Administration, or Department of Elderly
 412 Affairs that such records are necessary to investigate a claim
 413 against the Department of Children and Families, Department of
 414 Health, Agency for Health Care Administration, or Department of
 415 Elderly Affairs being handled by the Division of Risk
 416 Management, the records shall be released to the division
 417 subject to the provisions of subsection (2), any conflicting
 418 provisions as to the confidentiality of such records
 419 notwithstanding.

420 (4) Notwithstanding s. 440.1851, the Department of
 421 Financial Services may disclose the personal identifying
 422 information of an injured or deceased employee to a department-
 423 contracted vendor for the purpose of ascertaining a claimant's
 424 claims history to investigate the compensability of a claim or
 425 to identify and prevent fraud.

426 Section 7. Section 284.50, Florida Statutes, is amended to
 427 read:

428 284.50 Loss prevention program; safety coordinators;
 429 Interagency Advisory Council on Loss Prevention; employee
 430 recognition program; return-to-work programs; risk management
 431 programs.—

432 (1) The head of each department of state government, except
 433 the Legislature, shall designate a safety coordinator. Such
 434 safety coordinator must be an employee of the department and
 435 must hold a position which has responsibilities comparable to

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436 those of an employee in the Senior Management System. The
 437 Department of Financial Services shall provide appropriate
 438 training to the safety coordinators to permit them to
 439 effectively perform their duties within their respective
 440 departments. Within 1 year after being appointed by his or her
 441 department head, the safety coordinator shall complete safety
 442 coordinator training offered by the Department of Financial
 443 Services. Each safety coordinator shall, at the direction of his
 444 or her department head:

445 (a) Develop and implement the loss prevention program, a
 446 comprehensive departmental safety program which shall include a
 447 statement of safety policy and responsibility.

448 (b) Provide for regular and periodic facility and equipment
 449 inspections.

450 (c) Investigate job-related employee accidents of his or
 451 her department.

452 (d) Establish a program to promote increased safety
 453 awareness among employees.

454 (2) There shall be an Interagency Advisory Council on Loss
 455 Prevention composed of the safety coordinators from each
 456 department and representatives designated by the Division of
 457 State Fire Marshal and the Division of Risk Management. The
 458 chair of the council ~~is shall be~~ the Director of the Division of
 459 Risk Management or his or her designee. The council shall meet
 460 at least quarterly to discuss safety problems within state
 461 government, to attempt to find solutions for these problems,
 462 and, when possible, to assist in the implementation of the
 463 solutions. If the safety coordinator of a department or office
 464 is unable to attend a council meeting, an alternate, selected by

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465 the department head or his or her designee, shall attend the
 466 meeting to represent and provide input for that department or
 467 office on the council. The council is further authorized to
 468 provide for the recognition of employees, agents, and volunteers
 469 who make exceptional contributions to the reduction and control
 470 of employment-related accidents. The necessary expenses for the
 471 administration of this program of recognition shall be
 472 considered an authorized administrative expense payable from the
 473 State Risk Management Trust Fund.

474 (3) The Department of Financial Services and all agencies
 475 that are provided workers' compensation insurance coverage by
 476 the State Risk Management Trust Fund and employ more than 3,000
 477 full-time employees shall establish and maintain return-to-work
 478 programs for employees who are receiving workers' compensation
 479 benefits. The programs must ~~shall~~ have the primary goal of
 480 enabling injured workers to remain at work or return to work to
 481 perform job duties within the physical or mental functional
 482 limitations and restrictions established by the workers'
 483 treating physicians. If no limitation or restriction is
 484 established in writing by a worker's treating physician, the
 485 worker is ~~shall be~~ deemed to be able to fully perform the same
 486 work duties he or she performed before the injury. Agencies
 487 employing more than 3,000 full-time employees shall report
 488 return-to-work information to the Department of Financial
 489 Services to support the Department of Financial Services'
 490 mandatory reporting requirements on agency return-to-work
 491 efforts under s. 284.42(1)(b).

492 (4) The Division of Risk Management shall evaluate each
 493 agency's risk management programs, including, but not limited

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494 to, return-to-work, safety, and loss prevention programs, at
 495 least once every 5 years. Reports, including, but not limited
 496 to, any recommended corrective action, resulting from such
 497 evaluations must ~~shall~~ be provided to the head of the agency
 498 being evaluated, the Chief Financial Officer, and the director
 499 of the Division of Risk Management. The agency head must provide
 500 to the Division of Risk Management a response to all report
 501 recommendations within 45 days and a plan to implement any
 502 corrective action to be taken as part of the response. If the
 503 agency disagrees with any final report recommendations,
 504 including, but not limited to, any recommended corrective
 505 action, or if the agency fails to implement any recommended
 506 corrective action within a reasonable time, the division shall
 507 submit the evaluation report to the legislative appropriations
 508 committees. Each agency shall provide risk management program
 509 information to the Division of Risk Management to support the
 510 Division of Risk Management's mandatory evaluation and reporting
 511 requirements in this subsection.

512 (5) Each agency shall:

513 (a) Review information provided by the Division of Risk
 514 Management on claims and losses;

515 (b) Identify any discrepancies between the Division of Risk
 516 Management's records and the agency's records and report such
 517 discrepancies to the Division of Risk Management in writing; and

518 (c) Review and respond to communications from the Division
 519 of Risk Management identifying unsafe or inappropriate
 520 conditions, policies, procedures, trends, equipment, or actions
 521 or incidents that have led or may lead to accidents or claims
 522 involving the state.

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523 Section 8. Paragraph (b) of subsection (3) of section
 524 409.1451, Florida Statutes, is amended to read:
 525 409.1451 The Road-to-Independence Program.—
 526 (3) AFTERCARE SERVICES.—
 527 (b) Aftercare services include, but are not limited to, the
 528 following:
 529 1. Mentoring and tutoring.
 530 2. Mental health services and substance abuse counseling.
 531 3. Life skills classes, including credit management and
 532 preventive health activities.
 533 4. Parenting classes.
 534 5. Job and career skills training.
 535 6. Counselor consultations.
 536 7. Temporary financial assistance for necessities,
 537 including, but not limited to, education supplies,
 538 transportation expenses, security deposits for rent and
 539 utilities, furnishings, household goods, and other basic living
 540 expenses.
 541 8. Financial literacy skills training pursuant to s.
 542 39.6035(1)(c).
 543
 544 The specific services to be provided under this paragraph shall
 545 be determined by an assessment of the young adult and may be
 546 provided by the community-based care provider or through
 547 referrals in the community.
 548 Section 9. Subsections (1) and (3) of section 414.411,
 549 Florida Statutes, are amended to read:
 550 414.411 Public assistance fraud.—
 551 (1) The Department of Financial Services shall investigate

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552 all public assistance provided to residents of the state or
 553 provided to others by the state. In the course of such
 554 investigation the department shall examine all records,
 555 including electronic benefits transfer records and make inquiry
 556 of all persons who may have knowledge as to any irregularity
 557 incidental to the disbursement of public moneys, food
 558 assistance, or other items or benefits authorizations to
 559 recipients. All public assistance recipients, as a condition
 560 precedent to qualification for public assistance under chapter
 561 409, chapter 411, or this chapter, must first give in writing,
 562 to the Agency for Health Care Administration, the Department of
 563 Health, the Department of Education Economic Opportunity, and
 564 the Department of Children and Families, as appropriate, and to
 565 the Department of Financial Services, consent to make inquiry of
 566 past or present employers and records, financial or otherwise.
 567 (3) The results of such investigation shall be reported by
 568 the Department of Financial Services to the appropriate
 569 legislative committees, the Agency for Health Care
 570 Administration, the Department of Health, the Department of
 571 Education Economic Opportunity, and the Department of Children
 572 and Families, and to such others as the department may
 573 determine.
 574 Section 10. Subsection (3) is added to section 497.168,
 575 Florida Statutes, to read:
 576 497.168 Members of Armed Forces in good standing with
 577 administrative boards.—
 578 (3) A member of the United States Armed Forces or a veteran
 579 of the United States Armed Forces who was honorably discharged
 580 within the 24-month period before the date of an initial

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581 application for licensure is exempt from the initial application
 582 filing fees under ss. 497.281(1), 497.368(1)(a), 497.369(1)(a),
 583 497.369(5), 497.370(1), 497.371, 497.373(1)(a), 497.373(3),
 584 497.374(1)(a), 497.374(5), and 497.375(1)(a).

585 Section 11. Subsection (1) of section 624.317, Florida
 586 Statutes, is amended to read:

587 624.317 Investigation of agents, adjusters, administrators,
 588 service companies, and others.—If it has reason to believe that
 589 any person has violated or is violating any provision of this
 590 code, or upon the written complaint signed by any interested
 591 person indicating that any such violation may exist:

592 (1) The department shall conduct such investigation as it
 593 deems necessary of the accounts, records, documents, and
 594 transactions pertaining to or affecting the insurance affairs of
 595 any ~~general agent, surplus lines agent, adjuster, managing~~
 596 ~~general agent, insurance agent,~~ insurance agency, customer
 597 representative, service representative, or other person subject
 598 to its jurisdiction, subject to the requirements of s. 626.601.

599 Section 12. Subsection (2) of section 624.34, Florida
 600 Statutes, is amended to read:

601 624.34 Authority of Department of Law Enforcement to accept
 602 fingerprints of, and exchange criminal history records with
 603 respect to, certain persons.—

604 (2) The Department of Law Enforcement may accept
 605 fingerprints of individuals who apply for a license as an agent,
 606 customer representative, adjuster, service representative, or
 607 ~~navigator, or managing general agent~~ or the fingerprints of the
 608 majority owner, sole proprietor, partners, officers, and
 609 directors of a corporation or other legal entity that applies

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610 for licensure with the department or office under the Florida
 611 Insurance Code.

612 Section 13. Section 624.4073, Florida Statutes, is amended
 613 to read:

614 624.4073 Officers and directors of insolvent insurers.—Any
 615 person who was an officer or director of an insurer doing
 616 business in this state and who served in that capacity within
 617 the 2-year period ~~before~~ prior to the date the insurer became
 618 insolvent, for any insolvency that occurs on or after July 1,
 619 2002, may not thereafter serve as an officer or director of an
 620 insurer authorized in this state or have direct or indirect
 621 control over the selection or appointment of an officer or
 622 director through contract, trust, or by operation of law, unless
 623 the officer or director demonstrates that his or her personal
 624 actions or omissions were not a significant contributing cause
 625 to the insolvency.

626 Section 14. Subsection (1) of section 624.4094, Florida
 627 Statutes, is amended to read:

628 624.4094 Bail bond premiums.—

629 (1) The Legislature finds that a significant portion of
 630 bail bond premiums is retained by the licensed bail bond agents
 631 or appointed licensed ~~licensed~~ managing general agents. For purposes of
 632 reporting in financial statements required to be filed with the
 633 office pursuant to s. 624.424, direct written premiums for bail
 634 bonds by a domestic insurer in this state shall be reported net
 635 of any amounts retained by licensed bail bond agents or
 636 appointed licensed ~~licensed~~ managing general agents. However, in no case
 637 shall the direct written premiums for bail bonds be less than
 638 6.5 percent of the total consideration received by the agent for

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639 all bail bonds written by the agent. This subsection also
 640 applies to any determination of compliance with s. 624.4095.
 641 Section 15. Paragraph (e) of subsection (19) of section
 642 624.501, Florida Statutes, is amended to read:
 643 624.501 Filing, license, appointment, and miscellaneous
 644 fees.—The department, commission, or office, as appropriate,
 645 shall collect in advance, and persons so served shall pay to it
 646 in advance, fees, licenses, and miscellaneous charges as
 647 follows:
 648 (19) Miscellaneous services:
 649 (e) Insurer’s registration fee for agent exchanging
 650 business more than four ~~24~~ times in a calendar year under s.
 651 626.752, s. 626.793, or s. 626.837, registration fee per agent
 652 per year.....\$30.00
 653 Section 16. Subsection (1) of section 624.509, Florida
 654 Statutes, is amended to read:
 655 624.509 Premium tax; rate and computation.—
 656 (1) In addition to the license taxes provided for in this
 657 chapter, each insurer shall also annually, and on or before
 658 March 1 in each year, except as to wet marine and transportation
 659 insurance taxed under s. 624.510, pay to the Department of
 660 Revenue a tax on insurance premiums, premiums for title
 661 insurance, or assessments, including membership fees and policy
 662 fees and gross deposits received from subscribers to reciprocal
 663 or interinsurance agreements, and on annuity premiums or
 664 considerations, received during the preceding calendar year, the
 665 amounts thereof to be determined as set forth in this section,
 666 to wit:
 667 (a) An amount equal to 1.75 percent of the gross amount of

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668 such receipts on account of life and health insurance policies
 669 covering persons resident in this state and on account of all
 670 other types of policies and contracts, except annuity policies
 671 or contracts taxable under paragraph (b) and bail bond policies
 672 or contracts taxable under paragraph (c), covering property,
 673 subjects, or risks located, resident, or to be performed in this
 674 state, omitting premiums on reinsurance accepted, and less
 675 return premiums or assessments, but without deductions:
 676 1. For reinsurance ceded to other insurers;
 677 2. For moneys paid upon surrender of policies or
 678 certificates for cash surrender value;
 679 3. For discounts or refunds for direct or prompt payment of
 680 premiums or assessments; and
 681 4. On account of dividends of any nature or amount paid and
 682 credited or allowed to holders of insurance policies;
 683 certificates; or surety, indemnity, reciprocal, or
 684 interinsurance contracts or agreements;
 685 (b) An amount equal to 1 percent of the gross receipts on
 686 annuity policies or contracts paid by holders thereof in this
 687 state; and
 688 (c) An amount equal to 1.75 percent of the direct written
 689 premiums for bail bonds, excluding any amounts retained by
 690 licensed bail bond agents or appointed ~~licensed~~ managing general
 691 agents.
 692 Section 17. Section 625.071, Florida Statutes, is amended
 693 to read:
 694 625.071 Special reserve for bail and judicial bonds.—In
 695 lieu of the unearned premium reserve required on surety bonds
 696 under s. 625.051, the office may require any surety insurer or

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697 limited surety insurer to set up and maintain a reserve on all
 698 bail bonds or other single-premium bonds without definite
 699 expiration date, furnished in judicial proceedings, equal to the
 700 lesser of 35 percent of the bail premiums in force or \$7 per
 701 \$1,000 of bail liability. Such reserve shall be reported as a
 702 liability in financial statements required to be filed with the
 703 office. Each insurer shall file a supplementary schedule showing
 704 bail premiums in force and bail liability and the associated
 705 special reserve for bail and judicial bonds with financial
 706 statements required by s. 624.424. Bail premiums in force do not
 707 include amounts retained by licensed bail bond agents or
 708 appointed licensed managing general agents, but may not be less
 709 than 6.5 percent of the total consideration received for all
 710 bail bonds in force.

711 Section 18. Subsection (5) of section 626.112, Florida
 712 Statutes, is amended to read:

713 626.112 License and appointment required; agents, customer
 714 representatives, adjusters, insurance agencies, service
 715 representatives, managing general agents.-

716 (5) A ~~No~~ person may not shall be, act as, or represent or
 717 hold himself or herself out to be a managing general agent
 718 unless he or she then holds a currently effective producer
 719 license and a managing general agent ~~license and~~ appointment.

720 Section 19. Section 626.171, Florida Statutes, is amended
 721 to read:

722 626.171 Application for license as an agent, customer
 723 representative, adjuster, service representative, ~~managing~~
 724 ~~general agent~~, or reinsurance intermediary.-

725 (1) The department may not issue a license as agent,

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726 customer representative, adjuster, service representative,
 727 ~~managing general agent~~, or reinsurance intermediary to any
 728 person except upon written application filed with the
 729 department, meeting the qualifications for the license applied
 730 for as determined by the department, and payment in advance of
 731 all applicable fees. The application must be made under the oath
 732 of the applicant and be signed by the applicant. An applicant
 733 may permit a third party to complete, submit, and sign an
 734 application on the applicant's behalf, but is responsible for
 735 ensuring that the information on the application is true and
 736 correct and is accountable for any misstatements or
 737 misrepresentations. The department shall accept the uniform
 738 application for nonresident agent licensing. The department may
 739 adopt revised versions of the uniform application by rule.

740 (2) In the application, the applicant shall set forth:

741 (a) His or her full name, age, social security number,
 742 residence address, business address, mailing address, contact
 743 telephone numbers, including a business telephone number, and e-
 744 mail address.

745 (b) A statement indicating the method the applicant used or
 746 is using to meet any required prelicensing education, knowledge,
 747 experience, or instructional requirements for the type of
 748 license applied for.

749 (c) Whether he or she has been refused or has voluntarily
 750 surrendered or has had suspended or revoked a license to solicit
 751 insurance by the department or by the supervising officials of
 752 any state.

753 (d) Whether any insurer or any managing general agent
 754 claims the applicant is indebted under any agency contract or

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755 otherwise and, if so, the name of the claimant, the nature of
756 the claim, and the applicant's defense thereto, if any.

757 (e) Proof that the applicant meets the requirements for the
758 type of license for which he or she is applying.

759 (f) The applicant's gender (male or female).

760 (g) The applicant's native language.

761 (h) The highest level of education achieved by the
762 applicant.

763 (i) The applicant's race or ethnicity (African American,
764 white, American Indian, Asian, Hispanic, or other).

765 (j) Such other or additional information as the department
766 may deem proper to enable it to determine the character,
767 experience, ability, and other qualifications of the applicant
768 to hold himself or herself out to the public as an insurance
769 representative.

770 However, the application must contain a statement that an
771 applicant is not required to disclose his or her race or
772 ethnicity, gender, or native language, that he or she will not
773 be penalized for not doing so, and that the department will use
774 this information exclusively for research and statistical
775 purposes and to improve the quality and fairness of the
776 examinations.

777 (3) Each application must ~~shall~~ be accompanied by payment
778 of any applicable fee.

779 (4) An applicant for a license as an agent, customer
780 representative, adjuster, service representative, ~~managing~~
781 ~~general agent~~, or reinsurance intermediary must submit a set of
782 the individual applicant's fingerprints, or, if the applicant is
783

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784 not an individual, a set of the fingerprints of the sole
785 proprietor, majority owner, partners, officers, and directors,
786 to the department and must pay the fingerprint processing fee
787 set forth in s. 624.501. Fingerprints must ~~shall~~ be used to
788 investigate the applicant's qualifications pursuant to s.
789 626.201. The fingerprints must ~~shall~~ be taken by a law
790 enforcement agency, designated examination center, or other
791 department-approved entity. The department shall require all
792 designated examination centers to have fingerprinting equipment
793 and to take fingerprints from any applicant or prospective
794 applicant who pays the applicable fee. The department may not
795 approve an application for licensure as an agent, customer
796 service representative, adjuster, service representative,
797 ~~managing general agent~~, or reinsurance intermediary if
798 fingerprints have not been submitted.

799 (5) The application for license filing fee prescribed in s.
800 624.501 is not subject to refund.

801 (6) Members of the United States Armed Forces and their
802 spouses, and veterans of the United States Armed Forces who have
803 retired within 24 months before application for licensure, are
804 exempt from the application filing fee prescribed in s. 624.501.
805 Qualified individuals must provide a copy of a military
806 identification card, military dependent identification card,
807 military service record, military personnel file, veteran
808 record, discharge paper, ~~or separation document~~, or a separation
809 document that indicates such members of the United States Armed
810 Forces are currently in good standing or were honorably
811 discharged.

812 (7) Pursuant to the federal Personal Responsibility and

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813 Work Opportunity Reconciliation Act of 1996, each party is
814 required to provide his or her social security number in
815 accordance with this section. Disclosure of social security
816 numbers obtained through this requirement ~~must shall~~ be limited
817 to the purpose of administration of the Title IV-D program for
818 child support enforcement.

819 Section 20. Section 626.202, Florida Statutes, is amended
820 to read:

821 626.202 Fingerprinting requirements.—

822 (1) The requirements for completion and submission of
823 fingerprints under this chapter are deemed to be met when an
824 individual currently licensed under this chapter seeks
825 additional licensure and has previously submitted fingerprints
826 to the department within the past 48 months. However, the
827 department may require the individual to file fingerprints if it
828 has reason to believe that an applicant or licensee has been
829 found guilty of, or pleaded guilty or nolo contendere to, a
830 felony or a crime related to the business of insurance in this
831 state or any other state or jurisdiction.

832 (2) The requirements for completion and submission of
833 fingerprints under this chapter are waived for members of the
834 United States Armed Forces and veterans of the United States
835 Armed Forces who were honorably discharged within the 24-month
836 period before the date of an application for licensure. A
837 qualified individual shall provide a copy of a military
838 identification card, military service record, military personnel
839 file, veteran record, Form DD-214, NGB Form 22, or separation
840 document that indicates such member or veteran of the United
841 States Armed Forces is currently in good standing or was

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842 honorably discharged.

843 (3) If there is a change in ownership or control of any
844 entity licensed under this chapter, or if a new partner,
845 officer, or director is employed or appointed, a set of
846 fingerprints of the new owner, partner, officer, or director
847 must be filed with the department or office within 30 days after
848 the change. The acquisition of 10 percent or more of the voting
849 securities of a licensed entity is considered a change of
850 ownership or control. The fingerprints must be taken by a law
851 enforcement agency or other department-approved entity and be
852 accompanied by the fingerprint processing fee in s. 624.501.

853 Section 21. Subsection (9) of section 626.207, Florida
854 Statutes, is amended to read:

855 626.207 Disqualification of applicants and licensees;
856 penalties against licensees; rulemaking authority.—

857 (9) Section 112.011 does not apply to any applicants for
858 licensure under the Florida Insurance Code, including, but not
859 limited to, agents, agencies, adjusters, adjusting firms, or
860 customer representatives, ~~or managing general agents.~~

861 Section 22. Paragraph (j) of subsection (2) of section
862 626.221, Florida Statutes, is amended to read:

863 626.221 Examination requirement; exemptions.—

864 (2) However, an examination is not necessary for any of the
865 following:

866 (j) An applicant for license as an all-lines adjuster who
867 has the designation of Accredited Claims Adjuster (ACA) from a
868 regionally accredited postsecondary institution in this state,
869 Associate in Claims (AIC) from the Insurance Institute of
870 America, Professional Claims Adjuster (PCA) from the

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871 Professional Career Institute, Professional Property Insurance
 872 Adjuster (PPIA) from the HurriClaim Training Academy, Certified
 873 Adjuster (CA) from ALL LINES Training, Certified Claims Adjuster
 874 (CCA) from AE21 Incorporated, Claims Adjuster Certified
 875 Professional (CACP) from WebCE, Inc., or Universal Claims
 876 Certification (UCC) from Claims and Litigation Management
 877 Alliance (CLM) whose curriculum has been approved by the
 878 department and which includes comprehensive analysis of basic
 879 property and casualty lines of insurance and testing at least
 880 equal to that of standard department testing for the all-lines
 881 adjuster license. The department shall adopt rules establishing
 882 standards for the approval of curriculum.

883 Section 23. Present subsections (6) and (7) of section
 884 626.451, Florida Statutes, are redesignated as subsections (5)
 885 and (6), respectively, and subsections (1) and (5) and present
 886 subsection (6) of that section are amended, to read:

887 626.451 Appointment of agent or other representative.—

888 (1) Each appointing entity or person designated by the
 889 department to administer the appointment process appointing an
 890 agent, adjuster, service representative, customer
 891 representative, or managing general agent in this state shall
 892 file the appointment with the department or office and, at the
 893 same time, pay the applicable appointment fee and taxes. Every
 894 appointment ~~is shall be~~ subject to the prior issuance of the
 895 appropriate agent's, adjuster's, service representative's, or
 896 customer representative's, ~~or managing general agent's~~ license.

897 ~~(5) Any law enforcement agency or state attorney's office~~
 898 ~~that is aware that an agent, adjuster, service representative,~~
 899 ~~customer representative, or managing general agent has pleaded~~

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900 ~~guilty or nolo contendere to or has been found guilty of a~~
 901 ~~felony shall notify the department or office of such fact.~~

902 (5)(6) Upon the filing of an information or indictment
 903 against an agent, adjuster, service representative, or customer
 904 representative, ~~or managing general agent,~~ the state attorney
 905 shall immediately furnish the department or office a certified
 906 copy of the information or indictment.

907 Section 24. Section 626.521, Florida Statutes, is amended
 908 to read:

909 626.521 ~~Character, Credit and character~~ reports.—

910 (1) Before appointing ~~As to each applicant who~~ for the
 911 first time in this state an is applying and qualifying for a
 912 ~~license as~~ agent, adjuster, service representative, customer
 913 representative, or managing general agent, the appointing
 914 insurer or employer shall its manager or general agent in this
 915 ~~state, in the case of agents, or the appointing general lines~~
 916 ~~agent, in the case of customer representatives, or the employer,~~
 917 ~~in the case of service representatives and of adjusters who are~~
 918 ~~not to be self-employed, shall coincidentally with such~~
 919 ~~appointment or employment~~ secure and thereafter keep on file a
 920 full detailed credit and character report ~~made by an established~~
 921 ~~and reputable independent reporting service,~~ relative to the
 922 individual so appointed ~~or employed~~. This subsection does not
 923 apply to licensees who self-appoint pursuant to s. 624.501.

924 (2) If requested by the department, the insurer, ~~manager,~~
 925 ~~general agent, general lines agent,~~ or employer, as the case may
 926 be, must ~~shall~~ furnish to the department, ~~on a form adopted and~~
 927 ~~furnished by the department,~~ such information as it reasonably
 928 requires relative to such individual and investigation.

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929 ~~(3) As to an applicant for an adjuster's or reinsurance~~
 930 ~~intermediary's license who is to be self-employed, the~~
 931 ~~department may secure, at the cost of the applicant, a full~~
 932 ~~detailed credit and character report made by an established and~~
 933 ~~reputable independent reporting service relative to the~~
 934 ~~applicant.~~

935 ~~(4) Each person who for the first time in this state is~~
 936 ~~applying and qualifying for a license as a reinsurance~~
 937 ~~intermediary shall file with her or his application for license~~
 938 ~~a full, detailed credit and character report for the 5-year~~
 939 ~~period immediately prior to the date of application for license,~~
 940 ~~made by an established and reputable independent reporting~~
 941 ~~service, relative to the individual if a partnership or sole~~
 942 ~~proprietorship, or the officers if a corporation or other legal~~
 943 ~~entity.~~

944 (3)(5) Information contained in credit or character reports
 945 furnished to or secured by the department under this section is
 946 confidential and exempt from the provisions of s. 119.07(1).

947 Section 25. Paragraph (f) of subsection (1) of section
 948 626.731, Florida Statutes, is amended to read:

949 626.731 Qualifications for general lines agent's license.—

950 (1) The department shall not grant or issue a license as
 951 general lines agent to any individual found by it to be
 952 untrustworthy or incompetent or who does not meet each of the
 953 following qualifications:

954 ~~(f) The applicant is not a service representative, a~~
 955 ~~managing general agent in this state, or a special agent or~~
 956 ~~similar service representative of a health insurer which also~~
 957 ~~transacts property, casualty, or surety insurance; except that~~

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958 ~~the president, vice president, secretary, or treasurer,~~
 959 ~~including a member of the board of directors, of a corporate~~
 960 ~~insurer, if otherwise qualified under and meeting the~~
 961 ~~requirements of this part, may be licensed and appointed as a~~
 962 ~~local resident agent.~~

963 Section 26. Subsection (6) of section 626.7351, Florida
 964 Statutes, is amended to read:

965 626.7351 Qualifications for customer representative's
 966 license.—The department shall not grant or issue a license as
 967 customer representative to any individual found by it to be
 968 untrustworthy or incompetent, or who does not meet each of the
 969 following qualifications:

970 (6) Upon the issuance of the license applied for, the
 971 applicant is not an agent ~~or~~ a service representative, ~~or a~~
 972 ~~managing general agent.~~

973 Section 27. Section 626.744, Florida Statutes, is amended
 974 to read:

975 626.744 Service representatives, ~~managing general agents;~~
 976 application for license.—The application for a license as
 977 service representative must ~~or the application for a license as~~
 978 ~~managing general agent shall~~ show the applicant's name,
 979 residence address, name of employer, position or title, type of
 980 work to be performed by the applicant in this state, and any
 981 additional information which the department may reasonably
 982 require.

983 Section 28. Section 626.745, Florida Statutes, is amended
 984 to read:

985 626.745 Service representatives, managing general agents;
 986 managers; activities.—Individuals employed by insurers or their

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987 managers, general agents, or representatives as service
 988 representatives, and as managing general agents employed for the
 989 purpose of or engaged in assisting agents in negotiating and
 990 effecting contracts of insurance, shall engage in such
 991 activities ~~when, and~~ only when licensed as or, accompanied by a
 992 general lines an agent duly licensed and appointed ~~as a resident~~
 993 ~~licensee and appointee~~ under this code.

994 Section 29. Subsection (11) of section 626.7451, Florida
 995 Statutes, is amended to read:

996 626.7451 Managing general agents; required contract
 997 provisions.—No person acting in the capacity of a managing
 998 general agent shall place business with an insurer unless there
 999 is in force a written contract between the parties which sets
 1000 forth the responsibility for a particular function, specifies
 1001 the division of responsibilities, and contains the following
 1002 minimum provisions:

1003 (11) An appointed ~~A licensed~~ managing general agent, when
 1004 placing business with an insurer under this code, may charge a
 1005 per-policy fee not to exceed \$25. ~~In no instance shall~~ The
 1006 aggregate of per-policy fees for a placement of business
 1007 authorized under this section, when combined with any other per-
 1008 policy fee charged by the insurer, may not result in per-policy
 1009 fees ~~that which~~ exceed the aggregate amount of \$25. The per-
 1010 policy fee must shall be a component of the insurer's rate
 1011 filing and must shall be fully earned.

1012
 1013 For the purposes of this section and ss. 626.7453 and 626.7454,
 1014 the term "controlling person" or "controlling" has the meaning
 1015 set forth in s. 625.012(5)(b)1., and the term "controlled

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1016 person" or "controlled" has the meaning set forth in s.
 1017 625.012(5)(b)2.

1018 Section 30. Subsection (1) of section 626.7455, Florida
 1019 Statutes, is amended to read:

1020 626.7455 Managing general agent; responsibility of
 1021 insurer.—

1022 (1) An insurer may not ~~No insurer shall~~ enter into an
 1023 agreement with any person to manage the business written in this
 1024 state by the general lines agents appointed by the insurer or
 1025 appointed by the managing general agent on behalf of the insurer
 1026 unless the person is properly licensed as an agent and appointed
 1027 as a managing general agent in this state. An insurer is shall
 1028 ~~be~~ responsible for the acts of its managing general agent when
 1029 the agent acts within the scope of his or her authority.

1030 Section 31. Paragraph (e) of subsection (3) and subsection
 1031 (5) of section 626.752, Florida Statutes, are amended to read:
 1032 626.752 Exchange of business.—

1033 (3)

1034 (e) The brokering agent shall maintain an appropriate and
 1035 permanent Brokering Agent's Register, which must shall be a
 1036 permanent record of bound journal ~~in which~~ chronologically
 1037 numbered transactions that are entered no later than the day in
 1038 which the brokering agent's application bearing the same number
 1039 is signed by the applicant. The numbers must shall reflect an
 1040 annual aggregate through numerical sequence and be preceded by
 1041 the last two digits of the current year. The initial entry must
 1042 ~~shall~~ contain the number of the transaction, date, time, date of
 1043 binder, date on which coverage commences, name and address of
 1044 applicant, type of coverage desired, name of insurer binding the

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1045 risk or to whom the application is to be submitted, and the
 1046 amount of any premium collected therefor. By no later than the
 1047 date following policy delivery, the policy number and coverage
 1048 expiration date ~~must shall~~ be added to the register.

1049 (5) Within 15 days after the last day of each month, any
 1050 insurer accepting business under this section shall report to
 1051 the department the name, address, telephone number, and social
 1052 security number of each agent from which the insurer received
 1053 more than four 24 personal lines risks during the calendar year,
 1054 except for risks being removed from the Citizens Property
 1055 Insurance Corporation and placed with that insurer by a
 1056 brokering agent. Once the insurer has reported pursuant to this
 1057 subsection an agent's name to the department, additional reports
 1058 on the same agent shall not be required. However, the fee set
 1059 forth in s. 624.501 must shall be paid for the agent by the
 1060 insurer for each year until the insurer notifies the department
 1061 that the insurer is no longer accepting business from the agent
 1062 pursuant to this section. The insurer may require that the agent
 1063 reimburse the insurer for the fee.

1064 Section 32. Subsection (4) of section 626.793, Florida
 1065 Statutes, is amended to read:

1066 626.793 Excess or rejected business.—

1067 (4) Within 15 days after the last day of each month, any
 1068 insurer accepting business under this section shall report to
 1069 the department the name, address, telephone number, and social
 1070 security number of each agent from which the insurer received
 1071 more than four 24 risks during the calendar year. Once the
 1072 insurer has reported an agent's name to the department pursuant
 1073 to this subsection, additional reports on the same agent shall

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1074 not be required. However, the fee set forth in s. 624.501 must
 1075 ~~shall~~ be paid for the agent by the insurer for each year until
 1076 the insurer notifies the department that the insurer is no
 1077 longer accepting business from the agent pursuant to this
 1078 section. The insurer may require that the agent reimburse the
 1079 insurer for the fee.

1080 Section 33. Subsection (5) of section 626.837, Florida
 1081 Statutes, is amended to read:

1082 626.837 Excess or rejected business.—

1083 (5) Within 15 days after the last day of each month, any
 1084 insurer accepting business under this section shall report to
 1085 the department the name, address, telephone number, and social
 1086 security number of each agent from which the insurer received
 1087 more than four 24 risks during the calendar year. Once the
 1088 insurer has reported pursuant to this subsection an agent's name
 1089 to the department, additional reports on the same agent shall
 1090 not be required. However, the fee set forth in s. 624.501 must
 1091 ~~shall~~ be paid for the agent by the insurer for each year until
 1092 the insurer notifies the department that the insurer is no
 1093 longer accepting business from the agent pursuant to this
 1094 section. The insurer may require that the agent reimburse the
 1095 insurer for the fee.

1096 Section 34. Subsection (5) of section 626.8732, Florida
 1097 Statutes, is amended to read:

1098 626.8732 Nonresident public adjuster's qualifications,
 1099 bond.—

1100 ~~(5) After licensure as a nonresident public adjuster, as a~~
 1101 ~~condition of doing business in this state, the licensee must~~
 1102 ~~annually on or before January 1, on a form prescribed by the~~

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1103 ~~department, submit an affidavit certifying that the licensee is~~
 1104 ~~familiar with and understands the insurance code and rules~~
 1105 ~~adopted thereunder and the provisions of the contracts~~
 1106 ~~negotiated or to be negotiated. Compliance with this filing~~
 1107 ~~requirement is a condition precedent to the issuance,~~
 1108 ~~continuation, reinstatement, or renewal of a nonresident public~~
 1109 ~~adjuster's appointment.~~

1110 Section 35. Subsection (4) of section 626.8734, Florida
 1111 Statutes, is amended to read:

1112 626.8734 Nonresident all-lines adjuster license
 1113 qualifications.-

1114 ~~(4) As a condition of doing business in this state as a~~
 1115 ~~nonresident independent adjuster, the appointee must submit an~~
 1116 ~~affidavit to the department certifying that the licensee is~~
 1117 ~~familiar with and understands the insurance laws and~~
 1118 ~~administrative rules of this state and the provisions of the~~
 1119 ~~contracts negotiated or to be negotiated. Compliance with this~~
 1120 ~~filing requirement is a condition precedent to the issuance,~~
 1121 ~~continuation, reinstatement, or renewal of a nonresident~~
 1122 ~~independent adjuster's appointment.~~

1123 Section 36. Paragraph (h) of subsection (1) of section
 1124 626.88, Florida Statutes, is amended to read:

1125 626.88 Definitions.—For the purposes of this part, the
 1126 term:

1127 (1) "Administrator" is any person who directly or
 1128 indirectly solicits or effects coverage of, collects charges or
 1129 premiums from, or adjusts or settles claims on residents of this
 1130 state in connection with authorized commercial self-insurance
 1131 funds or with insured or self-insured programs which provide

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1132 life or health insurance coverage or coverage of any other
 1133 expenses described in s. 624.33(1) or any person who, through a
 1134 health care risk contract as defined in s. 641.234 with an
 1135 insurer or health maintenance organization, provides billing and
 1136 collection services to health insurers and health maintenance
 1137 organizations on behalf of health care providers, other than any
 1138 of the following persons:

1139 (h) A person appointed ~~licensed~~ as a managing general agent
 1140 in this state, whose activities are limited exclusively to the
 1141 scope of activities conveyed under such appointment ~~license~~.

1142
 1143 A person who provides billing and collection services to health
 1144 insurers and health maintenance organizations on behalf of
 1145 health care providers shall comply with the provisions of ss.
 1146 627.6131, 641.3155, and 641.51(4).

1147 Section 37. Subsection (2) of section 626.927, Florida
 1148 Statutes, is amended to read:

1149 626.927 Licensing of surplus lines agent.—

1150 (2) Any individual, while licensed as ~~and appointed as a~~
 1151 ~~managing general agent as defined in s. 626.015, or service~~
 1152 ~~representative as defined in s. 626.015, and who otherwise~~
 1153 ~~possesses all of the other qualifications of a general lines~~
 1154 ~~agent under this code, and who has a minimum of 1 year of year's~~
 1155 ~~experience working for a licensed surplus lines agent or who has~~
 1156 ~~successfully completed 60 class hours in surplus and excess~~
 1157 ~~lines in a course approved by the department, may, upon taking~~
 1158 ~~and successfully passing a written examination as to surplus~~
 1159 ~~lines, as given by the department, be licensed as a surplus~~
 1160 ~~lines agent solely for the purpose of placing with surplus lines~~

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1161 insurers property, marine, casualty, or surety coverages
 1162 originated by general lines agents; ~~except that no examination~~
 1163 ~~as for a general lines agent's license shall be required of any~~
 1164 ~~managing general agent or service representative who held a~~
 1165 ~~Florida surplus lines agent's license as of January 1, 1959.~~

1166 Section 38. Subsection (3) of section 626.930, Florida
 1167 Statutes, is amended to read:

1168 626.930 Records of surplus lines agent.—

1169 (3) Each surplus lines agent shall maintain all surplus
 1170 lines business records in his or her general lines agency
 1171 office, ~~if licensed as a general lines agent, or in his or her~~
 1172 ~~managing general agency office, if licensed as a managing~~
 1173 ~~general agent or the full time salaried employee of such general~~
 1174 ~~agent.~~

1175 Section 39. Subsection (2) of section 626.9892, Florida
 1176 Statutes, is amended to read:

1177 626.9892 Anti-Fraud Reward Program; reporting of insurance
 1178 fraud.—

1179 (2) The department may pay rewards of up to \$25,000 to
 1180 persons providing information leading to the arrest and
 1181 conviction of persons committing crimes investigated by the
 1182 department arising from violations of s. 440.105, s. 624.15, s.
 1183 626.9541, s. 626.989, s. 790.164, s. 790.165, s. 790.166, s.
 1184 806.01, s. 806.031, s. 806.10, s. 806.111, s. 817.233, or s.
 1185 817.234.

1186 Section 40. Subsection (3) of section 633.302, Florida
 1187 Statutes, is amended to read:

1188 633.302 Florida Fire Safety Board; membership; duties;
 1189 meetings; officers; quorum; compensation; seal.—

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1190 (3) The State Fire Marshal's term on the board, or that of
 1191 her or his designee, must ~~shall~~ coincide with the State Fire
 1192 Marshal's term of office. ~~Of the other six members of the board,~~
 1193 ~~one member shall be appointed for a term of 1 year, one member~~
 1194 ~~for a term of 2 years, two members for terms of 3 years, and two~~
 1195 ~~members for terms of 4 years. All other terms are 4 years and~~
 1196 ~~expire on June 30 of the last year of the term. When the term of~~
 1197 ~~a member expires, the State Fire Marshal shall appoint a member~~
 1198 ~~to fill the vacancy for a term of 4 years. The State Fire~~
 1199 ~~Marshal may remove any appointed member for cause. A vacancy in~~
 1200 ~~the membership of the board for any cause must ~~shall~~ be filled~~
 1201 ~~by appointment by the State Fire Marshal for the balance of the~~
 1202 ~~unexpired term.~~

1203 Section 41. Subsection (2), paragraph (a) of subsection
 1204 (3), and paragraphs (b), (c), and (d) of subsection (4) of
 1205 section 633.304, Florida Statutes, are amended to read:

1206 633.304 Fire suppression equipment; license to install or
 1207 maintain.—

1208 (2) A person who holds a valid fire equipment dealer
 1209 license may maintain such license in an inactive status during
 1210 which time he or she may not engage in any work under the
 1211 definition of the license held. An inactive status license is
 1212 ~~shall be void after 4 years or when the license is renewed,~~
 1213 ~~whichever comes first. However, an inactive status license must~~
 1214 ~~be reactivated before December 31 of each odd-numbered year. An~~
 1215 ~~inactive status license may not be reactivated unless the~~
 1216 ~~continuing education requirements of this chapter have been~~
 1217 ~~fulfilled.~~

1218 (3) Each individual actually performing the work of

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1219 servicing, recharging, repairing, hydrotesting, installing,
 1220 testing, or inspecting fire extinguishers or preengineered
 1221 systems must possess a valid and subsisting permit issued by the
 1222 division. Permittees are limited as to specific type of work
 1223 performed to allow work no more extensive than the class of
 1224 license held by the licensee under whom the permittee is
 1225 working. Permits will be issued by the division as follows:

1226 (a) Portable permit: "Portable permittee" means a person
 1227 who is limited to performing work no more extensive than the
 1228 employing or contractually related licensee in the servicing,
 1229 recharging, repairing, installing, or inspecting all types of
 1230 portable fire extinguishers.

1231 Any fire equipment permittee licensed pursuant to this
 1232 subsection who does not want to engage in servicing, inspecting,
 1233 recharging, repairing, hydrotesting, or installing halon
 1234 equipment must file an affidavit on a form provided by the
 1235 division so stating. Permits will be issued by the division to
 1236 show the work authorized thereunder. It is unlawful, unlicensed
 1237 activity for a person or firm to falsely hold himself or herself
 1238 out to perform any service, inspection, recharge, repair,
 1239 hydrotest, or installation except as specifically described in
 1240 the permit.

1241 (4)

1242 (b) After initial licensure, each licensee or permittee
 1243 must successfully complete a course or courses of continuing
 1244 education for fire equipment technicians of at least 16 hours. A
 1245 license or permit may not be renewed unless the licensee or
 1246 permittee produces documentation of the completion of at least
 1247

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1248 16 hours of continuing education for fire equipment technicians
 1249 during the biennial licensure period. A person who is both a
 1250 licensee and a permittee shall ~~be required to~~ complete 16 hours
 1251 of continuing education during each renewal period. Each
 1252 licensee shall ensure that all permittees in his or her
 1253 employment or through a contractual agreement meet their
 1254 continuing education requirements. The State Fire Marshal shall
 1255 adopt rules describing the continuing education requirements and
 1256 shall have the authority upon reasonable belief, to audit a fire
 1257 equipment dealer to determine compliance with continuing
 1258 education requirements.

1259 (c) The forms of such licenses and permits and applications
 1260 therefor ~~must shall~~ be prescribed by the State Fire Marshal; in
 1261 addition to such other information and data as that officer
 1262 determines is appropriate and required for such forms, there
 1263 ~~must shall~~ be included in such forms the following matters. Each
 1264 such application must be in such form as to provide that the
 1265 data and other information set forth therein shall be sworn to
 1266 by the applicant or, if a corporation, by an officer thereof. An
 1267 application for a permit must include the name of the licensee
 1268 employing, or contractually related to, such permittee, and the
 1269 permit issued in pursuance of such application must also set
 1270 forth the name of such licensee. A permit is valid solely for
 1271 use by the holder thereof in his or her employment by, or
 1272 contractual relationship with, the licensee named in the permit.

1273 (d) A license of any class may not be issued or renewed by
 1274 the division and a license of any class does not remain
 1275 operative unless:

1276 1. The applicant has submitted to the State Fire Marshal

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1277 evidence of registration as a Florida corporation or evidence of
1278 compliance with s. 865.09.

1279 2. The State Fire Marshal or his or her designee has by
1280 inspection determined that the applicant possesses the equipment
1281 required for the class of license sought. The State Fire Marshal
1282 shall give an applicant a reasonable opportunity to correct any
1283 deficiencies discovered by inspection. To obtain such
1284 inspection, an applicant with facilities located outside this
1285 state must:

1286 a. Provide a notarized statement from a professional
1287 engineer licensed by the applicant's state of domicile
1288 certifying that the applicant possesses the equipment required
1289 for the class of license sought and that all such equipment is
1290 operable; or

1291 b. Allow the State Fire Marshal or her or his designee to
1292 inspect the facility. All costs associated with the State Fire
1293 Marshal's inspection must ~~shall~~ be paid by the applicant. The
1294 State Fire Marshal, in accordance with s. 120.54, may adopt
1295 rules to establish standards for the calculation and
1296 establishment of the amount of costs associated with any
1297 inspection conducted by the State Fire Marshal under this
1298 section. Such rules must ~~shall~~ include procedures for invoicing
1299 and receiving funds in advance of the inspection.

1300 3. The applicant has submitted to the State Fire Marshal
1301 proof of insurance providing coverage for comprehensive general
1302 liability for bodily injury and property damage, products
1303 liability, completed operations, and contractual liability. The
1304 State Fire Marshal shall adopt rules providing for the amounts
1305 of such coverage, but such amounts may not be less than \$300,000

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1306 for Class A or Class D licenses, \$200,000 for Class B licenses,
1307 and \$100,000 for Class C licenses; and the total coverage for
1308 any class of license held in conjunction with a Class D license
1309 may not be less than \$300,000. The State Fire Marshal may, at
1310 any time after the issuance of a license or its renewal, require
1311 upon demand, and in no event more than 30 days after notice of
1312 such demand, the licensee to provide proof of insurance, on the
1313 insurer's a form ~~provided by the State Fire Marshal~~, containing
1314 confirmation of insurance coverage as required by this chapter.
1315 Failure, for any length of time, to provide proof of insurance
1316 coverage as required must ~~shall~~ result in the immediate
1317 suspension of the license until proof of proper insurance is
1318 provided to the State Fire Marshal. An insurer that ~~which~~
1319 provides such coverage shall notify the State Fire Marshal of
1320 any change in coverage or of any termination, cancellation, or
1321 nonrenewal of any coverage.

1322 4. The applicant applies to the State Fire Marshal,
1323 provides proof of experience, and successfully completes a
1324 prescribed training course offered by the State Fire College or
1325 an equivalent course approved by the State Fire Marshal. This
1326 subparagraph does not apply to any holder of or applicant for a
1327 permit under paragraph (g) or to a business organization or a
1328 governmental entity seeking initial licensure or renewal of an
1329 existing license solely for the purpose of inspecting,
1330 servicing, repairing, marking, recharging, and maintaining fire
1331 extinguishers used and located on the premises of and owned by
1332 such organization or entity.

1333 5. The applicant has a current retestor identification
1334 number that is appropriate for the license for which the

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1335 applicant is applying and that is listed with the United States
1336 Department of Transportation.

1337 6. The applicant has passed, with a grade of at least 70
1338 percent, a written examination testing his or her knowledge of
1339 the rules and statutes governing the activities authorized by
1340 the license and demonstrating his or her knowledge and ability
1341 to perform those tasks in a competent, lawful, and safe manner.
1342 Such examination must ~~shall~~ be developed and administered by the
1343 State Fire Marshal, or his or her designee in accordance with
1344 policies and procedures of the State Fire Marshal. An applicant
1345 shall pay a nonrefundable examination fee of \$50 for each
1346 examination or reexamination scheduled. A reexamination may not
1347 be scheduled sooner than 30 days after any administration of an
1348 examination to an applicant. An applicant may not be permitted
1349 to take an examination for any level of license more than a
1350 total of four times during 1 year, regardless of the number of
1351 applications submitted. As a prerequisite to licensure of the
1352 applicant, he or she:

1353 a. Must be at least 18 years of age.

1354 b. Must have 4 years of proven experience as a fire
1355 equipment permittee at a level equal to or greater than the
1356 level of license applied for or have a combination of education
1357 and experience determined to be equivalent thereto by the State
1358 Fire Marshal. Having held a permit at the appropriate level for
1359 the required period constitutes the required experience.

1360 c. Must not have been convicted of a felony or a crime
1361 punishable by imprisonment of 1 year or more under the law of
1362 the United States or of any state thereof or under the law of
1363 any other country. "Convicted" means a finding of guilt or the

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1364 acceptance of a plea of guilty or nolo contendere in any federal
1365 or state court or a court in any other country, without regard
1366 to whether a judgment of conviction has been entered by the
1367 court having jurisdiction of the case. If an applicant has been
1368 convicted of any such felony, the applicant is ~~shall be~~ excluded
1369 from licensure for a period of 4 years after expiration of
1370 sentence or final release by the Florida Commission on Offender
1371 Review unless the applicant, before the expiration of the 4-year
1372 period, has received a full pardon or has had her or his civil
1373 rights restored.

1374
1375 This subparagraph does not apply to any holder of or applicant
1376 for a permit under paragraph (g) or to a business organization
1377 or a governmental entity seeking initial licensure or renewal of
1378 an existing license solely for the purpose of inspecting,
1379 servicing, repairing, marking, recharging, hydrotesting, and
1380 maintaining fire extinguishers used and located on the premises
1381 of and owned by such organization or entity.

1382 Section 42. Subsection (2) of section 633.314, Florida
1383 Statutes, is amended to read:

1384 633.314 Sale or use of certain types of fire extinguishers
1385 prohibited; penalty.—

1386 (2) It is unlawful for any person, directly or through an
1387 agent, to sell, offer for sale, or give in this state any make,
1388 type, or model of fire extinguisher, either new or used, unless
1389 such make, type, or model of extinguisher has first been tested
1390 and is currently approved or listed by Underwriters
1391 Laboratories, Inc., Factory Mutual Laboratories, Inc., or
1392 another testing laboratory recognized by the State Fire Marshal

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1393 as nationally recognized in accordance with procedures adopted
 1394 by rule, taking into account the laboratory's facilities,
 1395 procedures, use of nationally recognized standards, and any
 1396 other criteria reasonably calculated to reach an informed
 1397 determination, and unless such extinguisher carries an
 1398 Underwriters Laboratories, Inc., or manufacturer's serial
 1399 number. Such serial number ~~must shall~~ be permanently affixed
 1400 ~~stamped~~ on the manufacturer's identification and instruction
 1401 plate.

1402 Section 43. Subsection (7) of section 633.318, Florida
 1403 Statutes, is amended to read:

1404 633.318 Certificate application and issuance; permit
 1405 issuance; examination and investigation of applicant.-

1406 (7) The State Fire Marshal may, at any time subsequent to
 1407 the issuance of the certificate or its renewal, require, upon
 1408 demand and in no event more than 30 days after notice of the
 1409 demand, the certificateholder to provide proof of insurance
 1410 coverage on the insurer's a form provided by the State Fire
 1411 ~~Marshal~~ containing confirmation of insurance coverage as
 1412 required by this chapter. Failure to provide proof of insurance
 1413 coverage as required, for any length of time, shall result in
 1414 the immediate suspension of the certificate until proof of
 1415 insurance is provided to the State Fire Marshal.

1416 Section 44. Paragraph (b) of subsection (6) of section
 1417 633.408, Florida Statutes, is amended, and paragraph (c) is
 1418 added to that subsection, to read:

1419 633.408 Firefighter and volunteer firefighter training and
 1420 certification.-

1421 (6)

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1422 (b) A Special Certificate of Compliance only authorizes an
 1423 individual to serve as an administrative and command head of a
 1424 fire service provider.

1425 1. An individual employed as a fire chief, fire
 1426 coordinator, fire director, or fire administrator must obtain a
 1427 Special Certificate of Compliance within 1 year after beginning
 1428 employment.

1429 2. Before beginning employment as a command officer or in a
 1430 position directing incident outcomes, an individual must obtain
 1431 a Certificate of Compliance or a Special Certificate of
 1432 Compliance.

1433 (c) In order to retain a Special Certificate of Compliance,
 1434 every 4 years an individual must:

1435 1. Be active as a firefighter;

1436 2. Maintain a current and valid Fire Service Instructor
 1437 Certificate, instruct at least 40 hours during the 4-year
 1438 period, and provide proof of such instruction to the division,
 1439 which proof must be registered in an electronic database
 1440 designated by the division; or

1441 3. Within 6 months before the 4-year period expires,
 1442 successfully complete a Firefighter Retention Refresher Course
 1443 consisting of a minimum of 40 hours of training as prescribed by
 1444 rule.

1445 Section 45. Subsection (1) of section 633.416, Florida
 1446 Statutes, is amended, present subsections (7) and (8) of that
 1447 section are redesignated as subsections (8) and (9),
 1448 respectively, and a new subsection (7) is added to that section,
 1449 to read:

1450 633.416 Firefighter employment and volunteer firefighter

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1451 service; saving clause.-

1452 (1) A fire service provider may not employ an individual
1453 to:

1454 (a) Extinguish fires for the protection of life or property
1455 or to supervise individuals who perform such services unless the
1456 individual holds a current and valid Firefighter Certificate of
1457 Compliance; or

1458 (b) Serve as the administrative and command head of a fire
1459 service provider for a period in excess of 1 year unless the
1460 individual holds a current and valid Firefighter Certificate of
1461 Compliance or Special Certificate of Compliance pursuant to s.
1462 633.408.

1463 (7) A fire service provider may employ veterans who were
1464 honorably discharged and who received Florida-equivalent
1465 training. The standard of equivalency of training must be
1466 verified by the division before such an individual's employment
1467 begins. Such individual must obtain a Firefighter Certificate of
1468 Compliance within 24 months after employment.

1469 Section 46. Paragraph (e) of subsection (1) of section
1470 633.444, Florida Statutes, is amended to read:

1471 633.444 Division powers and duties; Florida State Fire
1472 College.-

1473 (1) The division, in performing its duties related to the
1474 Florida State Fire College, specified in this part, shall:

1475 ~~(e) Develop a staffing and funding formula for the Florida~~
1476 ~~State Fire College. The formula must include differential~~
1477 ~~funding levels for various types of programs, must be based on~~
1478 ~~the number of full time equivalent students and information~~
1479 ~~obtained from scheduled attendance counts taken the first day of~~

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1480 ~~each program, and must provide the basis for the legislative~~
1481 ~~budget request. As used in this section, a full-time equivalent~~
1482 ~~student is equal to a minimum of 900 hours in a technical~~
1483 ~~certificate program and 400 hours in a degree-seeking program.~~
1484 ~~The funding formula must be as prescribed pursuant to s.~~
1485 ~~1011.62, must include procedures to document daily attendance,~~
1486 ~~and must require that attendance records be retained for audit~~
1487 ~~purposes.-~~

1488 Section 47. Subsection (8) of section 648.27, Florida
1489 Statutes, is amended to read:

1490 648.27 Licenses and appointments; general.-

1491 ~~(8) An application for a managing general agent's license~~
1492 ~~must be made by an insurer who proposes to employ or appoint an~~
1493 ~~individual, partnership, association, or corporation as a~~
1494 ~~managing general agent. Such application shall contain the~~
1495 ~~information required by s. 626.744, and the applicant shall pay~~
1496 ~~the same fee as a managing general agent licensed pursuant to~~
1497 ~~that section. An individual who is appointed as a managing~~
1498 ~~general agent to supervise or manage bail bond business written~~
1499 ~~in this state must also be licensed as a bail bond agent. In the~~
1500 ~~case of an entity, at least one owner, officer, or director at~~
1501 ~~each office location must be licensed as a bail bond agent.~~

1502 Section 48. Present subsection (6) of section 648.34,
1503 Florida Statutes, is redesignated as subsection (7), and a new
1504 subsection (6) is added to that section, to read:

1505 648.34 Bail bond agents; qualifications.-

1506 (6) The requirements for completion and submission of
1507 fingerprints under this chapter are deemed to be met when an
1508 individual currently licensed under this chapter seeks

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1509 additional licensure and has previously submitted fingerprints
 1510 to the department in support of an application for licensure
 1511 under this chapter within the past 48 months. However, the
 1512 department may require the individual to file fingerprints if it
 1513 has reason to believe that an applicant or licensee has been
 1514 found guilty of, or pleaded guilty or nolo contendere to, a
 1515 felony or a crime related to the business of insurance in this
 1516 or any other state or jurisdiction.

1517 Section 49. For the purpose of incorporating the amendment
 1518 made by this act to section 626.221, Florida Statutes, in a
 1519 reference thereto, paragraph (b) of subsection (1) of section
 1520 626.8734, Florida Statutes, is reenacted to read:

1521 626.8734 Nonresident all-lines adjuster license
 1522 qualifications.—

1523 (1) The department shall issue a license to an applicant
 1524 for a nonresident all-lines adjuster license upon determining
 1525 that the applicant has paid the applicable license fees required
 1526 under s. 624.501 and:

1527 (b) Has passed to the satisfaction of the department a
 1528 written Florida all-lines adjuster examination of the scope
 1529 prescribed in s. 626.241(6); however, the requirement for the
 1530 examination does not apply to:

1531 1. An applicant who is licensed as an all-lines adjuster in
 1532 his or her home state if that state has entered into a
 1533 reciprocal agreement with the department;

1534 2. An applicant who is licensed as a nonresident all-lines
 1535 adjuster in a state other than his or her home state and a
 1536 reciprocal agreement with the appropriate official of the state
 1537 of licensure has been entered into with the department; or

586-02908-18 20181292c2

1538 3. An applicant who holds a certification set forth in s.
 1539 626.221(2)(j).

1540 Section 50. For the 2018-2019 state fiscal year, the sum of
 1541 \$1,000,000 in nonrecurring funds from the Insurance Regulatory
 1542 Trust Fund is appropriated to the Division of Funeral, Cemetery,
 1543 and Consumer Services within the Department of Financial
 1544 Services for information technology needs.

1545 Section 51. This act shall take effect July 1, 2018.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Appropriations Subcommittee on Finance and Tax, *Chair*
Appropriations Subcommittee on Health and Human Services, *Vice Chair*
Appropriations
Appropriations Subcommittee on Transportation, Tourism, and Economic Development
Children, Families, and Elder Affairs
Communications, Energy, and Public Utilities
Governmental Oversight and Accountability
Military and Veterans Affairs, Space, and Domestic Security

SENATOR KELLI STARGEL

Deputy Majority Leader
22nd District

February 8, 2018

The Honorable Rob Bradley
Senate Appropriations Committee, Chair
201 The Capitol
404 S. Monroe Street
Tallahassee, FL 32399

Dear Chair Bradley:

I respectfully request that SB 1292, related to *Department of Financial Services*, be placed on the committee agenda at your earliest convenience.

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

Sincerely,

A handwritten signature in black ink that reads "Kelli Stargel".

Kelli Stargel
State Senator, District 22

Cc: Mike Hansen/ Staff Director
Alicia Weiss/ AA

REPLY TO:

- 2033 East Edgewood Drive, Suite 1, Lakeland, Florida 33803 (863) 668-3028
- 322 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5022

Senate's Website: www.flsenate.gov

JOE NEGRON
President of the Senate

ANITERE FLORES
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/15/18
Meeting Date

1292
Bill Number (if applicable)

Topic DFS - Financial Literacy

Amendment Barcode (if applicable)

Name Victoria Zepp

Job Title Chief Policy & Research Officer

Address 411 E. College Ave

Phone 850-241-6309

City Tallahassee State FL Zip 32301

Email Victoria@flchildren.org

Speaking: For Against Information

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

Representing FL Coalition for Children

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/15/18

Meeting Date

1292

Bill Number (if applicable)

Topic Department of Financial Services

Amendment Barcode (if applicable)

Name BG Murphy

Job Title Legislative Affairs Director

Address 200 E. Gaines Street

Phone 850-413-2890

Street

Tallahassee

FL

32399

Email bg.murphy@myfloridacfo.com

City

State

Zip

Speaking: For Against Information

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

Representing Department of Financial Services

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

2/15/18

Meeting Date

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

1292

Bill Number (if applicable)

329888

Amendment Barcode (if applicable)

Topic Department of Financial Services

Name Chris Spencer

Job Title Government Consultant

Address 401 E. Jackson Street

Street

Phone 813 374 5000

Tampa

City

FL

State

332033705

Zip

Email chris.spencer@gray-robinson.com

Speaking: [] For [] Against [] Information

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

Representing Holland Financial

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.

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 1424

INTRODUCER: Senator Gainer

SUBJECT: Court-ordered Treatment Programs

DATE: February 14, 2018

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Tulloch</u>	<u>Cibula</u>	<u>JU</u>	Favorable
2.	<u>Harkness</u>	<u>Sadberry</u>	<u>ACJ</u>	Recommend: Favorable
3.	<u>Harkness</u>	<u>Hansen</u>	<u>AP</u>	Favorable

I. Summary:

SB 1424 expands the eligibility criteria for individuals who may participate in a military veterans' and servicemembers' court program, more commonly known as veterans' courts. A veterans' court is a problem-solving court providing treatment intervention to military veterans and servicemembers who are charged with or convicted of criminal offenses and who are also suffering military-related injuries, such as post-traumatic stress disorder, traumatic brain injury, or a substance abuse disorder. Currently, individuals who are eligible to participate in the veterans' court include honorably discharged veterans, generally discharged veterans, and active duty servicemembers. The bill expands participation eligibility by eliminating the requirement that a veteran be honorably or generally discharged. Instead, the bill provides that any veteran discharged or released under any condition is eligible to participate in a veteran's court.

Additionally, the bill expands participation eligibility to current or former United States defense contractors and current or former military members of a foreign allied country.

While the bill may increase the number of cases referred to veterans' courts, the bill does not have an impact on state revenues or expenditures.

The bill takes effect on October 1, 2019.

II. Present Situation:

Veterans' Courts for Criminal Offenders

Veterans' courts are problem-solving courts, modeled after drug courts, which are aimed at addressing the root causes of criminal behavior.¹ The purpose of veterans' courts is to divert

¹ Florida Courts, *Problem-Solving Courts*, <http://www.flcourts.org/resources-and-services/court-improvement/problem-solving-courts/> (last visited Jan. 21, 2018).

eligible defendants who are veterans or servicemembers into treatment programs for military-related conditions or war-related trauma, either before trial or at sentencing. Veterans' courts consider whether an individual's military-related condition, such as post-traumatic stress disorder, mental illness, traumatic brain injury, or substance abuse, can be addressed through a program specifically designed to serve the individual's needs.²

Veterans' courts implement the 10 key components required of drug courts³ in Florida:

- Integration of alcohol, drug treatment, and mental health services into justice system case processing;
- Nonadversarial approach;
- Early identification of eligible participants;
- Continuum of services;
- Alcohol and drug testing for abstinence;
- Coordinated strategy for responses to participants' compliance;
- Ongoing judicial interaction;
- Monitoring and evaluation for program effectiveness;
- Interdisciplinary education; and
- Partnerships with stakeholders.⁴

Significantly, veterans' courts involve not only nonadversarial cooperation among "traditional partners found in drug courts, such as the judge, state attorney, public defender, case manager, treatment provider, probation, and law enforcement[.]" but also cooperation with "representatives of the Veterans Health Administration (VHA) and the Veterans Benefit Administration as well as State Departments of Veterans Affairs, Vet Centers, Veterans Service Organizations, Department of Labor, volunteer veteran mentors, and other veterans support groups."⁵ Veterans' courts are also able to "leverage resources available from the U.S. Department of Veterans Affairs" to provide treatment and other services to veterans and servicemembers.⁶

Florida's Veterans' Courts

In 2012, the Florida Legislature passed the "T. Patt Maney Veterans' Treatment Intervention Act."⁷ The Act created the military veterans and servicemembers court program,⁸ better known as veterans' courts.⁹ Specifically, the Act authorizes the chief judge of each judicial circuit to

² Section 394.47891, F.S.

³ Section 397.334(4), F.S.

⁴ See n. 3, *supra*, noting that "[t]he components of veterans courts, from The Ten Key Components of Veterans Treatment Court, Justice for Vets (a division of the National Association of Drug Court Professionals)[.]" See also Justice for Vets, *The Ten Key Components of Veterans Treatment Courts*, <https://justiceforvets.org/wp-content/uploads/2017/02/The-Ten-Key-Components-of-Veterans-Treatment-Courts.pdf> (last visited Jan. 21, 2018).

⁵ See n. 3, *supra*.

⁶ *Id.*

⁷ CS/CS/SB 922 (ch. 2012-159, Laws of Fla.).

⁸ Section 394.47891, F.S.

⁹ Florida Courts, *Veterans' Courts*, <http://www.flcourts.org/resources-and-services/court-improvement/problem-solving-courts/veterans-court.stml> (last visited Jan. 21, 2018).

establish a veterans' court program to serve the special needs of eligible veterans¹⁰ and active duty servicemembers¹¹ who are:

- Suffering a military-related condition, such as mental illness, traumatic brain injury, or substance abuse; and
- Charged with or convicted of a criminal offense.¹²

The Act also added provisions to chapter 948, F.S., providing when veterans and servicemembers may be eligible to participate in the veterans' court program for treatment and services. Eligible individuals may participate after being:

- Charged with a criminal misdemeanor¹³ or certain felony offenses but before being convicted (pretrial intervention);¹⁴ or
- Convicted and sentenced, as a condition of probation or community control.¹⁵

Pretrial Intervention Participation

Prior to placement in a program, a veterans' treatment intervention team must develop an individualized coordinated strategy for the veteran. The team must present the coordinated strategy to the veteran in writing before he or she agrees to enter the program. The strategy is modeled after the ten therapeutic jurisprudence principles and key components for treatment-based drug court programs.¹⁶

During the time that the defendant is allotted participation in the treatment program, the court retains jurisdiction in the case. At the end of the program, the court considers recommendations for disposition by the state attorney and the program administrator. If the veteran successfully completes the treatment program, the court must dismiss the criminal charges. If the court finds that the veteran did not successfully complete the program, the court can either order the veteran to continue in education and treatment or authorize the state attorney to proceed with prosecution.¹⁷

Eligible veterans who successfully complete the diversion program may petition the court to order the expunction of the arrest record and the plea.¹⁸

¹⁰ Section 1.01(14), F.S., defines a veteran as a person who served in active military, naval, or air service who was discharged or released under honorable conditions or who later received an upgraded discharge under honorable conditions.

¹¹ A servicemember is defined as a person serving as a member of the United States Armed Forces on active duty or state active duty and members of the Florida National Guard and United States Reserve Forces. Section 250.01(19), F.S.

¹² See n. 2, *supra*.

¹³ Section 948.16(2)(a), F.S., establishes the misdemeanor pretrial veterans' treatment intervention program.

¹⁴ Section 948.08(7)(a), F.S., authorizes courts to consider veterans charged with non-disqualifying felonies for pretrial veterans' treatment intervention programs. Section 948.08(7), F.S., references the disqualifying felony offenses listed in s. 948.06(8)(c), F.S. Section 948.06(8)(c), F.S., lists 19 disqualifying felony offenses of a serious nature, such as kidnapping, murder, sexual battery, treason, etc.

¹⁵ Section 948.21, F.S.

¹⁶ Section 948.08(7)(b), F.S., requires a coordinated strategy for veterans charged with felonies who are participating in pretrial intervention programs. Section 948.16(2)(b), F.S., requires a coordinated strategy for veterans charged with misdemeanors. Section 397.334(4), F.S., requires treatment based court programs to include therapeutic jurisprudence principles and components recognized by the United States Department of Justice and adopted by the Florida Supreme Court Treatment-based Drug Court Steering Committee.

¹⁷ Section 948.08(7)(b)-(c), F.S.

¹⁸ See n. 14, *supra*.

Participation in Treatment Program while on Probation or Community Control

Veterans and servicemembers on probation or community control who committed a crime on or after July 1, 2012, and suffer from a military-related mental illness, a traumatic brain injury, or a substance abuse disorder may also qualify for treatment programs. A court may impose, as a condition of probation or community control, successful completion of a mental health or substance abuse treatment program.¹⁹

Current Court Statistics

According to the State Court Administrator's Office of Court Improvement, as of April 2017, there were 30 veterans' courts in Florida.²⁰ Additionally, the Office of Court Improvement reports that in 2016, "Florida's veterans' courts admitted 1,090 participants and graduated 640."²¹

Expansion of Participant Eligibility in Florida's Veterans' Courts

Under current law, to be eligible to participate in the veterans' court program, the defendant must allege that he or she is suffering a military-related injury and establish that he or she is:

- An honorably discharged veteran;²²
- A generally discharged veteran;²³ or
- An active duty servicemember.²⁴

By the recommendation of the Task Force on Substance Abuse and Mental Health Issues in the Courts,²⁵ Florida's court system has proposed that eligibility to participate in the veterans' courts be expanded to all veterans of any discharge status and to military-related individuals in the following two categories:

- Current or former United States defense contractors; and
- Current or former military members of a foreign allied country.²⁶

The proposed expansion to include contractors and military members of foreign allied countries is in response to nationwide reports "that a large number of service personnel are being excluded from veterans courts because they do not meet the definition of 'veteran' or 'servicemember'" who have "served our country and would respond well to veterans court interventions."²⁷

¹⁹ Section 948.21, F.S.

²⁰ See n. 3, *supra*.

²¹ *Id.*

²² See n. 10, *supra*.

²³ CS/CS/CS/HB 439 (chapter 2016-127, Laws of Fla.) (expanding eligibility for veterans to include not only those who were honorably discharged but also to those generally discharged).

²⁴ See n. 11, *supra*.

²⁵ The "Task Force on Substance Abuse and Mental Health Issues in the Courts" is the task forced "charged with developing a strategy for ensuring fidelity to nationally accepted key components of veterans courts" pursuant to Florida Supreme Court Administrative Order 14-46. See Judicial Branch 2018 Legislative Agenda, *Expansion of Veterans Court Eligibility*, p. 41 (on file with Senate Judiciary Committee).

²⁶ *Id.* at 42.

²⁷ *Id.* at 41.

III. Effect of Proposed Changes:

Section 1 amends s. 394.47891, F.S., to expand the eligibility criteria for who may participate in the Military Veterans' and Servicemembers' Court Program.

This section eliminates the requirement that a veteran be honorably or generally discharged, providing instead that any veteran discharged or released under any condition is eligible to participate.

The section also expands eligibility beyond veterans and active duty servicemembers to include individuals who are:

- Current or former United States defense contractors; and
- Current or former military members of a foreign allied country.

Section 2 amends s. 948.08, F.S., to make a conforming change to clarify that pretrial intervention programs extend to any person charged with a felony (except the more serious felony offenses listed in s. 948.06(8)(c), F.S.), who is a veteran discharged for any reason, an active duty servicemember, a current or former United States defense contractor, or a current or former military member of a foreign allied country.

Section 3 amends s. 948.16, F.S., to make a conforming change to clarify that misdemeanor pretrial intervention programs extend to any person charged with a misdemeanor who is a veteran discharged for any reason, an active duty servicemember, a current or former United States defense contractor, or a current or former military member of a foreign allied country.

Section 4 amends s. 948.21, F.S., to make a conforming change to clarify that a court may impose a condition of probation or community control requiring participation in a treatment program to any person who is a veteran discharged for any reason, an active duty servicemember, a current or former United States defense contractor, or a current or former military member of a foreign allied country.

Section 5 provides the bill takes effect on October 1, 2019.

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:

The bill's expansion of eligible veterans and other military-related individuals (contractors and allied country military members) for purposes of veterans' courts will increase the number of people eligible to participate in veterans' court programs, which will likely increase the costs associated with these programs. However, such costs will be limited by the amount of state funds appropriated to such programs. Additionally, such costs may be offset to the extent that the need for prison beds is reduced by placement in veterans' court programs.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 394.47891, 948.08, 948.16, and 948.21.

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

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

None.

B. Amendments:

None.

By Senator Gainer

2-01412-18

20181424__

1 A bill to be entitled
 2 An act relating to court-ordered treatment programs;
 3 amending s. 394.47891, F.S.; providing that veterans
 4 who were discharged or released under any condition,
 5 individuals who are current or former United States
 6 Department of Defense contractors, and individuals who
 7 are current or former military members of a foreign
 8 allied country are eligible in a certain Military
 9 Veterans and Servicemembers Court Program; amending s.
 10 948.08, F.S.; authorizing a person who is charged with
 11 a certain felony and identified as a veteran who is
 12 discharged or released under any condition, an
 13 individual who is a current or former United States
 14 Department of Defense contractor, or an individual who
 15 is a current or former military member of a foreign
 16 allied country to be eligible for voluntary admission
 17 into a pretrial veterans' treatment intervention
 18 program under certain circumstances; amending s.
 19 948.16, F.S.; authorizing a veteran who is discharged
 20 or released under any condition, an individual who is
 21 a current or former United States Department of
 22 Defense contractor, or an individual who is a current
 23 or former military member of a foreign allied country
 24 and who is charged with a misdemeanor to be eligible
 25 for voluntary admission into a misdemeanor pretrial
 26 veterans' treatment intervention program under certain
 27 circumstances; amending s. 948.21, F.S.; authorizing
 28 the court to impose a condition requiring a
 29 probationer or community controllee who is a veteran

Page 1 of 5

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

2-01412-18

20181424__

30 discharged or released under any condition, an
 31 individual who is a current or former United States
 32 Department of Defense contractor, or an individual who
 33 is a current or former military member of a foreign
 34 allied country to participate in a certain treatment
 35 program under certain circumstances; providing an
 36 effective date.

37
 38 Be It Enacted by the Legislature of the State of Florida:

39
 40 Section 1. Section 394.47891, Florida Statutes, is amended
 41 to read:
 42 394.47891 Military veterans and servicemembers court
 43 programs.—The chief judge of each judicial circuit may establish
 44 a Military Veterans and Servicemembers Court Program under which
 45 veterans, as defined in s. 1.01; ~~including~~ veterans who were
 46 discharged or released under any condition; a general discharge,
 47 ~~and~~ servicemembers, as defined in s. 250.01; individuals who are
 48 current or former United States Department of Defense
 49 contractors; and individuals who are current or former military
 50 members of a foreign allied country, who are charged or
 51 convicted of a criminal offense, and who suffer from a military-
 52 related mental illness, traumatic brain injury, substance abuse
 53 disorder, or psychological problem can be sentenced in
 54 accordance with chapter 921 in a manner that appropriately
 55 addresses the severity of the mental illness, traumatic brain
 56 injury, substance abuse disorder, or psychological problem
 57 through services tailored to the individual needs of the
 58 participant. Entry into any Military Veterans and Servicemembers

Page 2 of 5

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2-01412-18

20181424__

59 Court Program must be based upon the sentencing court's
60 assessment of the defendant's criminal history, military
61 service, substance abuse treatment needs, mental health
62 treatment needs, amenability to the services of the program, the
63 recommendation of the state attorney and the victim, if any, and
64 the defendant's agreement to enter the program.

65 Section 2. Paragraph (a) of subsection (7) of section
66 948.08, Florida Statutes, is amended to read:

67 948.08 Pretrial intervention program.—

68 (7) (a) Notwithstanding any provision of this section, a
69 person who is charged with a felony, other than a felony listed
70 in s. 948.06(8) (c), and identified as a veteran, as defined in
71 s. 1.01; ~~including~~ a veteran who is discharged or released
72 under any condition; a ~~general discharge~~, or servicemember, as
73 defined in s. 250.01; an individual who is a current or former
74 United States Department of Defense contractor; or an individual
75 who is a current or former military member of a foreign allied
76 country, who suffers from a military service-related mental
77 illness, traumatic brain injury, substance abuse disorder, or
78 psychological problem, is eligible for voluntary admission into
79 a pretrial veterans' treatment intervention program approved by
80 the chief judge of the circuit, upon motion of either party or
81 the court's own motion, except:

82 1. If a defendant was previously offered admission to a
83 pretrial veterans' treatment intervention program at any time
84 before trial and the defendant rejected that offer on the
85 record, the court may deny the defendant's admission to such a
86 program.

87 2. If a defendant previously entered a court-ordered

Page 3 of 5

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

2-01412-18

20181424__

88 veterans' treatment program, the court may deny the defendant's
89 admission into the pretrial veterans' treatment program.

90 Section 3. Paragraph (a) of subsection (2) of section
91 948.16, Florida Statutes, is amended to read:

92 948.16 Misdemeanor pretrial substance abuse education and
93 treatment intervention program; misdemeanor pretrial veterans'
94 treatment intervention program; misdemeanor pretrial mental
95 health court program.—

96 (2) (a) A veteran, as defined in s. 1.01; ~~including~~ a
97 veteran who is discharged or released under any condition; a
98 ~~general discharge~~, or servicemember, as defined in s. 250.01; an
99 individual who is a current or former United States Department
100 of Defense contractor; or an individual who is a current or
101 former military member of a foreign allied country, who suffers
102 from a military service-related mental illness, traumatic brain
103 injury, substance abuse disorder, or psychological problem, and
104 who is charged with a misdemeanor is eligible for voluntary
105 admission into a misdemeanor pretrial veterans' treatment
106 intervention program approved by the chief judge of the circuit,
107 for a period based on the program's requirements and the
108 treatment plan for the offender, upon motion of either party or
109 the court's own motion. However, the court may deny the
110 defendant admission into a misdemeanor pretrial veterans'
111 treatment intervention program if the defendant has previously
112 entered a court-ordered veterans' treatment program.

113 Section 4. Subsection (2) of section 948.21, Florida
114 Statutes, is amended to read:

115 948.21 Condition of probation or community control;
116 military servicemembers and veterans.—

Page 4 of 5

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

2-01412-18

20181424__

117 (2) Effective for a probationer or community controllee
118 whose crime is committed on or after July 1, 2016, and who is a
119 veteran, as defined in s. 1.01; ~~including a veteran who is~~
120 discharged or released under any condition; ~~a general discharge,~~
121 ~~or~~ servicemember, as defined in s. 250.01; an individual who is
122 a current or former United States Department of Defense
123 contractor; or an individual who is a current or former military
124 member of a foreign allied country, who suffers from a military
125 service-related mental illness, traumatic brain injury,
126 substance abuse disorder, or psychological problem, the court
127 may, in addition to any other conditions imposed, impose a
128 condition requiring the probationer or community controllee to
129 participate in a treatment program capable of treating the
130 probationer or community controllee's mental illness, traumatic
131 brain injury, substance abuse disorder, or psychological
132 problem.

133 Section 5. This act shall take effect October 1, 2019.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Transportation, *Chair*
Commerce and Tourism, *Vice Chair*
Appropriations
Appropriations Subcommittee on General Government
Appropriations Subcommittee on Transportation,
Tourism, and Economic Development
Banking and Insurance
Military and Veterans Affairs, Space, and
Domestic Security

JOINT COMMITTEE:

Joint Administrative Procedures Committee

SENATOR GEORGE B. GAINER

2nd District

February 8, 2018

Re: SB 1424

Dear Chair Bradley,

I am respectfully requesting Senate Bill 1424, related to Court-ordered Treatment Programs, be placed on the agenda for the next Appropriations Meeting.

I appreciate your consideration of this bill. If there are any questions or concerns, please do not hesitate to call my office at (850) 487-5002.

Thank you,

A handwritten signature in blue ink that reads "George B. Gainer".

Senator George Gainer

District 2

Cc. Mike Hansen, Tim Sadberry, John Shettle, Joe McVaney, Alicia Weiss, Mary Lee, Steven Richardson, Lance Clemons

REPLY TO:

- 840 West 11th Street, Panama City, Florida 32401 (850) 747-5454
- Northwest Florida State College, 100 East College Boulevard, Building 330, Room 105 and 112, Niceville, Florida 32578 (850) 803-8395
- 302 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5002

Senate's Website: www.flsenate.gov

JOE NEGRON
President of the Senate

ANITERE FLORES
President Pro Tempore

APPEARANCE RECORD

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

2/15/18

Meeting Date

1424

Bill Number (if applicable)

Topic Court-ordered Treatment Programs

Amendment Barcode (if applicable)

Name Sarah Naf Bienl

Job Title Chief of Legislative Affairs, OSCA

Address 500 S. Duval St.

Phone 850-922-5692

Street

Tallahassee, FL

32399

Email nafs@flcourts.gov

City

State

Zip

Speaking: [] For [] Against [] Information

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

Representing Supreme Court Task Force on Substance Abuse & Mental Health Issues in the Courts

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.

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 1500

INTRODUCER: Senator Baxley

SUBJECT: Direct-support Organization of the Florida Commission on Community Service

DATE: February 14, 2018

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Peacock</u>	<u>Caldwell</u>	<u>GO</u>	Favorable
2.	<u>Shettle</u>	<u>Hansen</u>	<u>AP</u>	Pre-meeting
3.	_____	_____	<u>RC</u>	_____

I. Summary:

SB 1500 removes the scheduled repeal date of October 1, 2018, for the Florida Commission on Community Service’s direct support organization, the Volunteer Florida Foundation.

The bill has no impact on state revenues or expenditures.

The effective date of the bill is July 1, 2018.

II. Present Situation:

Citizen Support Organizations and Direct-support Organizations

Citizen support organizations (CSOs) and direct-support organizations (DSOs) are statutorily created entities that are generally required to be non-profit corporations and are authorized to carry out specific tasks in support of public entities or public causes. The functions and purpose of a CSO or DSO are prescribed by its enacting statute and, for most, by a written contract with the agency the CSO or DSO was created to support.

CSO and DSO Transparency and Reporting Requirements

In 2014, the Legislature created s. 20.058, F.S., establishing a comprehensive set of transparency and reporting requirements for CSOs and DSOs created or authorized pursuant to law or executive order and created, approved, or administered by a state agency.¹ Specifically, the law requires each CSO and DSO to annually submit, by August 1, the following information related to its organization, mission, and finances to the agency it supports:²

- The name, mailing address, telephone number, and website address of the organization;

¹ Chapter 2014-96, Laws of Fla.

² Section 20.058(1), F.S.

- The statutory authority or executive order that created the organization;
- A brief description of the mission of, and results obtained by, the organization;
- A brief description of the organization's plans for the next three fiscal years;
- A copy of the organization's code of ethics; and
- A copy of the organization's most recent federal Internal Revenue Service Return of Organization Exempt from Income Tax form (Form 990).³

Each agency receiving the above information must make the information available to the public through the agency's website. If the CSO or DSO maintains a website, the agency's website must provide a link to the website of the CSO or DSO.⁴ Additionally, any contract between an agency and a CSO or DSO must be contingent upon the CSO or DSO submitting and posting the information.⁵ If a CSO or DSO fails to submit the required information for two consecutive years, the agency must terminate the contract with the CSO or DSO.⁶

By August 15 of each year, each agency must report to the Governor, President of the Senate, Speaker of the House of Representatives, and Office of Program Policy Analysis and Government Accountability the information provided by the CSO or DSO. The report must also include a recommendation by the agency, with supporting rationale, to continue, terminate, or modify the agency's association with each CSO or DSO.⁷

Lastly, a law creating or authorizing the creation of a CSO or DSO must state that the creation of or authorization for the CSO or DSO is repealed on October 1 of the fifth year after enactment, unless reviewed and saved from repeal through reenactment by the Legislature. CSOs and DSOs in existence on July 1, 2014, must be reviewed by the Legislature by July 1, 2019.⁸

CSO and DSO Audit Requirements

Section 215.981, F.S., requires each CSO and DSO created or authorized pursuant to law with annual expenditures in excess of \$100,000 to provide for an annual financial audit of its accounts and records.⁹ The audit must be conducted by an independent certified public accountant in accordance with rules adopted by the Auditor General and the state agency that created, approved, or administers the CSO or DSO. The audit report must be submitted within nine months after the end of the fiscal year to the Auditor General and to the state agency the CSO or DSO supports.

Additionally, the Auditor General may conduct audits or other engagements of the accounts and records of the CSO or DSO, pursuant to his or her own authority, or at the direction of the

³ The IRS Form 990 is an annual information return required to be filed with the IRS by most organizations exempt from federal income tax under 26 U.S.C. 501.

⁴ Section 20.058(2), F.S.

⁵ Section 20.058(4), F.S.

⁶ *Id.*

⁷ Section 20.058(3), F.S.

⁸ Section 20.058(5), F.S.

⁹ The independent audit requirement does not apply to a CSO or DSO for a university, district board of trustees of a community college, or district school board. Additionally, the expenditure threshold for an independent audit is \$300,000 for a CSO or DSO for the Department of Environmental Protection and the Department of Agriculture and Consumer Services.

Legislative Auditing Committee.¹⁰ The Auditor General is authorized to require and receive any records from the CSO or DSO, or its independent auditor.¹¹

CSO and DSO Ethics Code Requirements

Section 112.3251, F.S., requires a CSO or DSO created or authorized pursuant to law to adopt its own ethics code. The ethics code must contain the specified standards of conduct and disclosures provided in ss. 112.313 and 112.3143(2), F.S. A CSO or DSO may adopt additional or more stringent standards of conduct and disclosure requirements and must conspicuously post its code of ethics on its website.¹²

Florida Volunteer and Community Service Act of 2001

The Legislature passed HB 47 (2001), the Florida Volunteer and Community Service Act of 2001 (Act) “to promote the development of better communities by fostering greater civic responsibility through volunteerism and service to the community.”¹³ The Act directed the Executive Office of the Governor to “establish policies and procedures which provide for the expenditure of funds to develop and facilitate initiatives by public agencies, scholastic institutions, private institutions, and individuals that establish and implement programs that encourage and reward volunteerism.”¹⁴ The programs and initiatives developed pursuant to the Act must have the following purposes and objectives:

- To place increased priority on citizen participation and volunteerism as a means of addressing the increasingly complex problems facing Florida’s communities.
- To encourage local community leaders to implement strategies that expand civic participation.
- To promote the concept and practice of corporate citizenship.
- To build the enthusiasm, dedication, and combined expertise of individual citizens and public and private systems to find new and creative ways to effectively use volunteerism and community service.
- To foster the alignment of community volunteer resources with the goals of the state.
- To implement policy and administrative changes that encourage and enable individuals to participate in volunteer and community service activities.
- To encourage nonprofit agencies to interweave volunteers into the fabric of their service delivery as a means of increasing the effectiveness and efficiency of their services.
- To support and promote volunteer service to all citizens as an effective means to address community needs and foster a collective commitment to lifelong community service.
- To recognize National Volunteer Week as a time to encourage all citizens of Florida to participate in local service projects.
- To recognize the value of individual volunteers and volunteer and service organizations and programs and to honor and celebrate the success of volunteers.

¹⁰ Section 11.45(3)(d), F.S.

¹¹ *Id.*

¹² Section 112.3251, F.S.

¹³ Chapter 2001-84, L.O.F. and s. 14.295(2), F.S.

¹⁴ *Id.*

- To encourage volunteer and service efforts to point children in the right direction and to endow them with the character and competence they need to achieve success in life.¹⁵

The Florida Commission on Community Service

The Florida Commission on Community Service (Commission),¹⁶ administratively housed within the Executive Office of the Governor, serves as an advisory board to the Governor, the Cabinet,¹⁷ the Legislature, and appropriate state agencies and entities on matters relating to volunteerism and community service.¹⁸ The Commission is required to consist of no less than 15 and no more than 25 voting members,¹⁹ which are appointed on a bipartisan basis by the Governor and confirmed by the Senate.²⁰ Voting members may represent one, or any combination of the following categories, so long as each of the respective categories is represented:

- A representative of a community-based agency or organization.
- The Commissioner of Education or designee thereof.
- A representative of local labor organizations.
- A representative of local government.
- A representative of business.
- An individual between the ages of 16 and 25, inclusive, who is a participant in or a supervisor of a service program for school-age youth, or of a campus-based or national service program.
- A representative of a national service program.
- An individual with expertise in the educational, training, and developmental needs of youth, particularly disadvantaged youth.
- An individual with experience in promoting service and volunteerism among older adults.²¹

Members of the Commission serve without compensation²² for terms of 3 years²³ and meet at the call of its chair or at the request of a majority of its total voting membership, but shall meet at least biannually.²⁴ A majority of the total voting membership shall constitute a quorum, and the affirmative vote of a majority of a quorum is necessary to take official action.²⁵ The Commission is required to:

¹⁵ Section 14.295(3), F.S.

¹⁶ The Commission is also known as Volunteer Florida. See About Us and History, VOLUNTEER FLORIDA, <https://www.volunteerflorida.org/about/> (last visited on Jan. 24, 2018).

¹⁷ Section 20.03(1), F.S., defines the term “Cabinet” to mean collectively the Attorney General, the Chief Financial Officer, and the Commissioner of Agriculture, as specified in the s. 4, Art. IV of the State Constitution.

¹⁸ Section 14.29(2), F.S. Any number of nonvoting members may be appointed by the Governor.

¹⁹ Section 14.29(3)(a), F.S. Also, no more than 50 percent plus one of the voting members of the Commission may be aligned with the same political party. See Section 14.29(3)(b), F.S.

²⁰ Section 14.29(3)(a), F.S.

²¹ *Id.* Other members may include educators, experts in the delivery of human educational, environmental, or public safety services, representatives of Indian tribes, out-of-school or at-risk youth, and representatives of programs that are administered by or receive assistance from the Domestic Volunteer Service Act of 1973, as amended.

²² Section 14.29(6), F.S. Voting members may must be reimbursed for per diem and travel expenses in accordance with s. 112.061, F.S.

²³ Section 14.29(4), F.S.

²⁴ Section 14.29(5), F.S.

²⁵ *Id.*

- Annually elect a chair and a vice chair. To be eligible to serve as chair, an individual must be a voting member of the Commission.
- Employ an executive director, who shall be initially designated by the Governor, to carry out the provisions of this section. The executive director shall report directly to the Commission. The executive director shall be the chief administrative officer of the Commission.
- Prepare an annual report detailing its activities during the preceding year and, to the extent possible, compile and synthesize any reports that it accepted on behalf of the Governor. The Commission's report shall be presented to the Governor no later than January 15, with copies to the President of the Senate and the Speaker of the House of Representatives. The report shall also include specific recommendations for any necessary legislation, administrative, or regulatory reform, and the Commission's assessment of the state of volunteerism in Florida.²⁶

The Commission is permitted, but not required, to perform the following actions:²⁷

- Secure assistance from all state departments and agencies in order for the Commission to avail itself of expertise at minimal cost.
- Procure information and assistance from the state or any political subdivision, municipal corporation, public officer, or governmental department or agency thereof.
- Apply for and accept funds, grants, gifts, and services from local, state, or federal government, or from any of their agencies, or any other public or private source and is authorized to use funds derived from these sources to defray administrative costs, implement programs as may be necessary to carry out the Commission's charge, and assist agencies, institutions, and individuals in the implementation of programs pursuant to the Act. The Commission may also authorize Volunteer Florida Foundation, Inc., the Commission's nonprofit DSO, to assist in securing training, technical assistance, and other support needed to accomplish the intent and purposes of the Act.
- Contract for necessary goods and services.

The Commission administers \$31.7 million in federal, state and local funding for national service and volunteer programs across the state.”²⁸ The Commission administers national service programs like AmeriCorps, which offers Floridians the opportunity to engage in intensive service to their communities while increasing capacity for nonprofits and other service organizations. The Commission's grantees include schools, educational foundations, nonprofits, faith-based organizations, and other community organizations. The Commission is also the lead agency for coordinating volunteers and donations for the Florida Division of Emergency Management.²⁹

DSO for the Florida Commission on Community Service

The Commission is authorized to create a DSO that is:

- A Florida corporation, not for profit, incorporated under the provisions of Chapter 617, F.S., and approved by the Secretary of State;
- Organized and operated exclusively to receive, hold, invest, and administer property and funds and to make expenditures to or for the benefit of the program; and

²⁶ Section 14.29(7), F.S.

²⁷ Section 14.29(8), F.S.

²⁸ See About Us, VOLUNTEER FLORIDA, <https://www.volunteerflorida.org/about/> (last visited on Jan. 24, 2018).

²⁹ *Id.* See History, VOLUNTEER FLORIDA.

- An organization that the Commission, after review, has certified to be operating in a manner consistent with the goals of the program and in the best interests of the state.³⁰

The DSO is required to operate under a written contract with the Commission. The contract must provide for:

- Approval of the articles of incorporation and bylaws of the DSO by the Commission.
- Submission of an annual budget for the approval of the Commission.
- Annual certification by the Commission that the DSO is complying with the terms of the contract and in a manner consistent with the goals and purposes of the Commission and in the best interest of the state.³¹
- The reversion to the Commission, or the state if the Commission ceases to exist, of moneys and property held in trust by the DSO if the DSO is no longer approved to operate.
- The fiscal year of the DSO, to begin July 1 of each year and end June 30 of the following year.
- The disclosure of material provisions of the contract and the distinction between the board of directors and the DSO to donors of gifts, contributions, or bequests, as well as on all promotional and fundraising publications.³²

The members of the DSO's board of directors must include members of the Commission.³³ The Commission may authorize the DSO to use its personal services, facilities, and property, except money.³⁴ Additionally, the Commission is required to adopt rules prescribing the procedures by which the DSO is governed and any conditions with which it must comply to use property, facilities, or personal services of the Commission.³⁵

Funds held by the DSO may be held in a separate depository account and subject to the provisions of the contract with the commission.³⁶ Such funds may include membership fees, private donations, income derived from fundraising activities, and grants applied for and received by the DSO. The DSO must provide for an annual financial audit in accordance with s. 215.981, F.S.³⁷

The statutory authority for the Commission's DSO is scheduled to repeal on October 1, 2018, unless reviewed and saved from repeal by the Legislature.³⁸

Volunteer Florida Foundation, Inc.

The Commission established a not-for-profit corporation, the Volunteer Florida Foundation, Inc. (VFF), in May 2010, to serve as its DSO. The VFF provides the mechanism for the state to secure private funding and to properly review organizations requesting funding. The VFF is

³⁰ Section 14.29(9)(a), F.S.

³¹ The certification must be reported in the official minutes of a Commission meeting. *See* s. 14.29(9)(b)3., F.S.

³² Section 14.29(9)(b), F.S.

³³ Section 14.29(9)(c), F.S.

³⁴ Section 14.29(9)(d), F.S.

³⁵ Section 14.29(9)(e), F.S.

³⁶ Section 14.29(9)(f), F.S.

³⁷ Section 14.29(9)(g), F.S.

³⁸ Section 14.29(9)(h), F.S.

governed by a board of directors subject to approval by the Commission.³⁹ The board must consist of not less than nine members and not more than fifteen members, each serving a term of 3 years.⁴⁰ The VFF board is responsible for raising funds, approving distribution of funds, and providing oversight of the funding used to support the Commission's programs.⁴¹

Additionally, the VFF administers the Florida Disaster Fund, the State of Florida's official private fund to assist communities in times of disaster.⁴² In 2017, the Florida Disaster Fund provided \$1,250,000 in grants to 59 non-profit partners to support four separate disaster events, including response following Hurricane Irma.

Senate Professional Staff Review of the Volunteer Florida Foundation

Section 14.29(9), F.S., the statutory authority for the Commission's DSO, is scheduled to repeal on October 1, 2018, unless reviewed and saved from repeal by the Legislature. Professional staff of the Senate Committee on Governmental Oversight and Accountability reviewed the VFF to verify its compliance with applicable Florida Statutes.

Staff found that VFF is a DSO that supports the Commission in its mission to "deliver high-impact national service and volunteer programs across the state."⁴³ During the 2017 interim, staff met with representatives of VFF and the Commission to discuss the DSO's operations and structure and to receive documents to assist with the review. After reviewing the submitted documents and reviewing the other requirements to which VFF is subject, staff concluded that it appears VFF is in compliance with its enabling legislation, s. 14.29, F.S., as well as the DSO requirements in s. 20.058, F.S.

Senate professional staff reviewed relevant VFF records from Fiscal Years 2013-2014, 2014-2015, 2015-2016, and 2016-2017, and found that the VFF is an active DSO that supports the Commission.

Senate professional staff identified minor technical deficiencies in which the VFF was not in full compliance with the applicable Florida Statutes.⁴⁴ These deficiencies are largely administrative or procedural. The VFF will resolve each deficiency presented by Senate professional staff and intend to comply with the applicable Florida Statutes moving forward.

III. Effect of Proposed Changes:

Section 1 amends s. 14.29, F.S., to save from repeal the Commission's DSO, which is currently scheduled for repeal on October 1, 2018.

³⁹ See About Us, Transparency, Governance, VOLUNTEER FLORIDA, <https://www.volunteerflorida.org/volunteer-florida-foundation/> (last visited on Jan. 24, 2018).

⁴⁰ Rule 27O-1.001(2)(c), F.A.C. See also VFF Bylaws (copy on file with the Senate Governmental and Accountability Committee).

⁴¹ Email from Bonnie Hazleton, Chief Operating Officer, Volunteer Florida (Dec. 18, 2017) (copy on file with the Senate Governmental Oversight and Accountability Committee).

⁴² Volunteer Florida Foundation Fact Sheet (copy on file with the Senate Governmental and Accountability Committee).

⁴³ *Id.*

⁴⁴ See Florida Senate Review of the Florida Commission on Community Service Direct-support Organization, Staff Findings and Recommendations (Jan. 26, 2018) (on file with the Senate Governmental Oversight and Accountability Committee).

Section 2 provides an effective date of July 1, 2018.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce counties' or municipalities' ability to raise revenue, or reduce the percentage of state tax shared with counties and municipalities.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

By saving the DSO from repeal, this bill sustains a source of financial and other assistance to Floridians affected by natural disasters and supports Governor's initiatives such as Florida's Black History Month and Hispanic Heritage Month celebrations.

C. Government Sector Impact:

The bill has no fiscal impact on state government. However, if the DSO is not saved from repeal, the Commission may need to find another source of funding for the Florida Disaster Fund and initiatives for the Governor's office.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 14.29 of the Florida Statutes.

IX. Additional Information:

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

None.

- B. **Amendments:**

None.

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

By Senator Baxley

12-01456A-18

20181500__

A bill to be entitled

An act relating to the direct-support organization of the Florida Commission on Community Service; amending s. 14.29, F.S.; removing the scheduled repeal of provisions governing the commission's direct-support organization; providing an effective date.

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

Section 1. Subsection (9) of section 14.29, Florida Statutes, is amended to read:

14.29 Florida Commission on Community Service.—

(9) (a) The commission may establish a direct-support organization which is:

1. A Florida corporation, not for profit, incorporated under the provisions of chapter 617 and approved by the Secretary of State.

2. Organized and operated exclusively to receive, hold, invest, and administer property and funds and to make expenditures to or for the benefit of the program.

3. An organization which the commission, after review, has certified to be operating in a manner consistent with the goals of the program and in the best interests of the state.

(b) The direct-support organization shall operate under written contract with the commission. The contract must provide for:

1. Approval of the articles of incorporation and bylaws of the direct-support organization by the commission.

2. Submission of an annual budget for the approval of the

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

12-01456A-18

20181500__

commission. The budget must comply with rules adopted by the commission.

3. Certification by the commission that the direct-support organization is complying with the terms of the contract and in a manner consistent with the goals and purposes of the commission and in the best interest of the state. Such certification must be made annually and reported in the official minutes of a meeting of the commission.

4. The reversion to the commission, or the state if the commission ceases to exist, of moneys and property held in trust by the direct-support organization if the direct-support organization is no longer approved to operate for the commission or the commission ceases to exist.

5. The fiscal year of the direct-support organization, to begin July 1 of each year and end June 30 of the following year.

6. The disclosure of material provisions of the contract and the distinction between the board of directors and the direct-support organization to donors of gifts, contributions, or bequests, as well as on all promotional and fundraising publications.

(c) The members of the direct-support organization's board of directors must include members of the commission.

(d) The commission may authorize a direct-support organization to use its personal services, facilities, and property, except money, subject to the provisions of this section. A direct-support organization that does not provide equal employment opportunities to all persons regardless of race, color, religion, sex, age, or national origin may not use the property, facilities, or personal services of the

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59 commission. For the purposes of this subsection, the term
60 "personal services" includes full-time personnel and part-time
61 personnel as well as payroll processing.

62 (e) The commission shall adopt rules prescribing the
63 procedures by which the direct-support organization is governed
64 and any conditions with which the direct-support organization
65 must comply to use property, facilities, or personal services of
66 the commission.

67 (f) Moneys of the direct-support organization may be held
68 in a separate depository account in the name of the direct-
69 support organization and subject to the provisions of the
70 contract with the commission. Such moneys may include membership
71 fees, private donations, income derived from fundraising
72 activities, and grants applied for and received by the direct-
73 support organization.

74 (g) The direct-support organization shall provide for an
75 annual financial audit in accordance with s. 215.981.

76 ~~(h) This subsection is repealed effective October 1, 2018,~~
77 ~~unless reviewed and saved from repeal by the Legislature.~~

78 Section 2. This act shall take effect July 1, 2018.

CourtSmart Tag Report

Room: KN 412

Case No.:

Type:

Caption: Senate Appropriations Committee

Judge:

Started: 2/15/2018 1:05:52 PM

Ends: 2/15/2018 3:00:21 PM

Length: 01:54:30

1:06:24 PM Sen. Bradley (Chair)
1:08:35 PM S 504
1:09:19 PM Sen. Perry
1:10:33 PM Sen. Flores (Chair)
1:10:37 PM Am. 394310
1:10:44 PM Sen. Bradley
1:12:19 PM Sen. Benacquisto
1:12:49 PM Sen. Bradley
1:13:50 PM S 504 (cont.)
1:13:57 PM Sen. Bradley
1:14:07 PM James Harold Thompson, Polaris (waives in support)
1:14:17 PM Sen. Bradley
1:15:04 PM S 752
1:15:11 PM Sen. Mayfield
1:15:57 PM Sen. Bradley
1:16:46 PM S 450
1:16:55 PM Sen. Garcia
1:17:55 PM Shane Messer, Legislative Affairs Director, Florida Council for Behavioral Healthcare (waives in support)
1:18:04 PM Alisa Lapolt, Executive Director, National Alliance on Mental Illness-Florida (waives in support)
1:18:11 PM Jill Gran, Senior Policy Director, Florida Behavioral Health Association (waives in support)
1:18:21 PM Sen. Bradley
1:19:37 PM Sen. Flores (Chair)
1:19:41 PM S 920
1:19:45 PM Sen. Bradley
1:22:23 PM Am. 729302
1:22:35 PM Sen. Bradley
1:22:58 PM Jennifer Wilson, Attorney/Lobbyist, Florida Collectors Association (waives in support)
1:23:48 PM Alice Vickers, Attorney, Florida Alliance for Consumer Protection
1:25:06 PM Sen. Gibson
1:25:33 PM A. Vickers
1:25:58 PM Sen. Gibson
1:26:47 PM Jorge Chamizo, Attorney, Encore Capital
1:27:07 PM Sen. Gibson
1:27:23 PM J. Chamizo
1:27:56 PM Sen. Gibson
1:28:00 PM J. Chamizo
1:28:37 PM S 920 (cont.)
1:28:44 PM Dorene Barker, Associate State Director, AARP Florida
1:29:34 PM Lisa Brown, President, Tallahassee Leon Federal Credit Union
1:31:14 PM Sen. Stargel
1:31:36 PM Roderick Cunningham, Vice President, Pinellas County Urban League
1:31:44 PM Troy Adams, Pastor, New Jerusalem M. B. Church
1:31:50 PM Anthony Sanders, Pastor, Florida Minority Consumer Alliance (waives in support)
1:31:56 PM Dr. Evelyn Bethune, CEO, The Bethune Group MMB inc. (waives in support)
1:32:44 PM Alice Vickers, Attorney, Florida Alliance for Consumer Protection
1:34:42 PM Geoffrey Adams, CPA, Verve Consulting
1:36:00 PM Rev. James Golden, Social Action Director, 11th District AME Church
1:40:46 PM Sen. Gibson
1:41:12 PM Sen. Bradley
1:41:25 PM Ian Mackechnie, Exec. Vice Chair, Amscot Financial (waives in support)
1:41:34 PM Brewster Bevis, Senior Vice President, Associated Industries of Florida (waives in support)
1:42:13 PM Ingrid Delgado, Associate for Social Concerns, Florida Conference of Catholic Bishops

1:43:42 PM Pamela Burch Fort, Florida Conference of NAACP Branches (waives against)
1:43:48 PM Patrick Slevin, Florida State Hispanic Chamber of Commerce (waives in support)
1:43:56 PM Jared Ross, SVP Governmental Affairs, Florida Credit Union Association (waives against)
1:44:07 PM Clethen U. Sutton, Pastor, Miracle Temple Church of God in Christ, Inc. (waives in support)
1:44:15 PM Manuel Sykes, Pastor, Brethel Community Baptist Church (waives in support)
1:44:21 PM Rev. Gary Johnson, President, SCLC South Florida (waives in support)
1:44:30 PM John Rice, Minister (waives against)
1:44:37 PM Carol Stewart, Senior Vice President, Advance America (waives in support)
1:44:43 PM Andrew Hasek, Analyst, America for Prosperity (waives in support)
1:45:29 PM Kendrick Meek, Former Member, Florida House of Representatives
1:49:46 PM Sen. Gibson
1:50:28 PM K. Meek
1:51:53 PM Sen. Gibson
1:52:42 PM K. Meek
1:53:59 PM Jim Daughton, Amscot Financial
1:54:16 PM Sen. Gibson
1:54:41 PM J. Daughton
1:55:06 PM Sen. Gibson
1:55:55 PM J. Daughton
1:56:27 PM Sen. Gibson
1:56:49 PM J. Daughton
1:56:53 PM Sen. Simmons
1:57:36 PM J. Daughton
1:57:42 PM Sen. Simmons
1:57:49 PM J. Daughton
1:58:05 PM Sen. Simmons
1:58:59 PM J. Daughton
2:00:11 PM Sen. Simmons
2:01:12 PM J. Daughton
2:01:32 PM Sen. Simmons
2:01:58 PM Sen. Baxley
2:04:13 PM Sen. Flores
2:04:19 PM Sen. Bradley
2:06:38 PM Sen. Flores
2:07:41 PM Sen. Bradley (Chair)
2:07:44 PM Sen. Gibson
2:08:30 PM Sen. Bradley
2:08:39 PM S 470
2:08:42 PM PCS 261158
2:08:48 PM Sen. Stargel
2:08:57 PM Am. 261158
2:09:11 PM Sen. Stargel
2:09:55 PM Sen. Bradley
2:10:13 PM Chase Daniels, Assistant Executive Director, Pasco Sheriff's Office (waives in support)
2:10:25 PM Ron Draa, External Affairs Director, Florida Department of Law Enforcement (waives in support)
2:11:13 PM Sen. Bradley
2:12:06 PM S 614
2:12:14 PM Sen. Montford
2:13:48 PM John Kuczwanski, External Affairs Manager, State Board of Administration (waives in support)
2:14:00 PM Sen. Bradley
2:14:39 PM S 780
2:14:51 PM Sen. Brandes
2:16:02 PM Tyler Crown, President, FSU Students for Justice in Palestine
2:23:28 PM Sen. Bradley
2:23:50 PM Sen. Flores
2:24:16 PM Sen. Gibson
2:24:37 PM Sen. Bradley
2:24:51 PM Sen. Gibson
2:25:13 PM Sen. Flores
2:25:18 PM Sen. Bradley
2:25:48 PM Reem Zaitoon, FSU Students for Justice in Palestine
2:28:55 PM Jade McGrath, Nole Pac

2:30:08 PM Chris Holton, Vice President for Outreach, Center for Security Policy (waives in support)
2:30:57 PM Albert Kishek, Jacksonville Palestine Solidarity Network
2:32:25 PM Sara Mahmoud, Rehab Technician, Jacksonville Palestine Solidarity Network
2:33:19 PM Sen. Bradley
2:33:25 PM Sen. Gibson
2:33:48 PM Sen. Brandes
2:34:06 PM Sen. Bradley
2:34:51 PM S 382
2:34:52 PM PCS 514736
2:35:05 PM Sen. Stewart
2:36:15 PM Am. 819880
2:36:21 PM Sen. Stewart
2:36:59 PM Am. 544028
2:37:03 PM Sen. Montford
2:39:51 PM Brice Google, Captain, Leon County Sheriffs Office (waives in support)
2:39:56 PM James McQuaig, Captain, Leon County Sheriffs Office (waives in support)
2:40:04 PM Mac McNeill, Sheriff, Jefferson County (waives in support)
2:40:10 PM Erika Shzewski-Smith, Surviving spouse of Christopher Smith (waives in support)
2:40:27 PM Sen. Montford
2:41:07 PM Am. 187484
2:41:12 PM Sen. Stewart
2:41:53 PM Sen. Bradley
2:42:08 PM Am. 674466
2:42:12 PM Sen. Stewart
2:42:33 PM Sen. Bradley
2:42:44 PM Am. 652626
2:42:49 PM Sen. Bradley
2:42:53 PM Sen. Stewart
2:43:47 PM S 382 (cont.)
2:43:51 PM Sen. Bradley
2:44:41 PM S 792
2:44:46 PM Sen. Lee
2:47:25 PM Sen. Bradley
2:47:35 PM Sen. Lee
2:48:08 PM Sen. Bradley
2:48:52 PM S 982
2:48:55 PM Sen. Powell
2:49:36 PM Sen. Bradley
2:50:18 PM S 938
2:50:23 PM Sen. Bracy
2:50:55 PM Jared Torres, Legislative Affairs Director, Florida Department of Corrections (waives in support)
2:51:13 PM Sen. Bradley
2:51:51 PM S 1424
2:51:56 PM Sen. Gainer
2:53:08 PM Sen. Bradley
2:53:21 PM Sarah Naf Biehl, Chief of Legislative Affairs, Supreme Court Task Force on Substance abuse and Mental Health Issues in the Courts (waives in support)
2:53:29 PM Sen. Bradley
2:54:07 PM S 1292
2:54:13 PM Sen. Stargel
2:54:30 PM Am. 329888
2:54:35 PM Sen. Stargel
2:54:59 PM Chris Spencer, Government Consultant, Holland Financial (waives in support)
2:55:15 PM Am. 151384
2:55:22 PM Sen. Stargel
2:55:26 PM Sen. Bradley
2:55:38 PM S 1292 (cont.)
2:55:42 PM BG Murphy, Legislative Affairs Director, Department of Financial Services (waives in support)
2:55:50 PM Victoria Zepp, Chief Policy and Research Officer, Florida Coalition for Children (waives in support)
2:56:15 PM Sen. Bradley
2:56:37 PM S 960
2:56:40 PM Sen. Baxley

